

FIFTY-FIFTH DAY

St. Paul, Minnesota, Monday, May 18, 1987

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Luther 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. Philip J. Weiler.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 14, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

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

S.F. No.	H.F. No.	Session Laws Chapter No.	Date Approved 1987	Date Filed 1987
	462	Res. No. 6		May 14
	575	Res. No. 7		May 14
	1145	Res. No. 8		May 14
	170	93	May 13	May 14
	318	94	May 13	May 14
	1031	95	May 13	May 14
	1193	96	May 13	May 14
	1230	97	May 13	May 14
	1263	98	May 13	May 14
	1416	99	May 13	May 14
	1629	100	May 13	May 14
25		101	May 13	May 14
123		102	May 13	May 14
557		103	May 13	May 14
578		104	May 13	May 14
751		105	May 13	May 14
1081		106	May 13	May 14
1313		107	May 13	May 14

Sincerely,
Joan Anderson Growe
Secretary of State

May 15, 1987

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 385, 406 and 494.

Sincerely,
Rudy Perpich, Governor

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. 368.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1203: A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; changing the membership of the world trade center board; establishing the world trade center institute; authorizing the board to contract for certain services and programs; appropriating money; amending Minnesota Statutes 1986, sections 17.03, by adding a subdivision; 17.101, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.031; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 44A; 116J; 236A; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.07; 116J.404; and 116J.405.

There has been appointed as such committee on the part of the House: Anderson, G.; Rice and McKasy.

Senate File No. 1203 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 169:

H.F. No. 169: A bill for an act relating to lawful gambling; including payment of taxes as a lawful purpose; increasing the percentage of profits that may be used for necessary expenses; changing requirements for distributors; authorizing the board to adopt rules restricting the amount of rent charged by organizations; prohibiting local units of government from requiring organizations to make certain expenditures; making various technical changes; regulating allowable expenses; amending Minnesota Statutes 1986, sections 349.12, subdivisions 11, 12, 13, and 15; 349.14; 349.15; 349.151, subdivision 3; 349.161, subdivisions 3, 5, and 7; 349.162, by adding subdivisions; 349.18, subdivisions 1 and 3; 349.19, subdivision 3; 349.21; and 349.213, subdivision 1.

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

Reding, Miller and Voss have been appointed as such committee on the part of the House.

House File No. 169 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Lessard moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 169, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 601:

H.F. No. 601: A bill for an act relating to natural resources; providing that money recovered by the state for forest fire fighting expenses be restored to the fund of origination; increasing the amount that may be paid for tips related to forest fire crimes; clarifying provisions relating to the burden of proof and evidence of negligence; amending Minnesota Statutes 1986, sections 88.17, subdivision 2; 88.75, subdivision 1; and 88.76.

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

Solberg, Ogren and Miller have been appointed as such committee on the part of the House.

House File No. 601 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 601, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1043:

H.F. No. 1043: A bill for an act relating to metropolitan government; providing for qualifications, terms, compensation, and duties of members of various metropolitan agencies; requiring various publications, plans, and reports; regulating routes and service bidding; amending Minnesota Statutes 1986, sections 473.141, subdivision 2, and by adding a subdivision; 473.161, subdivision 1c; 473.1623, subdivisions 2, 4, and 5; 473.303, by adding a subdivision; 473.373, by adding a subdivision; 473.377, subdivision 1, and by adding subdivisions; 473.38, subdivision 2; and 473.604, subdivision 1, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 473.

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

Carruthers, McLaughlin and Blatz have been appointed as such com-

mittee on the part of the House.

House File No. 1043 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Wegscheid moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1043, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 534:

H.F. No. 534: A bill for an act relating to the collection and dissemination of data; classifying data; proposing classifications of data as private, non-public, and protected nonpublic; clarifying issues relating to the administration of data; amending Minnesota Statutes 1986, sections 13.03, subdivision 3; 13.04, subdivision 2; 13.05, subdivision 4; 13.38; 13.39, subdivision 3; 13.41, subdivision 4; 13.43, by adding a subdivision; 13.46, subdivision 7, and by adding a subdivision; and 13.76; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Nelson, D; Kelly and McKasy have been appointed as such committee on the part of the House.

House File No. 534 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 534, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1112:

H.F. No. 1112: A bill for an act relating to human services; defining directors, officers, and partners as vendors of medical care for the purpose of medical assistance; allowing the commissioner to charge interest on money recovered from certain medical assistance providers; allowing sanction authority; amending Minnesota Statutes 1986, sections 256B.02, sub-

division 7; 256B.064, subdivision 1c; and 256B.27, subdivisions 3 and 4.

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

Greenfield, McLaughlin and Simoneau have been appointed as such committee on the part of the House.

House File No. 1112 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Ms. Berglin moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1112, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1622, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1622 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1622

A bill for an act relating to courts; providing court of appeals and crime victim representation on the sentencing guidelines commission; providing that terms of commission members appointed by the governor are coterminous with the governor; changing the date on which the commission's report to the legislature is due; clarifying the membership on judicial appeal panels; permitting retired judges to solemnize marriages; clarifying judicial representation on the judicial standards board; authorizing the supreme court to adopt court rules; restricting mileage reimbursement for law clerks; amending Minnesota Statutes 1986, sections 244.09, subdivisions 2, 3, and 11; 253B.19, subdivision 1; 480.051; 481.02, subdivision 3; 484.545, subdivision 3; 484.62; 490.15, subdivision 1; 517.04; and 525.06.

May 16, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1622, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Howard R. Orenstein, Randy C. Kelly, Arthur W. Seaberg

Senate Conferees: (Signed) Richard J. Cohen, Allan H. Spear, Fritz Knaak

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1622 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1622 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 47 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Langseth	Morse	Schmitz
Beckman	DeCramer	Larson	Olson	Spear
Belanger	Dicklich	Lessard	Pehler	Storm
Berg	Frank	Luther	Peterson, D.C.	Vickerman
Berglin	Frederickson, D.J.	Marty	Peterson, R.W.	Waldorf
Bernhagen	Frederickson, D.R.	McQuaid	Piper	Wegscheid
Bertram	Gustafson	Merriam	Purfeerst	Willet
Chmielewski	Hughes	Metzen	Reichgott	
Cohen	Jude	Moe, D.M.	Renneke	
Dahl	Laidig	Moe, R.D.	Samuelson	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1073, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1073 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1073

A bill for an act relating to occupations and professions; providing advertising restrictions for plumbers; imposing penalties; amending Minnesota Statutes, section 326F.75.

May 15, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1073, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1073 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 325F.75, is amended to read:

325F.75 [ADVERTISING RESTRICTIONS; SCOPE; PENALTIES.]

Subdivision 1. [RESTRICTIONS.] Except as provided in this section, where a plumbing license is required under section 326.40, no person offering plumbing services may do any of the following unless the person employs a licensed master plumber or the person is a licensed master or journeyman plumber:

(1) advertise as a plumbing contractor, master plumber, journeyman plumber, or plumber;

(2) append the person's name to, or in connection with, the title "plumbing contractor," "master plumber," "journeyman plumber," or "plumber";

(3) append the person's name to any other words that tend to represent the person as a plumbing contractor, master plumber, journeyman plumber, or plumber.

A person who advertises as a master plumber shall include in the advertisement the number of the person's license as a master plumber. A person who advertises as a journeyman plumber must include in the advertisement the person's master or journeyman plumber license number. A person who advertises as a plumbing contractor shall include in the advertisement the license number of the master plumber employed by the plumbing contractor.

A vehicle used to conduct plumbing business must prominently display on its exterior the license number of the master plumber or journeyman plumber performing plumbing services.

Subd. 2. [SCOPE.] (a) This section ~~does not apply~~ applies to a person advertising plumbing services if that person ~~does not engage in or work at the business of a master plumber~~ engages in or works at the business of plumbing or offers plumbing services in a city of 5,000 or more population; ~~or~~.

(b) This section also applies to a person advertising plumbing services who engages in or works at the business of plumbing or offers plumbing services in a city of less than 5,000 in population that by ordinance ~~require~~ requires licensing to do business as a master or journeyman plumber.

Subd. 3. [PENALTIES.] (a) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$100 for the first offense.

(b) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$1,000 for the second offense.

(c) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed \$1,000 or imprisonment not to exceed 30 days, or both, for the third and subsequent offenses.

Sec. 2. Minnesota Statutes 1986, section 326.2421, subdivision 6, is amended to read:

Subd. 6. [EXISTING CONTRACTORS.] Persons who on July 1, 1985, are in the business of laying out, installing, maintaining, or repairing alarm and communication systems and who have filed a license application with the electrical board by ~~July 1, 1986~~ *September 1, 1987*, shall be allowed to continue in that business as if licensed under subdivision 3 until final action is taken by the board upon their applications. Contractors who are in the business on July 1, 1985, and who file a license application with the board by ~~July 1, 1986~~ *September 1, 1987*, are exempt from the requirements of subdivision 4.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1988. Section 2 is effective the day following final enactment.

Amend the title as follows:

Page 1, line 3, after the semicolon insert "providing for licensing of certain persons by the electrical board;"

Page 1, line 4, delete "section" and insert "sections"

Page 1, delete line 5 and insert "325F75; and 326.2421, subdivision 6"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Richard "Rich" O'Connor, Joseph R. Begich, Chris M. Tjornhom

Senate Conferees: (Signed) Carl W. Kroening, Don Frank, Gerald L. Willet

Mr. Kroening moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1073 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1073 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 38 and nays 7, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Hughes	Moe, R.D.	Schmitz
Beckman	Cohen	Kroening	Morse	Storm
Belanger	Dahl	Laidig	Pehler	Vickerman
Benson	DeCramer	Langseth	Piper	Waldorf
Berg	Dicklich	Luther	Purfeerst	Wegscheid
Berglin	Frank	Marty	Ramstad	Willet
Bernhagen	Frederickson, D.J.	Mehrkens	Renneke	
Bertram	Frederickson, D.R.	Metzen	Samuelson	

Those who voted in the negative were:

Davis	Knutson	Merriam	Olson	Peterson, R.W.
Knaak	Larson			

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 539, 1074, 1279 and 777.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

FIRST READING OF HOUSE BILLS

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

H.F. No. 539: A bill for an act relating to human services; extending subsidized adoption program; amending Minnesota Statutes 1986, section 259.40, subdivisions 1, 2, and 3.

Referred to the Committee on Finance.

H.F. No. 1074: A bill for an act relating to small business; authorizing the bureau of small business within the department of energy and economic development to engage in certain collaborative activities with small business development centers; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Finance.

H.F. No. 1279: A bill for an act relating to agriculture; transferring authority of the commissioner of energy and economic development relating to governor's council on rural development to the commissioner of agriculture; authorizing loan and grant programs; providing for new members; appropriating money; amending Minnesota Statutes 1986, sections 116J.951; 116J.955; and 116J.961, subdivisions 1, 2, 3, 5, 8, and 9; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1986, section 116J.961, subdivision 10.

Mr. Moe, R.D. moved that H.F. No. 1279 be laid on the table. The motion prevailed.

H.F. No. 777: A bill for an act relating to motor fuels; trade practices; extending the expiration of the ethanol development fund to the year 2000; prohibiting "no ethanol" signs; appropriating money for promoting ethanol; amending Minnesota Statutes 1986, sections 41A.09, subdivisions 3 and 5; and 325E.09, subdivision 4.

Mr. Moe, R.D. moved that H.F. No. 777 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1114, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1114: A bill for an act relating to liquor; limitations on rules of the commissioner of public safety; items which may be sold in exclusive liquor stores; regulating sales of fermented malt beverages; amending Minnesota Statutes 1986, sections 299A.02, subdivision 3; and 340A.101, subdivision 10; repealing Minnesota Statutes 1986, sections 34.119; 34.12; 34.13; and 34.14.

Senate File No. 1114 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 915, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 915: A bill for an act relating to crime; amending trespass law to prohibit harassment on private property; prohibiting following and stalking with intent to harass, abuse, or threaten; removing requirement that caller not disclose identity for purposes of misdemeanor harassing telephone calls; prohibiting intentional harassment by delivering a letter or object; providing penalties; amending Minnesota Statutes 1986, sections 609.605, subdivision 1; 609.746; 609.79, subdivision 1; and 609.795.

Senate File No. 915 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 865, and repassed said bill in accordance with the report of the Committee, so adopted.

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.

Senate File No. 865 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1516, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1516: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; fixing and limiting fees; amending Minnesota Statutes 1986, sections 12.14; 17A.04, subdivision 5; 18.51, subdivision 2; 18.52, subdivision 5; 18.53; 27.041, subdivision 2; 28A.08; 32.075; 32.59; 60A.14, subdivision 1; 60A.206, subdivision 2; 60A.23, subdivision 7; 70A.14, subdivision 4; 83.23, subdivisions 2 and 3; 83.30, subdivision 2; 138.65; 138.91, by adding a subdivision; 309.531, subdivision 1; 326.241, subdivision 3; 326.244, subdivision 2; 332.33, subdivisions 3 and 4; amending Laws 1975, chapter 235, section 2, as amended.

Senate File No. 1516 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 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. 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; appropriating money; amending Minnesota Statutes 1986, sections 16B.67; and 256.482.

Senate File No. 377 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

CONCURRENCE AND REPASSAGE

Mr. Marty moved that the Senate concur in the amendments by the House to S.F. No. 377 and that the bill be placed on its repassage as amended. The motion prevailed.

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; providing reimbursement for certain child care expenses incurred in connection with service on state boards, councils, committees, and task forces; appropriating money; amending Minnesota Statutes 1986, sections 15.0575, subdivision 3; 15.059, subdivisions 3 and 6; 16B.67; 214.09, subdivision 3; and 256.482.

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

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

The roll was called, and there were yeas 40 and nays 9, as follows:

Those who voted in the affirmative were:

Beckman	Davis	Knaak	Moe, D.M.	Reichgott
Berg	DeCramer	Kroening	Moe, R.D.	Schmitz
Bernhagen	Dicklich	Laidig	Morse	Storm
Bertram	Diessner	Langseth	Pehler	Taylor
Brandl	Frank	Lessard	Peterson, R.W.	Vickerman
Chmielewski	Frederickson, D.R.	Luther	Piper	Waldorf
Cohen	Hughes	Marty	Pogemiller	Wegscheid
Dahl	Jude	Merriam	Purfeerst	Willet

Those who voted in the negative were:

Adkins	Benson	Larson	Mehrkens	Renneke
Belanger	Gustafson	McQuaid	Olson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 1153 be withdrawn from the Committee on Finance and re-referred to the Committee on Governmental Operations. The motion prevailed.

SUSPENSION OF RULES

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

CALENDAR

H.F. No. 735: A bill for an act relating to liquor; removing a restriction on issuance of off-sale licenses in Kanabec county; amending Minnesota Statutes 1986, section 340A.405, subdivision 2.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knaak	Metzen	Renneke
Beckman	Davis	Kroening	Moe, R.D.	Schmitz
Belanger	DeCramer	Laidig	Morse	Storm
Benson	Dicklich	Langseth	Olson	Stumpf
Berg	Diessner	Lessard	Pehler	Taylor
Bernhagen	Frank	Luther	Peterson, R. W.	Vickerman
Bertram	Frederickson, D.R.	Marty	Piper	Waldorf
Brataas	Gustafson	McQuaid	Pogemiller	Wegscheid
Chmielewski	Hughes	Mehrkins	Purfeerst	Willet
Cohen	Jude	Merriam	Reichgott	

So the bill passed and its title was agreed to.

S.F. No. 156: A bill for an act relating to certain commercial transactions; adopting an article of the uniform commercial code that governs leases; amending Minnesota Statutes 1986, section 336.1-201; proposing coding for new law in Minnesota Statutes, chapter 336.

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 3, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Kroening	Morse	Schmitz
Beckman	DeCramer	Laidig	Novak	Storm
Benson	Dicklich	Langseth	Olson	Stumpf
Berg	Diessner	Larson	Pehler	Taylor
Bernhagen	Frank	Lessard	Peterson, R. W.	Vickerman
Bertram	Frederickson, D.R.	Luther	Piper	Waldorf
Brandl	Gustafson	McQuaid	Pogemiller	Wegscheid
Chmielewski	Hughes	Mehrkins	Purfeerst	Willet
Cohen	Jude	Metzen	Reichgott	
Dahl	Knaak	Moe, R.D.	Renneke	

Mr. Belanger, Mrs. Brataas and Mr. Merriam voted in the negative.

So the bill passed and its title was agreed to.

H.F. No. 1210: A bill for an act relating to human services; regulating the licensure of programs for the care of children or of adults with certain disabilities; providing penalties; replacing the existing licensure law; amending Minnesota Statutes 1986, sections 256D.01, by adding a subdivision; and 256D.37, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1986, sections 245.781; 245.782; 245.783; 245.791; 245.792; 245.801; 245.802; 245.803; 245.804; 245.805; 245.811; 245.812; 245.88; 245.881; 245.882; 245.883; 245.884; and 245.885.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knaak	Moe, R.D.	Renneke
Beckman	Davis	Kroening	Morse	Schmitz
Belanger	DeCramer	Laidig	Novak	Storm
Benson	Dicklich	Langseth	Olson	Stumpf
Bernhagen	Diessner	Lessard	Pehler	Taylor
Bertram	Frank	Luther	Peterson, R. W.	Vickerman
Brandl	Frederickson, D.R.	McQuaid	Piper	Waldorf
Brataas	Gustafson	Mehrken	Pogemiller	Wegscheid
Chmielewski	Hughes	Merriam	Purfeerst	Willet
Cohen	Jude	Metzen	Reichgott	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1351:

H.F. No. 1351: A bill for an act relating to natural resources; authorizing the taking of elk and amending related laws; authorizing compensation for certain crop damage caused by elk; appropriating money; amending Minnesota Statutes 1986, sections 97A.421, subdivision 6; 97A.431; 97A.465, subdivisions 1 and 3; 97A.471, subdivision 3; 97A.475, subdivision 2; 97A.525, subdivision 1; 97A.535; and 97B.201; proposing coding for new law in Minnesota Statutes, chapters 3 and 97B.

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

Tunheim, Sparby and Johnson, V., have been appointed as such committee on the part of the House.

House File No. 1351 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Stumpf moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1351, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Marty introduced—

S.F. No. 1549: A bill for an act relating to energy; providing for minimum standards for fluorescent lamps; amending Minnesota Statutes 1986, section 116J.19, by adding a subdivision.

Referred to the Committee on Public Utilities and Energy.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Special Orders Calendar. The motion prevailed.

SPECIAL ORDER

H.F. No. 794: A bill for an act relating to waste management; regulating disposal of wastes; providing for a solid waste management policy; providing for recycling policy and marketing; managing household hazardous wastes; regulating the sale and disposal of motor oil and lead acid batteries; providing for waste pesticide collection; appropriating money; amending Minnesota Statutes 1986, sections 115A.03, subdivisions 9 and 21; 115A.06, subdivision 14; 115A.11, subdivision 2; 115A.15, subdivision 6; 115A.42; 115A.45; 115A.49; 115A.51; 115A.52; 115A.53; 115A.54, subdivision 2a; 115A.81, subdivision 2; 115A.921; 115A.95; 116.07, subdivision 4b; 116.41, subdivision 2; 116M.07, by adding a subdivision; 176.011, subdivision 9; 239.52; 325E.11; 473.149, subdivisions 2d and 6; 473.803, by adding a subdivision; 473.834, subdivision 2; 473.842, subdivision 2; 473.844, subdivisions 1 and 4; and 473.846; proposing coding for new law in Minnesota Statutes, chapters 115A; 239; 325E; and 473; repealing Minnesota Statutes 1986, sections 115A.13; 115A.43; 115A.44; 473.834, subdivision 3; and 473.844, subdivisions 2 and 5.

Mr. Merriam moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 33, line 9, delete "*subdivision 4*" and insert "*section 49*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 31, line 14, delete "*1b*" and insert "*1e*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 39, line 10, before "*Each*" insert "*By July 1 of*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 16, line 23, after "collect" insert "from a defined geographic service area or areas"

Page 16, delete line 24 and insert "released by generators for collection."

Page 16, delete lines 25 to 36

Page 17, delete lines 1 to 4 and insert:

"Subd. 2. [LOCAL AUTHORITY.] A city or town may organize collection. A county may organize collection as provided in subdivision 4.

Subd. 3. [GENERAL PROVISIONS.] (a) The local government unit may organize collection as a municipal service or by ordinance, franchise, license, negotiated or bidded contract, or other means, using one or more collectors or an organization of collectors.

(b) The local government unit may not establish or administer organized collection in a manner that impairs the preservation and development of recycling and markets for recyclable materials. The local government unit shall exempt recyclable materials from organized collection upon a showing by the generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

(c) Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste, except (1) recyclable materials and (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the requirement is imposed, be delivered to a waste facility identified by the local government unit. In a district or county where a resource recovery facility has been designated by ordinance under section 115A.86, organized collection must conform to the requirements of the designation ordinance."

Page 17, line 5, delete "3" and insert "4"

Page 31, line 22, after the semicolon, insert "and"

Page 31, line 25, delete the semicolon and insert a period

Page 31, delete lines 26 to 28

Page 31, line 31, delete everything after "facility"

Page 31, delete line 32 and insert "through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes."

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 14, after line 27, insert:

"(e) In addition to any assistance received under clause (b) or (c), a project may receive grant assistance for the cost of tests necessary to determine the appropriate pollution control equipment for the project or

the environmental effects of the use of any product or material produced by the project."

Page 14, line 28, delete "(e)" and insert "(f)"

Page 15, line 9, delete "(f)" and insert "(g)"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Pages 21 and 22, delete sections 33 to 35

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

Mr. Merriam then moved to amend the fourth Merriam amendment to H.F. No. 794 as follows:

Page 1, line 13, before the period, insert ", after public notification as required in subdivision 4"

Page 1, line 14, delete "4" and insert "5"

Page 1, after line 28, insert:

"(c) The local government unit may invite and employ the assistance of interested persons, including persons operating solid waste collection services, in developing plans and proposals for organized collection and in establishing the organized collection system."

Page 1, line 29, delete "(c)" and insert "(d)"

Page 2, after line 1, insert:

"Subd. 4. [CITIES AND TOWNS; NOTICE; PLANNING.] (a) At least 90 days before proposing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During the 90 day period following the resolution of intent, and before proposing a method of organizing collection, the city or town shall develop or supervise the development of plans or proposals for organized collection.

(d) Upon request, the city or town shall provide mailed notice of subsequent proceedings on the organization of collection in the city or town."

Page 2, line 2, delete "4" and insert "5"

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

Mr. Jude moved to amend H.F. No. 794, as amended pursuant to Rule

49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 16, line 1, strike "15" and insert "25"

The motion prevailed. So the amendment was adopted.

Mr. Laidig moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 31, after line 11, insert:

"Sec. 44. Minnesota Statutes 1986, section 473.803, subdivision 1a, is amended to read:

Subd. 1a. [PROPOSED INVENTORY OF DISPOSAL SITES.] By October 15, 1981, a metropolitan county having a population of less than 300,000, as determined by the 1980 United States Census, shall adopt, by resolution of the county governing body, an inventory of at least three proposed sites in the county suitable for mixed municipal solid waste disposal facilities and shall submit the inventory to the council for approval or disapproval. A metropolitan county having a population greater than 300,000, as determined by the 1980 United States Census, shall adopt, by resolution of the county governing body, an inventory of at least four proposed sites in the county that are suitable for mixed municipal solid waste disposal facilities and shall submit the inventory to the council for approval or disapproval. The council shall evaluate and approve or disapprove each proposed site in accordance with the standards set out in this subdivision. Except as otherwise provided in this subdivision, each site shall satisfy the standards and criteria in federal and state regulations and the council's policy plan for solid waste management. In proposing and approving sites for the inventory, the counties and the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility. Each site shall contain no less than 80 acres and no more than 250 acres. Each proposed site shall be surrounded by a buffer area at least equal to the area of the site. No site shall be adopted by a county or the council as part of an inventory unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on site surveys and investigations conducted by the county. Notwithstanding any plan, charter provision, law, ordinance, regulation, or other requirement of any state agency or political subdivision, no land shall be excluded from consideration for inclusion in the inventory except: (1) *land within any part of the regional recreation open space systems as defined by section 473.351, subdivision 1, paragraph (d); and* (2) *land determined by the agency to be intrinsically unsuitable. If the metropolitan council has determined during the original siting process that other suitable sites were available in the county, a county with land to be excluded from the inventory under clause (1) must select an intrinsically suitable alternative site.* Each county shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed for the inventory as soon as available. By July 1, 1981 each county shall propose at least the number of sites required for the inventory, and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. Notice of hearings on the director's recommendation shall be published in the state register and news-

papers of general circulation in the metropolitan area and shall be sent by mail to the metropolitan council and local government units containing a proposed inventory site. A hearing shall be held in each metropolitan county and shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the county and additional information on the proposed sites which is relevant to the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify them accordingly within 90 days of the county's proposal of a site. The agency shall not be required to promulgate rules pursuant to chapter 15 on criteria and standards to govern its certification of intrinsic suitability under this section. No action of the agency shall be held invalid by reason of the agency's failure to notify any of the entities listed in this subdivision. The council shall evaluate each site with respect to local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities and other services and facilities appropriate to land disposal facilities, the quality of other potential sites, and patterns of generation of solid waste. The council shall notify a county of any site proposed by the county which the council disapproves and shall allow the county 60 days to propose an alternative site. If the county fails to propose an alternative acceptable to the council in the time allowed, the council shall propose a site acceptable to it for inclusion in the inventory of sites in that county. If in the council's judgment a county does not contain the requisite number of satisfactory sites, the council may reduce the number of sites required of that county."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Merriam moved to amend the Laidig amendment to H.F. No. 794 as follows:

Page 2, delete lines 6 to 13 and insert "except: (1) land within any part of the regional recreation open space systems as defined by section 473.351, subdivision 1, paragraph (d); (2) land located adjacent to a solid waste disposal facility; (3) in or within one quarter mile of a critical area designated under chapter 116G; (4) within an agricultural preserve designated under chapter 473H; and (5) land determined by the agency to be intrinsically unsuitable. If the metropolitan council has determined during the original siting process that other suitable sites were available in the county, a county with land to be excluded from the inventory under clauses (1) and (2) must select an intrinsically suitable alternative site. Each county shall"

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

Mr. Laidig withdrew his amendment.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 22, line 8, before the period, insert "*except for a facility with less than two years' capacity remaining from the effective date of this section as verified by the pollution control agency, unless an expansion has been granted by the pollution control agency*"

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 794, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 708.)

Page 34, line 20, delete "*expand*" and insert "*enhance or increase the effectiveness of*"

The motion prevailed. So the amendment was adopted.

H.F. No. 794 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 841: A bill for an act relating to natural resources; amending requirements for eligibility, applications, agreements, payments, and other terms and conditions of the conservation reserve program; changing requirements to drain privately owned inventoried wetlands and public waters; amending and changing requirements for the waterbank program; changing requirements for persons selling land under a waterbank agreement; establishing a native prairie bank program; providing for prairie management applications, agreements, payments, and other terms and con-

ditions; appropriating funds; amending Minnesota Statutes 1986, sections 40.41; 40.42, subdivision 5, and by adding subdivisions; 40.43, subdivisions 2, 5, 6, and 7; 40.44, subdivision 2; 84.943, subdivisions 1, 3, and 5; 84.944, subdivision 1; 84.95, subdivision 2, and by adding a subdivision; 105.391, subdivision 3; 105.392, subdivisions 1, 2, 3, 4, 5, and 6; proposing coding for new law in Minnesota Statutes, chapter 84.

Senate File No. 841 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Mr. Novak moved that the Senate do not concur in the amendments by the House to S.F. No. 841, 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 that the House has adopted the recommendation and report of the Conference Committee on House File No. 234, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 234 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 234

A bill for an act relating to employment; establishing unpaid leave of absences for new parents; setting conditions on return from leave; creating a cause of action; prohibiting cost of parental leave from increasing unemployment insurance experience rating; amending Minnesota Statutes 1986, section 268.06, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 181.

May 16, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 234, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 234 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [181.93] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 1 to 5, the fol-

lowing terms have the meanings given to them in this section.

Subd. 2. [EMPLOYEE.] "Employee" means a person who performs services for hire for an employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by an employer. Employee does not include an independent contractor.

Subd. 3. [EMPLOYER.] "Employer" means a person or entity that employs 21 or more employees at at least one site and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, state, county, town, city, school district, or other governmental subdivision.

Sec. 2. [181.94] [PARENTING LEAVE.]

Subdivision 1. [SIX-WEEK LEAVE; BIRTH OR ADOPTION.] An employer must grant an unpaid leave of absence to an employee who has been employed by the employer for at least 12 months and who is a natural or adoptive parent in conjunction with the birth or adoption of a child. The length of the leave shall be determined by the employee, but may not exceed six weeks, unless agreed to by the employer.

Subd. 2. [START OF LEAVE.] The leave shall begin at a time requested by the employee. The employer may adopt reasonable policies governing the timing of requests for unpaid leave. The leave may begin not more than six weeks after the birth or adoption.

Subd. 3. [NO EMPLOYER RETRIBUTION.] An employer shall not retaliate against an employee for requesting or obtaining a leave of absence as provided by this section.

Subd. 4. [CONTINUED INSURANCE.] The employer shall continue to make coverage available to the employee, while on leave of absence, under any group insurance policy, group subscriber contract, or health care plan for the employee and any dependents. Nothing in this section requires the employer to pay the costs of the insurance or health care while the employee is on leave of absence.

Sec. 3. [181.95] [REINSTATEMENT AFTER LEAVE.]

Subdivision 1. [COMPARABLE POSITION.] An employee returning from a leave of absence shall be entitled to return to employment in the employee's former position or in a position of comparable duties, number of hours, and pay. An employee returning from a leave of absence longer than one month must notify a supervisor at least two weeks prior to return from leave.

If, during the leave, the employer experiences a layoff and the employee would have lost a position had the employee not been on leave, pursuant to the good faith operation of a bona fide layoff and recall system, including a system under a collective bargaining agreement, the employee is not entitled to reinstatement in the former or comparable position. In such circumstances, the employee retains all rights under the layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.

Subd. 2. [PAY; BENEFITS; ON RETURN.] An employee returning from a leave of absence shall return to work at the same rate of pay the employee had been receiving when the leave commenced, plus any automatic adjustments in the employee's pay scale that occurred during leave period. The

employee returning from a leave shall retain all accrued preleave benefits of employment and seniority, as if there had been no interruption in service; provided that nothing in sections 1 to 4 prevents the accrual of benefits or seniority during the leave pursuant to a collective bargaining or other agreement between the employer and employees.

Subd. 3. [PART-TIME RETURN.] *An employee, by agreement with the employer, may return to work part time during the leave period without forfeiting the right to return to employment at the end of the leave period, as provided in sections 1 to 4.*

Sec. 4. [181.97] [RELATIONSHIP TO OTHER LEAVE.]

The length of leave provided by this act may be reduced by any period of paid parental or disability leave provided by the employer, so that the total leave does not exceed six weeks, unless agreed to by the employer.

Nothing in sections 1 to 4 prevents any employer from providing parental leave benefits in addition to those provided in sections 1 to 4 or otherwise affects an employee's rights with respect to any other employment benefit.

Sec. 5. [181.98] [INDIVIDUAL REMEDIES.]

In addition to any remedies otherwise provided by law, any person injured by a violation of sections 1 to 4 may bring a civil action to recover any and all damages recoverable at law, together with costs and disbursements, including reasonable attorney's fees, and may receive injunctive and other equitable relief as determined by a court."

Delete the title and insert:

"A bill for an act relating to employment; establishing unpaid leave of absences for new parents; setting conditions on return from leave; creating a cause of action; proposing coding for new law in Minnesota Statutes, chapter 181."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Peter McLaughlin, Ann H. Rest, Kathleen A. Blatz

Senate Conferees: (Signed) Donna C. Peterson, Don Frank, Pat Piper

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 234 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

CALL OF THE SENATE

Ms. Peterson, D.C. imposed a call of the Senate for the balance of the proceedings on H.F. No. 234. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 234 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 44 and nays 18, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Laidig	Morse	Schmitz
Berglin	Diessner	Langseth	Novak	Spear
Brandl	Frank	Lantry	Pehler	Storm
Brataas	Frederickson, D.J.	Lessard	Peterson, D.C.	Stumpf
Chmielewski	Gustafson	Luther	Peterson, R.W.	Taylor
Cohen	Hughes	Marty	Piper	Waldorf
Dahl	Jude	McQuaid	Pogemiller	Wegscheid
Davis	Knaak	Moe, D.M.	Ramstad	Willet
DeCramer	Kroening	Moe, R.D.	Reichgott	

Those who voted in the negative were:

Anderson	Bernhagen	Johnson, D.E.	Merriam	Renneke
Beckman	Bertram	Knutson	Metzen	Vickerman
Belanger	Frederick	Larson	Olson	
Benson	Frederickson, D.R.	Mehrkens	Purfert	

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

RECESS

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

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

APPOINTMENTS

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

S.F. No. 451: Ms. Peterson, D.C.; Mrs. Lantry and Mr. Ramstad.

H.F. No. 1112: Ms. Berglin, Mrs. Lantry and Mr. Knutson.

H.F. No. 169: Messrs. Lessard, Schmitz and Frederick.

H.F. No. 601: Messrs. Dahl, Morse and Wegscheid.

H.F. No. 1043: Messrs. Wegscheid, Freeman and Luther.

H.F. No. 534: Messrs. Peterson, R.W.; Merriam and Moe, D.M.

H.F. No. 1351: Messrs. Stumpf, Bertram and DeCramer.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 593: A bill for an act relating to human services; clarifying statutes relating to the preadmission screening program; amending Minnesota Statutes 1986, section 256B.091, subdivisions 2, 3, 4, 6, and 8.

Senate File No. 593 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

Ms. Berglin moved that S.F. No. 593 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Chmielewski moved that H.F. No. 913 be taken from the table. The motion prevailed.

H.F. No. 913: A bill for an act relating to workers' compensation; providing a general administrative reform; providing for certain proceedings to be expedited; providing penalties; amending Minnesota Statutes 1986, sections 14.48; 175.007, subdivision 1; 175.101, subdivision 2; 176.011, subdivisions 2, 6, 7a, 9, and by adding a subdivision; 176.041, subdivision 1, 4, and by adding a subdivision; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, 6, 8, 10, and 13; 176.103, subdivisions 2 and 3; 176.111, subdivision 17; 176.129, subdivisions 9, 11, and 13; 176.131, subdivisions 1 and 8; 176.133; 176.135, subdivisions 1, 1a, 2, 3, and by adding subdivisions; 176.136, subdivision 2; 176.1361; 176.139; 176.155, subdivisions 1, 3, and 5; 176.179; 176.181, subdivision 3; 176.182; 176.183, subdivisions 1a and 2; 176.185, by adding a subdivision; 176.191, subdivisions 1 and 2; 176.195, subdivision 3; 176.221, subdivisions 1, 3, and 7; 176.225, subdivisions 1, 2, and 4; 176.231, subdivisions 2, 10, and by adding a subdivision; 176.271, subdivision 1; 176.275; 176.291; 176.301, subdivision 1; 176.305, subdivisions 1, 2, and by adding subdivisions; 176.306, subdivision 1, and by adding a subdivision; 176.312; 176.321, subdivisions 2 and 3; 176.331; 176.341, subdivision 3, and by adding subdivisions; 176.351, subdivision 2a; 176.361, subdivisions 2, 5, and 7; 176.371; 176.411, subdivision 1; 176.421, subdivision 4, and by adding a subdivision; 176.442; 176.511, subdivisions 1, 2, and 3; 176.521; 176.541, subdivisions 2, 3, 4, and 6; 176.571, subdivisions 1 and 2; 176.572; 176.581; 176.591, subdivision 3; 176.603; 176.83, subdivisions 5, 7, and 11; 176.84; 176B.02; and 176B.05; proposing coding for new law in Minnesota Statutes, chapters 60A and 176; repealing Minnesota Statutes 1986, sections 176.012; 176.101, subdivision 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602.

SUSPENSION OF RULES

Mr. Chmielewski moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 913 and that the rules of the Senate be so far suspended as to give H.F. No. 913 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 913 was read the second time.

H.F. No. 913 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

Mr. Chmielewski moved that S.F. No. 4, No. 9 on Special Orders, be stricken and laid on the table. The motion prevailed.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 753, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 753 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 753

A bill for an act relating to education; providing aids to education, aids to libraries, appropriations to the state academies for the deaf and blind, and the department of education; changing secondary pupil unit weighting; establishing a formula equity allowance; changing the calculation of special education aid; increasing the community education formula; changing the capital expenditure formula; changing the secondary vocational funding formula; increasing desegregation levies and appropriating desegregation aid; appropriating money; amending Minnesota Statutes 1986, sections 43A.08, subdivisions 1 and 1a; 43A.18, subdivision 4; 118.12; 118.13; 118.14; 120.03, subdivision 1; 120.0752, by adding a subdivision; 120.17, subdivisions 1, 2, 3, 3a, 3b, 5, 7a, 12, and by adding subdivisions; 121.609, subdivision 4; 121.612, subdivisions 3, 5, and by adding subdivisions; 121.87, subdivision 1, and by adding a subdivision; 121.88, subdivision 2, and by adding a subdivision; 121.935, subdivision 6; 121.936, subdivision 1; 122.541, subdivision 2; 123.36, subdivision 13; 123.39, subdivision 1, and by adding a subdivision; 123.58, subdivisions 6 and 8a; 123.705, subdivision 1; 124.05, subdivision 1; 124.17, subdivisions 1 and 1a; 124.195, subdivision 9; 124.2138, subdivision 4, and by adding a

subdivision; 124.2162, by adding a subdivision; 124.223; 124.225, subdivisions 1, 4b, 7b, 8a, 8i, 10, and by adding a subdivision; 124.245, subdivisions 1, 3, and by adding subdivisions; 124.246, subdivision 2; 124.247, subdivision 3; 124.252, subdivision 3; 124.271, subdivision 2b; 124.2711, subdivision 1; 124.272, subdivision 1; 124.273, subdivision 1b, and by adding subdivisions; 124.32; 124.481; 124.524, by adding a subdivision; 124.573; 124.574, subdivisions 2b, 3, 4, and by adding subdivisions; 124.646, subdivision 1; 124A.01; 124A.02, subdivisions 7, 8, 9, 16, and by adding subdivisions; 124A.03, subdivisions 1a, 3, and by adding a subdivision; 124A.033, subdivision 2; 124A.036, by adding a subdivision; 124A.06; 124A.08, subdivisions 1, 3a, and 5; 124A.10, subdivision 1, and by adding a subdivision; 124A.12, subdivision 1; 124A.14, subdivision 4; 125.03, subdivision 5; 125.05, subdivision 1; 125.185, subdivision 4; 125.611, subdivisions 10, 11, 12, and 13; 126.02, subdivision 2; 126.48, by adding a subdivision; 126.56, subdivisions 3 and 6; 126.65; 126.66, subdivisions 1, 6, and by adding subdivisions; 126.67, subdivisions 1, 1a, 2a, 3a, 6, and 9; 126.81, subdivision 2; 129B.041, subdivisions 1 and 3; 134.10; 136D.27; 136D.71; 136D.74, subdivision 2; 136D.87; 275.125, subdivisions 5, 6e, 8c, 9, 11a, 11c, and by adding subdivisions; Laws 1984, chapter 463, article 6, section 15, subdivision 1; Laws 1986, First Special Session chapter 1, article 5, section 9; proposing coding for new law in Minnesota Statutes, chapters 43A; 121; 122; 123; 124A; 125; 126; 128A; 129B; and 134; repealing Minnesota Statutes 1986, sections 120.17, subdivision 13; 123.937; 124.05, subdivision 2; 124.185; 124.2161; 124.2162; 124.2163; 124.225, subdivision 1a; 124.273, subdivision 2b; 124.275; 124A.20; 125.611, subdivisions 8 and 9; 129B.01; 129B.02; 129B.04; 129B.041, subdivision 4; 129B.05; 129B.17; 129B.20; 129B.21; 129B.35; 129B.37; and 275.125, subdivision 5d.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 753, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 753 be further amended as follows:

Delete everything after the enacting clause and insert:

"APPROPRIATION

SUMMARY

Section 1. [WORDS OF APPROPRIATION; TABLE.]

The sums shown are appropriated from the general fund, or any other named fund, to the agencies for the purposes specified in this act, to be available for the fiscal year indicated for each purpose. The figures "1988" and "1989," where used in this act, mean that the appropriation or appropriations listed under or along side them are available for the year ending June 30, 1988, or June 30, 1989, respectively.

SUMMARY BY FUND

1988

1989

TOTAL

<i>General</i>	\$1,467,236,755	\$1,503,199,155	\$2,970,435,910
<i>Public Health</i>	693,000	719,600	1,412,600
<i>Trunk Hwy</i>	20,700	20,700	41,400

ARTICLE 1

FOUNDATION AND GENERAL EDUCATION REVENUE

Section 1. Minnesota Statutes 1986, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2 which are for the fiscal year payable in that fiscal year plus 24 27 percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) 24 27 percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

(i) reducing or eliminating projected deficits in the appropriated fund balance accounts for unemployment insurance and bus purchases;

(ii) statutory operating debt pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4; and

(iii) retirement and severance pay pursuant to section 275.125, subdivision 6a, and Laws 1975, chapter 261, section 4; and

(iv) amounts levied for bonds issued and interest thereon, amounts levied for debt service loans and capital loans, and amounts levied pursuant to section 275.125, subdivision 14a.

(c) In July of each year, the school district shall recognize as revenue that portion of the school district tax settlement revenue received in that calendar year and not recognized as revenue for the previous fiscal year pursuant to clause (b).

(d) All other school district tax settlement revenue shall be recognized as revenue in the fiscal year of the settlement. Portions of the school district levy assumed by the state, including prior year adjustments and the amount to fund the school portion of the reimbursement made pursuant to section 273.425, shall be recognized as revenue in the fiscal year beginning in the calendar year for which the levy is payable.

Sec. 2. Minnesota Statutes 1986, section 124.17, is amended by adding a subdivision to read:

Subd. 1b. [AFDC PUPIL UNITS.] In a district in which the number of pupils from families receiving aid to families with dependent children equals six percent or more of the actual pupil units in the district for the same year, as computed in subdivision 1, each such pupil shall be counted as an additional one-tenth of a pupil unit for each percent of concentration over five percent of such pupils in the district. The percent of concentration shall be rounded down to the nearest whole percent. In a district in which the percent of concentration is less than six, additional pupil units may not be counted for such pupils. A pupil may not be counted as more than .6 additional pupil unit under this subdivision. The weighting in this subdivision is in addition to the weighting provided in subdivision 1.

Sec. 3. Minnesota Statutes 1986, section 124.2162, is amended by adding a subdivision to read:

Subd. 3. [REDISTRIBUTION.] For purposes of aid calculations, the commissioner may redistribute current year teacher retirement and FICA obligations among districts that have agreements for sharing staff or for cooperative education of pupils to adjust for changes in staffing patterns between the base year and the current year resulting from the agreements.

Sec. 4. Minnesota Statutes 1986, section 124A.02, is amended by adding a subdivision to read:

Subd. 5a. [BASIC FOUNDATION AID; 1987-1988 SCHOOL YEAR.] A district's basic foundation aid for the 1987-1988 school year equals its basic foundation revenue for that school year, minus the lesser of (1) the basic maintenance mill rate times the applicable adjusted assessed valuation of the district; or (2) \$1,700 times the district's total pupil units for that school year.

Sec. 5. Minnesota Statutes 1986, section 124A.02, subdivision 8, is amended to read:

Subd. 8. [EQUALIZING FACTOR.] "Equalizing factor" means a number equal to the minimum EARC valuation per total pupil unit which disqualifies a district from earning any basic foundation aid. The equalizing factor for the 1987-1988 school year and for levies for use in that school year equals \$74,890. The equalizing factor for each school year, except the 1987-1988 school year, and for levies for use in that school year equals the ratio, rounded to the nearest dollar, of the foundation aid formula allowance for that school year to the basic maintenance mill rate for that school year.

Sec. 6. Minnesota Statutes 1986, section 124A.02, subdivision 9, is amended to read:

Subd. 9. [FORMULA ALLOWANCE.] "Foundation aid formula allowance" or "formula allowance" means the amount of revenue per pupil unit used in the computation of foundation aid for a particular school year and in the computation of permissible levies for use in that school year. The formula allowance shall be \$1,585 for the 1984 payable 1985 levies and for foundation aid for the 1985-1986 school year. The formula allowance shall be \$1,690 for the 1985 payable 1986 levies and for foundation aid for the 1986-1987 school year. The formula allowance is \$1,700 \$1,720 for the 1986 payable 1987 levies and for foundation aid for the 1987-1988

school year.

Sec. 7. Minnesota Statutes 1986, section 124A.02, subdivision 16, is amended to read:

Subd. 16. [PUPIL UNITS, AFDC.] ~~For the 1984-1985 and 1985-1986 school years, "AFDC pupil units" means 98.5 percent of the pupil units identified in Minnesota Statutes 1980, section 124.17, subdivision 1, clauses (4) and (5) in the 1980-1981 school year.~~

~~For the 1986-1987 and 1987-1988 school year and each year thereafter years, "AFDC pupil units" means pupil units identified in section 124.17, subdivision 1a. For the 1988-1989 school year and each year thereafter, "AFDC pupil units" means pupil units identified in section 2.~~

Sec. 8. Minnesota Statutes 1986, section 124A.03, is amended by adding a subdivision to read:

Subd. 3a. [BASIC MAINTENANCE LEVY; DISTRICTS OFF THE FORMULA; 1987-1988 SCHOOL YEAR.] *If the amount of the maximum levy limitation under subdivision 1 for any district exceeds the product of \$1,700 times the estimated number of total pupil units for that district for the 1987-1988 school year, the levy limitation for that district under subdivision 1 is limited to the greater of the dollar amount of the levy the district certified in 1977 under Minnesota Statutes 1978, section 275.125, subdivision 2a, clause (1), or the following difference but not to exceed the levy limitation under subdivision 1:*

(a) the product of \$1,700 times the estimated number of total pupil units for the 1987-1988 school year; less

(b) the estimated amount of any payments which would reduce the district's foundation aid entitlement as provided in section 124A.035, subdivision 4, in the school year in which the levy is recognized as revenue.

A levy made by a district under this subdivision shall be construed to be the levy made by that district under subdivision 1 for purposes of statutory cross-reference.

Sec. 9. Minnesota Statutes 1986, section 124A.032, is amended to read:

124A.032 [ANNUAL FOUNDATION AID APPROPRIATION.]

There is annually appropriated from the general fund to the department of education the amount necessary for foundation aid or general education aid. This amount shall be reduced by the amount of any funds specifically appropriated for the same purpose in any year from any state fund.

Sec. 10. Minnesota Statutes 1986, section 124A.21, is amended to read:

124A.21 [ISOLATED SCHOOL AID FOR ST. LOUIS COUNTY DISTRICT.]

~~In the 1985-1986 and 1986-1987 1987-1988 school years year,~~ a district having more than 2,500 square miles in area and operating six or more secondary schools shall be entitled to additional foundation aid. The additional aid shall equal \$50 times the actual pupil units in ~~each of these the~~ school years year.

Sec. 11. [124A.22] [GENERAL EDUCATION REVENUE.]

Subdivision 1. [GENERAL EDUCATION REVENUE.] The general education revenue for each district equals the sum of the district's basic rev-

enue, compensatory education revenue, training and experience revenue, and sparsity revenue.

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. The formula allowance is \$2,735 for the 1988-1989 school year.

Subd. 3. [COMPENSATORY EDUCATION REVENUE.] The compensatory education revenue for each district equals the formula allowance times the AFDC pupil units counted according to section 2 for the school year.

Subd. 4. [TRAINING AND EXPERIENCE REVENUE.] The training and experience revenue for each district equals the greater of zero or the result of the following computation:

(a) Subtract 1.6 from the training and experience index.

(b) Multiply the result in clause (a) by the product of \$700 times the actual pupil units for the school year.

Subd. 5. [DEFINITIONS.] The definitions in this subdivision apply only to subdivision 6.

(a) "High school" means a secondary school that has pupils enrolled in at least the 10th, 11th, and 12th grades. If there is no secondary school in the district that has pupils enrolled in at least the 10th, 11th, and 12th grades, the commissioner shall designate one school in the district as a high school for the purposes of this section.

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of resident pupils in grades seven through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of resident pupils in grades seven through 12 in the high school, times the ratio of six to the number of grades in the high school.

(c) "Attendance area" means the total surface area of the district, in square miles, divided by the number of high schools in the district.

(d) "Isolation index" for a high school means the square root of one-half the attendance area plus the distance in miles, according to the usually-traveled routes, between the high school and the nearest high school.

(e) "Qualifying high school" means a high school that has an isolation index greater than 23 and that has secondary average daily membership of less than 400.

Subd. 6. [SPARSITY REVENUE.] A district's sparsity revenue for a school year equals the sum of the results of the following calculation for each qualifying high school in the district:

(1) the formula allowance for the school year, multiplied by

(2) the secondary average daily membership of the high school, multiplied by

(3) the quotient obtained by dividing 400 minus the secondary average daily membership by 400 plus the secondary daily membership, multiplied by

(4) the lesser of one or the quotient obtained by dividing the isolation

index minus 23 by ten.

Sec. 12. [124A.23] [GENERAL EDUCATION LEVY AND AID.]

Subdivision 1. [GENERAL EDUCATION MILL RATE.] The commissioner of revenue shall establish the general education mill rate and certify it to the commissioner of education by August 1 of each year for levies payable in the following year. The general education mill rate shall be a rate, rounded up to the nearest tenth of a mill, that, when applied to the adjusted assessed valuation for all districts, raises the amount specified in this subdivision. The general education mill rate for the 1989 fiscal year shall be the rate that raises \$1,079,000,000. The general education mill rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted assessed valuation after the mill rate has been certified.

Subd. 2. [GENERAL EDUCATION LEVY.] To obtain general education revenue, a district may levy an amount not to exceed the general education mill rate times the adjusted assessed valuation of the district for the preceding year. If the amount of the general education levy would exceed the general education revenue, the general education levy shall be determined according to subdivision 3. The adjusted assessed valuation must be determined each year by the equalization aid review committee according to section 124.2131.

Subd. 3. [GENERAL EDUCATION LEVY; DISTRICTS OFF THE FORMULA.] If the amount of the general education levy for a district exceeds the district's general education revenue, the amount of the general education levy shall be limited to the following:

- (1) the district's general education revenue; plus*
- (2) the amount of the aid reduction for the same school year according to section 13; minus*
- (3) payments made for the same school year according to section 124A.035, subdivision 4.*

For purposes of statutory cross-reference, a levy made according to this subdivision shall be construed to be the levy made according to subdivision 2.

Subd. 4. [GENERAL EDUCATION AID.] A district's general education aid is the difference between the general education revenue and the general education levy, multiplied times the ratio of the actual amount levied to the permitted levy.

Subd. 5. [USES OF REVENUE.] General education revenue may be used during the regular school year and the summer for general and special school purposes.

Sec. 13. [124A.24] [GENERAL EDUCATION LEVY EQUITY.]

If a district's general education levy is determined according to section 12, subdivision 3, an amount must be deducted from state aid authorized in chapters 124 and 124A, receivable for the same school year, and from other state payments receivable for the same school year authorized in sections 273.115; 273.116; 273.123, subdivision 6; 273.13, subdivision 15a; and Laws 1983, chapter 342, article 8, section 8. The aid in section 124.646 must not be reduced:

The amount of the deduction equals the difference between:

(1) the general education mill rate, according to section 12, times the district's adjusted assessed valuation used to determine the general education aid for the same school year; and

(2) the district's general education revenue for the same school year, according to section 11.

However, for fiscal year 1989, the amount of the deduction shall be one-fourth of the difference between clauses (1) and (2); for fiscal year 1990, the amount of the deduction shall be one-half of the difference between clauses (1) and (2); and for fiscal year 1991, the amount of the deduction shall be three-fourths of the difference between clauses (1) and (2).

Sec. 14. [124A.25] [SUPPLEMENTAL REVENUE.]

Subdivision 1. [1987-1988 REVENUE.] "1987-1988 revenue" means the sum of the following categories of revenue for a district for the 1987-1988 school year:

(1) basic foundation revenue, tier revenue, and declining pupil unit revenue, according to chapter 124A, plus any reduction to second tier revenue, according to Minnesota Statutes 1986, section 124A.08, subdivision 5;

(2) teacher retirement and FICA aid, according to Minnesota Statutes 1986, sections 124.2162 and 124.2163;

(3) chemical dependency aid, according to Minnesota Statutes 1986, section 124.246;

(4) gifted and talented education aid, according to Minnesota Statutes 1986, section 124.247;

(5) interdistrict cooperation aid and levy, according to Minnesota Statutes 1986, sections 124.272 and 275.125, subdivision 8a;

(6) arts education aid, according to Minnesota Statutes 1986, section 124.275;

(7) summer program aid and levy, according to Minnesota Statutes 1986, sections 124A.03 and 124A.033;

(8) programs of excellence grants, according to Minnesota Statutes 1986, section 126.60; and

(9) liability insurance levy, according to Minnesota Statutes 1986, section 466.06.

Subd. 2. [MINIMUM ALLOWANCE.] "Minimum allowance" for a district means:

(1) the district's 1987-1988 revenue, according to subdivision 1; divided by

(2) the district's 1987-1988 actual pupil units, adjusted for the change in pupil unit weighting made in article 3, section 16; plus

(3) \$40.

Subd. 3. [REVENUE AMOUNT.] If a district's minimum allowance exceeds the amount of its general education revenue per actual pupil unit for a school year, the district shall receive supplemental revenue equal to

the amount of the excess times the actual pupil units for the school year.

Subd. 4. [SUPPLEMENTAL LEVY.] To obtain supplemental revenue, a district may levy an amount not to exceed the product of its supplemental revenue for the school year times the lesser of one or the ratio of its general education levy to its general education revenue for the same year.

Subd. 5. [SUPPLEMENTAL AID.] A district's supplemental aid is the difference between its supplemental revenue and its supplemental levy, times the ratio of the actual amount levied to the permitted levy.

Subd. 6. [USES OF REVENUE.] Supplemental revenue may be used during the regular school year and the summer for general and special school purposes.

Sec. 15. [124A.26] [REDUCTION TO GENERAL EDUCATION REVENUE.]

Subdivision 1. [REVENUE REDUCTION.] A district's general education revenue for a school year shall be reduced if the net unappropriated operating fund balance as of June 30 in the second prior school year exceeds \$600 times the actual pupil units in the second prior year. The amount of the reduction shall equal the lesser of:

(1) the amount of the excess, or

(2) \$150 times the actual pupil units for the school year.

Subd. 2. [LEVY REDUCTION.] If a district's general education revenue is reduced, the general education levy shall be reduced by the following amount:

(1) the reduction specified in subdivision 1, times

(2) the lesser of one or the ratio of the district's general education levy to its general education revenue.

Subd. 3. [AID REDUCTION.] A district's general education aid shall be reduced by an amount equal to the difference between the revenue reduction and the levy reduction.

Sec. 16. [124A.27] [RESERVED REVENUE FOR CERTAIN PROGRAMS.]

Subdivision 1. [REQUIREMENT.] An amount equal to 1.85 percent of the basic revenue under section 11, subdivision 2, shall be reserved and may be used only to provide one or more of the programs enumerated in this section. The school board shall determine which programs to provide, the manner in which they will be provided, and the extent to which other money may be used for the programs. Except for the requirements of sections 17 and 18, the remaining general education revenue under section 11 and supplemental revenue under section 14 may be used to provide one or more of the programs enumerated in this section.

Subd. 2. [STATE ASSISTANCE.] The state board of education and the commissioner of education shall provide assistance to school boards offering the programs enumerated in this section. The state board or commissioner may establish an advisory committee for any program area. Technical assistance shall be provided commensurate with school board and district needs. State board of education rules apply to all programs or portions of programs offered.

Subd. 3. [SEPARATE RECORDS.] A district offering any program enumerated in this section shall maintain records of the expenditures for each program offered.

Subd. 4. [ARTS EDUCATION.] A school board may use the reserved revenue to provide a variety of arts education programs for its pupils and staff. The programs may involve staff development, curriculum offerings, and arts activities for all forms of creative and artistic endeavors.

Subd. 5. [CHEMICAL ABUSE PREVENTION.] A school board may use the reserved revenue to offer a program to prevent chemical abuse among pupils in public and nonpublic schools and area vocational technical institutes.

Subd. 6. [GIFTED AND TALENTED.] A school board may use the reserved revenue to offer programs for gifted and talented pupils.

Subd. 7. [INTERDISTRICT COOPERATION TO EXPAND CURRICULUM.] A school board may use the reserved revenue to expand curricular offerings in secondary mathematics, secondary science, foreign languages, and computer usage by entering into cooperation agreements with other school boards. The agreements shall emphasize instruction and minimize administrative costs.

Subd. 8. [PROGRAMS OF EXCELLENCE.] A school board may use the reserved revenue for a secondary academic program designated by the commissioner of education as a program of excellence. The commissioner shall establish criteria for the programs of excellence and may approve applications of not more than 100 nonresident pupils to attend the programs full-time. The district of attendance may count a pupil attending a program as a resident pupil for the purpose of determining aids and levies.

Subd. 9. [SUMMER PROGRAMS.] A school board may use the reserved revenue to provide summer instructional programs that are offered for credit or required for graduation or that provide academic enrichment or remediation. The reserved revenue may not be used for recreational sports, leisure activities, entertainment, recreational activities, crafts, hobbies, or any other classes of a similar nature. Summer programs for a handicapped pupil shall relate to the pupil's individual education plan.

Subd. 10. [LIABILITY INSURANCE.] A school board may use the reserved revenue to procure liability insurance, according to section 466.06.

Sec. 17. [124A.28] [COMPENSATORY EDUCATION REVENUE.]

Subdivision 1. [USE OF THE REVENUE.] The compensatory education revenue under section 11, subdivision 3, may be used only to meet the special educational needs of pupils whose educational achievement is below the level that is appropriate for pupils of their age. These needs may be met by providing at least some of the following:

(1) remedial instruction in reading, language arts, and mathematics to improve the achievement level of these pupils;

(2) additional teachers and teacher aides to provide more individualized instruction to these pupils;

(3) summer programs that enable these pupils to improve their achievement or that reemphasize material taught during the regular school year;

(4) in-service education for teachers, teacher aides, principals, and other

personnel to improve their ability to recognize these pupils and provide appropriate responses to the pupils' needs;

(5) for instruction of these pupils, textbooks, workbooks, periodicals, pamphlets, photographs, reproductions, filmstrips, prepared slides, pre-recorded video programs, sound recordings, desk charts, games, study prints and pictures, desk maps, models, learning kits, blocks and cubes, flashcards, instructional computer software programs, pencils, pens, crayons, notebooks, duplicating fluids, and papers;

(6) programs to reduce truancy, encourage completion of high school, enhance self-concept, provide health services, provide nutrition services, provide a safe and secure learning environment, provide coordination for pupils receiving services from other governmental agencies, provide psychological services to determine the level of social, emotional, cognitive, and intellectual development, and provide counseling services, guidance services, and social work services; and

(7) bilingual programs, bicultural programs, and programs for pupils of limited English proficiency.

Subd. 2. [SEPARATE ACCOUNTS.] Each district that receives compulsory education revenue shall maintain separate accounts to identify expenditures for salaries and programs related to this revenue.

Sec. 18. [124A.29] [RESERVED REVENUE FOR STAFF DEVELOPMENT.]

Of a district's basic revenue under section 11, subdivision 2, an amount equal to \$10 times the number of actual pupil units shall be reserved and may be used only to provide staff development programs, according to article 8, sections 27 and 28. The school board shall determine which programs to provide, the manner in which they will be provided, and the extent to which other money may be used for the programs.

Sec. 19. Minnesota Statutes 1986, section 129B.43, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] ~~A school district or group of districts that wishes to receive a grant for may establish an improved learning programs may apply to the council on quality education for approval program. Programs may be approved for one portion of a school population, one or several attendance areas, or one or a group of districts.~~

Sec. 20. Minnesota Statutes 1986, section 129B.43, subdivision 4, is amended to read:

Subd. 4. [RULES AND RIGHTS.] ~~On recommendation of the council of quality education,~~ The state board of education may waive school district compliance with its rules which would prevent implementation of an improved learning program. Participation in an improved learning program as a principal-teacher, counselor-teacher, or career teacher shall not affect seniority in the district or rights under the applicable collective bargaining agreement.

Sec. 21. Minnesota Statutes 1986, section 275.125, subdivision 4, is amended to read:

Subd. 4. [MISCELLANEOUS LEVY AUTHORIZATIONS.] A school district may levy the amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by *Minnesota Statutes 1974*, section 275.125, subdivision

3, clause (7) (C); ~~as it read in Minnesota Statutes 1974;~~ the amounts necessary for repayment of debt service loans and capital loans; the amounts necessary to pay the district's obligations under section 6.62; the amount authorized for liabilities of dissolved districts pursuant to section 122.45; the amounts necessary to pay the district's obligations under section 268.06, subdivision 25; the amounts necessary to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.08; the amounts necessary to pay the district's obligations under section 127.05; the amounts authorized by section 122.531; ~~and the amounts necessary to pay the district's obligations under section 122.533; and the amounts necessary to pay the district's insurance premium costs under section 466.06.~~

Sec. 22. Minnesota Statutes 1986, section 466.06, is amended to read:

466.06 [LIABILITY INSURANCE.]

The governing body of any municipality may procure insurance against liability of the municipality and its officers, employees, and agents for damages resulting from its torts and those of its officers, employees, and agents, including torts specified in section 466.03 for which the municipality is immune from liability. The insurance may provide protection in excess of the limit of liability imposed by section 466.04. ~~If the a municipality other than a school district has the authority to levy taxes, the premium costs for such insurance may be levied in excess of any per capita or millage tax limitation imposed by statute or charter. However, a school district may not levy pursuant to this section for premium costs for motor vehicle insurance protecting against injuries or damages arising out of the operation of district owned, operated, leased, or controlled vehicles for the transportation of pupils for purposes for which state aid is authorized under section 124.223, or for purposes for which the district is authorized to levy under section 275.125, subdivision 5d.~~ Any independent board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly procure liability insurance with respect to the field of its operation. The procurement of such insurance constitutes a waiver of the defense of governmental immunity to the extent of the liability stated in the policy but has no effect on the liability of the municipality beyond the coverage so provided.

Sec. 23. [MILL RATE ADJUSTMENT AID.]

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

"Fiscal year 1988 qualifying mills" means the sum of a district's basic foundation levy, tier levies, declining pupil unit levy, summer program levy, interdistrict cooperation levy and liability insurance levy for the 1987-1988 school year divided by the district's 1985 adjusted assessed valuation.

"Fiscal year 1989 qualifying mills" means the sum of a district's maximum general education levy and supplemental levy for the 1988-1989 school year divided by the district's 1986 adjusted assessed valuation.

"Excess foundation mill increase" is the greater of zero or the result obtained by subtracting the fiscal year 1988 qualifying mills plus 0.002 from the fiscal year 1989 qualifying mills.

Subd. 2. [MILL RATE ADJUSTMENT AID.] For the 1988-1989 school year a district shall receive mill rate adjustment aid equal to one-half of the excess foundation mill increase times the 1986 adjusted assessed valuation.

Subd. 3. [LEVY REDUCTION; MILL RATE ADJUSTMENT AID.] For any district that will receive mill rate adjustment aid according to subdivision 2, the general education levy limitation for the 1988-1989 school year shall be reduced by the amount of the mill rate adjustment aid.

Sec. 24. [STATEWIDE AVERAGE REVENUE.]

By October 1 of each year the commissioner shall estimate the statewide average foundation revenue or general education revenue per actual pupil unit and provide that information to all school districts.

Sec. 25. [NONCOMPLIANCE WITH PAY EQUITY.]

Subdivision 1. [1987 REPORT.] A school district that employs ten or more people and that did not submit a report according to Minnesota Statutes, section 471.998, shall submit a report by October 1, 1987, to the commissioner of employee relations. The report must include:

(1) a summary of the results of the district's study of its need to establish equitable compensation for its employees;

(2) the amount of the total annual payroll of the district, and the annual cost of implementing equitable compensation; and

(3) the plan for implementing equitable compensation for the employees, including a timetable for stages of implementation. The plan must provide for complete implementation not later than December 31, 1991. The plan does not have to contain a market study.

Subd. 2. [TOTAL COST FREEZE.] Any district that does not comply with subdivision 1, must not expend for the total costs of district administration and supervision more during the 1987-1988 school year than it did during the 1986-1987 school year.

Administration and supervision costs include all costs related to the school board, office of the superintendent, central office, district support services, and administrative and supervisory staff. It includes all costs related to the administration and supervision of elementary education, secondary education, special education, vocational education, community education, food service, transportation services, building operations and maintenance, and other programs.

It does not include principals, assistant principals, direct costs of classroom teaching, and professional support services for pupils such as library, social work, health, and counseling.

The costs shall be determined according to the uniform financial accounting and reporting categories of district and school administration, district support services, and all executive and managerial salaries and their related expenditures. Expenditures related to principals and assistant principals must not be included in any category.

Subd. 3. [AID REDUCTION FOR ADMINISTRATION COSTS.] By October 1, 1987, the commissioner of employee relations shall certify to the commissioner of education the school districts that have not complied with subdivision 1. For each of these school districts, the commissioner of education shall reduce foundation aid for the 1988-1989 school year by

an amount equal to five percent of the district's administration costs for the 1986-1987 school year. If the reduction exceeds the district's foundation aid, the reduction shall be made from other aids paid to the district.

Sec. 26. [APPROPRIATION.]

Subdivision 1. [TO DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [FOUNDATION AID.] For foundation aid there is appropriated:

\$851,283,900 _____ 1988,

\$126,482,100 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$121,712,400 for aid for fiscal year 1987 payable in fiscal year 1988 and \$729,571,500 for aid for fiscal year 1988 payable in fiscal year 1989.

The appropriation for aid for fiscal year 1989 is for aid for fiscal year 1988 payable in fiscal year 1989.

Subd. 3. [GENERAL AND SUPPLEMENTAL EDUCATION AID.] For general and supplemental education aid there is appropriated:

\$960,483,600 _____ 1989.

The appropriation is for aid for fiscal year 1989 payable in fiscal year 1989.

Subd. 4. [TEACHER RETIREMENT AND FICA AID.] For teacher retirement and FICA aid there is appropriated:

\$236,700,000 _____ 1988,

\$ 35,775,000 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$33,975,000 for aid for fiscal year 1987 payable in fiscal year 1988 and \$202,725,000 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 is for aid for fiscal year 1988 payable in fiscal year 1989.

The appropriations are based on an aid entitlement of \$238,500,000 for fiscal year 1988.

Subd. 5. [SUMMER PROGRAMS.] For summer program aid according to Minnesota Statutes, section 124A.033, subdivision 3, there is appropriated:

\$8,177,800 _____ 1988.

The appropriation for fiscal year 1988 is for aid for programs in summer 1987.

Sec. 27. [REPEALER.]

Subdivision 1. [JUNE 30, 1987.] Minnesota Statutes 1986, sections 124.185; 124.65; 124.66; 124A.02, subdivisions 2, 7, and 14; 124A.03, subdivisions 1, 1a, 3, 4, and 6; 124A.06, subdivision 3a; 124A.08, subdivision 3a; 124A.10, subdivision 3a; 124A.12, subdivision 3a; 124A.14, subdivision 5a; 124A.20, subdivision 2; 129B.01; 129B.02; 129B.04; 129B.05; 129B.32, subdivisions 2 and 5; 129B.33; 129B.36; and 275.125, subdi-

visions 3 and 8a, are repealed June 30, 1987.

Subd. 2. [MAY 30, 1988.] Minnesota Statutes 1986, section 124A.033, is repealed May 30, 1988.

Subd. 3. [JUNE 30, 1988.] Minnesota Statutes 1986, sections 124.17, subdivisions 1a and 2d; 124.2161; 124.2162; 124.2163; 124.246; 124.247; 124.272; 124.275; 124A.01; 124A.02, subdivisions 5, 6, 9, 11, 12, and 13; 124A.035, subdivision 1; 124A.06, subdivisions 1, 1a, 1b, 2, and 4; 124A.08, subdivisions 1, 2, 4, and 5; 124A.10, subdivisions 1, 2, and 4; 124A.12, subdivisions 1, 2, and 4; 124A.14, subdivisions 1, 2, 3, 4, 5, and 6; 124A.16; 124A.20, subdivisions 1 and 3; 124A.21; 126.031, subdivision 2; 126.60; 126.62; 126.64; 129B.43, subdivisions 2, 3, and 6; 129B.61; 129B.62; 129B.63; 129B.64; 129B.65; 129B.66; and 129B.67 are repealed June 30, 1988.

Subd. 4. [EFFECT OF REPEALER.] According to Minnesota Statutes, section 645.35, the repeal of the sections listed in this section does not affect the right of a school district to receive nor the obligation of the commissioner of education to pay aids payable in fiscal year 1989, that are attributable to the 1987-1988 school year under or by virtue of the sections repealed.

Sec. 28. [EFFECTIVE DATE.]

Sections 2, 11, 12, 13, 14, 15, 16, 17, and 18 are effective for revenue for the 1988-1989 school year and thereafter.

ARTICLE 2

TRANSPORTATION

Section 1. Minnesota Statutes 1986, section 124.223, is amended to read:

124.223 [TRANSPORTATION AID AUTHORIZATION.]

School transportation and related services for which state transportation aid is authorized are:

(1) [TO AND FROM SCHOOL; BETWEEN SCHOOLS.] Transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who reside two miles or more from the public schools which they could attend; transportation to, from, or between the schools the resident pupils attend pursuant to a program approved by the commissioner of education; transportation of resident elementary pupils who reside one mile or more from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79;

For the purposes of this clause, a district may designate a licensed day care facility or the residence of a relative as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends.

(2) [OUTSIDE DISTRICT.] Transportation to and from or board and lodging in another district, of resident pupils of a district without a sec-

ondary school; the pupils may attend a classified secondary school in another district and shall receive board and lodging in or transportation to and from a district having a classified secondary school at the expense of the district of the pupil's residence;

(3) [SECONDARY VOCATIONAL CENTERS.] Transportation to and from a state board approved secondary vocational center for secondary vocational classes for resident pupils of any of the districts who are members of or participating in programs at that center;

(4) [HANDICAPPED.] Transportation or board and lodging of a handicapped pupil when that pupil cannot be transported on a regular school bus, the conveying of handicapped pupils between home and school and within the school plant, necessary transportation of handicapped pupils from home or from school to other buildings, including centers such as developmental achievement centers, hospitals and treatment centers where special instruction or services required by section 120.17 are provided, within or outside the district where services are provided, and necessary transportation for resident handicapped pupils required by section 120.17, subdivision 4a. Transportation of handicapped pupils between home and school shall not be subject to *any distance requirement for children not yet enrolled in kindergarten or to the requirement in clause (1) that elementary pupils reside at least one mile from school and secondary pupils reside at least two miles from school in order for the transportation to qualify for aid;*

(5) [BOARD AND LODGING; NONRESIDENT HANDICAPPED.] When necessary, board and lodging for nonresident handicapped pupils in a district maintaining special classes;

(6) [SHARED TIME.] Transportation from one educational facility to another within the district for resident pupils enrolled on a shared time basis in educational programs approved by the commissioner of education, and necessary transportation required by section 120.17, subdivision 9 for resident handicapped pupils who are provided special instruction and services on a shared time basis;

(7) [FARIBAULT STATE SCHOOLS ACADEMIES.] Transportation for residents to and from the Minnesota ~~school~~ *state academy* for the deaf or the Minnesota ~~braille and sight-saving school~~ *state academy for the blind;*

(8) [SUMMER INSTRUCTIONAL PROGRAMS.] Services described in clauses (1) to (7) and (9) and (10) when provided in conjunction with a summer program eligible for aid and levy under sections 124A.03 and 124A.033;

(9) [COOPERATIVE ACADEMIC AND VOCATIONAL.] Transportation to, from or between educational facilities located in any of two or more school districts jointly offering academic classes approved by the commissioner or secondary vocational classes not provided at a secondary vocational center which are approved by the commissioner for resident pupils of any of these districts; and

(10) [NONPUBLIC SUPPORT SERVICES.] Necessary transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123.935.

Sec. 2. Minnesota Statutes 1986, section 124.225, subdivision 1, is

amended to read:

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

(a) "FTE" means a transported full-time equivalent pupil whose transportation is authorized for aid purposes by section 124.223.

(b) "Authorized cost for regular transportation" means the sum of:

(1) all expenditures for transportation in the regular category, as defined in clause (c)(1), for which aid is authorized in section 124.223, plus

(2) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 12-1/2 percent per year of the cost of the fleet, plus

(3) an amount equal to one year's depreciation on district school buses reconditioned by the department of corrections computed on a straight line basis at the rate of 33-1/3 percent per year of the cost to the district of the reconditioning, plus

(4) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.44, subdivision 15, which were purchased after July 1, 1982 for authorized transportation of pupils, with the prior approval of the commissioner, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses.

(c) "Adjusted authorized predicted cost per FTE" means the authorized cost predicted by a multiple regression formula determined by the department of education, and adjusted pursuant to subdivision 7a.

(d) "Aid entitlement per FTE" means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.

(e) "Transportation category" means a category of transportation service provided to pupils. ~~For the 1984-1985 and 1985-1986 school years, each category includes transportation provided during the regular school year and in conjunction with a summer program eligible for aid and levy under sections 124A.03 and 124A.033. For purposes of this section, transportation categories for the 1984-1985 and 1985-1986 school years are as follows:~~

~~(1) regular transportation is transportation services provided under section 124.223, clauses (1) and (2), excluding transportation between schools under section 124.223, clause (1);~~

~~(2) nonregular transportation is transportation services provided between schools under section 124.223, clause (1); and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (9), and (10);~~

~~(1) For the purposes of this section, transportation categories for the 1986-1987 and 1987-1988 school year and thereafter years are as follows:~~

~~(1) (i) regular transportation is transportation services provided during the regular school year under section 124.223, clauses (1) and (2), excluding transportation between schools under section 124.223, clause (1); and~~

~~(2) (ii) nonregular transportation is transportation services provided between schools under section 124.223, clause (1); and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (8), (9), and (10).~~

(2) For purposes of this section, for the 1988-1989 school year and after:

(i) regular transportation is transportation services provided during the regular school year under section 124.223, clauses (1) and (2), excluding the following transportation services provided under section 124.223, clause (1): transportation between schools; noon transportation to and from school for kindergarten pupils attending half-day sessions; late transportation home from school for pupils involved in after school activities; transportation of pupils to and from schools located outside their normal attendance areas under the provisions of a plan for desegregation mandated by the state board of education or under court order; and

(ii) nonregular transportation is transportation services provided under section 124.223, clause (1) that are excluded from the regular category, and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (8), (9), and (10).

(f) "Pupil weighting factor" means the ratio of the actual district average cost per FTE in a particular transportation category in the base year to the actual district average cost per FTE in the regular transportation category in the base year.

(g) "Weighted FTE's" means the number of FTE's in each transportation category multiplied by the pupil weighting factor for that category.

(h) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123.932, subdivision 9.

(i) (g) "Current year" means the school year for which aid will be paid.

(j) (h) "Base year" means the second school year preceding the school year for which aid will be paid.

(k) (i) "Base cost" for the 1984-1985 and 1985-1986 base years means the authorized regular transportation cost per FTE in the base year in the regular transportation category, excluding summer school transportation. Base cost for the 1986-1987 base year and after means the ratio of:

(1) the sum of:

(i) the authorized cost in the base year for regular transportation as defined in clause (b), plus

(ii) the actual cost in the base year for transportation to and from school of secondary pupils who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school actually attended, plus

(iii) the actual cost in the base year for transportation costs which are necessary because of extraordinary traffic hazards,

(2) to the sum of:

(i) the number of FTE pupils transported in the regular category in the base year, plus

(ii) the number of secondary pupils transported to and from school in the base year who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school

actually attended, plus

(iii) *the number of pupils residing less than one mile from school who were transported to and from school in the base year because of extraordinary traffic hazards.*

(4) (j) "Predicted base cost" means the base cost as predicted by subdivision 3.

Sec. 3. Minnesota Statutes 1986, section 124.225, subdivision 4b, is amended to read:

Subd. 4b. [FORMULA TERMS, 1984-1985 AND AFTER.] (a) To predict the logarithm of the base cost for each district pursuant to subdivision 3 for ~~each school year the 1985-1986 base year~~, the multiple regression formula shall use the following terms for each district:

(1) the logarithm of the lesser of (a) the number of authorized FTE's per square mile transported by the district in the regular transportation category, or (b) 200;

(2) whether the district is nonrural, based upon criteria established by the department of education; and

(3) the logarithm of the percentage of all FTE's transported in the regular category using buses that are not owned by the district.

(b) *To predict the logarithm of the base cost for each district according to subdivision 3 for the 1986-1987 base year and thereafter, the multiple regression formula shall use the following terms for each district:*

(1) the logarithm of the lesser of:

(A) 200; or

(B) the quotient obtained by dividing the sum of:

(i) the number of FTE pupils transported in the regular category in the base year, plus

(ii) the number of secondary pupils transported to and from school in the base year who live more than one mile but less than two miles from the public school that they could attend or from the nonpublic school actually attended, plus

(iii) the number of pupils residing less than one mile from school who were transported to and from school in the base year because of extraordinary traffic hazards.

(C) by the area of the district in square miles;

(2) whether the district is nonrural, based upon criteria established by the department of education; and

(3) the logarithm of the percentage of all FTE's transported in the regular category using buses that are not owned by the district.

Sec. 4. Minnesota Statutes 1986, section 124.225, subdivision 7b, is amended to read:

Subd. 7b. [INFLATION FACTORS.] The adjusted authorized predicted cost per FTE determined for a district under subdivision 7a for the base year shall be increased by ~~40.3~~ 6.0 percent to determine the district's aid entitlement per FTE for the ~~1984-1985~~ 1986-1987 school year, by ~~8.9~~ 4.9

percent to determine the district's aid entitlement per FTE for the 1985-1986 1987-1988 school year, and by 6.0 4.1 percent to determine the district's aid entitlement per FTE for the 1986-1987 1988-1989 school year.

Sec. 5. Minnesota Statutes 1986, section 124.225, subdivision 8a, is amended to read:

Subd. 8a. [AID.] For the 1984-1985 and 1985-1986 school years a district's transportation aid shall be equal to the sum of its basic transportation aid pursuant to subdivision 8b, its nonregular transportation aid pursuant to subdivision 8i, and its nonregular transportation levy equalization aid pursuant to subdivision 8j, minus its contracted services aid reduction pursuant to subdivision 8k, minus the amount raised by 1.75 mills times the adjusted assessed valuation which is used to compute the transportation levy limitation for the levy attributable to that school year. A district may levy less than the amount raised by 1.75 mills. Transportation aid shall be computed as if the district had levied the amount raised by 1.75 mills.

(a) For the 1986-1987 and 1987-1988 school year and each year thereafter years, a district's transportation aid shall be equal to the sum of its basic transportation aid pursuant to subdivision 8b, its nonregular transportation aid pursuant to subdivision 8i, and its nonregular transportation levy equalization aid pursuant to subdivision 8j, minus its contracted services aid reduction pursuant to subdivision 8k, minus the amount raised by 2.25 mills times the adjusted assessed valuation which is used to compute the transportation levy limitation for the levy attributable to that school year. A district may levy less than the amount raised by 2.25 mills. Transportation aid shall be computed as if the district had levied the amount raised by 2.25 mills.

(b) For the 1988-1989 school year and thereafter, a district's transportation aid is equal to the sum of its basic transportation aid under subdivision 8b, its nonregular transportation aid under subdivision 8i, and its nonregular transportation levy equalization aid under subdivision 8j, minus its contracted services aid reduction under subdivision 8k, minus its basic transportation levy limitation for the levy attributable to that school year under section 275.125, subdivision 5.

(c) If the total appropriation for transportation aid for any fiscal year is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's aid in proportion to the number of resident pupils in average daily membership in the district to the state total average daily membership, and shall reduce the aid entitlement of off-formula districts in the same proportion.

Sec. 6. Minnesota Statutes 1986, section 124.225, subdivision 8i, is amended to read:

Subd. 8i. [NONREGULAR TRANSPORTATION AID.] For the 1984-1985 school year and each year thereafter, (a) A district's nonregular transportation aid shall be determined pursuant according to this subdivision.

(b) For the 1986-1987 and 1987-1988 school years, nonregular transportation aid shall equal ~~(a)~~ (1) 20 percent of the first \$10 of actual cost in the current year for nonregular transportation services per total pupil unit, plus 40 percent of the next \$10 of actual cost in the current year for nonregular transportation services per total pupil unit, plus 60 percent of the actual cost in the current year for nonregular transportation services per total pupil unit which exceeds \$20, times ~~(b)~~ (2) the number of total

pupil units in the district in the current year.

(c) *For the 1988-1989 school year and thereafter, nonregular transportation aid equals (1) 60 percent of the actual cost in the current year for nonregular transportation services per total pupil unit which exceeds \$30, times (2) the number of total pupil units in the district in the current year.*

Sec. 7. Minnesota Statutes 1986, section 124.225, subdivision 10, is amended to read:

Subd. 10. [DEPRECIATION.] Any school district which owns school buses or mobile units shall transfer annually from the unappropriated fund balance account in its transportation fund to the appropriated fund balance account for bus purchases in its transportation fund at least an amount equal to 12-1/2 percent of the original cost of each type one or type two bus or mobile unit until the original cost of each type one or type two bus or mobile unit is fully amortized, plus 20 percent of the original cost of each type three bus included in the district's authorized cost under the provisions of subdivision 1, clause (b)(4), until the original cost of each type three bus is fully amortized, plus 33-1/3 percent of the cost to the district as of July 1 of each year for school bus reconditioning done by the department of corrections until the cost of the reconditioning is fully amortized; provided, if the district's transportation aid is reduced pursuant to subdivision 8a because the appropriation for that year is insufficient, this amount shall be reduced in proportion to the reduction pursuant to subdivision 8a as a percentage of the sum of

(1) the district's total transportation aid without the reduction pursuant to subdivision 8a, plus

(2) for fiscal years 1985 and 1986 an amount equal to 1.75 mills times the adjusted assessed valuation of the district for the preceding year, and for fiscal year 1987 and thereafter, 2.25 mills times the adjusted assessed valuation of the district for the preceding year the district's basic transportation levy limitation under section 275.125, subdivision 5, plus

(3) the district's contract services aid reduction under subdivision 8k, plus

(4) the district's nonregular transportation levy limitation under section 275.125, subdivision 5c.

Sec. 8. Minnesota Statutes 1986, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] ~~For school transportation services, a school district may levy an amount not to exceed the amount raised by a levy of 2.25 mills times the adjusted assessed valuation of the taxable property of the district for the preceding year. Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation mill rate times the adjusted assessed valuation of the district for the preceding year. The commissioner of revenue shall establish the basic transportation mill rate and certify it to the commissioner of education by August 1 of each year for levies payable in the following year. The basic transportation mill rate shall be a rate, rounded up to the nearest hundredth of a mill, that, when applied to the adjusted assessed valuation of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation mill rate for the 1987 payable 1988 levies and for transportation aid for the 1988-~~

1989 school year shall be the rate that raises \$71,256,100. The basic transportation mill rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted assessed valuation after the mill rate has been certified.

Sec. 9. Minnesota Statutes 1986, section 275.125, subdivision 5c, is amended to read:

Subd. 5c. [NONREGULAR TRANSPORTATION LEVY.] A school district may also make a levy for unreimbursed nonregular transportation costs pursuant to this subdivision. The amount of the levy shall not exceed the product of:

(a) the district's unreimbursed nonregular transportation revenue determined pursuant to section 124.225, subdivision 8j, clause (a), times

(b) the lesser of

(i) one, or

(ii) the ratio of the district's adjusted assessed valuation for the preceding year per total pupil unit in the school year to which the levy is attributable, to the equalizing factor for the school year to which the levy is attributable \$83,800.

Sec. 10. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 5e. [EXCESS TRANSPORTATION LEVY.] A school district may make a levy for excess transportation costs according to this subdivision. The amount of the levy shall be the result of the following computation:

(a) Multiply the base cost computed using data for the current school year according to section 124.225, subdivision 1, paragraph (k), by the sum of the number of secondary pupils transported to and from school in the current year who live more than one mile but less than two miles from the public school which they could attend or the nonpublic school actually attended, plus the number of pupils residing less than one mile from school who were transported to and from school in the current year due to extraordinary traffic hazards.

(b) Add to the result in paragraph (a) the actual cost in the current year of other related services that are necessary because of extraordinary traffic hazards.

Sec. 11. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 5f. [BUS PURCHASE LEVY.] A school district may levy the amount necessary to eliminate any projected deficit in the reserved fund balance account for bus purchases in its transportation fund as of June 30 of the school year beginning in the calendar year following the calendar year the levy is certified.

Sec. 12. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 5g. [CONTRACTED SERVICES LEVY.] A school district may levy an amount equal to the aid subtraction computed according to section 124.225, subdivision 8k, for the school year beginning in the year the levy is certified.

Sec. 13. [APPROPRIATIONS.]

Subdivision 1. [TO DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [TRANSPORTATION AID.] For transportation aid there is appropriated:

\$90,477,000 _____ 1988,

\$87,334,800 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$12,194,300 for aid for fiscal year 1987 payable in fiscal year 1988 and \$78,282,700 for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$13,814,600 for aid for fiscal year 1988 payable in fiscal year 1989 and \$73,520,200 for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$92,097,200 for fiscal year 1988 and \$86,494,300 for fiscal year 1989.

Subd. 3. [TRANSPORTATION AID FOR POST-SECONDARY ENROLLMENT OPTIONS.] For transportation of pupils who attend post-secondary institutions according to Minnesota Statutes, section 123.3514, there is appropriated:

\$75,000 _____ 1988,

\$75,000 _____ 1989.

The commissioner shall allocate this appropriation among school districts based upon guidelines adopted by the state board of education under Minnesota Statutes, section 123.3514, subdivision 8.

Subd. 4. [DESEGREGATION TRANSPORTATION GRANTS.] For transportation grants to districts implementing desegregation plans mandated by the state board:

\$5,234,200 _____ 1988.

Of this amount, \$1,966,500 shall be allocated to independent school district No. 625, St. Paul; and \$3,267,700 to special school district No. 1, Minneapolis. These amounts may be used only for unreimbursed costs for desegregation transportation during the 1986-1987 and 1987-1988 school years.

Sec. 14. [REPEALER.]

Minnesota Statutes 1986, sections 124.225, subdivision 1a, and 275.125, subdivision 5d, are repealed.

ARTICLE 3**SPECIAL PROGRAMS**

Section 1. Minnesota Statutes 1986, section 120.03, subdivision 1, is amended to read:

Subdivision 1. Every child who has a hearing impairment, visual handicap, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning

disability, or deaf/blind handicap and needs special instruction and services, as determined by the standards of the state board, is a handicapped child. *In addition, every child under age five who needs special instruction and services, as determined by the standards of the state board, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a handicapped child.*

Sec. 2. Minnesota Statutes 1986, section 120.17, subdivision 1, is amended to read:

Subdivision 1. [SPECIAL INSTRUCTION FOR HANDICAPPED CHILDREN.] Every district shall provide special instruction and services, either within the district or in another district, for handicapped children of school age who are residents of the district and who are handicapped as set forth in section 120.03. *School age means the ages of three to five after the handicapped child becomes 21 years for children who are handicapped as defined in section 120.03 and old but shall not extend beyond secondary school or its equivalent. For purposes of this subdivision, the age of a handicapped child shall be the age as of September 1 of the calendar year in which the school year for which the child seeks special instruction and services commences.* Every district may provide special instruction and services for handicapped children who have not attained school age. Local health, education, and social service agencies shall refer children from under age three to five who are known to need or suspected of needing special instruction and services to the school district. A school district is encouraged to contract with a developmental achievement center when the center is most efficient for the district and when the center provides continuity of special instruction and services for handicapped children under the age of five and their families. Districts with less than the minimum number of eligible handicapped children as determined by the state board shall cooperate with other districts to maintain a full range of programs for education and services for handicapped children. This subdivision does not alter the compulsory attendance requirements of section 120.10.

Sec. 3. Minnesota Statutes 1986, section 120.17, is amended by adding a subdivision to read:

Subd. 1b. [HIGH SCHOOL DIPLOMA.] Upon completion of secondary school or the equivalent, a handicapped pupil who satisfactorily attains the objectives in the pupil's individual education plan shall be granted a high school diploma that is identical to the diploma granted to a non-handicapped pupil.

Sec. 4. Minnesota Statutes 1986, section 120.17, subdivision 2, is amended to read:

Subd. 2. [METHOD OF SPECIAL INSTRUCTION.] Special instruction and services for handicapped children *must be based on the assessment and individual education plan. The instruction and services may be provided by one or more of the following methods:*

- (a) in connection with attending regular elementary and secondary school classes;
- (b) establishment of special classes;
- (c) at the home or bedside of the child;
- (d) in other districts;

(e) instruction and services ~~in~~ by special education cooperative centers established under this section, or in another member district of the cooperative center to which the resident district of the handicapped child belongs;

(f) ~~in a state university laboratory school or a University of Minnesota laboratory school;~~

(~~g~~) in a state residential school or a school department of a state institution approved by the commissioner;

(~~h~~) (g) in other states;

(~~i~~) (h) by contracting with public, private or voluntary agencies;

(~~j~~) (i) for children under age five and their families, programs and services established through collaborative efforts with other agencies ~~or within the district; and~~

(j) for children under age five and their families, programs in which handicapped children are served with nonhandicapped children; and

(k) any other method approved by the commissioner.

Preference shall be given to providing special instruction and services to children under age three and their families in the residence of the child with the parent or primary caregiver, or both, present.

The primary responsibility for the education of a handicapped child shall remain with the district of the child's residence regardless of which method of providing special instruction and services is used. *The district of residence must inform the parents of the child about the methods of instruction that are available.*

Sec. 5. Minnesota Statutes 1986, section 120.17, subdivision 3, is amended to read:

Subd. 3. [RULES OF THE STATE BOARD.] The state board shall promulgate rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and any other rules it deems necessary for instruction of handicapped children. These rules shall provide standards and procedures appropriate for the implementation of and within the limitations of subdivisions 3a and 3b. These rules shall also provide standards for the discipline, control, management and protection of handicapped children. The state board shall not adopt rules for pupils served in level 1, 2, or 3, as defined in Minnesota Rules, part 3525.2340, establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, ~~may adopt emergency rules and shall adopt permanent rules for instruction and services for children from under age three to five and their families. Until June 30, 1988, a developmental achievement center contracting with under contract to a school district to provide special instruction and services is eligible for variance from rules relating to personnel licensure. Until June 30, 1988, the licensure variance for a developmental achievement center shall be granted according to the same procedures and criteria used for granting a variance to a school district. The state board shall, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the~~

board shall specify the program standards used to evaluate the request and the reasons for denying the request.

Sec. 6. Minnesota Statutes 1986, section 120.17, subdivision 3a, is amended to read:

Subd. 3a. [SCHOOL DISTRICT OBLIGATIONS.] Every district shall ensure that:

(a) (1) all handicapped children are provided the special instruction and services which are appropriate to their needs; *The student's needs and the special education instruction and services to be provided shall be agreed upon through the development of an individual education plan. The plan shall address the student's need to develop skills to live and work as independently as possible within the community. By grade nine or age 14, the plan shall address the student's needs for transition from secondary services to post-secondary education and training, employment, and community living;*

(b) (2) handicapped children ~~from under age three to five~~ and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(c) (3) handicapped children and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment and educational placement of handicapped children;

(d) (4) to the maximum extent appropriate, handicapped children, including those in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when and to the extent that the nature or severity of the handicap is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(e) (5) in accordance with recognized professional standards, testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory; and

(f) (6) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

Sec. 7. Minnesota Statutes 1986, section 120.17, subdivision 3b, is amended to read:

Subd. 3b. [PROCEDURES FOR DECISIONS.] Every district shall utilize at least the following procedures for decisions involving identification, assessment and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of

a child, the initial placement of a child in a special education program or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative ~~after at least one attempt to obtain this consent through a conciliation conference held pursuant to clause (e);~~

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). *The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;*

(d) Parents, guardians and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted in the school district where the child resides, if ~~after at least one conciliation conference~~ the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child; or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision

of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

- (1) be in writing;
 - (2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;
 - (3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;
 - (4) state the amount and source of any additional district expenditure necessary to implement the decision; and
 - (5) be based on the standards set forth in subdivision 3a and the rules of the state board.
- (f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the hearing review officer within 15 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district where the child resides.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final decision based on an impartial review of the local decision and the entire record within 30 calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

- (1) be in writing;
 - (2) include findings and conclusions; and
 - (3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.
- (g) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

(h) The commissioner of education, having delegated general supervision of special education to the appropriate staff, shall be the hearing review officer except for appeals in which:

- (1) the commissioner has a personal interest in or specific involvement with the student who is a party to the hearing;
- (2) the commissioner has been employed as an administrator by the district that is a party to the hearing;

(3) the commissioner has been involved in the selection of the administrators of the district that is a party to the hearing;

(4) the commissioner has a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;

(5) the appeal challenges a state or local policy which was developed with substantial involvement of the commissioner; or

(6) the appeal challenges the actions of a department employee or official.

For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer.

In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

(i) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

(j) The child's school district of residence, if different from the district where the child actually resides, shall receive notice of and may be a party to any hearings or appeals pursuant to this subdivision.

Sec. 8. Minnesota Statutes 1986, section 120.17, subdivision 5, is amended to read:

Subd. 5. [SCHOOL OF PARENTS' CHOICE.] Nothing in this chapter shall be construed as preventing parents of a handicapped ~~educable~~ child from sending such child to a school of their choice, if they so elect, subject to admission standards and policies ~~to be adopted pursuant according to the provisions of sections 128A.01 to 128A.07 chapter 128A,~~ and all other provisions of chapters 120 to 129.

Sec. 9. Minnesota Statutes 1986, section 120.17, subdivision 7a, is amended to read:

Subd. 7a. [ATTENDANCE AT SCHOOL FOR THE HANDICAPPED.] Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota ~~School state academy for the deaf or the Minnesota Braille and Sight-Saving School state academy for the blind~~ shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which the child's parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivisions 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the actual cost of providing the program; provided, however, that effective for the 1983-1984 school year and thereafter, the amount of tuition charged shall not exceed the sum of \$1,000 plus the foundation aid formula allowance of the district for that child, for an entire school year, or a prorated amount based on the portion of the school year for which the child is a resident of the district or is actually in membership in the program. For purposes of

this subdivision, "foundation aid formula allowance" shall have the meaning attributed to it in section 124.32, subdivision 1a. The district of the child's residence shall pay the tuition and may claim foundation aid for the child. The district of the child's residence shall not receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. All tuition received by the state board shall be deposited in the state treasury.

(c) When it is determined that the child can benefit from public school enrollment but that the child should also remain in attendance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

(d) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause (c) for providing appropriate educational programs to pupils attending the applicable school.

(e) Notwithstanding the provisions of clauses (b) and (c), the state board may agree to supply staff from the Minnesota ~~School~~ state academy for the deaf and the Minnesota ~~Braille and Sight-Saving School~~ state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

Sec. 10. Minnesota Statutes 1986, section 120.17, is amended by adding a subdivision to read:

Subd. 11a. [STATE INTERAGENCY COORDINATING COUNCIL.] An interagency coordinating council of 15 members is established. The members and the chair shall be appointed by the governor. The council shall be composed of at least three parents of handicapped children under age seven, a representative of each of the commissioners of education, health, and human services, three representatives of public or private providers of services for handicapped children under age five, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education, at least one representative of advocacy organizations for handicapped children, and other members knowledgeable about handicapped children under age five. Section 15.059 applies to the council, except that the council is permanent and does not expire. The council shall meet at least quarterly.

The council shall address methods of implementing the state policy of developing and implementing comprehensive, coordinated, multidisciplinary interagency programs of early intervention services for handicapped children and their families.

The duties of the council include recommending policies to ensure a

comprehensive and coordinated system of all state and local agency services for handicapped children under age five and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multidisciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness, and assistance in determining the role of interagency early intervention committees.

It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services, and to facilitate payment for services from public and private sources. Appropriate services must be determined in consultation with parents, physicians, and other educational, medical, health, and human services providers. Appropriate services include family education and counseling, home visits, occupational and physical therapy, speech pathology, audiology, psychological services, case management, medical services for diagnostic and evaluation purposes, early identification, and screening, assessment, and health services necessary to enable handicapped children to benefit from early intervention services. School districts must be the primary agency in this cooperative effort.

Each year by January 15 the council shall submit its recommendations to the education committees of the legislature, the governor, and the commissioners of education, health, and human services.

Sec. 11. Minnesota Statutes 1986, section 120.17, subdivision 12, is amended to read:

Subd. 12. [INTERAGENCY EARLY LEARNING INTERVENTION COMMITTEE.] A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish an interagency early learning intervention committee for handicapped children under age five and their families. Members of the committee shall be representatives of local and regional health, education, and county human service agencies; ~~developmental achievement centers~~ county boards; school boards; early childhood family education programs; current service providers; parents of young handicapped children; and other private or public agencies as appropriate. The committee shall elect a chair from among its members and shall meet ~~regularly~~ at least quarterly. The committee shall perform the following ongoing duties:

(1) identify current services and funding being provided within the community for handicapped children under the age of five and their families;

(2) establish and evaluate the identification, referral, and community learning systems to recommend, where necessary, alterations and improvements;

(3) facilitate the development of ~~interagency~~ individual education plans and individual service plans when necessary to appropriately serve handicapped children under the age of five and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(4) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(5) review and comment on the early learning intervention section of the total special education system for the district and the county social

services plan; and

(5) review and comment on the funding sources that currently exist for the services being provided to handicapped children under the age of five and their families in the area

(6) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services.

The departments of education, health, and human services are encouraged to provide assistance to the local agencies in developing cooperative plans for providing services.

Sec. 12. Minnesota Statutes 1986, section 120.17, is amended by adding a subdivision to read:

Subd. 14. [MAINTENANCE OF EFFORT.] A county human services agency or county board shall continue to provide services set forth in their county social service agency plan for handicapped children under age five and their families or as specified in the individual service plan and individual habilitation plan of each child. Special instruction and services for which a handicapped child is eligible under this section are not the responsibility of the local human services agency or county board. It is the joint responsibility of county boards and school districts to coordinate, provide, and pay for appropriate services not required under this section and to facilitate payment for services from public and private sources. School districts and counties are encouraged to enter into agreements to cooperatively serve and provide funding for handicapped children under age five and their families.

Sec. 13. Minnesota Statutes 1986, section 120.17, is amended by adding a subdivision to read:

Subd. 15. [THIRD PARTY PAYMENT.] Nothing in this section relieves an insurer or similar third party from an otherwise valid obligation to pay, or changes the validity of an obligation to pay, for services to a handicapped child.

Sec. 14. Minnesota Statutes 1986, section 120.17, is amended by adding a subdivision to read:

Subd. 16. [COMMUNITY TRANSITION INTERAGENCY COMMITTEE.] A district, group of districts, or special education cooperative, in cooperation with the county or counties in which the district or cooperative is located, shall establish a community transition interagency committee for handicapped youth, beginning at grade nine or age equivalent, and their families. Members of the committee shall consist of representatives from special education; vocational and regular education; community education; post-secondary education and training institutions; parents of handicapped youth; local business or industry; rehabilitation services; county social services; health agencies; and additional public or private adult service providers as appropriate. The committee shall elect a chair and shall meet regularly. The committee shall:

(1) identify current services, programs, and funding sources provided within the community for secondary and post-secondary aged handicapped youth and their families;

(2) facilitate the development of multiagency teams to address present and future transition needs of individual students on their individual edu-

cation plans;

(3) develop a community plan to include mission, goals, and objectives, and an implementation plan to assure that transition needs of handicapped individuals are met;

(4) recommend changes or improvements in the community system of transition services;

(5) exchange agency information such as appropriate data, effectiveness studies, special projects, exemplary programs, and creative funding of programs; and

(6) prepare a yearly summary assessing the progress of transition services in the community and disseminate it to all adult services agencies involved in the planning and to the commissioner of education by September 1 of each year.

Sec. 15. Minnesota Statutes 1986, section 123.39, subdivision 1, is amended to read:

Subdivision 1. The board may provide for the free transportation of pupils to and from school, and to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year, as it may deem advisable, and subject to its rules. Every driver shall possess all the qualifications required by the rules of the state board of education. In any school district, the board shall arrange for the attendance of all pupils living two miles or more from the school through suitable provision for transportation or through the boarding and rooming of the pupils who may be more economically and conveniently provided for by that means. *The board shall provide transportation to and from the home of a handicapped child not yet enrolled in kindergarten when special instruction and services under section 120.17 are provided in a location other than in the child's home.* When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the school board. The district may provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by that means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Sec. 16. Minnesota Statutes 1986, section 124.17, subdivision 1, is amended to read:

Subdivision 1. [PUPIL UNIT.] Pupil units for each resident pupil in average daily membership shall be counted ~~as follows:~~ according to this subdivision.

(+) (a) A handicapped prekindergarten pupil who is enrolled for the entire school year in a program approved by the commissioner, ~~for each handicapped prekindergarten pupil, one-half pupil unit for and has an individual education plan that requires up to 437 hours of assessment and education services in the school year as provided in the pupil's individual education plan or, for is counted as one-half of a pupil unit. If the plan~~

requires more than 437 hours of assessment and education services, a number of pupil units equal to the pupil is counted as the ratio of the number of hours of assessment and education service required in the school year by the pupil's individual education program plan, developed pursuant to the rules of the state board, to 875, but not more than one pupil unit.

(2) In an elementary school:

(b) A handicapped prekindergarten pupil who is enrolled for less than the entire school year in a program approved by the commissioner is counted as the greater of (1) one-half times the ratio of the number of instructional days from the date the pupil is enrolled to the date the pupil withdraws to the number of instructional days in the school year, or (2) the ratio of the number of hours of assessment and education service required in the school year by the pupil's individual education program plan to 875, but not more than one.

(c) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 875.

(a) for each (d) A handicapped kindergarten pupil, as defined in section 120.03, who is enrolled in a program approved by the commissioner, a number of pupil units equal to is counted as the ratio of the number of hours of assessment and education services required in the school year by the pupil's individual education program plan, developed pursuant to the rules of the state board, to 875, but not more than one pupil unit.

(b) for (e) A kindergarten pupils, other than those in clause (a), enrolled in one-half day sessions throughout the school year or the equivalent thereof, one-half pupil unit; and pupil who is not included in paragraph (d) is counted as one-half of a pupil unit.

(e) for other elementary pupils, one pupil unit (f) A pupil who is in any of grades one to six is counted as one pupil unit.

(3) in secondary schools, 1-4/10 (g) For the 1987-1988 school year, a pupil who is in any of grades seven to 12 is counted as 1.4 pupil units. Pupils enrolled in the seventh and eighth grades of any school shall be counted as secondary pupils. For the 1988-1989 and later school years, a pupil who is in any of grades seven to 12 is counted as 1.35 pupil units.

Sec. 17. Minnesota Statutes 1986, section 124.273, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay a school district a portion of the salary, calculated from the date of hire, of one full-time equivalent teacher for each 45 pupils of limited English proficiency enrolled in the district. Notwithstanding the foregoing, the state shall pay a portion of the salary, calculated from the date of hire, of one-half of a full-time equivalent teacher to a district with 22 or fewer pupils of limited English proficiency enrolled. The portion for a full-time teacher shall be the lesser of 65 61 percent of the salary or \$18,100 \$17,000. The portion for a part-time or limited-time teacher shall be the lesser of 65 61 percent of the salary or the product of \$18,100 \$17,000 times the ratio of the person's actual employment to full-time employment.

Sec. 18. Minnesota Statutes 1986, section 124.32, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay to a district a portion of the salary of each essential person employed in the district's program for handicapped children during the regular school year, whether the person is employed by one or more districts. The portion for a full-time person shall be *an amount not to exceed* the lesser of ~~70~~ 66 percent of the salary or ~~\$19,500~~ \$18,400. The portion for a part-time or limited-time person shall be *an amount not to exceed* the lesser of ~~70~~ 66 percent of the salary or the product of ~~\$19,500~~ \$18,400 times the ratio of the person's actual employment to full-time employment.

Sec. 19. Minnesota Statutes 1986, section 124.32, subdivision 1d, is amended to read:

Subd. 1d. [CONTRACT SERVICES.] (1) For special instruction and services provided during the regular school year to any pupil pursuant to section 120.17, subdivision 2, clause (i), by contract with public, private or voluntary agencies other than school districts, the state shall pay each district ~~55~~ 52 percent of the difference between the amount of the contract and the foundation aid formula allowance of the district for that pupil or a pro rata portion of the foundation aid formula allowance for pupils who receive services by contract on less than a full-time basis.

(2) For special instruction and services provided for a pupil by such a contract as part of a summer school program, the state shall pay each district ~~55~~ 52 percent of the difference between the amount of the contract and the summer school revenue allowance of the district attributable to that pupil.

Sec. 20. Minnesota Statutes 1986, section 124.32, subdivision 2, is amended to read:

Subd. 2. [SUPPLY AND EQUIPMENT AID.] The state shall pay each district for supplies and equipment purchased or rented for use in the instruction of handicapped children an amount equal to ~~one-half~~ 47 percent of the sum actually expended by the district but not to exceed an average of ~~\$50~~ \$47 in any one school year for each handicapped child receiving instruction.

Sec. 21. Minnesota Statutes 1986, section 124.32, subdivision 5, is amended to read:

Subd. 5. [RESIDENTIAL AID.] When a handicapped child is placed in a residential facility approved by the commissioner and established primarily to serve handicapped children and when the child's educational program is approved by the commissioner, the state shall pay aid to the resident district under the provisions of this subdivision. The aid shall be an amount not to exceed ~~60~~ 57 percent of the difference between the instructional costs charged to the resident district and the foundation aid formula allowance, for each handicapped child placed in a residential facility. The aid for summer school programs for each handicapped child placed in a residential facility shall be an amount not to exceed ~~60~~ 57 percent of the difference between the instructional costs charged to the resident district and the summer school revenue allowance in the resident district attributable to that child. No aid shall be paid pursuant to this subdivision for tuition charged a resident district pursuant to section 120.17, subdivision 7a, for a child placed at the Minnesota ~~school~~ state academy for the deaf or the Minnesota ~~braille and sight-saving school~~ state academy for the blind.

The following types of facilities may be approved by the commissioner:

(a) a residential facility operated by the state or public school district and designed to serve the low incidence handicapped, the multiple handicapped, or the most severely handicapped children within the state;

(b) a private, nonsectarian residential facility designed to provide educational services for handicapped children within the state; and

(c) a state hospital or private nonsectarian residential center designed to provide care and treatment for handicapped children.

Sec. 22. Minnesota Statutes 1986, section 124.573, is amended to read:

124.573 [CURRENT FUNDING FOR SECONDARY VOCATIONAL EDUCATION.]

Subdivision 1. The state shall pay aids for secondary vocational programs on a current funding basis.

Subd. 2. [SALARIES AND TRAVEL.] The eligible expenses for secondary vocational aid are: (1) the salaries paid to essential, licensed personnel in that school year for services rendered in that district's or center's approved secondary vocational education programs; (2) the costs of necessary travel between instructional sites by secondary vocational education teachers; and (3) the costs of necessary travel by secondary vocational education teachers accompanying students to and from vocational student organization meetings held within the state for educational purposes. The state shall pay to any district or cooperative center 41.5 percent of the eligible expenses incurred in an approved secondary vocational program for each the 1986-1987 school year. *The state shall pay to any district or cooperative center 39 percent of the eligible expenses incurred in an approved secondary vocational program for the 1987-1988 school year.* The commissioner may withhold all or any portion of this aid for a secondary vocational education program which receives funds from any other source. In no event shall a district or center receive a total amount of state aid pursuant to this section which, when added to funds from other sources, will provide the program an amount for salaries and travel which exceeds 100 percent of the amount of its expenditures for salaries and travel in the program.

Subd. 2b. [SECONDARY VOCATIONAL AID.] *For 1988-1989 and later school years, a district's or cooperative center's "secondary vocational aid" for secondary vocational education programs for a school year equals the sum of the following amounts:*

(a) *the greater of zero, or 75 percent of the difference between:*

(1) *the salaries paid to essential, licensed personnel in that school year for services rendered in that district's or cooperative center's approved secondary vocational education programs, and*

(2) *50 percent of the general education revenue attributable to secondary pupils for the number of hours that the pupils are enrolled in secondary vocational courses; and*

(b) *30 percent of approved expenditures for the following:*

(1) *contracted services provided by a public or private agency other than a Minnesota school district or cooperative center under section 124.573, subdivision 3a;*

(2) *necessary travel between instructional sites by licensed secondary*

vocational education personnel;

(3) necessary travel by licensed secondary vocational education personnel for vocational student organization activities held within the state for instructional purposes;

(4) curriculum development activities that are part of a five-year plan for improvement based on program assessment;

(5) necessary travel by licensed secondary vocational education personnel for noncollegiate credit bearing professional development; and

(6) specialized vocational instructional supplies.

Subd. 2c. [COOPERATIVE CENTERS.] In making the computation in subdivision 2b, paragraph (a), clause (2), for a cooperative center, the general education revenue is the average of the sums for each member district.

Subd. 3. [COMPLIANCE WITH RULES.] This Aid shall be paid under this section only for services rendered or for the costs designated in subdivision 2 which are incurred in secondary vocational education programs approved by the state department of education and operated in accordance with rules promulgated by the state board of education. These rules shall provide minimum student-staff ratios required for a secondary vocational education program in a cooperative center to qualify for this aid. The rules shall not require any minimum number of administrative staff, any minimum period of coordination time or extended employment for secondary vocational education personnel, or the availability of vocational student activities or organizations for a secondary vocational education program to qualify for this aid. The requirement in these rules that program components be available for a minimum number of hours shall not be construed to prevent pupils from enrolling in secondary vocational education courses on an exploratory basis for less than a full school year. The state board of education shall not require a school district to offer more than four credits or 560 hours of vocational education course offerings in any school year. Rules relating to secondary vocational education programs shall not incorporate the provisions of the state plan for vocational education by reference. This aid shall be paid only for services rendered and for travel costs incurred by essential, licensed personnel who meet the work experience requirements for licensure pursuant to the rules of the state board of education. Licensed personnel means persons holding a valid secondary vocational license issued by the department of education, except that when an average of five or fewer secondary full-time equivalent students are enrolled per teacher in an approved post-secondary program at intermediate district numbers 287, 916, or 917, licensed personnel means persons holding a valid vocational license issued by the department of education or the state board for vocational technical education. Notwithstanding section 124.15, the commissioner may modify or withdraw the program or aid approval and withhold aid under this section without proceeding under section 124.15 at any time. To do so, the commissioner must determine that the program does not comply with rules of the state board or that any facts concerning the program or its budget differ from the facts in the district's approved application.

Subd. 3a. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions 2 and 3, a school district or cooperative center may contract with a public or private agency other than a Minnesota school

district or cooperative center for the provision of secondary vocational education services. *For the 1986-1987 school year, the state shall pay each district or cooperative center 40 percent of the amount of a contract entered into pursuant to this subdivision. For the 1987-1988 school year, the state shall pay each district or cooperative center 35 percent of the amount of a contract entered into under this subdivision.* The state board shall promulgate rules relating to program approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 4, the district or cooperative center contracting for these services shall be construed to be providing the services. ~~For the purposes of subdivision 5, aid for these contracts shall be distributed on the same basis as aids for salaries and travel.~~

Subd. 4. [ALLOCATIONS; COOPERATIVES, INTERMEDIATE DISTRICTS.] All secondary vocational education aid shall be paid to the district or cooperative center providing the services. All secondary vocational education aid received by a district or center from any source shall be utilized solely for the purposes of secondary vocational education programs.

Sec. 23. Minnesota Statutes 1986, section 124.574, subdivision 2b, is amended to read:

Subd. 2b. [SALARIES.] Each year the state shall pay to any district or cooperative center a portion of the salary of each essential licensed person employed during that school year for services rendered in that district or center's secondary vocational education programs for handicapped children. The portion for a full-time person shall be *an amount not to exceed the lesser of 70 66 percent of the salary or \$19,500 \$18,400*. The portion for a part-time or limited-time person shall be the lesser of ~~70 66 percent of the salary or the product of \$19,500 \$18,400 times the ratio of the person's actual employment to full-time employment.~~

Sec. 24. Minnesota Statutes 1986, section 124.574, subdivision 3, is amended to read:

Subd. 3. [EQUIPMENT, TRAVEL, AND SUPPLIES.] In addition to the provisions of subdivision ~~2 2b~~, the state shall pay for each school year, ~~except for the 1982-1983 school year:~~

(a) ~~50 47~~ percent of the costs of necessary equipment for these secondary vocational education programs for handicapped children;

(b) ~~50 47~~ percent of the costs of necessary travel between instructional sites by secondary vocational education teachers of handicapped children, but not including travel to and from local, regional, district, state or national vocational student organization meetings; and

(c) ~~50 47~~ percent of the costs of necessary supplies for these secondary vocational education programs for handicapped children, but not to exceed an average of ~~\$50 \$45~~ in any one school year for each handicapped child receiving these services.

Sec. 25. Minnesota Statutes 1986, section 124.574, subdivision 4, is amended to read:

Subd. 4. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions ~~2 2b~~ and 3, a school district may contract with a public or private agency other than a Minnesota school district or cooperative center for the provision of secondary vocational education programs

for handicapped children. The formula for payment of aids for these contracts shall be that provided in section 124.32, subdivision 1b. The state board shall promulgate rules relating to approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 6, the district or cooperative center contracting for these services shall be construed to be providing these services. ~~For the purposes of subdivision 8, aid for these contracts shall be distributed on the same basis as aids for salaries, supplies and travel.~~

Sec. 26. Minnesota Statutes 1986, section 126.54, subdivision 1, is amended to read:

Subdivision 1. [GRANTS; PROCEDURES.] ~~For Each fiscal years 1983, 1984, and 1985 year~~ the state board of education shall make grants to no fewer than six ~~school year~~ American Indian language and culture education programs. At least three programs shall be in urban areas and at least three shall be on or near reservations. The board of a local district, a participating school or a group of boards may develop a proposal for grants in support of American Indian language and culture education programs. Proposals may provide for contracts for the provision of program components by nonsectarian nonpublic, community, tribal or alternative schools. The state board shall prescribe the form and manner of application for grants, and no grant shall be made for a proposal not complying with the requirements of sections 126.45 to 126.55. The state board shall submit all proposals to the state advisory task force on American Indian language and culture education programs for its recommendations concerning approval, modification, or disapproval and the amounts of grants to approved programs.

Sec. 27. Minnesota Statutes 1986, section 128A.01, is amended to read:
128A.01 [LOCATION.]

The Minnesota state academy for the deaf and the Minnesota state academy for the blind shall be ~~continued~~ located at Faribault as residential schools and as a resource center for school districts, and shall be grouped and classed with the educational institutions of the state.

Sec. 28. Minnesota Statutes 1986, section 128A.02, subdivision 2, is amended to read:

Subd. 2. The state board shall promulgate rules regarding the operation of both academies and the individuals in attendance, and shall perform all duties necessary to provide the most beneficial and least restrictive program of education for each child handicapped by visual disability or hearing impairment. *The academies shall provide various levels of service, as defined in the rules of the state board of education, for the pupils. Developmental needs of the pupils shall be addressed by the academies. The academies shall provide opportunities for the pupils to be educated with nonhandicapped pupils, according to assessments and individual education plans.*

Sec. 29. Minnesota Statutes 1986, section 128A.02, subdivision 4, is amended to read:

Subd. 4. The state board may enter into contracts with other public and private agencies and institutions to provide residential and building maintenance services if it determines that these services could thus be provided in a more efficient and less expensive manner. The state board may also

enter into contracts with public and private agencies and institutions, school districts or combinations thereof, and educational cooperative service units, and counties to provide respite care and supplementary educational instruction and services, including assessments and counseling.

Sec. 30. [128A.021] [RESOURCE CENTER FOR THE HEARING IMPAIRED AND VISUALLY IMPAIRED.]

A resource center for the hearing impaired, visually impaired, and multiply handicapped pupils is established at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The resource center shall offer such programs as summer institutes for hearing impaired, visually impaired, and multiply handicapped pupils in various regions of the state, workshops for teachers, and leadership development for teachers. Programs offered through the resource center shall promote and develop education programs offered by school districts and other organizations and shall provide assistance to school districts and other organizations in developing innovative programs. The resource center may contract with nonprofit organizations to provide programs through the resource center. The advisory council for the academies shall serve as the advisory council for the resource center.

Sec. 31. [128A.09] [SERVICE, SEMINAR, AND CONFERENCE FEES.]

Subdivision 1. [DEPOSIT; CREDIT.] Fees and rental income, excluding rent for land and living residences, collected by the academies for services, seminars, and conferences must be deposited in the state treasury and credited to the revolving fund of the academies.

Subd. 2. [ADMINISTRATOR'S VOUCHERS.] Payment may be made from the revolving fund only according to vouchers authorized by the administrator of the academies. Money in the revolving fund is annually appropriated to the academies to defray expenses of the services, seminars, and conferences.

Sec. 32. Minnesota Statutes 1986, section 136D.27, is amended to read:

136D.27 [TAX LEVIES, CERTIFICATES OF INDEBTEDNESS.]

Each year the joint school board may each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred for area vocational technical schools, certify to each participating school district the tax levy specified in section 275.125, subdivision 13, clause (2). Additional tax levies may be certified which that shall not in any year exceed .6 mills on each dollar of adjusted assessed valuation for special education and .7 mills on each dollar of adjusted assessed valuation for expenses for secondary vocational education. Each participating school district shall include such tax levies in the next tax roll which it shall certify to the county auditor or auditors, and shall remit the collections of such levies to the board promptly when received. Such levies shall not be included in computing the limitations upon the levy of any district under sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125. The board may, any time after such levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of such levies, but in aggregate amounts such as will not exceed the portion of the levies which is then not collected and not delinquent.

Sec. 33. Minnesota Statutes 1986, section 136D.71, is amended to read:

136D.71 [LISTED DISTRICTS MAY FORM INTERMEDIATE DISTRICT.]

Notwithstanding any other law to the contrary, two or more of the independent school districts numbered 12 and 16 of Anoka county, independent school districts numbered 621, 622, 623, and 624 of Ramsey County, and independent school districts numbered 832, 833, and 834 of Washington County, are hereby authorized to enter into an agreement to establish a special intermediate school district upon majority vote of the full membership of each of the boards of the districts entering into the agreement. When such resolution has been adopted by the board of one of the districts, it shall be published once in a newspaper of general circulation in said district. If a petition for referendum on the question of said district entering into such agreement is filed with the clerk of the said board within 60 days after publication of such resolution, signed by the qualified voters of said district equal to five percent of the number of voters at the last annual school election. No board shall enter into such agreement until the question of whether the district shall enter into the agreement has been submitted to the voters of said district at a special election. Said election shall be conducted and canvassed in accordance with section 123.32.

If a majority of the total number of votes cast on the question within said district is in favor of the question, the board of said school district may thereupon proceed to enter into an agreement to establish the special intermediate school district for purposes herein described. Such school district so created shall be known as northeastern metropolitan intermediate school district, state of Minnesota. The commissioner of education shall assign an appropriate identification number as provided by section 122.03.

Sec. 34. Minnesota Statutes 1986, section 136D.74, subdivision 2, is amended to read:

Subd. 2. [TAX LEVY.] *Each year* the intermediate school board may ~~in each year for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred~~ certify to each county auditor of each county in which said intermediate school district shall lie, as a single taxing district, ~~the tax levy specified in section 275.125, subdivision 13, clause (2).~~ Additional tax levies ~~may be certified which that~~ shall not in any year exceed .6 mills on each dollar of adjusted assessed valuation for expenses for special education and ~~\$.7~~ .7 mills on each dollar of adjusted assessed valuation for expenses for secondary vocational education. Said annual tax levies shall be certified pursuant to section 275.07. Upon such certification the county auditor or auditors and other appropriate county officials shall levy and collect such levies and remit the proceeds of collection thereof to the intermediate school district as in the case with independent school districts. Such levies shall not be included in computing the limitations, if any, upon the levy of the intermediate district or any of the participating districts under sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125.

Sec. 35. Minnesota Statutes 1986, section 136D.87, is amended to read:

136D.87 [TAX LEVIES, CERTIFICATES OF INDEBTEDNESS.]

Each year the joint school board may ~~each year, for the purpose of~~

paying any administrative, planning, operating, or capital expenses incurred or to be incurred for area vocational technical schools, certify to each participating school district the tax levy specified in section 275.125, subdivision 13, clause (2). Additional tax levies may be certified which shall not in any year exceed .6 mills on each dollar of adjusted assessed valuation for expenses for special education and ~~5~~ .7 mills on each dollar of adjusted assessed valuation for expenses for secondary vocational education. Each participating school district shall include such tax levies in the next tax roll which it shall certify to the county auditor or auditors, and shall remit the collections of such levies to the board promptly when received. Such levies shall not be included in computing the limitations upon the levy of any district under sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125. The board may, any time after such levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of such levies, but in aggregate amounts such as will not exceed the portion of the levies which is then not collected and not delinquent.

Sec. 36. Minnesota Statutes 1986, section 275.125, subdivision 8c, is amended to read:

Subd. 8c. [SPECIAL EDUCATION LEVY.] *Each year, a district, excluding intermediate school district Nos. 287, 916, and 917, may levy an amount that may not exceed 70 66 percent of salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10 and 124.574, subdivision 2b plus 65 61 percent of salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of these essential personnel under section 124.273, subdivision 1b for the year to which the levy is attributable.*

For purposes of this subdivision, a special education cooperative or an intermediate school district each year shall allocate an amount equal to 70 66 percent of salaries paid to essential personnel in that intermediate district or cooperative minus the amount of state aid and any federal aid, if applicable, paid to that intermediate district or cooperative for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10 and 124.574, subdivision 2b, plus 65 61 percent of salaries paid to essential personnel in that intermediate district or cooperative minus the amount of state aid and any federal aid, if applicable, paid to that intermediate district or cooperative for salaries of these essential personnel under section 124.273, subdivision 1b for the year to each of the member districts of the cooperative or the intermediate district. The member districts may make a levy in the amount of the costs allocated to them by the cooperative or intermediate district.

Special education cooperatives and intermediate school districts that allocate unreimbursed portions of salaries of special education essential personnel among member districts, for purposes of the member districts making a levy under this subdivision, shall provide information to the state department of education on the amount of unreimbursed costs of salaries they allocated to the member districts.

Sec. 37. [SPECIAL EDUCATION LEVY ADJUSTMENTS.]

The department shall make adjustments to the 1986 payable 1987 levies

authorized under Minnesota Statutes 1986, section 275.125, subdivision 8c in accordance with the changes made in this article.

Sec. 38. [COMMISSION SPECIAL EDUCATION STUDY.]

The sum of \$100,000 is appropriated for fiscal year 1988 from the general fund to the legislative commission on public education for the commission to conduct a comprehensive qualitative and quantitative evaluation and analytical study of special education, financing, and related services. The sum is available until June 30, 1989.

Sec. 39. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [SPECIAL EDUCATION AID.] For special education aid there is appropriated:

\$148,514,500 _____ 1988,

\$152,963,700 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$21,847,100 for aid for fiscal year 1987 payable in fiscal year 1988 and \$126,667,400 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$22,728,200 for aid for fiscal year 1988 payable in fiscal year 1989 and \$130,235,500 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$149,395,600 for fiscal year 1988 and \$153,593,400 for fiscal year 1989.

Subd. 3. [SUMMER SPECIAL EDUCATION AID.] For special education aid for summer school programs there is appropriated:

\$5,126,300 _____ 1988,

\$5,254,400 _____ 1989.

The appropriation for 1988 is for 1987 summer school programs.

The appropriation for 1989 is for 1988 summer school programs.

Subd. 4. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services for handicapped children under age five and their families there is appropriated:

\$251,600 _____ 1988,

\$370,900 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$35,100 for aid for fiscal year 1987 payable in fiscal year 1988 and \$216,500 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$38,100 for aid for fiscal year 1988 payable in fiscal year 1989 and \$332,800 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$254,600 for fiscal year 1988 and \$391,500 for fiscal year 1989.

Subd. 5. [RESIDENTIAL FACILITIES AID.] For aid pursuant to section 124.32, subdivision 5, there is appropriated:

\$1,494,400 _____ 1988,

\$1,530,500 _____ 1989.

Subd. 6. [LIMITED ENGLISH PROFICIENCY PUPILS PROGRAM AID.] For aid to educational programs for pupils of limited English proficiency according to Minnesota Statutes, section 124.273, there is appropriated:

\$2,879,900 _____ 1988,

\$3,004,700 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$430,700 for aid for fiscal year 1987 payable in fiscal year 1988 and \$2,449,200 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$432,100 for aid for fiscal year 1988 payable in fiscal year 1989 and \$2,572,600 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$2,881,300 for fiscal year 1988 and \$3,026,500 for fiscal year 1989.

Subd. 7. [AMERICAN INDIAN SCHOLARSHIPS.] For American Indian scholarships, according to Minnesota Statutes, section 124.48, there is appropriated:

\$1,581,800 _____ 1988,

\$1,581,800 _____ 1989.

Any unexpended balance remaining in the first year does not cancel but is available for fiscal year 1989.

Subd. 8. [AMERICAN INDIAN POST-SECONDARY PREPARATION GRANTS.] For Indian post-secondary preparation grants, according to Minnesota Statutes, section 124.481, there is appropriated:

\$781,400 _____ 1988,

\$781,400 _____ 1989.

Subd. 9. [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAM AID.] For grants to American Indian language and culture education programs according to Minnesota Statutes, section 126.54, subdivision 1, there is appropriated:

\$588,400 _____ 1988,

\$588,300 _____ 1989.

The appropriation for aid for fiscal year 1988 includes \$88,300 for aid for fiscal year 1987 payable in fiscal year 1988 and \$500,100 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$88,200 for aid for fiscal year 1988 payable in fiscal year 1989 and \$500,100 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$588,300 for fiscal year 1988 and \$588,300 for fiscal year 1989.

Subd. 10. [AMERICAN INDIAN EDUCATION.] For certain American Indian education programs in school districts there is appropriated:

\$174,755 _____1988,

\$174,755 _____1989.

The appropriation for aid for fiscal year 1988 includes \$26,213 for aid for fiscal year 1987 payable in fiscal year 1988 and \$148,542 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for fiscal year 1989 includes \$26,213 for aid for fiscal year 1988 payable in fiscal year 1989 and \$148,542 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$174,755 for fiscal year 1988 and \$174,755 for fiscal year 1989.

These appropriations are available for expenditure with the approval of the commissioner of education.

The commissioner shall not approve the payment of any amount to a school district pursuant to this subdivision unless that school district is in compliance with all applicable laws of this state.

Up to the following amounts may be distributed to the following school districts for each fiscal year: \$54,848 to independent school district No. 309-Pine Point School; \$9,685 to independent school district No. 166; \$14,949 to independent school district No. 432; \$14,053 to independent school district No. 435; \$42,163 to independent school district No. 707; and \$39,057 to independent school district No. 38. These amounts shall be expended only for the benefit of American Indian students and for the purpose of meeting established state educational standards or statewide requirements.

These appropriations are available only if there will not be available for the districts enumerated in this subdivision for the applicable school year any operation support funds from the federal Bureau of Indian Affairs pursuant to the Johnson-O'Malley Act, Public Law Number 73-167, or Code of Federal Regulations, title 25, section 273.31, or equivalent money from the same or another source.

Before a district can receive moneys pursuant to this subdivision, the district must submit to the commissioner of education evidence that it has:

(1) complied with the uniform financial accounting and reporting standards act, Minnesota Statutes, sections 121.90 to 121.917. For each school year, compliance with Minnesota Statutes, section 121.908, subdivision 3a, shall require the school district to prepare one budget including the amount available to the district pursuant to this subdivision and one budget which does not include these moneys. The budget of that school district for the 1989-1990 school year prepared according to Minnesota Statutes, section 121.908, subdivision 3a, shall be submitted to the commissioner of education at the same time as 1988-1989 budgets and shall not include any moneys appropriated in this subdivision;

(2) conducted a special education needs assessment and prepared a proposed service delivery plan according to Minnesota Statutes, sections 120.03 and 120.17; Public Law Number 94-142, an act of the 94th Congress of the United States cited as the "Education for All Handicapped

Children Act of 1975"; and applicable state board of education rules; and

(3) compiled accurate daily pupil attendance records.

Prior to approving payment of any amount to a school district pursuant to this subdivision, the commissioner shall review and evaluate each affected district's compliance with clauses (1), (2), and (3), and any other applicable laws, and each affected district's need for the moneys. Each affected district's net unappropriated fund balance in all operating funds as of June 30 of the previous school year shall be taken into consideration.

Subd. 11. [NETT LAKE LIABILITY INSURANCE.] For a grant to independent school district No. 707, Nett Lake, to pay insurance premiums under Minnesota Statutes, section 466.06, there is appropriated:

\$40,000 _____1988.

The sum is available until June 30, 1989.

Subd. 12. [COOK COUNTY INDIAN EDUCATION GRANT.] For grants to independent school district No. 166, Cook county, for Indian education at the Grand Portage elementary school there is appropriated:

\$50,000 _____1988,

\$50,000 _____1989.

The district must comply with the conditions in subdivision 10.

Subd. 13. [SCHOOL BUS PURCHASE.] For a grant to independent school district No. 309, Pine Point, to purchase a school bus there is appropriated:

\$38,000 _____1988.

Subd. 14. [SECONDARY VOCATIONAL EDUCATION AID.] For secondary vocational education aid pursuant to Minnesota Statutes, section 124.573, there is appropriated:

\$19,549,600 _____1988,

\$12,891,000 _____1989.

The appropriation for 1988 includes \$2,972,300 for aid for fiscal year 1987 payable in fiscal year 1988, \$16,577,300 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for 1989 includes \$2,925,300 for aid for fiscal year 1988 payable in fiscal year 1989, \$9,965,700 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$19,502,600 for fiscal year 1988 and \$11,724,300 for fiscal year 1989.

For purposes of this subdivision, money appropriated for secondary vocational education programs may not be expended for the purpose of discontinuing or converting existing senior secondary school industrial arts education programs.

Subd. 15. [SECONDARY VOCATIONAL HANDICAPPED.] For aid for secondary vocational education for handicapped pupils according to section 124.574, there is appropriated:

\$4,101,100 _____1988,

\$4,281,700 _____ 1989.

The appropriation for 1988 includes \$543,500 for aid for fiscal year 1987 payable in fiscal year 1988 and \$3,557,600 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for 1989 includes \$627,700 for aid for fiscal year 1988 payable in fiscal year 1989, and \$3,654,000 for aid for 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$4,185,300 for fiscal year 1988 and \$4,298,800 for fiscal year 1989.

Sec. 40. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF JOBS AND TRAINING.] There is appropriated from the general fund to the department of jobs and training the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [PINE POINT UNEMPLOYMENT COMPENSATION.] For payment of the obligation of independent school district No. 309, Pine Point, for unemployment compensation there is appropriated:

\$32,000 _____ 1988.

The sum is available until June 30, 1989.

Subd. 3. [NETT LAKE UNEMPLOYMENT COMPENSATION.] For payment of the obligation of independent school district No. 707, Nett Lake, for unemployment compensation there is appropriated:

\$20,000 _____ 1988.

The sum is available until June 30, 1989.

Sec. 41. [REPEALER.]

Minnesota Statutes 1986, sections 120.17, subdivision 13 and 124.273, subdivision 2b, are repealed.

Sec. 42. [APPLICATION, NO LOCAL APPROVAL.]

Subdivision 1. [DISTRICT NO. 916.] Sections 33 and 34 apply to intermediate school district No. 916 and are effective without local approval under Minnesota Statutes, section 645.023.

Subd. 2. [DISTRICT NO. 917.] Section 35 applies to intermediate district No. 917 and is effective without local approval under Minnesota Statutes, section 645.023.

Sec. 43. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1988.

ARTICLE 4

COMMUNITY AND ADULT EDUCATION

Section 1. Minnesota Statutes 1986, section 121.87, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT; MEMBERSHIP] The state board of education ~~may~~ shall appoint a 15-member community education advisory task force for the purpose of promoting the furtherance of sections 121.85 to 121.88, to promote the goals of community education and the advance-

~~ment of to expand~~ educational, recreational and social ~~opportunity oppor-~~
~~unities~~ through the maximum ~~utilization use~~ of public ~~school~~ facilities and
~~community resources~~ throughout the state of Minnesota. ~~If appointed,~~ The
task force shall include at least one member from each congressional district
and members who represent government and professions most closely related
to community education and youth development activities, functions and
school administrative jurisdictions.

Sec. 2. Minnesota Statutes 1986, section 121.87, is amended by adding
a subdivision to read:

*Subd. 1a. [RESPONSIBILITIES.] The community education advisory
task force, in consultation with the commissioners of health, human serv-
ices, and jobs and training or their designees, shall:*

*(1) develop a statewide plan to promote a coordinated interagency approach
to addressing the needs and developing the resources of youth, from birth
to age 21, at both the state and local level through programs such as
positive youth development partnerships, youth in community service pro-
grams, and interagency programs for providing services to young children
and youth;*

*(2) make recommendations to the state board of education and other
appropriate entities on means for improving coordination of efforts by
various state and local agencies and programs in addressing the needs of
and opportunities for youth; and*

*(3) develop model plans for an interagency approach by local advisory
councils.*

Sec. 3. Minnesota Statutes 1986, section 121.88, subdivision 2, is amended
to read:

*Subd. 2. [ADVISORY COUNCIL.] Each board shall provide for an advi-
sory council to consist of members who represent: various service orga-
nizations; churches; ~~private~~ public and nonpublic schools; local government
including elected officials; public and private nonprofit agencies serving
youth and families; parents; youth; park, recreation or forestry services of
municipal or local government units located in whole or in part within the
boundaries of the school district; and any other groups participating in the
community education program in the school district.*

Sec. 4. Minnesota Statutes 1986, section 121.88, subdivision 7, is amended
to read:

*Subd. 7. [PROGRAM APPROVAL.] To be eligible for handicapped adult
program revenue, a program and budget must receive approval from the
community education section in the department of education. Approval
may be for one or two years. For programs offered cooperatively, the request
for approval must include an agreement on the method by which local
money is to be derived and distributed. ~~The department may not exceed
the amount appropriated when approving programs and budgets.~~ A request
for approval must include all of the following:*

- (1) characteristics of the people to be served;*
- (2) description of the program services and activities;*
- (3) program budget and amount of aid requested;*
- (4) participation by handicapped adults in developing the program;*

- (5) assessment of the needs of handicapped adults; and
- (6) cooperative efforts with community organizations.

Sec. 5. Minnesota Statutes 1986, section 121.88, is amended by adding a subdivision to read:

Subd. 8. [YOUTH DEVELOPMENT PLANS.] A district advisory council may prepare a youth development plan. The council is encouraged to use the state model plan developed under section 2 when developing the local plan. If the school board approves the youth development plan and the district makes a community education levy, the district is eligible for additional community education revenue under section 11.

Sec. 6. Minnesota Statutes 1986, section 123.703, subdivision 3, is amended to read:

Subd. 3. [REPORT.] The state board of education, in cooperation with the state commissioner of health, shall report to the legislature by February 1 of each odd-numbered year on the results of the screening programs in accomplishing the purposes specified in section 123.701. The report shall include information on the rates of children's participation in screening programs, on districts' costs for implementing the various components of the screening program, and on any exemptions granted from screening requirements because of financial infeasibility.

Sec. 7. Minnesota Statutes 1986, section 123.705, is amended to read:
123.705 [HEALTH SCREENING AID.]

Subdivision 1. [AID AMOUNTS.] The department of education state shall pay each school district for the cost of screening services provided pursuant according to sections 123.701 to 123.705. The payment shall not exceed \$15.60 per child screened in fiscal year 1985, \$16.15 per child screened in fiscal year 1986 and an amount equal to \$8.15 per child screened in fiscal year 1987.

Sec. 8. Minnesota Statutes 1986, section 124.26, is amended by adding a subdivision to read:

Subd. 1b. [PROGRAM REQUIREMENTS.] An adult basic and continuing education program is a day or evening program offered by a district that is for people over 16 years of age who do not attend an elementary or secondary school. The program offers academic instruction necessary to earn a high school diploma or equivalency certificate. Tuition and fees may not be charged for instruction subsidized under this section, except for a security deposit to assure return of materials, supplies, and equipment.

Sec. 9. Minnesota Statutes 1986, section 124.26, is amended by adding a subdivision to read:

Subd. 1c. [PROGRAM APPROVAL.] A district receiving aid under this section must have its program approved by the commissioner according to the following criteria:

- (1) how the needs of all levels of learners will be met;*
- (2) for continuing programs, an evaluation of results;*
- (3) anticipated number and education level of participants;*
- (4) coordination with other resources and services;*

(5) participation in a consortium, if any, and funds available from other participants;

(6) management and program design;

(7) volunteer training and use of volunteers;

(8) staff development services;

(9) program sites and schedules; and

(10) program expenditures that qualify for aid.

The commissioner may contract with a private, nonprofit organization to provide services that are not offered by a district or that are supplemental to a district's program. The program provided under a contract must be approved according to the same criteria used for district programs.

Sec. 10. Minnesota Statutes 1986, section 124.26, is amended by adding a subdivision to read:

Subd. 7. [ADULT BASIC AND CONTINUING EDUCATION AID.] Each district shall receive aid for approved adult basic and continuing education programs equal to 75 percent of the salary for each teacher, counselor, coordinator of volunteers, and non-licensed instructional staff. In addition, the state shall pay aid equal to 75 percent of the expenditures for benefits, contracted services, supplies, and materials. Expenditures for which the district receives federal aid shall not qualify for state aid.

Sec. 11. Minnesota Statutes 1986, section 124.271, subdivision 2b, is amended to read:

Subd. 2b. [AID; 1986, 1987, 1988 AND AFTER.] (1) (a) Each fiscal year a district which is operating that operates a community education program in compliance with rules promulgated by the state board shall receive community education aid.

For fiscal year 1986, the aid shall be an amount equal to the difference obtained by subtracting

(a) an amount equal to .8 mill times the adjusted assessed valuation used to compute the community education levy limitation for the levy attributable to that school year, from

(b) the greater of

\$7,000, or

\$5.25 times the population of the district.

For fiscal year 1987, the aid shall be an amount equal to the difference obtained by subtracting

(a) an amount equal to .8 mill times the adjusted assessed valuation used to compute the community education levy limitation for the levy attributable to that school year, from

(b) the greater of

\$7,140, or

\$5.35 times the population of the district.

(b) For fiscal year 1988 and each year thereafter, the aid shall be an amount equal to the difference obtained by subtracting

(a) (1) an amount equal to .8 mill times the adjusted assessed valuation used to compute the community education levy limitation for the levy attributable to that school year, from

(b) (2) the greater of

(i) \$7,340, or

(ii) \$5.50 times the population of the district.

(c) For fiscal year 1989 and each year thereafter, the aid for a district without an approved youth development plan shall be an amount equal to the difference obtained by subtracting

(1) an amount equal to .8 mill times the adjusted assessed valuation used to compute the community education levy limitation for the levy attributable to that school year, from

(2) the greater of

(i) \$7,340, or

(ii) \$5.50 times the population of the district.

(d) For fiscal year 1989 and each year thereafter, the aid for a district with an approved youth development plan under section 5, shall be an amount equal to the difference obtained by subtracting

(1) an amount equal to .8 mill times the adjusted assessed valuation used to compute the community education levy limitation for the levy attributable to that school year, from

(2) the greater of

(i) \$8,000, or

(ii) \$6 times the population of the district.

(e) For a district with an approved youth development plan, the greater of 50 cents per capita or \$660 must be used to implement the youth development plan.

(2) (f) However, for any district which certifies less than the maximum permissible levy under the provisions of section 275.125, subdivision 8, ~~clause (1) paragraph (a)~~, the district's community education aid under ~~clause (1) paragraphs (a) to (e)~~ of this subdivision shall be reduced by multiplying the aid amount computed pursuant to ~~clause (1) paragraphs (a) to (e)~~ of this subdivision by the ratio of the district's actual levy under section 275.125, subdivision 8, ~~clause (1) paragraph (a)~~, to its maximum permissible levy under section 275.125, subdivision 8, ~~clause (1) paragraph (a)~~. For purposes of computing the aid reduction pursuant to this clause, the amount certified pursuant to section 275.125, subdivision 8, ~~clause (1) paragraph (a)~~, shall not reflect reductions made pursuant to section 275.125, subdivision 9.

Sec. 12. Minnesota Statutes 1986, section 124.271, subdivision 7, is amended to read:

Subd. 7. [HANDICAPPED ADULT PROGRAM AID.] A district or group of districts offering an approved program for handicapped adults shall receive aid equal to the lesser of \$25,000 \$30,000 or one-half of the ~~amount of the actual expenditures for approved budget programs~~. A district or group of districts shall provide the remaining half from other public or

private sources, the levy authorized in section 275.125, subdivision 8, ~~clause (4) paragraph (d)~~, or combinations of sources.

Sec. 13. Minnesota Statutes 1986, section 124.2711, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION OF MAXIMUM REVENUE.] For fiscal year 1986 the "maximum revenue" for early childhood family education programs for a school year means the amount of revenue equal to the product of five percent of the foundation aid formula allowance for the current school year, times the greater of (a) 150, or (b) the number of people under five years of age residing in the district on September 1 of the preceding school year. For fiscal year 1987 and each year thereafter, the "maximum revenue" for early childhood family education programs for a school year means the amount of revenue equal to the product of five percent of the foundation aid formula allowance for the prior school year, times the greater of (a) 150, or (b) the number of people under five years of age residing in the district on September 1 of the preceding school year. For fiscal year 1988 and each year thereafter, the "maximum revenue" for early childhood family education programs for a school year means the amount of revenue derived by multiplying \$84.50 times the greater of (a) 150, or (b) the number of people under five years of age residing in the district on September 1 of the preceding school year.

Sec. 14. Minnesota Statutes 1986, section 275.125, subdivision 8, is amended to read:

Subd. 8. [COMMUNITY EDUCATION LEVY.] ~~(1)~~ (a) Each year, a district ~~which without a youth development plan that has established a community education advisory council pursuant to under section 121.88,~~ may levy the amount raised by .8 mill times the most recent adjusted assessed valuation of the district, but no more than the greater of

(1) \$7,340, or

(2) \$5.50 times the population of the district; ~~or~~
\$7,340.

(b) Each year, a district with an approved youth development plan, or a district that intends to approve a youth development plan for the 1988-1989 school year, that has established a community education advisory council under section 121.88, may levy the amount raised by .8 mill times the most recent adjusted assessed valuation of the district, but no more than the greater of

(1) \$8,000, or

(2) \$6 times the population of the district.

(2) (c) In addition to the levy authorized in ~~clause (1) paragraph (a) or (b)~~, each year a district may levy an additional amount for community education programs equal to the difference obtained by subtracting

(a) the sum in fiscal year 1984 of

(i) the district's estimated maximum permissible revenue for fiscal year 1985 from community education aid under section 124.271, subdivision 2b, ~~clause (1)~~, and

(ii) the community education levy authorized in ~~clause (1) of this subdivision~~, from

(b) the sum in fiscal year 1983 of

(i) the district's maximum permissible revenue from community education aid under Minnesota Statutes 1984, section 124.271, subdivision 2, excluding any reductions from community education aid made pursuant to Laws 1981, Third Special Session chapter 2, article 2, section 2, clause (mm); and Laws 1982, Third Special Session chapter 1, article 3, section 6; and

(ii) the maximum community education levy authorized in this subdivision for the district for the levy made in 1981, payable in 1982, before any reduction in the levy pursuant to subdivision 9 amount authorized under Minnesota Statutes 1986, section 275.125, subdivision 8, clause (2).

(3) (d) A district having an approved adult basic and continuing education program, according to section 124.26, may levy an amount not to exceed the amount raised by .1 mill times the adjusted assessed valuation of the district for the preceding year.

(4) (e) A district having an approved program and budget may levy for a handicapped adult program. The levy amount may not exceed the lesser of one-half of the amount of: (1) the approved budget for the program actual expenditures for approved programs for the fiscal year beginning in the calendar year after the levy is certified minus the amount of state aid paid for the same year, or \$25,000 (2) \$30,000 for one program. In the case of a program offered by a group of districts, the levy amount shall be divided among the districts according to the agreement submitted to the department. The proceeds of the levy shall be used only for a handicapped adult program or, if the program is subsequently not offered, for community education programs. For programs not offered, the department of education shall reduce the community education levy by the amount levied the previous year for handicapped adult programs.

(5) (f) The levies authorized in this subdivision shall be used for community education, including nonvocational adult programs, recreation and leisure time activity programs, and programs authorized by sections 121.85 to 121.88 and 129B.06 to 129B.09, and 121.882. A school district may levy pursuant to this subdivision only after it has filed a certificate of compliance with the commissioner of education. The certificate of compliance shall certify that the governing boards of the county, municipality and township in which the school district or any part thereof is located have been sent 15 working days written notice of a meeting and that a meeting has been held to discuss methods of increasing mutual cooperation between such bodies and the school board. The failure of a governing board of a county, municipality or township to attend the meeting shall not affect the authority of the school district to levy pursuant to this subdivision.

(6) (g) The population of the district for purposes of this subdivision is the population determined as provided in section 275.14 or as certified by the department of education from the most recent federal census.

Sec. 15. [1987 LEVY FOR HANDICAPPED ADULT PROGRAMS.]

Notwithstanding Minnesota Statutes 1986, section 275.125, subdivision 8, clause (4), in 1987 a school district may levy the amount by which the levy for handicapped adult programs for fiscal years 1986, 1987, and 1988 was reduced because of proration of program budgets according to Minnesota Statutes 1986, section 121.88.

Sec. 16. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [ADULT BASIC AND CONTINUING EDUCATION AID.] For adult basic and continuing education aid according to Minnesota Statutes, section 124.26, there is appropriated:

\$3,181,400 ____1988,

\$4,126,500 ____1989.

Up to \$200,000 each year may be used for contracts with private, nonprofit organizations for approved programs.

The amount appropriated for aid for fiscal year 1988 includes \$278,000 for aid for fiscal year 1987 payable in fiscal year 1988 and \$2,903,400 for aid for fiscal year 1988 payable in fiscal year 1988.

The amount appropriated for aid for fiscal year 1989 includes \$512,300 for aid for fiscal year 1988 payable in fiscal year 1989 and \$3,614,200 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$3,415,700 for fiscal year 1988 and \$4,252,000 for fiscal year 1989.

Subd. 3. [ADULT HANDICAPPED PROGRAM AID.] For aid for handicapped adult programs according to Minnesota Statutes, section 124.271, there is appropriated:

\$450,000 ____1988,

\$550,000 ____1989.

Any unexpended balance remaining from the appropriations in this subdivision for 1988 does not cancel and is available for the second year of the biennium.

Subd. 4. [COMMUNITY EDUCATION AID.] For community education aid according to Minnesota Statutes, section 124.271, there is appropriated:

\$2,153,100 ____1988,

\$3,257,500 ____1989.

The amount appropriated for aid for fiscal year 1988 includes \$260,100 for aid for fiscal year 1987 payable in fiscal year 1988 and \$1,893,000 for aid for fiscal year 1988 payable in fiscal year 1988.

The amount appropriated for aid for fiscal year 1989 includes \$334,000 for aid for fiscal year 1988 payable in fiscal year 1989 and \$2,923,500 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$2,227,000 for fiscal year 1988 and \$3,439,300 for fiscal year 1989.

Subd. 5. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid according to Minnesota Statutes, section 124.2711, there is appropriated:

\$7,279,000 ____1988,

\$8,124,400 _____1989.

The appropriation for aid for fiscal year 1988 includes \$870,000 for aid for fiscal year 1987 payable in fiscal year 1988 and \$6,409,000 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$1,130,900 for aid for fiscal year 1988 payable in fiscal year 1989 and \$6,993,500 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$7,539,900 for fiscal year 1988 and \$8,227,600 for fiscal year 1989.

Subd. 6. [HEALTH AND DEVELOPMENTAL SCREENING.] For health and developmental screening aid according to Minnesota Statutes, section 123.705, there is appropriated:

\$436,400 _____1988,

\$429,400 _____1989.

The appropriation for aid for fiscal year 1988 includes \$65,800 for aid for fiscal year 1987 payable in fiscal year 1988 and \$370,600 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$65,400 for aid for fiscal year 1988 payable in fiscal year 1989 and \$364,000 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$436,000 for fiscal year 1988 and \$428,200 for fiscal year 1989.

Subd. 7. [HEARING IMPAIRED SUPPORT SERVICES AID.] For payment of support services for hearing impaired persons pursuant to section 121.201, there is appropriated:

\$60,000 _____1988,

\$60,000 _____1989.

The appropriations are based on aid entitlements of \$60,000 for fiscal year 1988 and \$60,000 for fiscal year 1989.

Sec. 17. [REPEALER.]

Minnesota Statutes 1986, section 124.26, subdivisions 1 and 6, are repealed.

ARTICLE 5

STATE AGENCY SERVICES

Section 1. [APPROPRIATIONS; BOARD OF TEACHING.]

Subdivision 1. There is appropriated from the general fund to the board of teaching the sums indicated in this section. Any unexpended balance remaining from the appropriations in this section for 1988 does not cancel and is available for the second year of the biennium.

Subd. 2. [ASSESSMENT OF TEACHER PERFORMANCE.] For the purposes of designing an assessment procedure for the plan required in Laws 1985, First Special Session chapter 12, article 8, section 48, there is appropriated:

\$166,000 _____1988,

\$166,000 ____1989.

Subd. 3. [EXEMPLARY TEACHER EDUCATION PROGRAMS.] For development of exemplary teacher education programs under Minnesota Statutes, section 126.81, and dissemination and replication of program models:

\$135,000 ____1988,

\$135,000 ____1989.

Sec. 2. [APPROPRIATIONS; DEPARTMENT OF EDUCATION.]

Subdivision 1. There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [OFFICE ON TRANSITION SERVICES.] For the interagency office on transition services under Minnesota Statutes, section 120.183 there is appropriated:

\$77,000 ____1988,

\$77,000 ____1989.

Subd. 3. [EARLY CHILDHOOD FAMILY EDUCATION.] For technical assistance to districts implementing early childhood family education programs there is appropriated:

\$31,500 ____1988,

\$31,500 ____1989.

Subd. 4. [COMMUNITY EDUCATION ADVISORY TASK FORCE.] To carry out the responsibilities of the state community education advisory task force there is appropriated:

\$25,000 ____1988.

The appropriation shall be available until the end of the biennium.

Subd. 5. [MANAGEMENT INFORMATION CENTERS.] For management information centers according to Minnesota Statutes, section 121.935, subdivision 5, there is appropriated:

\$3,410,700 ____1988,

\$3,410,700 ____1989.

The appropriations are based on aid entitlements of \$3,410,700 for fiscal year 1988 and \$3,410,700 for fiscal year 1989. Of this amount, \$356,300 each year is for software support contracts made by the department of education.

Subd. 6. [ACADEMIC EXCELLENCE FOUNDATION.] For the academic excellence foundation according to Minnesota Statutes, section 121.612, there is appropriated:

\$100,000 ____1988,

\$125,000 ____1989.

Up to \$25,000 of the appropriation for fiscal year 1988 and up to \$50,000 of the appropriation for fiscal year 1989 may be used for expenses related to developing and implementing a plan for an academic league.

Subd. 7. [HEALTH AND WELLNESS CURRICULUM.] For development and dissemination of planning materials and guidelines to assist school districts in developing comprehensive health and wellness curriculum, there is appropriated:

\$30,000 ____1988.

The appropriation is available until June 30, 1989.

The materials and guidelines shall include a kindergarten through 12th grade scope and sequence coordinated with total school curriculum.

Subd. 8. [ADMINISTRATORS' ACADEMY.] There is appropriated for an administrators' academy:

\$167,300 ____1988,

\$167,300 ____1989.

\$24,000 shall be used each year for the school management assessment center at the University of Minnesota.

Subd. 9. [EDUCATIONAL EFFECTIVENESS.] For educational effectiveness programs according to Minnesota Statutes, sections 121.608 and 121.609 there is appropriated:

\$690,300 ____1988,

\$690,300 ____1989.

\$478,900 each year is for contracts for regional effectiveness coordinators.

Subd. 10. [STATE PER ASSISTANCE.] For state assistance for planning, evaluating, and reporting there is appropriated:

\$428,000 ____1988,

\$661,000 ____1989.

Up to \$45,000 each year shall be used for assisting districts with the assurance of mastery program.

Up to \$95,000 each year shall be used to develop and maintain model learner expectations.

Up to \$18,000 each year shall be used for the state curriculum advisory committee.

Up to \$270,000 each year shall be used for the assessment item bank.

Up to \$233,000 of the amount for 1989 shall be used for the local assessment program.

Subd. 11. [CURRICULUM AND TECHNOLOGY INTEGRATION.] For curriculum and technology integration services there is appropriated:

\$1,405,000 ____1988,

\$ 722,000 ____1989.

Up to \$450,000 in fiscal year 1988 and \$317,000 in fiscal year 1989 shall be used for technology services.

Up to \$355,000 each year shall be used for courseware integration centers.

Up to \$50,000 each year may be used for disseminating information

about technology innovations identified in the technology demonstration sites.

Up to \$550,000 of the appropriation for 1988 shall be used according to Minnesota Statutes, section 129B.39 to purchase courseware duplication rights including principles of technology courseware.

Subd. 12. [COMPREHENSIVE ARTS PLANNING PROGRAM.] For technical assistance for the comprehensive arts planning program according to Minnesota Statutes, section 129B.21, there is appropriated:

\$37,500 _____1988,

\$37,500 _____1989.

Subd. 13. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] For educational cooperative service units there is appropriated:

\$748,000 _____1988,

\$748,000 _____1989.

The appropriation for aid for fiscal year 1988 includes \$112,200 for aid for fiscal year 1987 payable in fiscal year 1988 and \$635,800 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$112,000 for aid for fiscal year 1988 payable in fiscal year 1989 and \$635,800 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$748,000 for each fiscal year.

Funds from this appropriation may be transmitted to ECSU boards of directors for general operations in amounts of up to \$68,000 per ECSU for each fiscal year; however, the ECSU whose boundaries coincide with the boundaries of development region 11 and the ECSU whose boundaries encompass development regions six and eight may each receive up to \$136,000 for each fiscal year for general operations.

Before releasing funds to the ECSUs, the department of education shall assure that the annual plan of each ECSU explicitly addresses the specific educational services that can be better provided by an ECSU than by a member district. The annual plan must include methods to increase direct services to school districts in cooperation with the state department of education. The ECSU plans for the 1988-1989 school year and after shall be coordinated with the management plan of the department of education that is required in article 10. The department may withhold all or a portion of these funds from an ECSU if the department determines that the ECSU has not been providing services according to its annual plan.

Sec. 3. [APPROPRIATIONS; DEPARTMENT OF EMPLOYEE RELATIONS.]

There is appropriated from the general fund to the department of employee relations the sum of \$50,000 to develop a plan to allow teachers and school boards the option of participating in a state health benefits program. The department must submit the plan to the legislature by February 3, 1988.

ARTICLE 6

OTHER AIDS AND LEVIES FOR SCHOOL DISTRICTS

Section 1. [123.9362] [NOTICE TO DISTRICTS; PRORATION.]

In the event the appropriation for nonpublic educational aid under sections 123.931 to 123.947 is not sufficient to meet the required payments in any fiscal year, the department of education must notify the school districts at the earliest possible date of the need to prorate the appropriation among the districts.

Sec. 2. Minnesota Statutes 1986, section 124.195, subdivision 9, is amended to read:

Subd. 9. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] The following aids shall be paid at 100 percent of the entitlement for the current fiscal year: *management information center subsidies, according to section 121.935, reimbursement for transportation to post-secondary institutions, according to section 123.3514, subdivision 8; reimbursement for transportation to a program of excellence, according to section 126.62, subdivision 6; handicapped adult program aid, according to section 124.271, subdivision 7; arts education aid according to section 124.275; school lunch aid, according to section 124.646; hearing impaired support services aid, according to section 121.201; technology demonstration site grants, according to section 129B.36 and courseware purchase subsidy according to section 129B.38 Indian post-secondary preparation grants according to section 124.481; and desegregation grants according to section 24.*

Sec. 3. [124.217] [EXCEPTIONAL NEED AID.]

Subdivision 1. [ELIGIBILITY.] A district is eligible for exceptional need revenue if all of the following apply to the district:

(a) The ratio of the average daily membership of pupils enrolled in the district to the number of licensed staff, measured in full-time equivalents, is greater than 17.

(b) The ratio of the referendum levy certified according to section 124A.02, subdivision 2, to the adjusted assessed valuation is greater than .006.

(c) The ratio of the total levy certified by the district to the adjusted assessed valuation is greater than .05.

(d) The ratio of the adjusted assessed valuation to the actual pupil units is less than \$38,500.

(e) The unappropriated operating fund balance is less than \$100 times the number of actual pupil units.

Before a school board certifies levies to the county auditor, the commissioner shall determine the district's eligibility for exceptional need revenue for the following school year. Eligibility must be based on pupil and staff data from the prior year, levies certified in the prior year, adjusted assessed valuation in the prior year, and fund balances on June 30 of the same year.

Subd. 2. [EXCEPTIONAL NEED REVENUE.] *The exceptional need revenue for each district equals \$75 times the number of actual pupil units.*

Subd. 3. [EXCEPTIONAL NEED AID.] *A district's exceptional need aid is the difference between its exceptional need revenue and the excep-*

tional need levy, multiplied times the ratio of the actual amount levied to the amount permitted to be levied.

Sec. 4. [124.244] [CAPITAL EXPENDITURE REVENUE.]

Subdivision 1. [REVENUE AMOUNT.] The capital expenditure revenue for each district equals \$153 times its actual pupil units counted according to section 124.17, subdivision 1, for the school year.

Subd. 2. [CAPITAL EXPENDITURE LEVY.] To obtain capital expenditure revenue, a district may levy an amount not to exceed three mills times the adjusted assessed valuation of the district for the preceding year.

Subd. 3. [CAPITAL EXPENDITURE AID.] A district's capital expenditure aid is the difference between the capital expenditure revenue and the capital expenditure levy. If a district does not levy the entire amount permitted, capital expenditure aid must be reduced in proportion to the actual amount levied.

Subd. 4. [USES OF REVENUE.] Capital expenditure revenue may be used only for the following purposes:

- (1) to acquire land for school purposes;*
- (2) to acquire or construct buildings for school purposes, if approved by the commissioner of education according to applicable statutes and rules;*
- (3) to rent or lease buildings for school purposes;*
- (4) to equip, reequip, improve, and repair school sites, buildings and permanent attached fixtures;*
- (5) to eliminate barriers or increase access to school buildings by handicapped individuals;*
- (6) to bring school buildings into compliance with the uniform fire code adopted according to chapter 299F;*
- (7) to remove asbestos from school buildings, encapsulate asbestos, or make asbestos-related repairs;*
- (8) to clean up and dispose of polychlorinated biphenyls found in school buildings;*
- (9) to clean up, remove, dispose of, and make repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01;*
- (10) for energy audits for school buildings and to make modifications if the audit indicates the costs can be recovered within ten years;*
- (11) to improve buildings that are leased according to section 123.36, subdivision 10;*
- (12) to pay special assessments levied against school property but not to pay assessments for service charges;*
- (13) to pay capital expenditure assessments of an educational cooperative service unit;*
- (14) to pay principal and interest on state loans for energy conservation according to section 116J.37 or loans made under the northeast Minnesota economic protection trust fund act according to sections 298.292 to 298.298;*

(15) to purchase or lease computers and related materials, copying machines, and telecommunications equipment;

(16) to purchase or lease equipment for secondary vocational education programs or senior secondary industrial arts programs; and

(17) to purchase textbooks.

Sec. 5. Minnesota Statutes 1986, section 124.245, subdivision 3, is amended to read:

Subd. 3. [HAZARDOUS SUBSTANCE COMPUTATION.] *For the 1987-1988 school year, the state shall pay a school district the difference by which an amount equal to \$25 times the total pupil units exceeds the amount raised by two mills times the adjusted assessed valuation used to compute the levy attributable to the same year. To qualify for aid pursuant to this subdivision in any school year, a district must levy pursuant to section 275.125, subdivision 11c for use in that year. Aid paid pursuant to this subdivision may be used only for the purposes for which the proceeds of the levy authorized in section 275.125, subdivision 11c may be used.*

Sec. 6. Minnesota Statutes 1986, section 124.245, is amended by adding a subdivision to read:

Subd 3a. [HAZARDOUS SUBSTANCE PLAN.] *To receive hazardous substance capital expenditure aid for the 1988-1989 school year or later school years, or to levy under section 275.125, subdivision 11c, a district shall submit to the commissioner of education an application for aid and levy by August 15 in the previous school year. The application shall contain the following:*

(a) *a plan for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01;*

(b) *the estimated cost of the plan by fiscal year; and*

(c) *other information required by the commissioner.*

The commissioner may approve applications based on criteria disseminated to school districts by July 15 in the previous school year.

Sec. 7. Minnesota Statutes 1986, section 124.245, is amended by adding a subdivision to read:

Subd. 3b. [HAZARDOUS SUBSTANCE REVENUE AND AID.] (a) *A district's "hazardous substance revenue" equals the approved cost of the hazardous substance plan for the school year to which the levy is attributable, minus the unexpended portion of levies certified by the district in earlier years under section 275.125, subdivision 11c.*

(b) *A district's "hazardous substance levy limitation" means its levy limitation computed according to section 275.125, subdivision 11c.*

(c) *A district's "hazardous substance aid" for 1988-1989 and later school years equals:*

(i) *the difference between its hazardous substance revenue and its haz-*

ardous substance levy limitation for the levy for that school year, multiplied by

(ii) the ratio of the amount actually levied to the amount of its hazardous substance by levy limitation.

(d) Aid paid under this subdivision may be used only for the purposes for which the proceeds of the levy authorized in section 275.125, subdivision 11c, may be used.

(e) In the event that the aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Sec. 8. Minnesota Statutes 1986, section 124.246, subdivision 2, is amended to read:

Subd. 2. [AID.] An eligible district shall receive \$1.08 in fiscal years ~~1985, 1986, and 1987 and 1988~~, for each pupil, in average daily membership, enrolled in a public elementary, secondary or area vocational technical or nonpublic elementary or secondary school. Aid for nonpublic school pupils shall be paid to the district upon request by or on behalf of the pupils. No district shall receive less than \$1,080 in fiscal years ~~1985, 1986, and 1987 and 1988~~.

Sec. 9. Minnesota Statutes 1986, section 124.247, subdivision 3, is amended to read:

Subd. 3. [AID.] A district which establishes a program for gifted and talented students shall receive for the purpose of this program ~~an amount equal to \$19 in the 1984-1985 school year, times the number of gifted and talented students in the district. In the 1985-1986 school year and later school years, a district shall receive the greater of \$40 per gifted and talented student or \$500 per district. No more than five percent of the students enrolled in the district shall be counted as gifted and talented for the purpose of aid computations pursuant to this subdivision. No more than five percent of the money received by a district pursuant to this subdivision may be expended for the purpose of administration of the program for gifted and talented students.~~

Sec. 10. Minnesota Statutes 1986, section 124.252, subdivision 3, is amended to read:

Subd. 3. [DISTRICT AID.] An eligible district shall receive ~~52 cents in fiscal year 1986 and 54 cents in fiscal year 1987 and each year thereafter~~ for each pupil, in average daily membership enrolled in a public elementary, secondary, or area vocational technical institute or nonpublic elementary or secondary school. Aid for nonpublic school pupils shall be paid to the district upon request by or on behalf of the pupils. No school district shall receive less than ~~\$1,000 in fiscal year 1986 and \$1,040 in fiscal year 1987 and each year thereafter.~~

Sec. 11. Minnesota Statutes 1986, section 124.646, subdivision 1, is amended to read:

Subdivision 1. [SCHOOL LUNCH AID COMPUTATION.] (a) ~~For the 1985-1986~~ Each school year, school districts participating in the national school lunch program shall be paid by the state in the amount of 7.5 cents for each full paid student lunch served to students in the district.

(b) ~~For the 1986-1987~~ Each school year, school districts participating in

the national school lunch program shall be paid by the state in the amount of 7.5 cents for each full paid student lunch served to students in the district.

Sec. 12. Minnesota Statutes 1986, section 275.125, subdivision 6e, is amended to read:

Subd. 6e. [DESEGREGATION LEVY.] Each year ~~any district which is implementing a plan for desegregation mandated by the state board of education or under court order~~, school district No. 625, St. Paul, may levy an amount not to exceed one mill times the adjusted assessed valuation of the district. Notwithstanding section 121.904, the entire amount of this levy shall be recognized as revenue for the fiscal year in which the levy is certified. This levy shall not be considered in computing the aid reduction under section 124.155. ~~A If the district which levies pursuant to under this subdivision, it may not place the proceeds of the 1983 payable 1984 levy authorized by subdivision 9a, in the general fund.~~

Sec. 13. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 6f. [EXCEPTIONAL NEED LEVY.] *To obtain exceptional need revenue, a district may levy an amount not to exceed the lesser of its exceptional need revenue or the result of the following computation:*

(a) *Divide the adjusted assessed valuation for the year preceding the year the levy is certified, by the actual pupil units for the year to which the levy is attributable.*

(b) *Divide the result in paragraph (a) by the ratio of the formula allowance, established in article 1, section 6, subdivision 2, to the general education mill rate, established in article 1, section 7, subdivision 1, for the year to which the levy is attributable.*

(c) *Multiply the result in paragraph (b) by the district's exceptional need revenue for the year to which the levy is attributable.*

Sec. 14. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 6h. [MINNEAPOLIS HEALTH INSURANCE SUBSIDY LEVY.] *Each year special school district No. 1, Minneapolis, may make an additional levy not to exceed the amount raised by .1 mill times the adjusted assessed valuation of the property in the district for the preceding year. In addition, in 1987 the district may levy an amount not to exceed the amount raised by .1 mill times the adjusted assessed valuation of the property in the district for the preceding year for health insurance subsidies for fiscal year 1988. The proceeds may be used only to subsidize health insurance costs for eligible teachers as provided in this section.*

"Eligible teacher" means a retired teacher who was a basic member of the Minneapolis teachers retirement fund association, who retired before May 1, 1974, and who is not eligible to receive the hospital insurance benefits of the federal Medicare program of the Social Security Act without payment of a monthly premium. The district shall notify eligible teachers that a subsidy is available. An eligible teacher may submit to the school district a copy of receipts for health insurance premiums paid during the previous 12-month period. The school district shall disburse the health insurance premium subsidy to each eligible teacher in a timely and efficient manner. An eligible teacher may receive a subsidy up to an amount equal to the lesser of 90 percent of the cost of the eligible teacher's health

insurance or up to 90 percent of the cost of the number two qualified plan of health coverage for individual policies made available by the Minnesota comprehensive health association under Minnesota Statutes, chapter 62E.

If funds remaining from the previous year's health insurance subsidy levy, minus the previous year's required subsidy amount, are sufficient to pay the estimated current year subsidy, the levy must be discontinued until the remaining funds are estimated by the school board to be insufficient to pay the subsidy.

Sec. 15. Minnesota Statutes 1986, section 275.125, subdivision 11c, is amended to read:

Subd. 11c. [HAZARDOUS SUBSTANCE CAPITAL EXPENDITURE LEVY.] In addition to the levy authorized in subdivisions 11a and 11b, each year a school district may levy an amount not to exceed the amount equal to \$25 times the total pupil units in the year to which the levy is attributable. No levy under this subdivision shall exceed two mills times the adjusted assessed valuation of the property in the district for the preceding year. Each year, a district with a hazardous substance plan approved by the commissioner of education under section 6 may levy an amount equal to the following product:

(a) the district's hazardous substance revenue as defined in section 7 for the year to which the levy is attributable, times

(b) the lesser of one, or the ratio of:

(i) the quotient derived by dividing the adjusted assessed valuation of the district for the year preceding the year the levy is certified by the total pupil units in the district for the school year to which the levy is attributable, to

(ii) 50 percent of the equalizing factor for the school year to which the levy is attributable.

The proceeds of the tax shall be placed in the district's capital expenditure fund and may be used only for expenditures necessary for the removal or encapsulation of asbestos from school buildings or property, asbestos related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01.

Sec. 16. Laws 1984, chapter 463, article 6, section 15, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] In 1985 and each year thereafter, the newly created district formed by the consolidation of Independent School District No. 694, Buhl, and Independent School District No. 703, Mountain Iron, may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the newly created district, determined as of June 30, 1985, and certified and adjusted by the commissioner. This levy each year may be an amount not to exceed 4.0 mills times the adjusted assessed valuation of the newly created district for the preceding year as determined by the equalization aid review committee. When the cumulative amount of the levies made pursuant to this subdivision equals the total amount of the certified deficit of the newly created district, the levy shall be discontinued.

Sec. 17. Laws 1986, First Special Session chapter 1, article 5, section 9, is amended to read:

[124.196] [TEMPORARY CHANGE IN PAYMENT OF AIDS AND CREDITS TO SCHOOL DISTRICTS.]

If the commissioner of finance determines that modifications in the payment schedule are required to avoid state short-term borrowing, the commissioner of education shall modify payments to school districts according to this section. The modifications shall begin no sooner than September 1, 1986 of each fiscal year, and shall remain in effect until no later than May 30, 1987 of that same fiscal year. In calculating the payment to a school district pursuant to Minnesota Statutes, section 124.195, subdivision 3, the commissioner may subtract the sum specified in that subdivision, plus an additional amount no greater than the following:

(1) the net cash balance in the district's four operating funds on June 30, 1986 of the preceding fiscal year; minus

(2) the product of \$150 times the number of actual pupil units in the 1985-1986 school preceding fiscal year; minus

(3) the amount of payments made by the county treasurer during the preceding fiscal year 1986, pursuant to Minnesota Statutes, section 276.11, which is considered revenue for the 1986-1987 current school year. However, no additional amount shall be subtracted if the total of the net unappropriated fund balances in the district's four operating funds on June 30, 1986 of the preceding fiscal year, is less than the product of \$350 times the number of actual pupil units in the 1985-1986 school preceding fiscal year. The net cash balance shall include all cash and investments, less certificates of indebtedness outstanding, and orders not paid for want of funds.

A district may appeal the payment schedule established by this section according to the procedures established in section 7 124.195, subdivision 3a.

Sec. 18. [DESEGREGATION COSTS.]

By July 1, 1987, districts implementing desegregation plans mandated by the state board of education shall submit plans to the state board for using the desegregation grants authorized under section 19, subdivision 12. The plans must identify costs in the following categories according to the state's uniform accounting and reporting standards: district and school administration; district support services; regular, vocational, and special instruction; instructional support services; pupil support services, including transportation; and site, buildings and equipment. The plans must include information on the methods used to calculate desegregation costs in each category. By August 1, 1987, the state board shall approve or disapprove the plans and award grants to the districts with approved plans.

By February 1, 1988, the state board of education shall make recommendations regarding the funding of desegregation costs to the governor and the education committees of the legislature. The report shall identify desegregation costs in the categories required in the districts' plans according to the state's uniform accounting and reporting standards. The report must include information on the methods used by the districts to calculate desegregation costs in each category.

Sec. 19. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund, or another named fund, to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [ABATEMENT AID.] For abatement aid according to Minnesota Statutes, section 124.214, there is appropriated:

\$6,592,800 ____1988,

\$6,592,800 ____1989.

Subd. 3. [ARTS EDUCATION AID.] For arts education aid according to Minnesota Statutes, section 124.275, there is appropriated:

\$1,048,700 ____1988.

Subd. 4. [CAPITAL EXPENDITURE AID.] For capital expenditure aid according to Minnesota Statutes, section 124.245, for fiscal year 1988 and section 1 for fiscal year 1989, there is appropriated:

\$ 473,600 ____1988,

\$31,967,900 ____1989.

The appropriation for aid for fiscal year 1988 includes \$45,200 for aid for fiscal year 1987 payable in fiscal year 1988 and \$428,400 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$75,500 for aid for fiscal year 1988 payable in fiscal year 1989 and \$31,892,400 for aid for 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$503,900 for fiscal year 1988 and \$37,520,400 for fiscal year 1989.

Subd. 5. [HAZARDOUS SUBSTANCE CAPITAL EXPENDITURE.] For hazardous substance capital expenditure aid according to Minnesota Statutes, section 124.245, there is appropriated:

\$50,600 ____1988,

\$58,700 ____1989.

The appropriation for aid for fiscal year 1988 includes \$6,800 for aid for fiscal year 1987 payable in fiscal year 1988 and \$43,800 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$7,700 for aid for fiscal year 1988 payable in fiscal year 1989 and \$51,000 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$51,500 for fiscal year 1988 and \$60,000 for fiscal year 1989.

Subd. 6. [CHEMICAL ABUSE PROGRAMS.] For aid for chemical abuse programs according to Minnesota Statutes, section 124.246, there is appropriated:

\$1,023,700 ____1988.

\$ 153,600 ____1989.

The appropriation for aid for fiscal year 1988 includes \$153,000 for aid for fiscal year 1987 payable in fiscal year 1988 and \$870,700 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$153,600 for aid for fiscal year 1988 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$1,024,300 for fiscal year 1988.

Subd. 7. [GIFTED AND TALENTED AID.] For aid for gifted and talented education programs according to Minnesota Statutes, section 124.247, there is appropriated:

*\$1,372,500 ____1988,
\$ 205,900 ____1989.*

The appropriation for aid for fiscal year 1988 includes \$205,700 for aid for fiscal year 1987 payable in fiscal year 1988 and \$1,166,800 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$205,900 for aid for fiscal year 1988 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$1,372,700 for fiscal year 1988.

Subd. 8. [INTERDISTRICT COOPERATION AID.] For aid for inter-district cooperation according to Minnesota Statutes, section 124.272, there is appropriated:

*\$2,306,000 ____1988,
\$ 360,000 ____1989.*

The appropriation for aid for fiscal year 1988 includes \$265,900 for aid for fiscal year 1987 payable in fiscal year 1988 and \$2,040,100 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$360,000 for aid for fiscal year 1988 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$2,400,100 for fiscal year 1988.

Subd. 9. [MAXIMUM EFFORT SCHOOL LOAN FUND.] For the maximum effort school loan fund there is appropriated:

*\$1,615,200 ____1988,
\$2,025,100 ____1989.*

These appropriations shall be placed in the loan repayment account of the maximum effort school loan fund for the payment of the principal and interest on school loan bonds, as provided in Minnesota Statutes, section 124.46, to the extent that money in the fund is not sufficient to pay when due the full amount of principal and interest due on school loan bonds. The purpose of these appropriations is to ensure that sufficient money is available in the fund to prevent a statewide property tax levy as would otherwise be required pursuant to Minnesota Statutes, section 124.46, subdivision 3. Notwithstanding the provisions of Minnesota Statutes, section 124.39, subdivision 5, any amount of the appropriation made in this section which is not needed to pay when due the principal and interest due on school loan bonds shall not be transferred to the debt service loan account of the maximum effort school loan fund but instead shall cancel and revert to the general fund.

Subd. 10. [NONPUBLIC PUPIL AIDS.] For nonpublic pupil education

aids according to Minnesota Statutes, sections 123.931 to 123.947, there is appropriated:

\$8,230,500 ____1988,

\$8,869,500 ____1989.

The appropriation for aid for fiscal year 1988 includes \$1,087,100 for aid for fiscal year 1987 payable in fiscal year 1988 and \$7,143,400 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for aid for fiscal year 1989 includes \$1,260,500 for aid for fiscal year 1988 payable in fiscal year 1989 and \$7,609,000 for aid for 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$8,403,900 for fiscal year 1988 and \$8,951,700 for fiscal year 1989.

Subd. 11. [SCHOOL LUNCH AND FOOD STORAGE AID.] For school lunch aid according to Minnesota Statutes, section 124.646, and for food storage and transportation costs for USDA donated commodities there is appropriated:

\$4,625,000 ____1988,

\$4,625,000 ____1989.

Any unexpended balance remaining from the appropriations in this subdivision shall be prorated among participating schools based on the number of fully-paid lunches served during that school year in order to meet the state revenue matching requirement of the USDA National School Lunch Program.

If the appropriation amount attributable to either year is insufficient, the rate of payment for each fully-paid student lunch shall be reduced and the aid for that year shall be prorated among participating schools so as not to exceed the total authorized appropriation for that year.

Subd. 12. [DESEGREGATION GRANTS.] For grants to districts implementing desegregation plans mandated by the state board:

\$11,557,300 ____1988.

Of this amount, \$4,766,500 shall be allocated to independent school district No. 625, Saint Paul; \$5,667,700 to special school district No. 1, Minneapolis; and \$1,123,100 to independent school district No. 709, Duluth.

Subd. 13. [EXCEPTIONAL NEED AID.] For exceptional need aid there is appropriated:

\$125,700 ____1989.

The appropriation is for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriation is based on an aid entitlement of \$147,800 for fiscal year 1989.

Subd. 14. [TOBACCO USE PREVENTION AID.] For tobacco use prevention aid according to Minnesota Statutes, section 124.252, there is appropriated from the public health fund:

\$633,000 ____1988,

\$659,600 ____1989.

Sec. 20. [REPEALER.]

Subdivision 1. [JUNE 30, 1987.] Minnesota Statutes 1986, section 275.125, subdivisions 11a and 12, are repealed July 1, 1987.

Subd. 2. [JUNE 30, 1988.] Minnesota Statutes 1986, sections 124.245, subdivisions 1 and 2; and 124.275, are repealed June 30, 1988.

Subd. 3. [EFFECT OF REPEALER.] According to Minnesota Statutes, section 645.35, the repeal of the sections listed in this section does not affect the right of a school district to receive nor the obligation of the commissioner of education to pay aids attributable to the 1987-1988 school year and payable in fiscal year 1989 under or by virtue of the sections repealed.

Sec. 21. [EFFECTIVE DATE.]

Section 4 is effective for the levies certified in 1987 for the 1988-1989 school year and thereafter.

Sec. 22. [LOCAL APPROVAL.]

Under Minnesota Statutes, section 645.023, subdivision 1, clause (a), section 16 is effective without local approval unless the voters of independent school district No. 712, Mountain Iron-Buhl, request a referendum on its approval.

The voters may request a referendum by filing a petition with the school board of independent school district No. 712. The petition must state the text of section 16 and indicate that those who sign the petition are residents of independent school district No. 712 and are at least 18 years of age. The petition must be signed by a number of persons equal to at least ten percent of the number of persons who cast votes for school board members at the last regular election in school district No. 712.

ARTICLE 7**MISCELLANEOUS**

Section 1. Minnesota Statutes 1986, section 118.12, is amended to read:
118.12 [INVESTMENT OF TOWN AND SCHOOL DISTRICT FUNDS.]

When the town board of any town or the school board of any school district in this state, by a unanimous resolution, deem it advisable, such town board or school board may invest such amount of funds in such town or school treasury as will not, in the opinion of such board, be needed by such town or school district during the fiscal year, in any of the bonds of any county, city, town, school district, drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin, and North and South Dakota, or in bonds of the United States of America, or in the bonds of any city, county, town, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3,500 inhabitants, provided that the total bonded indebtedness of any such municipality or district shall not exceed ten percent of its assessed valuation.

Sec. 2. Minnesota Statutes 1986, section 118.13, is amended to read:

118.13 [DEPOSIT OF SECURITIES.]

Any town board or school district board investing such surplus funds in such authorized securities as provided in section 118.12 shall deposit such

securities for safekeeping with the county treasurer of the county wherein such town ~~or school district~~ is located or with any bank maintaining a safekeeping department. Such county treasurer or bank shall give a receipt for each and all of such securities to the town board ~~or school district board~~, as the case may be, and such county treasurer or bank shall keep such securities for safekeeping until such time as such town board ~~or school district board~~ shall adopt a resolution requesting the county treasurer or bank to turn such securities or any of them over to the treasurer of such town ~~or school district~~.

Sec. 3. Minnesota Statutes 1986, section 118.14, is amended to read:

118.14 [EXCLUSION OF INVESTED FUNDS FROM BOND COVERAGE.]

The funds invested in such securities and deposited by the town board ~~or school board~~, as provided in section 118.13, shall not be included within the amount of money for which the town treasurer ~~or school treasurer~~ is required by law to give a bond to the town ~~or school district~~.

Sec. 4. Minnesota Statutes 1986, section 120.0752, is amended by adding a subdivision to read:

Subd. 3. [11TH AND 12TH GRADE STUDENTS.] Notwithstanding subdivision 2, an eleventh or twelfth grade pupil who has been enrolled in a district for at least three consecutive years and whose parent or guardian moves to another district, may continue to enroll in the nonresident district upon the approval of the school board of the nonresident district. The approval of the school board of the pupil's resident district is not required. The pupil shall be considered a resident of the district in which that student is enrolled.

Sec. 5. Minnesota Statutes 1986, section 121.11, is amended by adding a subdivision to read:

Subd. 16. [COURSES OFFERED IN SUMMER.] A school board may comply with curriculum rules of the state board by offering any elective secondary course during the summer.

Sec. 6. Minnesota Statutes 1986, section 121.612, subdivision 3, is amended to read:

Subd. 3. [FOUNDATION PROGRAMS.] The foundation shall plan for programs which advance the concept of educational excellence. These may include but are not limited to:

- (a) recognition programs and awards for students demonstrating academic excellence;
- (b) summer institute programs for students with special talents;
- (c) recognition programs for teachers, administrators, and others who contribute to academic excellence;
- (d) summer mentorship programs with business and industry for students with special career interests and high academic achievements; and
- (e) governor's awards ceremonies to promote academic competition; and
- (f) ~~consideration of the establishment of a Minnesota high school academic league.~~

To the extent possible, the foundation shall make these programs available

to students in all parts of the state.

Sec. 7. Minnesota Statutes 1986, section 121.612, is amended by adding a subdivision to read:

Subd. 3a. [ACADEMIC LEAGUE PLANS.] The academic excellence foundation shall develop a plan for an academic league to promote academic excellence through organized challenges requiring both cooperation and competition for public and nonpublic pupils in elementary and secondary schools. The foundation shall develop the plan in consultation with administrators of existing programs of academic competition and cooperation, the Minnesota state high school league, and the Minnesota association of secondary school principals. The foundation shall submit the plans to the education committees of the legislature by January 15, 1989.

Sec. 8. Minnesota Statutes 1986, section 121.612, subdivision 5, is amended to read:

Subd. 5. [REPORT.] By February 1, 1984, and February 1, 1985, The board of directors of the foundation shall submit an annual report to the education committees of the legislature on the progress of its activities made pursuant to the provisions of this section. The annual report shall contain a financial report for the preceding year, including all receipts and expenditures of the foundation.

Sec. 9. Minnesota Statutes 1986, section 121.612, is amended by adding a subdivision to read:

Subd. 6. [FOUNDATION PUBLICATIONS.] The foundation may publish brochures or booklets relating to the purposes of the foundation. The foundation may collect reasonable fees for the publications.

Sec. 10. Minnesota Statutes 1986, section 121.612, is amended by adding a subdivision to read:

Subd. 7. [APPROPRIATION.] There is annually appropriated to the academic excellence foundation any and all amounts received by the foundation pursuant to section 9.

Sec. 11. Minnesota Statutes 1986, section 121.935, subdivision 6, is amended to read:

Subd. 6. [FEES.] Regional management information centers may charge fees to affiliated districts for the cost of services provided to the district and the district's proportionate share of outstanding regional debt. If a district uses a state approved alternative finance system for processing its detailed transactions or transfers to another region, the district is liable for its contracted proportionate share of the outstanding regional debt. The district is not liable for any additional outstanding regional debt that occurs after written notice is given to transfer or use an alternative finance system. In no event shall the annual fee of a district participating in a state pilot program of an alternative financial management information system exceed the annual fee chargeable to the district in the absence of the pilot program.

Sec. 12. Minnesota Statutes 1986, section 121.936, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY PARTICIPATION.] (a) Every district shall perform financial accounting and reporting operations on a financial management accounting and reporting system utilizing multidimensional accounts

and records defined in accordance with the uniform financial accounting and reporting standards adopted by the state board pursuant to sections 121.90 to 121.92.

(b) Every school district shall be affiliated with one and only one regional management information center. This affiliation shall include at least the following components:

(1) the center shall provide reports to the department of education for the district to the extent required by the data acquisition calendar;

(2) the district shall process every detailed financial transaction using, at the district's option, either the ESV-IS finance subsystem through the center or an alternative system approved by the state board.

Notwithstanding the foregoing, a district may process and submit its financial data to a region or the state in summary form if it operates an approved alternative system or participates in a state approved pilot test of an alternative system *and is reporting directly to the state as of January 1, 1987.*

(c) The provisions of this subdivision shall not be construed to prohibit a district from purchasing services other than those described in clause (b) from a center other than the center with which it is affiliated pursuant to clause (b).

~~Districts operating an approved alternative system or participating in a state approved pilot test of an alternative financial system shall purchase finance system services from any region if the region of affiliation does not offer alternative system support services may transfer their affiliation from one regional management information center to another. At least one year prior to July 1 of the year in which the transfer is to occur, the district shall give written notice to its current region of affiliation of its intent to transfer to another region. The one year notice requirement may be waived if the two regions mutually agree to the transfer.~~

Sec. 13. Minnesota Statutes 1986, section 121.912, is amended by adding a subdivision to read:

Subd. 5. [ACCOUNT TRANSFER FOR CERTAIN SEVERANCE PAY.] *A school district may maintain in a designated for certain severance pay account not more than 50 percent of the amount necessary to meet the obligations for the portion of severance pay that constitutes compensation for accumulated sick leave to be used for payment of premiums for group insurance provided for former employees by the district. The amount necessary shall be calculated according to standards established by the advisory council on uniform financial accounting and reporting standards. If there is a deficit in any year in any reserved fund balance account, the district shall transfer the amount necessary to eliminate the deficit from the designated for certain severance pay account to the reserved fund balance account.*

Sec. 14. Minnesota Statutes 1986, section 121.932, subdivision 3, is amended to read:

Subd. 3. [EXEMPTION FROM CHAPTER 14.] *Except as provided in section 121.931, subdivision 8, the development of the data element dictionary pursuant to subdivision 1, and the, annual data acquisition calendar pursuant to subdivision 2, shall be, and essential data elements are exempt from the administrative procedure act but, to the extent authorized by law*

to adopt rules, the board may use the provisions of section 14.38, subdivisions 5 to 9.

Sec. 15. Minnesota Statutes 1986, section 121.932, is amended by adding a subdivision to read:

Subd. 5. [ESSENTIAL DATA.] The department shall maintain a list of essential data elements which must be recorded and stored about each pupil, licensed and nonlicensed staff member, and educational program. Each school district shall send the essential data to the ESV regional computer center to which it belongs, where it shall be assembled and transmitted to the department in the form and format prescribed by the department.

Sec. 16. Minnesota Statutes 1986, section 121.934, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] An advisory council to the state board consisting of 11 members appointed by the governor is hereby established. Section 15.059, subdivisions 2, 4, and 5, shall govern membership terms, compensation of members, removal of members, and the filling of membership vacancies shall be as provided in section 15.059. The governor is encouraged to solicit the suggestions of the state board, the governing boards of regional management information centers, and school boards in selecting members of the council.

Sec. 17. Minnesota Statutes 1986, section 121.934, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP] The council shall be composed of:

(a) four representatives of school districts, including one school district administrator from a rural school district, one school district administrator from an urban school district, one school board member from a rural school district, and one school board member from an urban school district;

(b) three persons employed in management positions in the private sector, at least two of whom are data processing managers or hold an equivalent position in the private sector;

(c) three persons employed in management positions in the public sector other than elementary, secondary, or vocational education, at least two of whom are data processing managers or hold an equivalent position in the public sector; and

(d) one person from the general public; and

(e) one person from the department of education.

Members selected pursuant to clauses (b) and (c) shall not be employees or board members of local school districts or the department of education. The council shall include at least one resident of each congressional district.

Sec. 18. Minnesota Statutes 1986, section 121.934, subdivision 6, is amended to read:

Subd. 6. [STAFF AND SUPPORT SERVICES.] The state board shall employ with the concurrence of the council one professional individual, experienced in managing data processing services, who shall be in the unclassified civil service, who shall not be a member of the council, and who shall provide staff assistance to the council. The state board commissioner shall provide all necessary materials and assistance for the trans-

~~action of to transact the business of the council. The expenses of undertaking the duties in this section shall be paid for from appropriations made to the state board of education. The commissioner is not required to pay compensation or expenses of the council.~~

Sec. 19. Minnesota Statutes 1986, section 122.541, subdivision 2, is amended to read:

Subd. 2. [AID; TRANSPORTATION.] A district entering into an agreement permitted in subdivision 1 shall:

(1) Continue to count its resident pupils who are educated in a cooperating district as resident pupils in the calculation of pupil units for all purposes, including the calculation of state aids and levy limitations. Notwithstanding section 124.18, subdivision 2, an agreement permitted by subdivision 1 shall provide for the tuition payments the cooperating districts determine are necessary and equitable to compensate each district for the instruction of nonresident pupils; and

(2) Continue to provide transportation and collect transportation aid for its resident pupils pursuant to sections 123.39, ~~124.222 and~~ 124.223, and 124.225. This clause shall not be construed to prohibit a district from providing some or all transportation to its resident pupils by contracting with a district ~~which~~ that has entered the agreement. For purposes of aid calculations pursuant to section ~~124.222~~ 124.225, the commissioner may adjust the base cost per eligible pupil transported to reflect changes in costs resulting from an agreement which provides for a district to discontinue at least one grade.

Sec. 20. Minnesota Statutes 1986, section 123.35, is amended by adding a subdivision to read:

Subd. 16. [SCHOOL NURSE.] *By July 1, 1988, a board of a district with 1,000 pupils or more must employ at least one full-time licensed school nurse. The board may contract with a public health agency for nursing services. The board shall not reduce the number of licensed school nurses that it employed during the 1986-1987 school year, except, if the enrollment of the district declines, the district may reduce the equivalent services of licensed school nurses proportionately.*

Sec. 21. Minnesota Statutes 1986, section 123.36, subdivision 13, is amended to read:

Subd. 13. [PROCEEDS OF SALE OR EXCHANGE.] Proceeds of the sale or exchange of school buildings or real property of the school district shall be used as provided in this subdivision.

(1) In districts with outstanding bonds, the proceeds of the sale or exchange shall first be deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds which is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property which is sold.

(2) After satisfying the requirements of clause (1), a district with outstanding bonds may deposit proceeds of the sale or exchange in its capital expenditure fund if the amount deposited is used for the following:

(a) for energy audits on district owned buildings conducted pursuant to chapter 116H, and for funding those energy conservation and renewable

energy measures which the energy audits indicate will reduce the use of nonrenewable sources of energy to the extent that the projected energy cost savings will amortize the cost of the conservation measures within a period of ten years or less;

(b) for capital expenditures for the purpose of reducing or eliminating barriers to or increasing access to school facilities by handicapped persons;

(c) for capital expenditures to bring district facilities into compliance with the uniform fire code adopted pursuant to chapter 209F;

(d) (a) for expenditures for the removal of asbestos from school buildings or property or for asbestos encapsulation, if the method for asbestos removal or encapsulation is approved by the department of education;

(e) (b) for expenditures for the cleanup of polychlorinated biphenyls, if the method for cleanup is approved by the department of education;

(f) (c) for capital expenditures for the betterment, as defined in section 475.51, subdivision 8, of district-owned school buildings, other than as provided in clauses (b), (c), and (d) clause (a); or

(g) (d) to replace the building or property sold.

The amount of the proceeds used for the purposes specified in clauses (a), and (b), (c), (d), and (e) shall be deducted from the levy limitation computed for the levy authorized in section 275.125, subdivisions 11b and subdivision 11c, as applicable, in the first year after the deposit and from levy limitations computed for this levy in succeeding years until the entire amount is deducted.

(3) In a district with outstanding bonds, the amount of the proceeds of the sale or exchange remaining after the application of clauses (1) and (2), which is sufficient to meet when due that percentage of the principal and interest payments for the district's outstanding bonds which is not governed by clause (1), shall be deposited in the debt retirement fund.

(4) Any proceeds of the sale or exchange remaining in districts with outstanding bonds after the application of clauses (1), (2), and (3), and all proceeds of the sale or exchange in districts without outstanding bonds shall be deposited in the capital expenditure fund of the district.

(5) Notwithstanding clauses (2) and (3), a district with outstanding bonds may deposit in its capital expenditure fund and use for any lawful capital expenditure without the reduction of any levy limitation the same percentage of the proceeds of the sale or exchange of a building or property as the percentage of the initial cost of purchasing or constructing the building or property which was paid using revenue from the capital expenditure fund.

(6) Every district which sells or exchanges a building or property shall report to the commissioner in the form and at the time the commissioner prescribes on the disposition of the proceeds of the sale or exchange.

Sec. 22. [123.951] [SCHOOL SITE MANAGEMENT AGREEMENT.]

A school board may enter into an agreement with a school site management team concerning the governance, management, or control of a school. An initial school site management team shall be appointed by the school board and shall include the school principal, representatives of teachers in the school, representatives of other employees in the school,

representatives of parents of pupils in the school, representatives of pupils in the school, representatives of other members in the community, and others determined appropriate by the board. The permanent school site management team shall consist of at least the school principal and representatives elected by each group represented on the initial team.

The school board may delegate any of its powers or duties to the school site management team. Any powers or duties not specifically delegated shall remain with the school board.

Sec. 23. Minnesota Statutes 1986, section 124.05, subdivision 1, is amended to read:

Subdivision 1. *At the annual organizational meeting in independent districts and at the annual district meeting in common districts or at other times if necessary, The board district shall designate one or more national or state banks as official depositories for district money; and thereupon shall require the treasurer to deposit all or part of the district money in such bank or banks. Such designation shall be in writing and set forth all the terms and conditions upon which the deposits are made; signed by the chair and clerk, and made a part of the minutes of the board. Thereupon such bank or banks shall become legal depositories for district money in the manner specified in section 118.005, subdivision 1. If the board shall refuse refuses or fail fails to designate one or more depositories in accordance with this subdivision, the treasurer shall deposit the funds of the district in accordance with the provisions of section 118.005, subdivision 2, and shall file a statement of the selection of the depository with the clerk of the district. The treasurer shall not thereafter be liable for the loss of any funds through the insolvency or default of such depository in the absence of negligence on the treasurer's part in the selection of the depository.*

Sec. 24. Minnesota Statutes 1986, section 124.14, subdivision 7, is amended to read:

Subd. 7. [APPROPRIATION TRANSFERS.] *If a direct appropriation to the commissioner department of education for any education aids aid or grant authorized in this chapter and chapters 121, 123, 124A, 125, 126, 129B, and 134 exceeds the amount required for payment of the corresponding aid entitlement, the commissioner of education may transfer the excess to any education aid or grant appropriation that is insufficient to meet the required payment; except that. However, section 124A.032 applies to a deficiency in the direct appropriation for foundation aid must be met by use of the appropriation in section 124A.032. The commissioner shall determine the method for allocating Excess appropriations shall be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner of education. The commissioner of education shall report appropriation transfers to the education committees of the legislature each year by January 15. If the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.*

Sec. 25. Minnesota Statutes 1986, section 124.195, subdivision 8, is amended to read:

Subd. 8. [PAYMENT PERCENTAGE FOR REIMBURSEMENT AIDS.]

The following aids shall be paid at 100 percent of the entitlement for the prior fiscal year: summer program aid according to section 124A.033; abatement aid according to section 124.214, subdivision 2; special education residential aid according to section 124.32, subdivision 5; special education summer school aid, according to section 124.32, subdivision 10; planning, evaluating, and reporting process aid according to section ~~123.7431~~ 124.274; and extended leave ~~and part-time teacher aids aid~~ according to chapters 354 and 354A.

Sec. 26. Minnesota Statutes 1986, section 124.273, subdivision 5, is amended to read:

Subd. 5. [NOTIFICATION; AID PAYMENTS.] The department shall inform each applicant district of the amount of aid it will receive pursuant to this section within a month after the application deadline, ~~and the department shall pay the aid within 15 days after notifying the district that it will receive aid. Beginning with the 1982-1983 school year, 85 percent of the aid shall be paid within 15 days after the aid notification and the remaining aid to each district shall be paid on or before October 31 of the following school year.~~

Sec. 27. Minnesota Statutes 1986, section 124A.031, subdivision 4, is amended to read:

Subd. 4. [LOST REVENUE AID.] Each year, based on current year tax data reported in the abstracts of tax lists, the commissioner of revenue shall determine the distribution to each school district of the amount of revenue lost as a result of the reduction in property taxes provided in section 124.2137. On or before July 15 of each year, the commissioner of revenue shall certify the amounts so determined to the department of education. The department of education shall pay each school district its distribution as part of the foundation aid payment to each district in accordance with the payment dates in ~~subdivision 4~~ section 124.195, as applicable.

Sec. 28. Minnesota Statutes 1986, section 125.03, subdivision 5, is amended to read:

Subd. 5. [TEACHERS; EXAMS.] "Teachers" for the purpose of examination means persons applying for initial teaching licenses ~~or persons applying for additional fields of licensure~~ to provide direct instruction to pupils in prekindergarten, elementary, secondary, and special education programs. It does not mean persons applying for licenses as supervisory or support personnel nor does it mean librarians, school social workers, school psychologists, audio-visual directors or coordinators, or media generalists or supervisors.

Sec. 29. Minnesota Statutes 1986, section 125.05, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATIONS.] The authority to license teachers as defined in section 125.03, subdivision 1, is vested in the board of teaching except that the authority to license supervisory and support personnel as defined in section 125.03, subdivision 4, is vested in the state board of education. Licenses shall be issued to such persons as the board of teaching or the state board of education finds to be competent for their respective positions. For teachers, as defined in section 125.03, subdivision 5, competency includes successful completion of ~~an examination of academic knowledge in each field of licensure and, for persons applying for initial licenses,~~ an examination of skills in reading, writing, and mathe-

atics for persons applying for initial licenses. Qualifications of teachers and other professional employees except supervisory and support personnel shall be determined by the board of teaching under the rules which it promulgates. Licenses under the jurisdiction of the board of teaching shall be issued through the licensing section of the department of education. Licenses under the jurisdiction of the state board of education shall be issued through the licensing section of the department of education.

Sec. 30. Minnesota Statutes 1986, section 125.611, subdivision 11, is amended to read:

Subd. 11. Notwithstanding the provisions of ~~subdivisions~~ subdivision 2, 3 and 7, a teacher who has entered into an agreement for termination of services and withdrawal from active teaching service with an early retirement incentive may be employed as a substitute teacher after retirement.

Sec. 31. Minnesota Statutes 1986, section 125.611, subdivision 12, is amended to read:

Subd. 12. Any amount of unemployment insurance ~~which that~~ the teacher receives and for which the district is required to pay into the unemployment compensation fund pursuant to section 268.06, subdivision 25, ~~at any time after the teacher has entered into an agreement pursuant to subdivision 7,~~ may be deducted by the district from the amount of the teacher's early retirement incentive or recovered by the district from the teacher up to the amount of the early retirement incentive. ~~The district shall pay 50 percent of any amount so deducted or recovered to the department of education, and any amount so received by the department shall be deposited in the state treasury.~~

Sec. 32. Minnesota Statutes 1986, section 125.611, subdivision 13, is amended to read:

Subd. 13. [APPLICATIONS AFTER JUNE 30, 1984.] ~~The state shall not reimburse the district for any portion of an early retirement incentive for any applications submitted after June 30, 1984. Beginning on July 1, 1984, a teacher meeting the requirements of subdivision 1 may apply to the school board of the employing district for a contract for termination of services, withdrawal from active teaching service, and payment of an early retirement incentive. This application shall be submitted on or before February 1 of the school year at the end of which the teacher wishes to retire. A school board shall approve or deny the application within 30 days after it is received by the board. The amount of the early retirement incentive shall be agreed upon between the teacher and the school board. The early retirement incentive shall be paid by the employing district at the time and in the manner mutually agreed upon by a teacher and the board.~~

Sec. 33. Minnesota Statutes 1986, section 126.02, subdivision 2, is amended to read:

Subd. 2. [TRAINING OF TEACHERS TEACHER EDUCATION PROGRAMS.] ~~All colleges, schools, and other educational post-secondary institutions giving offering teacher training education programs shall provide courses in physical and health education, training, and instruction and. Every pupil attending any college, school, or educational institution in preparation for teaching service student in a teacher education program shall take such health courses.~~

Sec. 34. [126.201] [ADMINISTRATION OF MEDICATION BY SCHOOL

PERSONNEL.]

A licensed school nurse or, in the absence of the nurse, a principal or teacher may administer medication prescribed for a pupil under the conditions set forth in this section. Administration of medication by school personnel must only be done according to the written order of a licensed physician and written authorization of a parent. Medication to be administered must be brought to school in a container appropriately labeled by the pharmacy or physician. Medications that are not taken orally or that have the potential of dangerous side effects may be administered only by a licensed school nurse.

Sec. 35. Minnesota Statutes 1986, section 126.56, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL NEED.] Need for financial assistance shall be based on family income, family size, and special necessary expenditures of the family. The higher education coordinating board shall ~~determine~~ review the financial need of each pupil ~~based on to meet the actual charges made costs of attending the summer program, as determined by the institution sponsoring the summer program and.~~ The board shall award scholarships within the limits of the appropriation for this section. If the amount appropriated is insufficient to ~~make a full award to each applicant,~~ the board shall allocate the amount appropriated in the manner it determines. ~~Scholarships A scholarship shall not be less than \$100 or more than exceed \$1,000.~~

Sec. 36. Minnesota Statutes 1986, section 126.56, subdivision 6, is amended to read:

Subd. 6. [INFORMATION.] *The higher education coordinating board, in cooperation with the academic excellence foundation, shall assemble and distribute information about scholarships and eligible programs. It may seek nonstate funds to perform its duties.*

Sec. 37. Minnesota Statutes 1986, section 129B.39, is amended to read:

129B.39 [PURCHASE OF COURSEWARE PACKAGE DUPLICATION RIGHTS.]

Rights to duplication of courseware packages may be purchased, and volume purchase agreements may be established by the department of education, if the department determines that the courseware packages qualify as high quality according to section 129B.37, and if the courseware packages are available to the state at a lower cost than if purchased by school districts individually. The department shall contract with any company that submits the lowest bid and that has the capability to duplicate and distribute courseware packages obtained by the department under this section. The materials shall be available to districts ~~without at cost except for,~~ including nominal costs of reproduction and distribution. *Money from the sale of courseware packages is annually appropriated to the department of education to purchase additional courseware packages according to this section.*

Sec. 38. Minnesota Statutes 1986, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a \$30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a \$150 fee before the person's drivers license is reinstated to be credited as follows:

(1) 50 percent shall be credited to the trunk highway fund;

(2) 25 percent shall be credited to a separate account to be known as the county probation reimbursement account. Money in this account is appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5; and

(3) 25 percent shall be credited to a separate account to be known as the alcohol impaired driver education account. Money in the account is appropriated to the commissioner of education for grants to develop alcohol impaired driver education programs in elementary, secondary, and post-secondary schools. The state board of education shall establish guidelines for the distribution of the grants. The commissioner of education shall report to the legislature by January 15, 1988, on the expenditure of grant funds under this clause. *Each year the commissioner may use \$100,000 to administer the grant program and other traffic safety education programs.*

Sec. 39. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections 294.21 to 294.26; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; 477A.15; and any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy

is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the equalization aid review committee. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by ~~subdivision 11a, article 6, section 4, subdivision 2, and subdivisions 11c and 12a,~~ and the community service levy authorized by ~~subdivision subdivisions 8 and 8b,~~ the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to ~~subdivision 11a article 6, section 4, subdivision 2, and subdivisions 11c and 12a,~~ and for community services pursuant to ~~subdivision subdivisions 8 and 8b.~~ The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections 294.21 to 294.26; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; or any law imposing a tax on severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties; and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 40. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [COUNCIL ON QUALITY EDUCATION.] For the council on quality education venture fund grants and dissemination according to Minnesota Statutes, sections 129B.01 to 129B.05, there is appropriated:

\$ 63,900 ____1988.

The appropriation for aid for fiscal year 1988 is for aid for fiscal year 1987 payable in fiscal year 1988.

Subd. 3. [EXTENDED LEAVES OF ABSENCE.] For the state's obligations according to Minnesota Statutes, sections 354.094 and 354A.091, there is appropriated:

\$196,900 ____1988.

Subd. 4. [COMPREHENSIVE ARTS PLANNING PROGRAM.] For grants for the comprehensive arts planning program according to Minnesota Statutes, section 129B.20, there is appropriated:

\$37,500 ____1988.

\$37,500 ____1989.

Sec. 41. [APPROPRIATIONS.]

Subdivision 1. [HIGHER EDUCATION COORDINATING BOARD.] There is appropriated from the general fund to the higher education coordinating board the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [SUMMER PROGRAM SCHOLARSHIPS.] For scholarship awards for 1988 and 1989 summer programs according to Minnesota Statutes, section 126.56, there is appropriated:

\$213,700 ____1988.

\$213,700 ____1989.

Of this appropriation, the amount required may be used for the higher education coordinating board's costs of administering the program.

Sec. 42. [REVISOR'S INSTRUCTION.]

In sections 121.904, 121.912, 121.914, 121.917, 122.531, 123.71, 124.225, 124A.08, 136C.28, and 136C.69, the Revisor of Statutes shall change, in the next edition of Minnesota Statutes, the phrases in column A to the phrases in column B.

Column A

Column B

Reserved Fund Balances

Appropriated for AVTI Equipment	Reserved for AVTI Equipment
Appropriated for AVTI Repair and Betterment	Reserved for AVTI Repair and Betterment
Appropriated for Unemployment Insurance	Reserved for Unemployment Insurance
Appropriated for Severance Pay	Reserved for Severance Pay
Appropriated for Bus Purchases	Reserved for Bus Purchases
Appropriated for Statutory Operating Debt Reduction	Reserved for Statutory Operating Debt Reduction
Appropriated for Maintenance Levy Reduction	Reserved for Maintenance Levy Reduction
Appropriated for Current Use of Taconite Payments	Reserved for Current Use of Taconite Payments
Appropriated for Encumbrances	Reserved for Encumbrances

Unreserved Fund Balances

Appropriated for Building Construction	Designated for Building Construction
Unappropriated Statutory Operating Debt as of June 30, 1977	Undesignated Statutory Operating Debt as of June 30, 1977
Unappropriated from July 1, 1977	Undesignated from July 1, 1977
Unappropriated	Undesignated

Sec. 43. [REPEALER.]

Minnesota Statutes 1986, sections 124.05, subdivision 2; 124.185; 124A.031, subdivision 1; 125.611, subdivisions 8, 9, and 10; 354.66, subdivisions 4a and 9; 354A.094, subdivisions 4a and 9; and Laws 1985, First Special Session chapter 12, article 8, section 46, are repealed.

Sec. 44. [EFFECTIVE DATE.]

Sections 35 and 36 are effective the day following final enactment.

ARTICLE 8**ACCESS TO EXCELLENCE**

Section 1. Minnesota Statutes 1986, section 121.609, subdivision 4, is amended to read:

Subd. 4. [REGIONAL SERVICES.] The department of education shall contract with educational cooperative service units or other regional educational service agencies to provide assistance to the school districts in an educational cooperative service unit region in implementing educational effectiveness. In selecting an agency to provide assistance to the school districts, the department shall consider such factors as support of the proposal by the participating school districts and the extent to which the proposal provides for participation by school district staff. If more than one agency submits a proposal to provide services to school districts within an educational cooperative service unit region, the department shall encourage the agencies to develop a joint proposal. *Every two years, the department shall evaluate the performance of the regional service providers and shall consider new proposals to provide regional services.*

Sec. 2. [122.91] [EDUCATION DISTRICT ESTABLISHMENT.]

Subdivision 1. [PURPOSE.] *The purpose of an education district is to increase educational opportunities for pupils by increasing cooperation and coordination among school districts.*

Subd. 2. [AGREEMENT.] *School boards meeting the requirements of subdivision 3 may enter into a written agreement to establish an education district. The agreement and subsequent amendments must be adopted by majority vote of the full membership of each board.*

Subd. 3. [REQUIREMENTS FOR FORMATION.] *An education district must have one of the following at the time of formation:*

(1) at least five districts;

(2) at least four districts with a total of at least 5,000 pupils in average daily membership; or

(3) at least four districts with a total of at least 2,000 square miles.

Subd. 4. [NOTICE AND HEARING.] *Before entering into an agreement, the school board of each member district shall publish at least once in a newspaper of general circulation in the district a summary of the proposed agreement and its effect upon the district. The board shall conduct a public hearing on the proposed agreement not more than ten days after the notice and at least 30 days before entering into an agreement.*

Subd. 5. [JOINDER AND WITHDRAWAL.] *A process for a district to join or withdraw from an education district shall be included in the education district agreement.*

Subd. 6. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] If requested, educational cooperative service units shall provide assistance to districts in establishing education districts. The assistance may include determination of appropriate boundaries of the education district and development of the agreement. The educational cooperative service units may provide any other services requested by the education district.

Sec. 3. [122.92] [EDUCATION DISTRICT BOARD.]

The education district board shall be composed of at least one representative appointed by the school board of each member district. The representative shall reside in the school district of the appointing school board. The representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt by-laws for the conduct of its business.

Sec. 4. [122.93] [POWERS AND DUTIES OF THE BOARD.]

Subdivision 1. [COORDINATION.] An education district board shall coordinate the programs and services of the education district according to the terms of the written agreement. The board shall implement the agreement for delivering educational services needed in the education district.

Subd. 2. [PERSONNEL.] The board may employ personnel as necessary to provide and support the programs and services of the education district. Education district staff shall participate in retirement programs.

Subd. 3. [CONTRACTS.] The board may enter into contracts with school districts and other public and private agencies to provide services needed in the education district.

Subd. 4. [GENERAL LAW.] The board shall be governed, unless specifically provided otherwise, by laws applicable to independent school districts.

Subd. 5. [ADVISORY COUNCIL.] An advisory council, consisting of representatives from the program areas covered by the agreement, shall be appointed by the education district board.

Subd. 6. [REPORT TO MEMBERS.] The board shall submit at least an annual report to the member districts and an annual report to the state board of education about the activities of the education district.

Sec. 5. [122.94] [EDUCATION DISTRICT AGREEMENT.]

Subdivision 1. [ESTABLISHMENT.] An education district board shall adopt a comprehensive agreement for continuous learning. The agreement must address methods to improve the educational opportunities available in the education district. It must be submitted for review by all educational cooperative service units serving the education district. The education district board shall review the agreement annually and propose necessary amendments to the member districts.

Subd. 2. [MANDATORY PROVISIONS.] The agreement must provide for the following:

- (1) coordination of member district and education district programs for*

handicapped pupils, gifted and talented pupils, secondary vocational education, improved learning, community education, early childhood family education, career education, and low incidence academic programs;

(2) research, planning, and development functions, including acquiring and disseminating research information and developing methods to implement research, such as educational effectiveness programs and improving education based on educational research; and

(3) methods to meet pupil needs for health services, library services, and counseling services.

Subd. 3. [OPTIONAL PROVISIONS.] *The agreement may contain the following:*

(1) methods for sharing administrative and management services;

(2) professional development programs;

(3) programs that use learning time available during the summer;

(4) use of technology for education programs and management assistance; or

(5) methods for involving parents in planning education programs.

Subd. 4. [EXTENDED YEAR.] *The agreement may provide opportunities for pupils to receive instruction throughout the entire year and for teachers to coordinate educational opportunities and provide instruction throughout the entire year. Pupils may receive instruction for more than or less than the daily number of hours required by the rules of the state board of education. However, the pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules. A teacher who is employed for the extended year may develop, in consultation with pupils and parents, individual educational programs for not more than 125 pupils.*

Subd. 5. [ATTENDANCE IN OTHER DISTRICTS.] *The agreement may provide for a pupil who is a resident of a member district to enroll in programs or courses offered by another member district or transfer to another member district. A pupil and parent shall consult with a career teacher, counselor, or principal before transferring to another district. The agreement shall specify procedures for reimbursement among the member districts. The district of residence shall count all resident pupils who enroll in programs or courses or transfer to another district as its pupils for the purpose of state aid and levy limitations. The agreement shall determine whether transportation is available for pupils enrolled in programs or courses or transferring to another district.*

Sec. 6. [122.95] [TEACHING POSITIONS.]

Subdivision 1. [DEFINITION.] *For the purposes of this section, "teacher" has the meaning given it in section 125.12, subdivision 1, except that it does not include a superintendent.*

Subd. 2. [FILLING POSITIONS.] *(a) When an education district board or a member board is filling a position resulting from implementation of the agreement, the board may offer the position to a teacher currently employed by a member district according to the exchange teacher provisions of section 125.13.*

(b) If the position is not filled by a currently employed teacher, the board

shall offer the position to an available teacher in the order of seniority in fields of licensure on a combined seniority list of all available teachers in the member districts. An available teacher is a teacher in a member district who:

(1) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, not more than one year before the initial formation of an education district as a result of an intention to enter into an education district agreement;

(2) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, as a result of implementing the education district agreement, after the formation of the education district; or

(3) is placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or is terminated according to section 125.17, subdivision 11, as a result of implementing the education district, in the same year the position is filled.

(c) If no currently employed teacher or available teacher accepts the position, the board may fill the position with any other teacher.

(d) Any teacher who has been placed on unrequested leave of absence or who has been terminated has a right to a position only as long as the teacher has a right to reinstatement in a member district under section 125.12, subdivision 6a or 6b, or 125.17, subdivision 11.

Subd. 3. [PROBATION AND TERMINATION.] Notwithstanding section 125.12, subdivision 3, a teacher who has acquired continuing contract rights in a member district and who transfers employment from a member district to the education district or to another member district does not have to serve a probationary period. A teacher who is terminated or discharged by a member district according to section 125.12, subdivision 6 or 8, or 125.17, subdivision 4, has no right to any position under this section.

Subd. 4. [DETERMINATION OF REASON FOR LEAVE.] When a school board that intends to enter into an education district agreement, and at the time a school board that has entered into an education district agreement places a teacher on unrequested leave of absence, according to section 125.12, subdivision 6a or 6b, or terminates a teacher's services under section 125.17, subdivision 11, the board shall make a determination whether the placement or termination is a result of implementing the education district agreement. That determination shall be included in the notice of proposed placement or termination, may be reviewed at a hearing upon request of the teacher, and shall be included in the notice of final action of the board. If the determination is not disputed by the teacher before June 1 or the final date required for action by the board, the teacher shall be deemed to acquiesce in the board's determination.

Sec. 7. [122.96] [BONDS FOR EDUCATION DISTRICTS.]

Subdivision 1. [PURPOSE OF BONDS.] The education district board, acting on its own behalf, may issue bonds for the acquisition of secondary school facilities or for funding or refunding related outstanding bonds, warrants, orders, or certificates of indebtedness. The board shall comply

with the provisions of chapter 475.

Subd. 2. [APPROVAL RESOLUTION.] *The purpose and the amount of any borrowing shall first be approved by resolution of the board of the education district. When the resolution has been adopted by the board it shall be published once in a newspaper of general circulation in the education district.*

Subd. 3. [ELECTION.] *The education district board shall not sell and issue bonds for acquisition purposes until the question of their issuance has been submitted to the voters of the education district at a special election held in and for the education district. The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the board. The election shall be conducted and canvassed under the direction of the education district board in accordance with section 123.32, insofar as may be applicable.*

If a majority of the total number of votes cast on the question within the education district is in favor of the question, the board may proceed with the sale and the issuance of the bonds.

Subd. 4. [OBLIGATION FOR PAYMENT.] *The full faith, credit, and unlimited taxing powers of the education district shall be pledged to the payment of all bonds and certificates of indebtedness. None of the obligations shall be included in the net debt, as defined by section 475.51, subdivision 4, of any member school district.*

Subd. 5. [TAX LEVIES.] *The education district board, upon awarding a contract for the sale of the bonds, shall certify to the county auditor or county auditors the years and amounts of taxes required to be levied for the payment of the bonds as provided by section 475.61. The county auditor shall cause the taxes to be spread in each year until bonds and interest have been paid upon all of the assessable, taxable valuation of the education district.*

Subd. 6. [TAX-EXEMPT SECURITIES.] *The bonds are authorized securities within the provisions of section 50.14, and shall be deemed instruments of a public governmental agency.*

Sec. 8. Minnesota Statutes 1986, section 123.34, subdivision 9, is amended to read:

Subd. 9. [SUPERINTENDENT.] *All districts maintaining a classified secondary school shall employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent shall be vested in the school board in all cases. Notwithstanding the provisions of sections 122.532, 122.541, 125.12, subdivision 6a or 6b, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on seniority or order of employment in any district. If two or more school districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on seniority or order of employment in a contracting district. An individual who holds a position as superintendent in one of the contracting districts, but is not selected to perform the services, may be placed on unrequested leave of absence or may be reassigned to another available position in the district for which*

the individual is licensed. The superintendent of a district shall perform the following:

(a) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;

(b) recommend to the board employment and dismissal of teachers;

(c) superintend school grading practices and examinations for promotions;

(d) make reports required by the commissioner of education; and

(e) perform other duties prescribed by the board.

Sec. 9. [123.3515] [SCHOOL DISTRICT ENROLLMENT OPTIONS PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] An enrollment options program for school districts, in which a school district may voluntarily participate, is established. A participating district must include all grade levels offered by the district. By formal resolution, a participating district must agree to:

(1) allow its resident pupils to enroll in other participating districts;

(2) accept nonresident pupils from other participating districts; and

(3) follow the procedures in this section.

A district shall notify the commissioner each year by September 15 whether it will participate in the program during the following school year. For the 1987-1988 school year, a district must notify the commissioner by July 1, 1987.

Subd. 2. [PUPIL APPLICATION.] A pupil who resides in a participating district may enroll according to this section in a participating nonresident district. The pupil's parent or guardian must apply to the nonresident district on a form provided by the department of education. The application must be submitted to the nonresident district by December 1 for enrollment during the following school year. For the 1987-1988 school year, an application must be submitted by August 1, 1987.

Subd. 3. [NONRESIDENT DISTRICT PROCEDURES.] Within ten days of receiving an application, a nonresident district shall notify the resident district that it has received the application. The nonresident district shall notify the parent or guardian and the resident district by February 1 whether the pupil's application has been approved or disapproved. For the 1987-1988 school year, notification must occur by August 10, 1987.

Subd. 4. [BASIS FOR APPROVAL.] A nonresident district must adopt criteria for approving and disapproving applications. A nonresident district may disapprove an application because of lack of space in the district. It may also disapprove an application for a particular program or school because of lack of space in the program or school. A district that has a desegregation plan may approve and disapprove applications according to subdivision 5.

Subd. 5. [RACIAL BALANCE.] A school district that has a desegregation plan may limit the number of pupils who transfer into or out of the district. An application to transfer into or out of a desegregation district shall be submitted to that district by November 1 of each year for enrollment

during the following school year. For the 1987-1988 school year, an application must be submitted by August 1, 1987. If approval of all of the applications would result in the district being out of compliance with its desegregation plan, the district shall establish the number of majority and minority group pupils who may transfer into or out of the district. The district may approve or disapprove the applications in a manner that will enable compliance with the desegregation plan. The district shall notify the parent or guardian by November 20 whether the pupil's application has been approved or disapproved. For the 1987-1988 school year, notification must occur by August 10, 1987.

Subd. 6. [TRANSPORTATION.] *The nonresident district shall provide transportation within that district for nonresident pupils enrolled under this section. The state shall pay transportation aid to the district according to section 124.225. The resident district is not required to provide or pay for transportation between a pupil's residence and the border of the nonresident district.*

A parent or guardian may apply to the nonresident district for reimbursement for transportation costs between the pupil's residence and the border of the nonresident district. The state board shall establish guidelines for reimbursing the transportation costs based on financial need. Chapter 14 does not apply to the guidelines.

Subd. 7. [CREDITS; GRADUATION.] *A pupil who has been enrolled in a nonresident district and who has met the district's graduation requirements shall be granted a diploma by that district. The district shall accept credits toward graduation requirements that were awarded by another district.*

Subd. 8. [INFORMATION.] *A participating district must make information about the district, schools, programs, policies, and procedures available to all interested people.*

Subd. 9. [AID.] *Payment of foundation aid or general education aid for pupils enrolled in a nonresident district must be made according to section 10.*

Sec. 10. Minnesota Statutes 1986, section 124A.036, is amended by adding a subdivision to read:

Subd. 5. [CERTAIN NONRESIDENTS.] *The foundation aid for districts must be adjusted for each pupil attending a nonresident district under sections 9 and 34. The adjustments must be made according to this subdivision.*

(a) *Foundation aid paid to a resident district must be reduced by an amount equal to the formula allowance plus the total tier revenue per actual pupil unit of the resident district times the number of pupil units of pupils enrolled in a nonresident district.*

(b) *Foundation aid paid to a nonresident district shall be increased by an amount equal to the formula allowance plus the total tier revenue per actual pupil unit of the nonresident district times the number of pupil units of nonresident pupils enrolled in that nonresident district.*

(c) *If the amount of the reduction to be made from the foundation aid of the resident district is greater than the amount of foundation aid otherwise due the district, the excess reduction must be made from other state aids due the district.*

Sec. 11. Minnesota Statutes 1986, section 125.185, subdivision 4, is amended to read:

Subd. 4. The board shall adopt rules to license public school teachers and interns subject to chapter 14. The board shall adopt rules for examination of teachers, as defined in section 125.03, subdivision 5. The rules may allow for completion of the examination of skills in reading, writing, and mathematics before entering or during a teacher education program. The board shall adopt rules to approve teacher education programs. *The board of teaching shall provide the leadership and shall adopt rules by October 1, 1988 for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teaching education program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.*

These rules shall encourage teacher educators to obtain periodic ~~classroom~~ elementary or secondary teaching experience. The board shall also grant licenses to interns and to candidates for initial licenses ~~and~~. *The board shall design and implement an assessment system which requires candidates for initial licensure and first continuing licensure to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels. The board shall receive recommendations from local committees as established by the board for the renewal of teaching licenses. The board shall grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 125.09 and 214.10. Notwithstanding any law or rule to the contrary, the board shall not establish any expiration date for application for life licenses. With regard to vocational education teachers the board of teaching shall adopt and maintain as its rules the rules of the state board of education and the state board of vocational technical education.*

Sec. 12. [125.21] [RESEARCH ON PROGRAM EFFECTIVENESS.]

Subdivision 1. [PURPOSE.] The legislature recognizes a growing and substantial concern about the effectiveness and breadth of the existing undergraduate curriculum for teacher education students. It also recognizes the absence of definitive research about the most effective curricula to adequately prepare teachers for entrance into the teaching profession. The purpose of this section is to support research on the comparative effectiveness of different teacher education program structures, after new programs have been designed and implemented, and the first graduates are in service.

Subd. 2. [RESPONSIBILITY.] By July 1, 1989, the board of teaching shall begin to evaluate the effectiveness of pre-baccalaureate, post-baccalaureate, and other alternative program structures for preparing candidates for entrance into the teaching profession. The evaluation shall be conducted by independent research centers or evaluators who are not associated with a Minnesota teacher education institution and shall be longitudinal in nature. By July 1, 1990, the board of teaching shall make a preliminary report on the effectiveness of alternative program structures to the education and finance committees of the legislature.

Sec. 13. [125.23] [TEACHER ASSISTANCE THROUGH MENTORSHIP PROGRAM.]

Subdivision 1. [TEACHER MENTORING PROGRAM.] School districts are encouraged to participate in a competitive grant program that explores the potential of various teacher mentoring programs.

Subd. 2. [TEACHER MENTORING TASK FORCE.] The commissioner shall appoint a teacher mentoring task force including representatives of the two teachers unions, the two principals organizations, school boards association, administrators association, board of teaching, parent teacher association, post-secondary institutions, foundations, and the private sector. Representation on the task force by minority populations shall reflect the proportion of minorities in the public schools.

The task force shall:

(1) make recommendations for a system of incentives at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession;

(2) determine ways in which teachers can be empowered through expanding to new and more professional roles; and

(3) develop the application forms, criteria, and procedures for the mentorship program.

Subd. 3. [APPLICATIONS.] The commissioner of education shall make application forms available by October 1, 1987. By December 1, 1987, a school district, a group of school districts, or a coalition of districts, teachers and teacher education institutions may apply for a teacher mentorship program grant. By January 1, 1988, the commissioner, in consultation with the teacher mentoring task force, shall approve or disapprove the applications. To the extent possible, the approved applications must reflect a variety of mentorship program models, include a variety of coalitions and be geographically distributed throughout the state. The commissioner of education shall encourage the selected sites to consider the use of the assessment procedures developed by the board of teaching.

Subd. 4. [CRITERIA FOR SELECTION.] At a minimum, applicants must express commitment to:

(1) allow staff participation;

(2) assess skills of both beginning and mentor teachers;

(3) provide appropriate in-service to needs identified in the assessment;

(4) provide leadership to the effort;

(5) cooperate with higher education institutions;

(6) provide facilities and other resources; and

(7) share findings, materials, and techniques with other school districts.

Subd. 5. [ADDITIONAL FUNDING.] Applicants are required to seek additional funding and assistance from sources such as school districts, post-secondary institutions, foundations, and the private sector.

Subd. 6. [REPORT TO THE LEGISLATURE.] By January 1, 1988, the commissioner of education shall report to the legislature on the teacher mentoring task force recommendations for a system of incentives at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession.

By January 1 of 1989 and 1990, the commissioner of education shall report to the legislature on the design, development, implementation, and evaluation of the mentorship program.

Sec. 14. [125.24] [ADMINISTRATORS ACADEMY.]

Subdivision 1. [SERVICES.] An administrators academy is established. The academy shall provide at least the following services:

(1) an administrator assessment that results in an individual professional development plan;

(2) research and development assistance that provides current research and data of interest to administrators; and

(3) brokerage assistance to provide services and resources to help administrators with needs identified in their individual professional development plan.

Subd. 2. [GOVERNANCE.] The commissioner of education shall appoint a 17-member committee to govern the administrators academy. Eight members must be from among administrators who are receiving or have received the services of the academy. In addition, a representative of each of the following organizations: Minnesota department of education, Minnesota association of school administrators, Minnesota elementary school principals, Minnesota secondary school principals, University of Minnesota, state university system, and a representative from the private colleges must be appointed by the organization each represents. Parents and teachers shall also have representation on the governing board.

Subd. 3. [REPORT TO THE LEGISLATURE.] The department of education shall report to the legislature by January 1, 1989, on the services provided by the administrators academy.

Sec. 15. [126.22] [HIGH SCHOOL GRADUATION INCENTIVES PROGRAM.]

Subdivision 1. [PURPOSE.] The legislature finds that it is critical for persons to obtain at least a high school education to function in today's society. Therefore, the purpose of this section is to provide incentives for and encourage all Minnesota students who have experienced or are experiencing difficulty in the traditional education system to enroll in alternative programs in order to complete their high school education.

Subd. 2. [ELIGIBLE STUDENTS.] The following students are eligible to participate in the high school graduation incentives program:

(a) any student who is between the ages of 12 and 16 and who:

(1) is at least two grade levels below the performance level for students of the same age in a locally determined achievement test; or

(2) is at least one year behind in obtaining credits for graduation; or

(3) is pregnant or is a parent; or

(4) has been assessed as chemically dependent; or

(5) has been absent from attendance at school without lawful excuse for one or more class periods on more than 15 days in the preceding or current school year.

(b) any student who is between the ages of 16 and 19 who is attending

school, and who is at least two grade levels below the performance level for students of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(c) any person between 16 and 21 years of age who has not attended a high school program for at least 15 days, excluding those days when school is not in session, and who is at least two grade levels below the performance level for students of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or has been assessed as chemically dependent;

Subd. 3. [ELIGIBLE PROGRAMS.] *Students who are eligible to participate under subdivision 2 may enroll in the following programs:*

(a) Any program approved by the state board of education under Minnesota Rules, part 3500.3500 or according to section 121.11, subdivision 12, may enroll students who are eligible to participate under subdivision 2, clause (a), (b) or (c) of this section;

(b) Students eligible to participate under subdivision 2, clause (b) or (c) of this section may enroll in post-secondary courses under section 123.3514; and

(c) Any public secondary education program may enroll any student who is eligible to participate under subdivision 2, clause (a), (b) or (c).

Subd. 4. [STUDENT ENROLLMENT.] *Any eligible student under subdivision 2 may apply to enroll in an eligible program under subdivision 3, using the form specified in section 120.0752, subdivision 2. Notwithstanding section 120.0752, approval of the resident district is not required for an eligible student under subdivision 2 to enroll in a nonresident district which has an eligible program under subdivision 3 or an area learning center established under section 34. A student enrolling in a program in a nonresident district under this section shall be considered a resident of that district.*

Subd. 5. [DISSEMINATION OF INFORMATION.] *A school district shall disseminate information, developed by the department of education, about the high school graduation incentives program to residents in the district who are under the age of 21.*

Subd. 6. [DESEGREGATION PLANS.] *Notwithstanding any provision to the contrary, students may not enroll in a nonresident district under this section if their enrollment in another school district would result in a violation of a district's desegregation plan, as mandated and approved by the state board of education.*

Sec. 16. [126.23] [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for high school drop outs or other eligible students under section 15, subdivision 2, the resident district must reimburse the provider an amount equal to at least 50 percent of the formula allowance plus the total tier revenue attributable to that pupil.

Sec. 17. [126.24] [CAREER OPTIONS AND DROP-OUT PREVENTION INFORMATION.]

Subdivision 1. [SALE OF MATERIALS.] *The department of education*

may provide career options and drop-out prevention materials and services developed by the secondary vocational education section to school districts and educational agencies in Minnesota and other states. The department may collect reasonable fees for the materials and services.

Subd. 2. [APPROPRIATION.] *There is annually appropriated from the general fund to the department of education any and all amounts received by the department under subdivision 1. Any amount received under this section must be used exclusively for the purpose of developing and distributing materials and services relating to career options and drop-out prevention programs.*

Sec. 18. [126.661] [PER DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *For the purposes of sections 9 to 14 and section 126.67 the following terms have the meanings given them.*

Subd. 2. [CURRICULUM.] *"Curriculum" means written plans for providing learning experiences that lead to the acquisition of knowledge, skills, and attitudes.*

Subd. 3. [LEARNER OUTCOME.] *"Learner outcome" means a specific educational goal of the curriculum.*

Subd. 4. [INSTRUCTION.] *"Instruction" means methods of providing learning experiences that facilitate pupil progress in attaining outcomes.*

Subd. 5. [ESSENTIAL LEARNER OUTCOMES.] *"Essential learner outcomes" means the specific basic learning experiences that must be provided for all students.*

Subd. 6. [PER PROCESS.] *"Planning, evaluating, and reporting process" or "PER process" means a process, described in sections 18 to 23 and 126.67, to establish a cycle for curriculum identification, implementation, review, and improvement that is reported to the community and the state.*

Sec. 19. [126.662] [PER FINDINGS.]

The legislature finds that a process is needed to facilitate decisions by school boards and communities concerning education curriculum planning, evaluation of curriculum, evaluation for improvement of instruction, and determination of the services that can or should be provided by institutions, such as the family, private or public organizations and agencies, in addition to being provided by public education.

Sec. 20. [126.663] [PER CURRICULUM ACCOUNTABILITY AND IMPROVEMENT PROCESS.]

Subdivision 1. [STATE PROCESS.] *The state board, with the advice of the state curriculum advisory committee, shall adopt a state PER process and standard procedures for district planning, evaluating, and reporting.*

Subd. 2. [MODEL STATE CORE CURRICULUM.] *The state board shall adopt a set of learner outcomes that it considers to be essential for each subject area. The department of education, in cooperation with the state curriculum advisory committee, shall develop a validated research-based process to identify a set of learner outcomes that are essential for each subject area.*

Subd. 3. [MODEL LEARNER OUTCOMES.] *The department shall develop and maintain sets of learner outcomes in state board identified subject areas that it considers to be model learner outcomes. The department shall*

make the sets available for use by a district at the option of the district. The sets shall be for pupils in kindergarten to grade 12. The department shall consult with each of the public post-secondary systems and with the higher education coordinating board in developing model learner outcomes appropriate for entry into post-secondary institutions.

Sec. 21. [126.664] [TECHNICAL ASSISTANCE.]

The commissioner of education shall make technical assistance for planning and evaluation available to school districts. The department shall collect the annual reports from districts, as provided in section 14, subdivision 4, and shall make these reports available, upon request, to any person. If requested, the department shall provide technical assistance to a district developing methods for measuring group or individual pupil progress.

Sec. 22. [126.665] [STATE CURRICULUM ADVISORY COMMITTEE.]

The commissioner shall appoint a state curriculum advisory committee of 11 members to advise the state board and the department on the PER process. Nine members shall be from each of the educational cooperative service units and two members shall be at-large. The committee shall include representatives from the state board of education, parents, teachers, administrators, and school board members. Each member shall be a present or past member of a district curriculum advisory committee. The state committee shall provide information and recommendations about at least the following:

- (1) department procedures for reviewing and approving reports and disseminating information;
- (2) exemplary PER processes;
- (3) recommendations for improving the PER process and reports; and
- (4) developing a continuous process for identifying and attaining essential learner outcomes.

By February 1 of each year, the commissioner, in cooperation with the state curriculum advisory committee, shall prepare a report for the education committees of the legislature. The report shall include the recommendations of the state curriculum advisory committee.

Sec. 23. [126.666] [SCHOOL DISTRICT PROCESS.]

Subdivision 1. [ADOPTING POLICIES.] A school board shall adopt each year a written PER policy that includes the following:

- (1) district curriculum goals;
- (2) learner outcomes for each subject area at each grade level that include the essential learner outcomes adopted by the state board under section 11, subdivision 2;
- (3) a process for evaluating each student's progress toward attaining learner outcomes and for identifying strengths and weaknesses of the curriculum;
- (4) a system for establishing a review cycle for all curriculum;
- (5) curriculum and instruction improvement plans; and
- (6) an instruction plan that includes education effectiveness processes

developed according to section 121.608 and integration of curriculum and technology developed under section 129B.33.

Subd. 2. [CURRICULUM ADVISORY COMMITTEE.] Each school board shall establish a curriculum advisory committee to permit active community participation in all phases of the PER process. The advisory committee shall be representative of the community served by the district and include principals, teachers, parents, support staff, and other community residents. Whenever possible, parents and other community residents shall comprise at least two-thirds of the advisory committee. The committee shall make recommendations to the board about the programs enumerated in article 1, section 16, that the committee determines should be offered. The recommendations shall be based on district needs and priorities.

Subd. 3. [BUILDING TEAM.] A team may be established at each school building to develop and implement an education effectiveness plan to improve curriculum and instruction. The team shall advise the board and the advisory committee about the development of an instruction improvement plan that aligns curriculum, assessment of student progress, and instruction.

Subd. 4. [REPORT.] By October 1 of each year, the school board shall adopt, using state board standard reporting procedures, a report that includes the following:

- (1) learner outcomes adopted for that year;
- (2) results of local assessment data, and any additional test data;
- (3) the annual school district improvement plans; and
- (4) information about progress that has been made toward the improvement plans that were previously adopted by the board.

The school board shall publish the report in the local newspaper with the largest circulation in the district or by mail. The report shall be available for inspection by the public. A copy of the report shall be sent to the commissioner of education by October 15 of each year.

Subd. 5. [BIENNIAL EVALUATION; ASSESSMENT PROGRAM.] At least once every two years the report shall include an evaluation of the district testing programs, according to the following:

- (1) written objectives of the assessment program;
- (2) names of tests and grade levels tested;
- (3) use of test results; and
- (4) implementation of assurance of mastery program.

Sec. 24. Minnesota Statutes 1986, section 126.67, is amended by adding a subdivision to read:

Subd. 2b. [DISTRICT ASSESSMENTS.] As part of the PER process, each year a district shall, in at least three grades, conduct assessments among at least a sample of pupils for each subject area in that year of the curriculum review cycle. The district's curriculum review cycle for communication, mathematics, science, and social studies shall be more than five years. Assessments may not be conducted in the same curriculum area for two consecutive years. The district may use tests from the assessment item bank, the local assessment program developed by the department, or other tests. As they become available, districts shall use state developed

measures to assure state progress toward the state core curriculum. Funds are provided for districts that choose to use the local assessment program or the assessment item bank.

Sec. 25. Minnesota Statutes 1986, section 126.67, subdivision 3a, is amended to read:

Subd. 3a. [ASSURANCE OF MASTERY.] Each school board shall adopt a policy establishing a process to assure individual pupil mastery in communications and mathematics. This process shall include at least the following:

(1) procedures, which may include multiple or separate criteria, for the evaluation and identification of nonspecial education pupils and pupils with limited English proficiency who are not making sufficient progress in the mastery of communications and mathematics;

(2) procedures for implementation in grades kindergarten to 12, ~~beginning in the 1986-1987 school year~~, and requiring evaluation of progress toward mastery at least once during grades K to 3, once during grades 4 to 6, once during grades 7 to 9, and once during grades 10 to 12;

(3) procedures for parent conferences to establish an individualized remediation or modified instruction plan for each pupil who is not making sufficient progress toward mastery of communication or mathematic skills; and

(4) procedures which shall consider and address the special needs of handicapped pupils and pupils with limited English proficiency.

Sec. 26. Minnesota Statutes 1986, section 126.67, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL TESTING.] The department upon written agreement with ~~local~~ school districts may perform additional testing and evaluation of students. The department may collect a reasonable fee not to exceed the actual cost of services. *The department may also sell products and services as a part of the assessment item bank program to public and private entities outside of the state. Money from the sale of these products and services is annually appropriated to the department for the improvement of assessment measures within Minnesota.*

Sec. 27. Minnesota Statutes 1986, section 126.70, subdivision 1, is amended to read:

Subdivision 1. [~~DEVELOPMENT OF PLAN ELIGIBILITY FOR REVENUE.~~] ~~Each school district is encouraged to develop and adopt a written comprehensive plan for excellence in teaching and curriculum. The plan shall be prepared in consultation with the curriculum advisory committee appointed according to section 126.66, subdivision 3. A school board may use the revenue authorized in article 1, section 18, if it establishes a staff development advisory committee and adopts a staff development plan according to this subdivision. A majority of the advisory committee must be teachers representing various grade levels and subject areas. The advisory committee must also include representatives of parents, and administrators. The advisory committee shall develop a staff development plan and submit it to the school board. If the school board approves the plan, the district may use the staff development revenue authorized in article 1, section 18.~~

Sec. 28. Minnesota Statutes 1986, section 126.70, is amended by adding

a subdivision to read:

Subd. 2a. [PERMITTED USES.] A school board may approve a plan for any of the following purposes:

(1) to participate in the educational effectiveness program according to section 121.609;

(2) to provide in-service education for elementary and secondary teachers to improve the use of technology in education;

(3) to provide subject area in-service education emphasizing the academic content of curricular areas determined by the district to be a priority area;

(4) to use experienced teachers, as mentors, to assist in the continued development of new teachers;

(5) to increase the involvement of parents, business, and the community in education;

(6) for experimental delivery systems;

(7) for in-service education to increase the effectiveness of principals and administrators;

(8) for in-service education or curriculum development for programs for gifted and talented pupils;

(9) for in-service education or curriculum development for cooperative efforts to increase curriculum offerings, as set forth in section 124.272;

(10) for improving curriculum, according to the needs identified under the planning, evaluation, and reporting process set forth in section 126.66;

(11) for in-service education and curriculum development designed to promote sex equity in all aspects of education, with emphasis on curricular areas such as mathematics, science, and technology programs;

(12) for in-service education or curriculum modification for handicapped pupils and low-achieving pupils;

(13) for short-term contracts as described in section 126.72; or

(14) to employ teachers for an extended year to perform duties directly related to improving curriculum or teaching skills.

Sec. 29. Minnesota Statutes 1986, section 126.72, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] ~~As part of a program for excellence in teaching and curriculum,~~ A school board may enter into short-term, limited contracts with classroom teachers employed by the district.

Sec. 30. Minnesota Statutes 1986, section 126.81, subdivision 2, is amended to read:

Subd. 2. [GRANTS FOR EXEMPLARY TEACHER EDUCATION PROGRAMS.] The board of teaching shall award ~~at least three~~ grants to public post-secondary institutions to develop exemplary teacher education programs. The majority of grants shall be awarded for programs that are conducted jointly by an approved teacher education institution and one or more school districts.

Sec. 31. Minnesota Statutes 1986, section 129B.041, subdivision 1, is

amended to read:

Subdivision 1. [COPYRIGHT.] Products of projects and programs funded pursuant to sections 129B.01 to 129B.05, including curriculum and instructional materials, computer and telecommunications software, and associated manuals and reports, may be copyrighted by the ~~council~~ department in the name of the state and may be sold. However, the state shall sell the products to all school districts and public agencies in the state at prices that do not exceed the cost of reproduction and distribution. Products sold shall be clearly labeled as products developed pursuant to a grant or loan from the council on quality education.

Sec. 32. Minnesota Statutes 1986, section 129B.041, subdivision 3, is amended to read:

Subd. 3. [REVOLVING FUND.] The education product and loan repayment revolving account is established in the state treasury. ~~Repayment of loans, made according to section 129B.04, subdivision 2, and Sale proceeds up to the cost of reproduction and distribution from the sale of products~~ under this section shall be deposited in this account. All funds in this account are annually appropriated to the department of education and shall be used to reproduce and distribute products of projects and programs funded pursuant to Minnesota Statutes 1986, sections 129B.01 to 129B.05.

Sec. 33. [129B.11] [PROGRAM IMPROVEMENT GRANTS.]

Subdivision 1. [PLANS; GRANT AWARDS.] *The state board of education, with the advice of the state curriculum advisory committee and the advisory committee on technology in education for projects involving technology, shall make grants to groups of school districts to implement plans to improve education. The board may award grants to groups of districts which submit plans that include at least the following:*

(1) *program and curriculum changes which provide more learning opportunities for students;*

(2) *demonstration of a local commitment to the plan and, in the case of plans utilizing technology, local financial support including public and private partnerships;*

(3) *involvement of school district teaching staff in development of the plan;*

(4) *demonstration that the plan is consistent with school district goals established under section 126.66; and*

(5) *the structural criteria established in subdivision 2.*

The board may establish additional criteria and shall establish timelines and the grant application procedure for making grants.

Subd. 2. [ELIGIBILITY.] *To be eligible for a grant, a group of districts must meet one of the following criteria:*

(1) *create a consolidated district according to section 122.23, with the consolidated school district having at least 600 pupils in average daily membership;*

(2) *establish an education district according to section 2;*

(3) *form a group of districts that has an agreement under section 122.535 or 122.541 for discontinuing grades when the districts entering into the*

agreement have a total of at least 240 pupils in average daily membership in grades 10, 11, and 12; or.

(4) enter into a joint powers agreement for a technology cooperative where the school districts in the cooperative are contiguous but are significant distances apart so that other forms of cooperation are not practical.

Subd. 3. [AMOUNTS.] The board may determine the amount of the grant, but a grant shall not exceed \$250,000 for a group of districts.

Sec. 34. [129B.52] [AREA LEARNING CENTER ORGANIZATION.]

Subdivision 1. [GOVERNANCE.] A school district may establish an area learning center either by itself or in cooperation with other districts, an ECSU, an intermediate school district, public and private secondary and post-secondary institutions, public agencies, businesses, and foundations. Except for a district located in a city of the first class, a center must serve the geographic area of at least two districts.

Subd. 2. [ACCESS TO SERVICES.] A center shall have access to the district's regular education programs, technology facilities, and staff. It may contract with individuals or post-secondary institutions. It shall seek the involvement of community education programs, post-secondary institutions, community resources, businesses, and other federal, state, and local public agencies.

Subd. 3. [NONRESIDENT PUPILS.] A pupil who does not reside in the district may attend a center without consent of the school board of the district of residence.

Sec. 35. [129B.53] [CENTER PROGRAMS AND SERVICES.]

Subdivision 1. [PROGRAM FOCUS.] The programs and services of a center must focus on academic and learning skills, trade and vocational skills, work experience, and transition services.

Subd. 2. [PEOPLE TO BE SERVED.] A center shall provide programs for secondary pupils and adults. Secondary pupils to be served are those who are chemically dependent, not likely to graduate from high school, need assistance in vocational and basic skills, can benefit from employment experiences, and need assistance in transition from school to employment. Adults to be served are dislocated homemakers and workers and others who need basic educational and social services. In addition to offering programs, the center shall coordinate the use of other available educational services, social services, and post-secondary institutions in the community. The center may also provide programs for elementary and secondary pupils who are not attending the center to assist them in completing high school.

Subd. 3. [RULES EXEMPTION.] Notwithstanding any law to the contrary, the center programs must be available throughout the entire year. Pupils in a center may receive instruction for more than or less than the daily number of hours required by the rules of the state board of education. However, a pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules. A center may petition the state board under Minnesota Rules, part 3500.1000, for exemption from other rules.

Subd. 4. [GRADUATION.] Upon successful completion of the center program, a pupil is entitled to receive a high school diploma. The pupil may elect to receive a diploma from either the district of residence or the

district in which the center is located.

Sec. 36. [129B.54] [RESOURCE CENTER FOR OTHER PROGRAMS.]

An area learning center must serve as a resource for other districts, educational, community, and business organizations. The center may charge a fee for these services. The following services shall be provided for a region or the state:

- (1) information and research for alternative programs;*
- (2) regional or state workshops on awareness, identification, programs, and support for these pupils; and*
- (3) recommendations for staff qualifications to ensure the most qualified staff can be selected for the programs.*

Sec. 37. [129B.55] [CENTER FUNDING.]

Subdivision 1. [OUTSIDE SOURCES.] A center may accept:

- (1) resources and services from post-secondary institutions serving center pupils;*
- (2) resources from job training partnership act programs, including funding for jobs skills training for various groups and the percentage reserved for education;*
- (3) resources from the department of human services and county welfare funding; or*
- (4) private resources, foundation grants, gifts, corporate contributions, and other grants.*

Subd. 2. [FOUNDATION REVENUE.] Payment of foundation or general education aid for nonresident pupils enrolled in the center must be made according to section 10.

Sec. 38. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 8d. [PROGRAM IMPROVEMENT LEVY.] In the year a district receives a grant under section 33, it must levy the lesser of .5 mills times the adjusted assessed valuation of the district or an amount equal to its share of the grant. If a group of districts receives a grant, the group shall determine the proportionate share of the grant for each district.

Sec. 39. [PLANNING GRANTS FOR FISCAL YEARS 1988 AND 1989.]

Subdivision 1. [EXISTING PROGRAMS.] Up to 20 planning grants of \$5,000 may be awarded for fiscal year 1988 for existing alternative programs. The grants are to prepare a plan for an existing program to become an area learning center by expanding or redesigning its services.

Subd. 2. [ELIGIBILITY REQUIREMENTS.] To qualify for a planning grant, an existing program must have the following:

- (1) an educational program that includes at least some of the programs in section 19, subdivision 2;*
- (2) outreach activities; and*
- (3) an established policy of accepting nonresident pupils.*

Subd. 3. [GRANT AWARDS.] The commissioner of education shall award

planning grants based on short descriptions of applicants' current and proposed programs. Grant recipients must be geographically disbursed throughout the state.

Subd. 4. [PLANS.] A grant recipient shall submit a plan to the commissioner by January 1, 1988. The plan must include:

- (1) the variety of people to be served;*
- (2) alternative approaches to services;*
- (3) interagency cooperation;*
- (4) community, business, parent, and pupil involvement;*
- (5) methods to identify potential dropouts;*
- (6) outreach activities;*
- (7) needs assessment of community services;*
- (8) sources of funding;*
- (9) services for jobs and employability skills;*
- (10) commitments from cooperating agencies, businesses, and others;*
- (11) resource services to be provided to other programs and agencies;*
- (12) criteria for evaluation, including measuring learner outcomes;*
- (13) methods by which the area learning center will provide practical expertise and leadership for other centers; and*
- (14) how the program will attempt to meet the requirements.*

Sec. 40. [1988 SELECTION OF EXEMPLARY CENTERS.]

Based on the plans, the commissioner of education shall select four sites to be designated exemplary area learning centers. The sites must be geographically distributed throughout the state. The commissioner shall award each site a grant of \$37,500.

Sec. 41. [1989 AND 1990 EVALUATION.]

The commissioner of education shall provide for independent evaluation of the program and cost of the area learning centers during fiscal years 1989 and 1990. A preliminary report shall be submitted to the legislature by February 1, 1989. The final report shall be submitted by February 1, 1990. Both reports must provide information about:

- (1) whether the programs were implemented according to the plan;*
- (2) the success of the programs;*
- (3) the financial and other resources available to and used by the centers;*
- (4) cooperation and coordination among agencies;*
- (5) programs that were offered; and*
- (6) the cost of the programs.*

Sec. 42. [TASK FORCE FOR TEACHER CENTERS.]

An advisory task force is established to assist the board of teaching during fiscal years 1988 and 1989 in various aspects of teacher centers. The advisory task force consists of 15 persons appointed as follows: (1)

two elementary, two secondary, and one special area teacher appointed by the Minnesota federation of teachers; (2) two elementary, two secondary, and one special area teacher appointed by the Minnesota education association; (3) one member appointed by the Minnesota school boards association; (4) one member representing the faculty of post-secondary colleges of education appointed by the higher education coordinating board; (5) one member appointed by the board of teaching; (6) one member appointed by the commissioner of education; and (7) one member appointed by the state board of education.

The board of teaching, through the advisory task force, shall prescribe the form and manner of applications for grants for teacher centers. Each application must include the approval of the teachers' exclusive representatives and the school boards of all participating districts.

Upon approval of an application by the advisory task force, the board of teaching shall award a planning grant of not more than \$75,000 for a teacher center. The grant shall be used to develop a final plan of operation for a teacher center. The advisory task force shall recommend the amount of a planning grant based on the number of teachers to be served by the center.

Each grant recipient shall provide information to the board of teaching about how the proceeds of the grant were used. A report about the use of the money shall be submitted by the board of teaching to the state board of education and the education committees of the legislature by January 1, 1988.

Sec. 43. [1988-1989 GRANTS FOR TEACHER CENTERS.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "teacher" has the meaning given it in section 179A.03, subdivision 2.

Subd. 2. [ESTABLISHMENT.] During the biennium, a teacher center may be established by one or more school boards and the exclusive representatives of the teachers. A grant from the board of teaching may be used to plan the center. The teacher center shall serve at least ten districts or 3,000 teachers.

Subd. 3. [POLICY BOARD MEMBERSHIP.] Representatives of exclusive representatives and representatives of the school boards shall mutually determine the composition of the policy board according to the guidelines in this subdivision. A majority of the policy board must be teachers. The number of policy board members from each participating district must be in proportion to the number of teachers in each district. The board shall be composed of elementary, secondary, and special area teachers, parents, and representatives of school boards, post-secondary education, and either business or labor. At least one teacher from each participating district shall be a member of the board.

Subd. 4. [BOARD POWERS AND DUTIES.] The board shall formulate policy, designate a fiscal agent, control the budget, expend funds to accomplish the purposes of the center, contract for technical and other assistance, and perform other managerial or supervisory activities consistent with the rules of the state board of education. The board may employ staff or contract for consulting services.

Subd. 5. [CENTER FUNCTIONS.] A teacher center shall perform functions according to this subdivision. The center shall assist teachers, diag-

nose learning needs, experiment with the use of multiple instructional approaches, assess pupil outcomes, assess staff development needs and plans, and teach school personnel about effective pedagogical approaches. The center shall develop and produce curricula and curricular materials designed to meet the educational needs of pupils being served by applying educational research and new and improved methods, practices, and techniques. The center shall provide programs to improve the skills of teachers to meet the special educational needs of pupils. The center shall provide programs to familiarize teachers with developments in curriculum formulation and educational research, including how research can be used to improve teaching skills. The center shall facilitate sharing of resources, ideas, methods, and approaches directly related to classroom instruction and improve teachers' familiarity with current teaching materials and products for use in their classrooms. The center shall provide in-service programs.

Sec. 44. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [CENTER PLANNING GRANTS.] For area learning center planning grants there is appropriated:

\$100,000 ____ 1988.

Subd. 3. [EXEMPLARY SITES FOR AREA LEARNING CENTERS.] For grants for exemplary sites for area learning centers there is appropriated:

\$150,000 ____ 1989.

Subd. 4. [INDEPENDENT EVALUATION.] For independent evaluation of area learning centers there is appropriated:

\$20,000 ____ 1989.

Subd. 5. [MENTORSHIP PROGRAMS.] There is appropriated for the mentorship programs under section 10:

\$250,000 ____ 1988,

\$250,000 ____ 1989.

Subd. 6. [AID FOR PLANNING, EVALUATION, AND REPORTING PROCESS.] For aid for the planning, evaluation, and reporting process according to Minnesota Statutes, section 123.7431, there is appropriated:

\$1,014,300 ____ 1988,

\$1,021,800 ____ 1989.

Subd. 7. [PROGRAM IMPROVEMENT GRANTS.] For the purposes of awarding program improvement grants under section 33 there is appropriated:

\$1,500,000 ____ 1988.

This amount shall be available until the end of the biennium.

Subd. 8. [TEACHER CENTERS.] For teacher centers there is appropriated:

\$100,000 ____ 1988,

\$100,000 _____1989.

Sec. 45. [REPEALER.]

Minnesota Statutes 1986, sections 121.20; 126.65; 126.66; 126.67, subdivisions 1, 1a, 2a, 5b, and 9; 126.71; 129B.01; 129B.02; 129B.04; 129B.041, subdivision 4; 129B.43, subdivisions 2, 3, and 6; 129B.05; 129B.35; and 129B.37 are repealed.

Sec. 46. [EFFECTIVE DATE.]

Section 8 is effective the day following final enactment.

ARTICLE 9

LIBRARIES

Section 1. Minnesota Statutes 1986, section 134.10, is amended to read:
134.10 [BOARD VACANCIES; COMPENSATION.]

The library board president shall report vacancies in the board to the council or the board of county commissioners. The council or board of county commissioners shall fill the vacancies by appointment for the unexpired term. Library board members shall receive no compensation for their services but may be reimbursed for actual and necessary traveling expenses incurred in the discharge of library board duties and activities or a per diem allowance according to section 375.47 in place of the expenses.

Sec. 2. [134.341] [COUNTY FINANCIAL SUPPORT.]

To ensure the availability of public library service to all people, every county shall provide financial support for public library services at no less than minimum amounts as specified in sections 134.33 and 134.34 and shall participate in the regional public library system to which it is assigned by the state board of education under section 134.34, subdivision 3. Each county board of commissioners shall appoint at least one county resident to serve as a representative on the regional public library system board and may appoint more than one representative under terms and conditions of the regional public library system contract.

Sec. 3. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] There is appropriated from the general fund to the department of education the sums indicated in this section for the fiscal years ending June 30 in the years designated.

Subd. 2. [BASIC SUPPORT GRANTS.] For basic support grants pursuant to sections 134.32 to 134.35 for the provision of library service there is appropriated:

\$4,899,700 _____1988,

\$4,974,800 _____1989.

The appropriation for 1988 includes \$671,100 for aid for fiscal year 1987 payable in fiscal year 1988 and \$4,228,600 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for 1989 includes \$746,200 for aid for fiscal year 1988 payable in fiscal year 1989 and \$4,228,600 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$4,974,800 for fiscal year 1988 and \$4,974,800 for fiscal year 1989.

Subd. 3. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] For grants pursuant to sections 134.353 and 134.354 to multicounty, multitype library systems there is appropriated:

\$216,800 ____1988,

\$221,500 ____1989.

The appropriation for 1988 includes \$28,500 for aid for fiscal year 1987 payable in fiscal year 1988 and \$188,300 for aid for fiscal year 1988 payable in fiscal year 1988.

The appropriation for 1989 includes \$33,200 for fiscal year 1988 payable in fiscal year 1989 and \$188,300 for aid for fiscal year 1989 payable in fiscal year 1989.

The appropriations are based on aid entitlements of \$221,500 for fiscal year 1988 and \$221,500 for fiscal year 1989.

Subd. 4. [ONLINE COMPUTER-BASED LIBRARY CATALOG SYSTEM.] For the installation of an online computer-based library catalog system in state agency libraries there is appropriated:

\$250,000 ____1988.

This sum shall be available until June 30, 1989.

Sec. 4. [EFFECTIVE DATE.]

Section 2 is effective beginning with the levies certified in 1989 and for regional library system participation payments beginning January 1, 1990.

ARTICLE 10

STATE AGENCIES'

APPROPRIATIONS FOR EDUCATION

Section 1. SUMMARY BY AGENCY - ALL FUNDS

Department of Education	\$12,649,300	\$12,551,600	\$25,200,900
Faribault Academies	\$ 6,390,400	\$ 6,372,400	\$12,762,800
School and Resource Center for the Arts	\$ 2,206,200	\$ 2,649,500	\$ 4,855,700

APPROPRIATIONS

Available for the Year	
Ending June 30	
1988	1989

Sec. 2. DEPARTMENT OF EDUCATION

Subdivision 1. Total Appropriation

\$12,649,300	\$12,551,600
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Approved Complement

General Fund	1988	1989
	224.0	224.0
Other	12.5	12.5
Federal	144.4	144.4

Total 380.9 380.9

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

The commissioner of education, with the approval of the commissioner of finance, may transfer unencumbered balances among the programs during the biennium. Transfers must be reported immediately to the senate and house of representatives education committees. During the biennium, the commissioner of education may transfer money among the various object of expenditure categories and activities within each program, unless restricted by executive order.

The commissioner of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The commissioner must report material changes to the senate and house of representatives education committees.

The commissioner of education shall develop an organizational management plan for the department of education for the purpose of implementing state education policies as established by the legislature. The plan must be contained within the existing department budget and complement. The plan must include: (1) methods for effectively implementing legislative education policies; (2) methods of substantially increasing direct services to school district teachers, principals, superintendents, and school boards in meeting legislative requirements and the educational needs of students; and (3) methods of using regional organizations to increase direct services to districts.

The management analysis team of the department of administration shall evaluate the plan and report the findings and recommendations to the house of representatives and senate education committees by January 15, 1988.

The commissioner of education shall present the organizational management plan to the house of representatives and senate education committees for approval by January 15, 1988.

Subd. 2. Educational Services

1988 1989

\$ 7,360,500 \$ 7,313,000

\$20,700 each year is from the trunk highway fund.

\$60,000 each year is from the public health fund.

The commissioner of education shall provide for direct local technical assistance to districts in meeting the curriculum requirements specified in the planning, evaluating, and reporting process. In addition to existing curriculum services, the commissioner shall enter into performance contract agreements for general curriculum specialist services with educational cooperative service units or other regional educational service agencies. If more than one agency submits a proposal to provide services to school districts within an educational cooperative service unit region, the department shall encourage the agencies to develop a joint proposal. The commissioner shall evaluate the performance agreements annually. This assistance shall be provided in conjunction with the educational effectiveness delivery system. \$400,000 in each year is for this purpose.

\$157,500 in fiscal year 1988 and \$67,800 in fiscal year 1989 is for services to school districts related to acquired immune deficiency syndrome.

\$50,000 in fiscal year 1988 and \$75,000 in fiscal year 1989 is for administration of state planning, evaluation and reporting.

\$75,000 each year is for technical assistance for local staff development plans and administration costs for implementing mentorship programs.

Beginning in fiscal year 1989, responsibility for the education research information service established by the council on quality education is transferred to the interagency resource and information center.

The governor's council on youth is discontinued.

\$198,300 each year is for the secondary vocational student organization center.

Two professional and one clerical complement are transferred from the special education section to the Faribault residential academies and resource center for the purpose of establishing a resource center for hearing-impaired, visually-impaired and multiply handicapped students. \$125,000 is available each year for this purpose.

One professional complement is added in each year in the curriculum services research information service learner outcomes.

The complement of the secondary vocational section is reduced by two each year.

Two complement are transferred from federal to special purpose for the alcohol impaired driver program. \$100,000 each year is available from the alcohol impaired driver account for these complement.

One-half complement each year is for state agency library automation.

One complement is added to the community education section each year for additional responsibilities related to youth.

Subd. 3. Administration and Financial Services

1988	1989
\$5,288,800	\$5,238,600

The commissioner of education shall maintain no more than six total complement in the categories of commissioner, deputy commissioner, assistant commissioner, assistant to the commissioner, or executive assistant.

The commissioner of education shall consolidate within the education aids and levies section all computation, analysis, payment, and data functions for aids and levies for special education, community education, and secondary vocational education. Each year's appropriation includes \$50,000 transferred from educational services for this purpose. One complement each year is transferred from educational services for this purpose.

The state management effectiveness division shall provide risk management analysis, program cost analysis, and school bus safety services. The state aids and levies section is increased by two positions and \$100,000 each year for these purposes.

\$75,000 each year is for management assistance to school districts.

\$60,000 in fiscal year 1988 is for development of program cost analysis capability in the education aids and levies section and a study of program costs under the direction of the legislative commission on public education. Any unexpended balance does not cancel and is available for the second year.

\$1,098,700 for fiscal year 1988 and \$1,100,800 for fiscal year 1989 is for education data systems. Any unexpended balance remaining in the first year does not cancel and is available for the second year.

Sec. 3. FARIBAUT RESIDENTIAL ACADEMIES AND RESOURCE CENTER

Total Appropriations		\$2,206,200	\$2,649,500
Approved Complement	1988	1989	
State	185.5	185.5	
Federal	8.0	7.0	
Total	193.5	192.5	

The state board of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The state board must report material changes to the senate and house of representatives education committees.

Three complement and \$125,000 each year are for operation of a resource center for hearing-impaired, visually-impaired and multiply handicapped students.

\$107,600 in 1988 and up to \$107,600 in 1989 is for repairs, replacements, and betterment.

\$53,300 in 1988 and up to \$53,300 in 1989 is for repair and purchase of equipment.

Any unexpended balance remaining from

the appropriation in this section in 1988 shall not cancel but is available in 1989.

Sec. 4. SCHOOL AND RESOURCE CENTER FOR THE ARTS

Total Appropriations		\$ 2,206,200	\$ 2,649,500
Approved Complement	1988	1989	
State	15	21	

Sec. 5. Minnesota Statutes 1986, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

- (a) Chosen by election or appointed to fill an elective office;
- (b) Heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions and institutions specifically established by law in the unclassified service;
- (c) Deputy and assistant agency heads, and one confidential secretary in the agencies listed in subdivision 1a;
- (d) The confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (e) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (f) Employees in the offices of the governor and of the lieutenant governor, and one confidential employee for the governor in the office of the adjutant general;
- (g) Employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (h) Presidents, vice presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants and student employees eligible under terms of the federal economic opportunity act work study program in the *school and resource center for the arts*, state universities and community colleges. This paragraph shall not be construed to include the custodial, clerical or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions.
- (i) Officers and enlisted persons in the national guard;
- (j) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;
- (k) Judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(l) Members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

(m) Chaplains employed by the state;

(n) Examination monitors and intermittent training instructors employed by the departments of employee relations and commerce;

(o) Student workers; and

(p) Employees unclassified pursuant to other statutory authority.

Sec. 6. Minnesota Statutes 1986, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; jobs and training; education; employee relations; energy and economic development; finance; health; human rights; labor and industry; natural resources; office of administrative hearings; public safety; public service; public welfare; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; the state board of investment; the offices of the secretary of state, state auditor, and state treasurer; ~~and the state board of vocational technical education; and the school and resource center for the arts.~~

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(a) the designation of the position would not be contrary to other law relating specifically to that agency;

(b) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(c) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(d) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(e) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

(f) the position would be at the level of division or bureau director or assistant to the agency head; and

(g) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Sec. 7. Minnesota Statutes 1986, section 129C.10, subdivision 1, is amended to read:

Subdivision 1. [GOVERNANCE.] The board of the Minnesota school ~~of and resource center~~ for the arts ~~and resource center~~ shall consist of 15 persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. At least one member must be

appointed from each congressional district.

Sec. 8. Minnesota Statutes 1986, section 129C.10, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota school ~~of and resource center for the arts and resource center and all its real and personal property.~~ The powers shall include, but are not limited to, ~~the following: those listed in this subdivision.~~

~~(1) to~~ (b) The board may employ and discharge necessary employees, and contract for other services to ensure the efficient operation of the school and resource center;

~~(2) to~~ (c) The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance;

~~(3) to~~ (d) The board may establish or coordinate evening, continuing education, extension, and summer programs through the resource center for teachers and pupils;

~~(4) to develop and pilot test an interdisciplinary education program. An academic curriculum must be offered with special programs in dance, literary arts, media arts, music, theater, and visual arts in both the popular and fine arts traditions;~~

(e) The board may identify pupils in grades 9 to 12 who have artistic talent, either demonstrated or potential, in dance, literary arts, media arts, music, theater, and visual arts, or in more than one art form.

(f) The board shall educate pupils with artistic talent by providing:

(1) a pilot interdisciplinary academic and arts program for pupils in the 11th and 12th grades, beginning with 135 pupils in the 11th grade in September 1989, and 135 pupils in the 11th grade and 135 pupils in the 12th grade in September 1990;

(2) intensive arts seminars for one or two weeks for 9th and 10th grade pupils;

(3) summer arts institutes for pupils in grades 9 to 12;

(4) artist mentor and extension programs in regional sites; and

(5) teacher education programs for indirect curriculum delivery.

~~(5) to~~ (g) The board may determine the location for the Minnesota school ~~of and resource center for the arts and resource center~~ and any additional facilities related to the school, including the authority to lease a temporary facility;

~~(6) to~~ (h) The board must plan for the enrollment of pupils ~~to ensure state-wide access and participation; on an equal basis from each congressional district.~~

~~(7) to~~ (i) The board may establish advisory committees as needed to advise the board on policies and issues; ~~and.~~

~~(8) to~~ (j) The board may request the commissioner of education for

assistance and services.

(k) *The board may enter into contracts with other public and private agencies and institutions for residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.*

(l) *The board may provide or contract for services and programs by and for the arts high school, including a school store, operating in connection with the school; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the arts high school.*

(m) *The board may provide for transportation of pupils to and from the school and resource center for the arts for all or part of the school year, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase and furnish gasoline to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the school and resource center for the arts. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and any other related matter is within the sole discretion, control, and management of the board.*

(n) *The board may provide room and board for its pupils.*

(o) *The board may establish and set fees for services and programs without regard to chapter 14. If the board sets fees not authorized or prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1.*

Sec. 9. Minnesota Statutes 1986, section 129C.10, is amended by adding a subdivision to read:

Subd. 3a. [ARTS HIGH SCHOOL FUND APPROPRIATION.] There is established in the state treasury an arts high school fund. All money collected by the board shall be deposited in the fund. Money in the fund, including interest earned, is annually appropriated to the board for the operation of its services and programs.

Sec. 10. Minnesota Statutes 1986, section 129C.10, subdivision 4, is amended to read:

Subd. 4. [EMPLOYEES.] (a) (1) The board shall appoint a director of the school ~~of~~ and resource center for the arts and resource center who shall serve in the unclassified service.

(2) The board shall employ, upon recommendation of the director, a coordinator of the resource center who shall serve in the unclassified service.

(3) The board shall employ, upon recommendation of the director, up to

six department chairs who shall serve in the unclassified service. The chairs shall be licensed teachers unless no licensure exists for the subject area or discipline for which the chair is hired.

(4) The board may employ other necessary employees, upon recommendation of the director.

(5) *The board shall employ, upon recommendation of the director, an executive secretary for the director, who shall serve in the unclassified service.*

(b) The employees hired under this subdivision and other necessary employees hired by the board shall be state employees in the executive branch.

Sec. 11. Minnesota Statutes 1986, section 129C.10, is amended by adding a subdivision to read:

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] (a) The board may adopt rules for admission to and discharge from the school and rules regarding the operation of the school and resource center, including transportation of its pupils. Rules covering admission and discharge are governed by chapter 14. Rules regarding the operation of the school are not governed by chapter 14.

(b) Proceedings concerning admission to or discharge from the school, a pupil's program at the school, and a pupil's progress at the school are governed by the rules adopted by the board and are not contested cases governed by chapter 14.

Sec. 12. Minnesota Statutes 1986, section 129C.10, subdivision 5, is amended to read:

~~Subd. 5. [RESOURCE CENTER.] Beginning in the 1985-1986 school year,~~ The resource center shall offer programs that are directed at improving arts education in elementary and secondary schools throughout the state. The programs offered shall include at least summer institutes offered to pupils in various regions of the state, in-service workshops for teachers, and leadership development programs for teachers. The board shall establish a resource center advisory council composed of elementary and secondary arts educators, representatives from post-secondary educational institutions, department of education, state arts board, regional arts councils, educational cooperative service units, school district administrators, parents, and other organizations involved in arts education. The advisory council shall include representatives from a variety of arts disciplines and from various areas of the state. The advisory council shall advise the board about the activities of the center. Programs offered through the resource center shall promote and develop arts education programs offered by school districts and arts organizations and shall assist school districts and arts organizations in developing innovative programs. The board may contract with ~~nonprofit~~ arts organizations to provide programs through the resource center. The advisory council shall advise the board on contracts and programs related to the operation of the resource center.

Sec. 13. Minnesota Statutes 1986, section 129C.10, subdivision 6, is amended to read:

~~Subd. 6. [PUBLIC POST-SECONDARY INSTITUTIONS; PROVIDING SPACE.] Public post-secondary institutions shall provide space for programs offered by the Minnesota school of and resource center for the arts~~

~~and resource center~~ at no cost to the Minnesota school ~~of and resource center for the arts and resource center~~ to the extent that space is available at the public post-secondary institutions."

Delete the title and insert:

"A bill for an act relating to education; providing aids for education and the distribution of tax revenues; providing aids to libraries; appropriations to the academies for the deaf and the blind, and the department of education; changing secondary pupil unit weighting; establishing general education revenue composed of basic compensatory education, training and experience, and sparsity revenue; combining certain categorical aids; increasing the community education formula; changing the capital expenditure formula; providing for special instruction and services for handicapped children from birth; establishing program improvement grants, education districts, and area learning centers; appropriating money; amending Minnesota Statutes, sections 43A.08, subdivisions 1 and 1a; 118.12; 118.13; 118.14; 120.03, subdivision 1; 120.0752, by adding a subdivision; 120.17, subdivisions 1, 2, 3, 3a, 3b, 5, 7a, 12, and by adding subdivisions; 121.11, by adding a subdivision; 121.609, subdivision 4; 121.612, subdivisions 3, 5, and by adding subdivisions; 121.87, subdivision 1, and by adding a subdivision; 121.88, subdivisions 2, 7, and by adding a subdivision; 121.904, subdivision 4a; 121.912, by adding a subdivision; 121.932, subdivision 3, and by adding a subdivision; 121.934, subdivisions 1, 2, and 6; 121.935, subdivision 6; 121.936, subdivision 1; 122.541, subdivision 2; 123.34, subdivision 9; 123.35, by adding a subdivision; 123.36, subdivision 13; 123.39, subdivision 1; 123.703, subdivision 3; 123.705; 124.05, subdivision 1; 124.14, subdivision 7; 124.17, subdivision 1, and by adding a subdivision; 124.195, subdivisions 8 and 9; 124.2162, by adding a subdivision; 124.223; 124.225, subdivisions 1, 4b, 7b, 8a, 8i, and 10; 124.245, subdivision 3, and by adding subdivisions; 124.246, subdivision 2; 124.247, subdivision 3; 124.252, subdivision 3; 124.26, by adding subdivisions; 124.271, subdivisions 2b and 7; 124.2711, subdivision 1; 124.273, subdivisions 1b and 5; 124.32, subdivisions 1b, 1d, 2, and 5; 124.573; 124.574, subdivisions 2b, 3, and 4; 124.646, subdivision 1; 124A.02, subdivisions 8, 9, 16, and by adding a subdivision; 124A.03, by adding a subdivision; 124A.031, subdivision 4; 124A.032; 124A.036, by adding a subdivision; 124A.21; 125.03, subdivision 5; 125.05, subdivision 1; 125.185, subdivision 4; 125.611, subdivisions 11, 12, and 13; 126.02, subdivision 2; 126.54, subdivision 1; 126.56, subdivisions 3 and 6; 126.67, subdivisions 3a, 6, and by adding a subdivision; 126.70, subdivision 1, and by adding a subdivision; 126.72, subdivision 1; 126.81, subdivision 2; 128A.01; 128A.02, subdivisions 2 and 4; 129B.041, subdivisions 1 and 3; 129B.39; 129B.43, subdivisions 1 and 4; 129C.10, subdivisions 1, 3, 4, 5, 6, and by adding subdivisions; 134.10; 136D.27; 136D.71; 136D.74, subdivision 2; 136D.87; 171.29, subdivision 2; 275.125, subdivisions 4, 5, 5c, 6e, 8, 8c, 9, 11c, and by adding subdivisions; and 466.06; proposing coding for new law in Minnesota Statutes, chapters 122, 123, 124, 124A, 125, 126, 128A, 129B, and 134; repealing Minnesota Statutes, sections 120.17, subdivision 13; 121.20; 124.05, subdivision 2; 124.17, subdivisions 1a and 2d; 124.185; 124.2161; 124.2162; 124.2163; 124.225, subdivision 1a; 124.245, subdivisions 1 and 2; 124.246; 124.247; 124.26, subdivisions 1 and 6; 124.272; 124.273, subdivision 2b; 124.275; 124.65; 124.66; 124A.01; 124A.02, subdivision 2, 5, 6, 7, 9, 11, 12, 13, and 14; 124A.03, subdivisions 1, 1a, 3, 4, and 6; 124A.031, subdivision 1; 124A.033; 124A.035, subdivision 1; 124A.06, subdivisions 1, 1a, 1b, 2, 3a, and 4; 124A.08,

subdivisions 1, 2, 3a, 4, and 5; 124A.10, subdivisions 1, 2, 3a, and 4; 124A.12, subdivisions 1, 2, 3a, and 4; 124A.14, subdivisions 1, 2, 3, 4, 5, 5a, and 6; 124A.16; 124A.20, subdivisions 1, 2, and 3; 124A.21; 125.611, subdivisions 8, 9, and 10; 126.031, subdivision 2; 126.60; 126.62; 126.64; 126.65; 126.66; 126.67, subdivisions 1, 1a, 2a, 5b, and 9; 126.71; 129B.01; 129B.02; 129B.04; 129B.041, subdivision 4; 129B.05; 129B.32, subdivisions 2 and 5; 129B.33; 129B.35; 129B.36; 129B.37; 129B.43, subdivisions 2, 3, and 6; 129B.61; 129B.62; 129B.63; 129B.64; 129B.65; 129B.66; 129B.67; 275.125, subdivisions 3, 5d, 8a, 11a, and 12; 354.66, subdivisions 4a and 9; 354A.094, subdivisions 4a and 9; and 645.35."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Ken Nelson, Bob McEachern, Kathleen O. Vellenga, Jerry J. Bauerly, Dennis D. Ozment

Senate Conferees: (Signed) Randolph W. Peterson, James C. Pehler, Donna C. Peterson, Ember D. Reichgott, Gary M. DeCramer

Mr. Peterson, R. W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 753 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 753 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 50 and nays 16, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, D.M.	Reichgott
Berglin	Diessner	Laidig	Moe, R.D.	Renneke
Bernhagen	Frederick	Langseth	Morse	Samuelson
Bertram	Frederickson, D.J.	Lantry	Novak	Schmitz
Brandl	Frederickson, D.R.	Lessard	Pehler	Spear
Chmielewski	Freeman	Luther	Peterson, D.C.	Stumpf
Cohen	Hughes	Marty	Peterson, R.W.	Taylor
Dahl	Johnson, D.E.	Mehrkens	Piper	Vickerman
Davis	Johnson, D.J.	Merriam	Pogemiller	Wegscheid
DeCramer	Jude	Metzen	Purfeerst	Willet

Those who voted in the negative were:

Anderson	Brataas	Knutson	McQuaid	Solon
Beckman	Frank	Kroening	Olson	Storm
Belanger	Gustafson	Larson	Ramstad	Waldorf
Benson				

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 529, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 529 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 529

A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the methods of administering, collecting, and enforcing taxes; changing the computation, administration, and payment of aids, credits, and refunds; imposing taxes; limiting taxing powers; transferring governmental powers and duties; allocating bonding authority; making entitlement allocations to the cities of Minneapolis and St. Paul; making technical corrections and clarifications; imposing and increasing fees, interest, and penalties; appropriating money; amending Minnesota Statutes 1986, sections 16A.15, subdivisions 1 and 6; 16A.1541; 16A.26; 16A.275; 60A.13, subdivision 1a; 60A.15, subdivision 1; 60A.199, subdivisions 1, 2, 3, 5, 7, 8, 9, 10, and 11; 60A.209, subdivisions 1 and 3; 60A.24; 60C.06, by adding a subdivision; 64B.39, subdivision 4; 67A.11, subdivision 3; 69.011, subdivisions 1 and 2; 69.021, subdivisions 1, 2, and 3; 69.54; 69.55; 79.34, subdivision 1, and by adding a subdivision; 88.49, by adding a subdivision; 121.904, subdivisions 11a and 11b; 124.195, subdivision 2; 124.2131, subdivisions 1, 2, 3, 5, 6, 7, 8, and 11; 124.38, subdivision 8; 124A.02, subdivisions 3a and 8; 124A.035, subdivision 5; 124A.08, subdivision 5; 134.33, subdivision 1; 134.34, subdivisions 1 and 2; 176.129, by adding a subdivision; 176A.08; 239.10; 270.066; 270.074, subdivision 3; 270.075, subdivision 1; 270.10, subdivisions 1 and 4; 270.11, subdivisions 1 and 2; 270.12, subdivisions 2 and 3; 270.13; 270.72, subdivisions 1 and 2; 270.77; 270.80, subdivision 2; 270.87; 270A.07, subdivision 1; 271.21, subdivision 2; 272.01, subdivisions 2 and 3; 272.02, subdivision 1, and by adding a subdivision; 272.115, subdivision 2; 273.061, subdivisions 1 and 8; 273.065; 273.11, by adding a subdivision; 273.1102; 273.1103; 273.12; 273.13, subdivision 22; 273.1312, subdivision 4; 273.1313, subdivisions 1, 2, and by adding a subdivision; 273.1314, subdivisions 8, 9, 10, and by adding a subdivision; 273.1392; 273.1393; 273.19, subdivisions 1, 3, 4, and by adding a subdivision; 273.33, subdivision 2; 273.37, subdivision 2; 274.01, subdivision 1; 274.14; 274.16; 275.07, subdivision 1; 275.125, subdivisions 9, 9b, and 15; 275.51, subdivision 3h; 276.04; 276.11; 277.01; 278.05, subdivision 4; 279.01, subdivision 1; 282.014; 282.02; 282.33, subdivision 1; 287.05, subdivision 1; 287.09; 287.12; 287.21, subdivision 1; 287.22; 287.25; 287.29, subdivision 1; 290.01, subdivisions 4, 5, 7, 19, 20, 22, and by adding subdivisions; 290.02; 290.03; 290.032, subdivisions 1 and 2; 290.05, subdivisions 1, 2, and 3; 290.06, subdivisions 1, 2c, 2d, and by adding a subdivision; 290.068, subdivisions 1, 2, 3, 4, and 5; 290.069, subdivisions 2a and 4b; 290.077, subdivision 1; 290.081; 290.091, subdivisions 1, 2, and 3; 290.095, subdivisions 1, 2, 3, 4, 7, 9, and 11; 290.12, subdivision 2; 290.131, subdivision 1; 290.132, subdivision 1; 290.133, subdivision 1; 290.134, subdivision 1; 290.135, subdivision 1; 290.136, subdivision 1; 290.138, subdivision 3; 290.14; 290.17; 290.171; 290.20, subdivision 1, and by adding a subdivision; 290.21, subdivisions 3 and 4; 290.23, subdivisions 3 and 5; 290.31, subdivisions 2, 3, 5, and by adding a subdivision; 290.34, subdivision 2; 290.35; 290.36; 290.37, subdivisions 1

and 3; 290.38; 290.39, subdivision 3; 290.41, subdivisions 2 and 3; 290.42; 290.45, subdivisions 1 and 2; 290.46; 290.48, subdivision 10; 290.491; 290.50, subdivision 1; 290.53, subdivisions 1, 2, 3a, 4, and by adding subdivisions; 290.56, subdivisions 2, 3, and 4; 290.92, subdivisions 2a, 4a, 5, 5a, 6, 7, 9, 11, 12, 13, 14, 15, 18, 24, and 25; 290.93, subdivision 10; 290.934, subdivision 2; 290.9725; 290.9726, subdivisions 1, 2, and 4; 290.974; 290A.03, subdivisions 3, 8, and by adding a subdivision; 290A.04, subdivision 2; 290A.06; 290A.011, subdivision 2; 290A.18; 290A.19; 291.131, subdivisions 1, 2, 4, and by adding a subdivision; 295.01, subdivision 10; 295.32; 295.34, subdivision 1; 295.39; 295.40; 295.41; 295.43; 296.02, subdivision 2, and by adding a subdivision; 296.025, subdivision 2, and by adding a subdivision; 296.17, subdivisions 3, 7, and 11; 296.18, subdivision 7; 297.01, subdivisions 2, 4, 7, and 10; 297.02, subdivisions 1 and 6; 297.03, subdivisions 1, 5, and 6; 297.04, subdivisions 4, 6, and 9; 297.07, subdivisions 1, 3, 4, and 5; 297.11, subdivisions 3 and 5; 297.23, subdivision 1; 297.31, subdivisions 2, 3, and 7; 297.32, subdivisions 1, 2, and 8; 297.33, subdivisions 4 and 5; 297.35, subdivisions 1, 3, 5, and 8; 297.36; 297A.01, subdivisions 3, 4, 8, and 15; 297A.14; 297A.151; 297A.18; 297A.211, subdivision 2; 297A.25, subdivisions 7, 11, 12, and by adding subdivisions; 297A.256; 297A.26, subdivision 1; 297A.27, subdivision 1; 297A.275; 297A.39, subdivisions 1, 2, 4, and by adding a subdivision; 297A.43; 297B.01, subdivision 8; 297B.10; 297C.03, subdivision 1, and by adding a subdivision; 297C.04; 297C.05, subdivision 2; 297C.06; 297C.09; 297D.02; 297D.07; 297D.09; 297D.10; 297D.12, subdivision 1; 297D.13; 298.01, subdivision 1, and by adding subdivisions; 298.026; 298.027; 298.028, subdivision 1; 298.03, subdivision 1; 298.031, subdivision 2; 298.08; 298.09, subdivision 1; 298.25; 298.28, subdivision 4; 299F21, subdivisions 1, 2, and by adding subdivisions; 325D.30; 325D.32, subdivisions 4, 10, 11, and 12; 325D.33, subdivisions 1, 2, and by adding subdivisions; 325D.38, subdivision 1; 325D.40, subdivision 1; 349.12, subdivisions 11 and 13; 349.212, subdivisions 1 and 4; 349.2121, subdivisions 4, 6, 7, and by adding subdivisions; 360.531, subdivision 2; 462C.11, subdivisions 2 and 3; 473.556, subdivision 4; 473F02, subdivision 12; 474A.02, subdivisions 1, 2, 3, 6, 7, 8, 12, 14, 16, 18, 19, 21, 26, and by adding subdivisions; 474A.03, subdivision 1, and by adding a subdivision; 474A.04, subdivisions 5, 6, and by adding a subdivision; 474A.13, subdivisions 1, 4, and 5; 474A.14; 474A.15; 474A.16; 474A.17; 474A.18; 474A.20; 474A.21; 475.53, subdivision 4; 477A.012, subdivision 1; 477A.013; 477A.018, subdivisions 1, 2, 3, 6, and by adding a subdivision; Laws 1985, First Special Session chapter 14, article 3, section 18; proposing coding for new law in Minnesota Statutes, chapters 3; 239; 270; 272; 273; 276; 290; 290A; 294; 297; 297A; 297C; 298; 349; 429; and 474A; repealing Minnesota Statutes 1986, sections 60A.15, subdivision 2; 61A.49; 62E.13, subdivision 9; 64B.24; 69.021, subdivision 3a; 124.38, subdivision 10; 270.75, subdivision 8; 270.89; 282.021; 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.068, subdivision 6; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.082; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.175; 290.18; 290.19; 290.21, subdivisions 5, 6, and 8; 290.26, subdivision 2; 290.361; 290.9726, subdivisions 3, 5, and 6; 290A.04, subdivisions 2e and 2g; 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 295.32; 295.33; 295.34; 295.36; 295.365; 295.366; 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision

12; 296.18, subdivision 4, 5, 6, and 7; 296.22; 296.28; 297.07, subdivision 6; 297.23, subdivision 5; 297.35, subdivisions 4, 6, and 7; 297A.25, subdivisions 13, and 19; 297A.26, subdivision 3; 297C.03, subdivisions 2 and 3; 297C.05, subdivision 4; 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; 298.04; 298.28, subdivision 14; 298.40; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; 298.67; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; 299.14; 325D.41; 360.654; 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19; Laws 1981, chapters 222, section 6; 223, section 6, subdivision 3; Laws 1985, First Special Session chapter 14, article 14, section 3; Laws 1986, First Special Session chapter 1, article 5, section 8.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 529, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 529 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1"
INCOME TAX

Section 1. Minnesota Statutes 1986, section 10A.31, subdivision 1, is amended to read:

Subdivision 1. Every individual resident of Minnesota who files an income tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate on their original return that \$2 \$5 shall be paid from the general fund of the state into the state elections campaign fund. If a husband and wife file a joint return, each spouse may designate that \$2 \$5 shall be paid. No individual shall be allowed to designate \$2 \$5 more than once in any year.

Sec. 2. Minnesota Statutes 1986, section 10A.31, subdivision 2, is amended to read:

Subd. 2. The taxpayer may designate that the \$2 amount designated be paid into the account of a political party or into the general account.

Sec. 3. Minnesota Statutes 1986, section 10A.31, subdivision 3, is amended to read:

Subd. 3. The commissioner of the department of revenue shall provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to allocate \$2 \$5 (\$4 \$10 if filing a joint return) from the general fund of the state to finance the election campaigns of state candidates. The form shall also contain language prepared by the commissioner which permits the

individual to direct the state to allocate the \$2 \$5 (or \$4 \$10 if filing a joint return) to: (i) one of the major political parties; (ii) any minor political party as defined in section 10A.01, subdivision 13, which qualifies under the provisions of subdivision 3a; or (iii) all qualifying candidates as provided by subdivision 7. The renter and homeowner property tax refund return shall include instructions that the individual filing the return may designate \$2 \$5 on the return only if the individual has not designated \$2 \$5 on the income tax return.

Sec. 4. Minnesota Statutes 1986, section 290.01, subdivision 3, is amended to read:

Subd. 3. [PARTNERSHIP; PARTNER.] The term *terms* "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this chapter, a trust or estate or a corporation; and the term "partner" includes a member in a syndicate, group, pool, joint venture or organization have the meanings given in section 7701(a)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 5. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 3a. [TRUST.] The term "trust" has the meaning given in the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 6. Minnesota Statutes 1986, section 290.01, subdivision 4, is amended to read:

Subd. 4. [CORPORATIONS.] The term "corporation" shall include joint stock companies and corporations existing under the laws of any state or country; partnerships, limited or otherwise, the organization of which is not interrupted by the death of a general partner or by a change in the ownership of the general partner's participating interest, and the management of which is centralized in one or more persons acting in a representative capacity; associations (other than ordinary partnerships) and common-law trusts organized or conducted for profit every entity which is a corporation under section 7701(a)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, and financial institutions. A corporation's franchise is its authorization to exist and conduct business, whether created by legislation, by executive order, by a governmental agency, by contract or other private action, or by some combination thereof. Every corporation is deemed to have a corporate franchise. An entity described in section 646(b) of the Tax Reform Act of 1986, Public Law Number 99-514, shall be classified in the same manner for purposes of this chapter as it is for federal income tax purposes.

Sec. 7. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 4a. [FINANCIAL INSTITUTION.] (a) "Financial institution" means:

(1) a holding company;

(2) any regulated financial corporation; or

(3) any other corporation organized under the laws of the United States or organized under the laws of this state or any other state or country that

is carrying on the business of a financial institution.

(b) "Holding company" means any corporation registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended.

(c) "Regulated financial corporation" means an institution, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Savings and Loan Insurance Corporation, any institution which is a member of a Federal Home Loan Bank, any other bank or thrift institution incorporated or organized under the laws of any state or any foreign country which is engaged in the business of receiving deposits, any corporation organized under the provisions of United States Code, title 12, sections 611 to 631 (Edge Act Corporations), and any agency of a foreign depository as defined in United States Code, title 12, section 3101.

(d) "Business of a financial institution" means:

(1) the business that a regulated financial corporation may be authorized to do under state or federal law or the business that its subsidiary is authorized to do by the proper regulatory authorities;

(2) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do which is substantially similar to the business which a corporation may be created to do under chapters 46 to 55 or any business which a corporation or its subsidiary is authorized to do by those laws; or

(3) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do if the corporation derives more than 50 percent of its gross income from lending activities (including discounting obligations) in substantial competition with the businesses described in clauses (1) and (2). For purposes of this clause, the computation of the gross income of a corporation does not include income from nonrecurring, extraordinary items.

Sec. 8. Minnesota Statutes 1986, section 290.01, subdivision 5, is amended to read:

Subd. 5. [DOMESTIC AND FOREIGN CORPORATIONS.] The term "domestic" when applied to a corporation means a corporation created or organized in Minnesota or under its laws; and the term "foreign" when thus applied means a corporation other than a domestic corporation. The existence of any domestic corporation shall be deemed the exercise by it of the privilege of existing as a corporation; the grant to any foreign corporation of the right to engage in transacting local business within this state shall be deemed the grant to it of the privilege of transacting such business within this state in corporate or organized form; and the transaction of the local business within this state by any foreign corporation shall be deemed the transaction of such business within this state in corporate or organized form.

Sec. 9. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 6a. [ABODE.] For purposes of section 290.01, subdivision 7, the term "abode" means a dwelling maintained by an individual, whether or

not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual's spouse.

Sec. 10. Minnesota Statutes 1986, section 290.01, subdivision 7, is amended to read:

Subd. 7. [RESIDENT.] The term "resident" means (1) any individual domiciled in Minnesota and any other individual maintaining an abode therein during any portion of the tax year who shall not, during the whole of such tax year, have been domiciled outside the state, except that an individual is not a "resident" for the period of time that the individual is a "qualified individual" as defined in section 911(d)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986, unless, during that period, a Minnesota homestead application is filed for property in which the individual has an interest; and (2) any individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless the individual is in the armed forces of the United States.

For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

Sec. 11. Minnesota Statutes 1986, section 290.01, subdivision 19, is amended to read:

Subd. 19. [NET INCOME.] The term "net income" means the gross federal taxable income, as defined in subdivision 20, less the following deductions to the extent allowed by section 290.18, subdivision 1:

(a) for corporations, the deductions allowed by section 290.09;

(b) for individuals, the deductions allowed in section 290.088, without regard to sections 290.18, subdivision 1 if the taxpayer elects to compute the taxes under sections 290.06, subdivision 2e, paragraph (a) or (c); 290.089; and 290.09; and

(c) for estates and trusts, the deduction allowed by section 290.088, without regard to section 290.18, subdivision 1 if the taxpayer elects to compute the taxes under section 290.06, subdivision 2e, paragraph (c) section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

The Internal Revenue Code of 1986, as amended through December 31, 1986, shall be in effect for taxable years beginning after December 31, 1986.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19f mean the code in effect for purposes of determining net income for the applicable year.

Sec. 12. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19a. [ADDITIONS TO FEDERAL TAXABLE INCOME.] *For individuals, estates, and trusts, there shall be added to federal taxable income:*

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute, and

(ii) exempt-interest dividends as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1986, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the fund or series of funds making the payment; and

(2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code.

Sec. 13. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability; and

(3) the amount paid to others not to exceed \$650 for each dependent in grades kindergarten to six and \$1,000 for each dependent in grades seven to 12, for tuition, textbooks, and transportation of each dependent in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. As used in this clause, "textbooks" includes books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship; the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. In order to qualify for the subtraction under this clause the taxpayer must elect to itemize deductions under

section 63(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 14. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19c. [CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME.] For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest upon obligations of: the United States, its possessions, its agencies, or its instrumentalities to the extent the obligations are not subject to federal tax; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; or the District of Columbia;

(3) exempt interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(4) the amount of any windfall profits tax deducted under section 164 or 471 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(5) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(6) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(7) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(8) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(9) the amount of any charitable contributions deducted for federal income tax purposes under section 170 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(10) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(11) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and

(12) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities.

Sec. 15. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME.] For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the decrease in salary expense for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that:

(i) capital loss carrybacks shall not be allowed; and

(ii) a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 265 or 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986, in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable

year beginning before December 31, 1986 and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7.

Sec. 16. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19e. [DEPRECIATION MODIFICATIONS FOR CORPORATIONS.] *In the case of corporations, a modification shall be made for the accelerated cost recovery system. The allowable deduction for the accelerated cost recovery system is the same amount as provided in section 168 of the Internal Revenue Code with the following modifications. The modifications apply to taxable years beginning after December 31, 1986, and to property for which deductions under the Tax Reform Act of 1986, Public Law Number 99-514, are elected or apply.*

(a) *For property placed in service after December 31, 1980, and before January 1, 1987, 40 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1954, as amended through December 31, 1985, for 15-, 18-, or 19-year real property shall not be allowed and for all other property 20 percent shall not be allowed.*

(b) *For property placed in service after December 31, 1987, no modification shall be made.*

(c) *For property placed in service after July 31, 1986, and before January 1, 1987, for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, and for property placed in service after December 31, 1986, and before January 1, 1988, 15 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1986 shall not be allowed.*

(d) *For property placed in service after December 31, 1980, and before January 1, 1987, for which the taxpayer elects to use the straight line method provided in section 168(b)(3), (f)(12), or (j)(1) or a method provided in section 168(e)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1986, but excluding property for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, the modifications provided in paragraph (a) do not apply.*

(e) *For property subject to the modifications contained in paragraphs (a) and (b) and Minnesota Statutes 1986, section 290.09, subdivision 7, clause (c), the following modification shall be made after the entire amount of the allowable deduction has been allowed for federal tax purposes for that property under the provisions of section 168 of the Internal Revenue Code of 1986, as amended through December 31, 1986. The remaining depreciable basis in those assets for Minnesota purposes, including the amount of any basis reduction to reflect the investment tax credit for federal purposes under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be a depreciation allowance computed using the straight line method over the following number of years:*

(1) *three-year property, one year;*

(2) *five-year and seven-year property, two years;*

- (3) ten-year property, five years; and
- (4) all other property, seven years.

(f) For property placed in service after December 31, 1987, the remaining depreciable basis for Minnesota purposes that is attributable to the basis reduction for federal purposes to reflect the investment tax credit under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be allowed as a deduction in the first taxable year after the entire amount of the allowable deduction for that property under the provisions of section 168 of the Internal Revenue Code of 1986, has been allowed, except that where the straight line method provided in section 168(b)(3) is used, the deduction provided in this clause shall be allowed in the last taxable year in which an allowance for depreciation is allowed for that property.

(g) For qualified timber property for which the taxpayer made an election under section 194 of the Internal Revenue Code of 1986, the remaining depreciable basis for Minnesota purposes is allowed as a deduction in the first taxable year after the entire allowable deduction has been allowed for federal tax purposes.

(h) The basis of property to which section 168 of the Internal Revenue Code applies is its basis as provided in this chapter including the modifications provided in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c). The recapture tax provisions provided in sections 1245 and 1250 of the Internal Revenue Code of 1986, as amended through December 31, 1986, apply but must be calculated using the basis provided in the preceding sentence.

(i) The basis of an asset acquired in an exchange of assets, including an involuntary conversion, is the same as its federal basis under the provisions of the Internal Revenue Code of 1986, except that the difference in basis due to the modifications in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), is a deduction as provided in paragraph (e).

Sec. 17. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19f. [BASIS MODIFICATIONS AFFECTING GAIN OR LOSS ON DISPOSITION OF PROPERTY.] (a) For individuals, estates, and trusts, the basis of property is its adjusted basis for federal income tax purposes except as set forth in paragraphs (f) and (g). For corporations, the basis of property is its adjusted basis for federal income tax purposes, without regard to the time when the property became subject to tax under this chapter or to whether out-of-state losses or items of tax preference with respect to the property were not deductible under this chapter, except that the modifications to the basis for federal income tax purposes set forth in paragraphs (b) to (j) are allowed to corporations, and the resulting modifications to federal taxable income must be made in the year in which gain or loss on the sale or other disposition of property is recognized.

(b) The basis of property shall not be reduced to reflect federal investment tax credit.

(c) The basis of property subject to the accelerated cost recovery system under section 168 of the Internal Revenue Code shall be modified to reflect the modifications in depreciation with respect to the property provided for

in subdivision 19e. For certified pollution control facilities for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, the basis of the property must be increased by the amount of the amortization deduction not previously allowed under this chapter.

(d) For property acquired before January 1, 1933, the basis for computing a gain is the fair market value of the property as of that date. The basis for determining a loss is the cost of the property to the taxpayer less any depreciation, amortization, or depletion, actually sustained before that date. If the adjusted cost exceeds the fair market value of the property, then the basis is the adjusted cost regardless of whether there is a gain or loss.

(e) The basis is reduced by the allowance for amortization of bond premium if an election to amortize was made pursuant to Minnesota Statutes 1986, section 290.09, subdivision 13, and the allowance could have been deducted by the taxpayer under this chapter during the period of the taxpayer's ownership of the property.

(f) For assets placed in service before January 1, 1987, corporations, partnerships, or individuals engaged in the business of mining ores other than iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(g) For assets placed in service before January 1, 1990, corporations, partnerships, or individuals engaged in the business of mining iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(h) In applying the provisions of sections 301(c)(3)(B), 312(f) and (g), and 316(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the dates December 31, 1932, and January 1, 1933, shall be substituted for February 28, 1913, and March 1, 1913, respectively.

(i) In applying the provisions of section 362(a) and (c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the date December 31, 1956, shall be substituted for June 22, 1954.

(j) The basis of property shall be increased by the amount of intangible drilling costs not previously allowed due to differences between this chapter and the Internal Revenue Code.

(k) The adjusted basis of any corporate partner's interest in a partnership is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (b) to (j). The adjusted basis of a partnership in which the partner is an individual, estate, or trust is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (f) and (g).

(l) The modifications contained in paragraphs (b) to (j) also apply to the basis of property that is determined by reference to the basis of the same property in the hands of a different taxpayer or by reference to the basis of different property.

Sec. 18. Minnesota Statutes 1986, section 290.01, subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] For tax years beginning after December

31, 1986, the term "gross income" means the gross income as defined in section 61 of the Internal Revenue Code of 1986, as amended through the date named in subdivision 19 for the applicable taxable year, plus any additional items of income taxable under this chapter but not taxable under the Internal Revenue Code, less any items included in federal gross income but of a character exempt from state income tax under the laws of the United States. For tax years beginning before January 1, 1987, except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source.

For tax years beginning before January 1, 1987, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in *Minnesota Statutes 1986, section 290.01*, subdivisions 20a to 20f. For estates and trusts the adjusted gross income for purposes of the preceding sentence shall be their federal taxable income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in *Minnesota Statutes 1986, section 290.01*, subdivisions 20a to 20f.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1980, and as amended by sections 302(b) and 501 to 509 of Public Law Number 97-34, shall be in effect for taxable years beginning after December 31, 1980 including the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, Public Law Number 96-223. The provisions of Public Law Number 96-471 (relating to installment sales) sections 122, 123, 126, 201, 202, 203, 204, 211, 213, 214, 251, 261, 264, 265, 311(g)(3), 313, 314(a)(1), 321(a), 501 to 507, 811, and 812 of the Economic Recovery Tax Act of 1981, Public Law Number 97-34 and section 413 of Public Law Number 97-119 shall be effective at the same time that they become effective for federal income tax purposes.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1981, shall be in effect for taxable years beginning after December 31, 1981. The provisions of sections 205(a), 214 to 222, 231, 232, 236, 247, 251, 252, 253, 265, 266, 285, 288, and 335 of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law Number 97-248, section 6(b)(2) and (3) of the Subchapter S Revision Act of 1982, Public Law Number 97-354, section 517 of Public Law Number 97-424, sections 101(c) and (d), 102(a), (aa), (f)(4), (g), (j), (l), 103(c), 104(b)(3), 105, 305(d), 306(a)(9) of Public Law Number 97-448, and sections 101 and 102 of Public Law Number 97-473, and section 243 of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes. The Payment-in-Kind Tax Treatment Act of 1983, Public Law Number 98-4, shall be effective at the same time that it becomes effective for federal income tax purposes.

(iii) (ii) The Internal Revenue Code of 1954, as amended through January

15, 1983, shall be in effect for taxable years beginning after December 31, 1982. *The provisions of sections 905, 1708, and 1879(m) of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.*

(iv) (iii) The Internal Revenue Code of 1954, as amended through December 31, 1983, shall be in effect for taxable years beginning after December 31, 1983. The provisions of sections 13, 17, 25(b), 31, 32, 41 to 43, 52, 55, 56, 71 to 74, 77, 81, 82, 91, 92, 94, 101 to 103, 105 to 108, 111 to 113, 147(c), 171, 172, 174, 175, 179(a), 221, 223, 224, 421(b), 432, 481, 491, 512, 522 to 524, 554 to 557, 561, 611(a), 621 to 623, 626 to 628, 711(c), 712(d), 713(b), (e), (g), and (h), 721(a), (b), (d), (g), (i), (o), (p), (r), (t), and (w), 722(e), 1001, 1026, 1061 to 1064, 1066, 1076, 1078, and 2638(b) of the Deficit Reduction Act of 1984, Public Law Number 98-369, and section 1 of Public Law Number 98-611, and sections 1801, 1802, 1805 to 1809, 1812, 1842, 1853 to 1855, 1866, 1869 to 1873, 1875, and 1878(g) and (h) of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.

(v) (iv) The Internal Revenue Code of 1954, as amended through May 25, 1985, shall be in effect for taxable years beginning after December 31, 1984. The provisions of sections 101, 102, 103, 201, and 202 of Public Law Number 99-121 and sections 402, 403, 1803, 1804, 1852, and 1861 of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.

(vi) (v) The Internal Revenue Code of 1954, as amended through December 31, 1985, shall be in effect for taxable years beginning after December 31, 1985.

The provisions of sections 121 to 123, 201, 202, 241, 401, 405, 411 to 413, 653, 654, 804, 811, 822, 1001, 1003, 1122, 1162, 1164, 1166, 1301, 1401, 1402, 1707, 1826, 1827, 1843, 1867, 1868, 1879(f), and 1895 of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.

References to the Internal Revenue Code of 1954 in subdivisions 20a, 20b, 20e, and 20f mean the code in effect for the purpose of defining gross income for the applicable taxable year.

Sec. 19. Minnesota Statutes 1986, section 290.01, subdivision 22, is amended to read:

Subd. 22. [TAXABLE NET INCOME.] *For tax years beginning after December 31, 1986, the term "taxable net income" means:*

(1) *for resident individuals the same as net income;*

(2) *for individuals who were not residents of Minnesota for the entire year, the same as net income except that the tax is imposed only on the Minnesota apportioned share of that income as determined pursuant to section 290.06, subdivision 2c, paragraph (e);*

(3) *for all other taxpayers, the part of net income that is allocable to Minnesota by assignment or apportionment under one or more of sections 290.17, 290.191, 290.20, 290.35, and 290.36.*

For tax years beginning before January 1, 1987, the term "taxable net

income" means the net income assignable to this state pursuant to sections 290.17 to 290.20. For corporations, taxable net income is then reduced by the deductions contained in section 290.21.

Sec. 20. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 29. [TAXABLE INCOME.] For tax years beginning after December 31, 1986, the term "taxable income" means:

- (1) for individuals, estates, and trusts, the same as taxable net income;*
- (2) for corporations, the taxable net income less*
 - (i) the net operating loss deduction under section 290.095;*
 - (ii) the dividends received deduction under section 290.21, subdivision 4;*
 - (iii) the charitable contribution deduction under section 290.21, subdivision 3; and*
 - (iv) the foreign royalty deduction under section 290.21, subdivision 8.*

Sec. 21. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 30. [REFERENCES TO THE INTERNAL REVENUE CODE.] Except when inappropriate, a reference in this chapter (1) to the Internal Revenue Code of 1954 includes a reference to the Internal Revenue Code of 1986, and (2) to the Internal Revenue Code of 1986 includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

Sec. 22. [290.014] [JURISDICTION TO TAX IN GENERAL.]

Subdivision 1. [RESIDENT INDIVIDUALS.] All net income of a resident individual is subject to tax under this chapter.

Subd. 2. [NONRESIDENT INDIVIDUALS.] Income of a nonresident individual is subject to tax under this chapter and a nonresident individual is subject to the return filing requirements under this chapter to the extent that the income is:

- (1) allocable to this state under section 290.17, 290.191, or 290.20;*
- (2) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the estate;*
- (3) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character that is taxable under this chapter) in the individual's capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the*

income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the trust;

(4) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the partnership; or

(5) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the corporation.

Subd. 3. [TRUSTS AND ESTATES.] A trust or estate, whether resident or nonresident, is subject to the return filing requirements under this chapter and the income of a trust or estate is subject to tax under this chapter to the extent that the income of the trust or estate is:

(1) allocable to this state under section 290.17, 290.191, or 290.20;

(2) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of a trust or estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or beneficiary estate directly from the source from which realized by the distributing estate;

(3) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the beneficiary trust or estate directly

from the source from which realized by the distributing trust;

(4) *taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or estate directly from the source from which realized by the partnership; or*

(5) *taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or estate directly from the source from which realized by the corporation.*

Subd. 4. [PARTNERSHIPS.] *A partnership is not subject to tax under this chapter but is subject to the return filing requirements under this chapter and its partners are subject to tax under this chapter on their shares of partnership income to the extent that the income of the partnership is:*

(1) *allocable to this state under section 290.17, 290.191, or 290.20;*

(2) *taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the partnership directly from the source from which realized by the estate;*

(3) *taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the partnership directly from the source from which realized by the trust; or*

(4) *taxed to the partnership under the Internal Revenue Code of 1986,*

as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the second tier partnership directly from the source from which realized by the first tier partnership.

Subd. 5. [CORPORATIONS.] A corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, is not subject to tax under this chapter, except as provided in section 290.9725, but its shareholders are, and it is subject to the return filing requirements. Corporations are subject to the return filing requirements and to tax under this chapter if the corporation so exercises its franchise as to engage in such contacts with this state as to cause part of the income of the corporation to be:

(1) allocable to this state under section 290.17, 290.191, 290.20, 290.35, or 290.36;

(2) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the estate;

(3) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the trust; or

(4) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the partnership.

Sec. 23. [290.015] [MINIMUM CONTACTS REQUIRED FOR JURISDICTION TO TAX TRADE OR BUSINESS.]

Subdivision 1. [GENERAL RULE.] A person, other than a resident individual, that conducts a trade or business with its principal place of business outside of Minnesota is subject to the taxes imposed by this chapter with respect to that trade or business if the trade or business makes sales or receives other income that is assignable or apportionable to this state under section 290.17, 290.191, 290.20, 290.35 or 290.36 without regard to physical presence in this state, except as provided in subdivision 3. Activities that create jurisdiction to tax under this chapter include, but are not limited to:

- (1) having a place of business in this state;*
- (2) having employees, representatives, or independent contractors conducting business activities in this state;*
- (3) regularly selling products or services of any kind or nature to customers in this state who receive the product or service in this state;*
- (4) regularly soliciting business from potential customers in this state;*
- (5) regularly performing services from outside this state which are consumed within this state;*
- (6) regularly engaging in transactions with customers in this state that involve intangible property, including loans but not property described in subdivision 3, paragraph (b), and result in income flowing to the person from within this state;*
- (7) owning or leasing tangible personal or real property located in this state; or*
- (8) if a financial institution, regularly soliciting and receiving deposits from customers in this state.*

Subd. 2. [PRESUMPTION.] A person is presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it conducts transactions described in any of subdivision 1, clauses (3) to (6), with 20 or more residents of this state during any tax period or, if a financial institution, if the sum of its assets and the absolute value of its deposits attributable to sources within this state equals or exceeds \$5,000,000. Assets and deposits must be attributed to sources within this state by applying the principles established under section 290.191.

Subd. 3. [EXCEPTIONS.] (a) A person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law Number 86-272, United States Code, title 15, sections 381 to 384.

(b) Ownership of an interest in the following types of property shall not be a factor in determining whether the owner is subject to tax under this chapter:

(1) an interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company, as those terms are defined in the Internal Revenue Code of 1986, as amended through December 31, 1986; and

(2) an interest in a loan-backed security representing ownership in a pool of promissory notes or certificates of interest or participation in such notes which provide for payments in relation to payments or reasonable

projections of payments on the notes.

Subd. 4. [LIMITATIONS.] This section does not (1) subject a trade or business to any regulation, including any tax, of any local unit of government or subdivision of this state if the trade or business does not own or lease tangible or real property located within this state and has no employees or independent contractors present in this state to assist in the carrying on of the business; or (2) exclude a trade or business from the filing requirements of the notice of business activities report under section 290.371.

Subd. 5. [DETERMINATION AT ENTITY LEVEL.] Determinations under this section with respect to trades or businesses conducted by a partnership, trust, estate, or corporation with an election in effect under section 1362 of the Internal Revenue Code, or any other entity, the income of which is or may be taxed to its owners or beneficiaries must be made with respect to the entity carrying on the trade or business and not with respect to owners or beneficiaries of the trade or business, the taxability of which under this chapter must be determined under section 290.014.

Sec. 24. Minnesota Statutes 1986, section 290.02, is amended to read:

290.02 [EXCISE FRANCHISE TAX ON CORPORATIONS; IMPOSITION; MEASUREMENT MEASURED BY NET INCOME.]

An annual excise franchise tax is hereby imposed upon every domestic corporation for the privilege of existing as a corporation during any part of its taxable year, and upon every foreign corporation doing business within this state, except those included within section 290.03, including but not limited to railroad companies for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form on the exercise of the corporate franchise to engage in contacts with this state that produce gross income attributable to sources within this state is imposed upon every corporation that so exercises its franchise during the taxable year.

Contacts within this state do not include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters that are made international for navigation purposes by any treaty or agreement to which the United States is a party.

The tax so imposed shall be measured by such corporations' taxable net income and alternative minimum tax base for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 25. Minnesota Statutes 1986, section 290.03, is amended to read:

290.03 [INCOME TAX; IMPOSITION, CLASSES OF TAXPAYERS.]

An annual tax for each taxable year, computed in the manner and at the rates hereinafter provided, is hereby imposed upon the taxable net income for such year of the following classes of taxpayers:

(1) Foreign corporations not taxable under section 290.02 which own property within this state or whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both;

Business within the state shall not be deemed to include transportation in interstate or foreign commerce, or both, by means of ships navigating

within or through waters which are made international for navigation purposes by any treaty or agreement to which the United States is a party;

(2) Resident and nonresident individuals;

(3) (2) Estates of decedents, dying domiciled within or without this state;

(4) (3) Trusts (except those taxable as corporations) however created by residents or nonresidents or by domestic or foreign corporations.

Sec. 26. Minnesota Statutes 1986, section 290.032, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed as an addition to the annual income tax for a taxable year of a taxpayer in the classes described in section 290.03 a tax with respect to any distribution received by such taxpayer that is treated as a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, and that is subject to tax for such taxable year under section 402(e) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

Sec. 27. Minnesota Statutes 1986, section 290.032, subdivision 2, is amended to read:

Subd. 2. The amount of tax imposed by subdivision 1 shall be computed in the same way as the tax imposed under section 402(e) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, except that the initial separate tax shall be an amount equal to ten five times the tax which would be imposed by section 290.06, subdivision 2c, if the recipient was an unmarried individual electing to deduct federal income taxes, and the taxable net income, excluding the credits allowed in section 290.06, subdivision 3f, was an amount equal to one-tenth one-fifth of the excess of

(i) the total taxable amount of the lump sum distribution for the year, over

(ii) the minimum distribution allowance, and except that references in section 402(e) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, to paragraph (1)(A) thereof shall instead be references to subdivision 1 of this section.

The amount of any distribution from a qualified pension or profit-sharing plan which is received as a lump sum distribution shall be reduced to the extent of any contribution:

(1) not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota for a taxable year beginning in 1974 or thereafter; or

(2) designated as an employee contribution but which the employing unit picks up and which is treated as an employer contribution and which was taxed on the Minnesota return but not the federal return in the year the contribution was made.

Sec. 28. Minnesota Statutes 1986, section 290.05, subdivision 1, is amended to read:

Subdivision 1. The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under

this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore and other ores the mining or production of which is subject to the occupation tax imposed by section 298.01; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty ~~(as defined in section 299.02)~~ shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(b) the United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

~~(c) mutual insurance companies or associations, including interinsurers and reciprocal underwriters, that are exempt as provided in the Revenue Act of 1936.~~

Sec. 29. Minnesota Statutes 1986, section 290.05, subdivision 2, is amended to read:

Subd. 2. Except as provided in subdivisions 1 and 3, organizations are exempted from taxation under this chapter if they are exempt from income taxation pursuant to Subchapter F of the Internal Revenue Code. *Township mutual insurance companies, as defined in chapter 67A, and nonprofit health service plan corporations, as defined in chapter 62C, are subject to taxation under chapter 290 unless they are exempt from taxation under subchapter F of the Internal Revenue Code of 1986.*

Sec. 30. Minnesota Statutes 1986, section 290.06, subdivision 1, is amended to read:

Subdivision 1. [COMPUTATION, CORPORATIONS.] (a) ~~The privilege and income taxes franchise tax~~ imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable deductions allowed under section 290.21 the following rates:

~~(1) On the first \$25,000, for the first taxable year beginning after December 31, 1981 and before January 1, 1983 nine percent and, for taxable years beginning after December 31, 1982, six percent; provided that, in the case of a corporation having taxable net income allocated to this state pursuant to the provisions of section 290.19, 290.20, 290.35, or 290.36, the amount of income subject to this rate shall be that proportion of \$25,000 which its income allocable to this state bears to its total taxable net income; and~~

~~(2) On the remainder, 12 rate of 9.5 percent adjusted as provided in paragraph (b).~~

(b) For taxable years beginning after December 31, 1989, the commissioner of revenue must adjust the rate provided in paragraph (a) as provided in this paragraph. By December 15, 1989, the commissioner shall prepare a forecast of revenues predicted to be raised for taxable years beginning in 1990 by the franchise tax on corporations under this chapter for taxable years beginning in 1990, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4, and the rate in effect in this subdivision were 9.5 percent. The com-

missioner shall adjust the rate provided in paragraph (a) so that the amount forecast to be raised by the franchise tax on corporations under this chapter, including the tax under section 290.092, subdivision 5, is equal to the amount of the forecast computed as if the tax under section 290.092, subdivisions 1 to 4, were in effect.

Sec. 31. Minnesota Statutes 1986, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns ~~who elect to deduct federal income taxes under section 290.088~~ must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$875	1.5 percent
over \$875 but not over \$1,750	\$13 plus 2.0 percent of the excess over \$875
over \$1,750 but not over \$3,500	\$31 plus 2.9 percent of the excess over \$1,750
over \$3,500 but not over \$5,375	\$81 plus 4.8 percent of the excess over \$3,500
over \$5,375 but not over \$7,000	\$171 plus 5.9 percent of the excess over \$5,375
over \$7,000 but not over \$7,125	\$267 plus 6.1 percent of the excess over \$7,000
over \$7,125 but not over \$8,875	\$275 plus 7.2 percent of the excess over \$7,125
over \$8,875 but not over \$12,375	\$401 plus 8.3 percent of the excess over \$8,875
over \$12,375 but not over \$14,000	\$691 plus 9.3 percent of the excess over \$12,375
over \$14,000 but not over \$16,000	\$842 plus 10 percent of the excess over \$14,000
over \$16,000 but not over \$21,500	\$1,042 plus 11 percent of the excess over \$16,000
over \$21,500 but not over \$22,125	\$1,647 plus 11.3 percent of the excess over \$21,500
over \$22,125 but not over \$25,500	\$1,718 plus 12.3 percent of the excess over \$22,125
over \$25,500 but not over \$28,500	\$2,133 plus 12.6 percent of the excess over \$25,500
over \$28,500 but not over \$31,750	\$2,511 plus 13.7 percent of the excess over \$28,500
over \$31,750	\$2,957 plus 14.0 percent of the excess over \$31,750

(b) The income taxes imposed by this chapter upon all other married individuals filing joint returns must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$1,200	1.7 percent
over \$1,200 but not over \$1,700	\$20 plus 2.1 percent of the excess over \$1,200
over \$1,700 but not	\$31 plus 2.3 percent of the

over \$2,700	excess over \$1,700
over \$2,700 but not	\$54 plus 3.3 percent of
over \$5,600	the excess over \$2,700
over \$5,600 but not	\$150 plus 5.3 percent of
over \$9,100	the excess over \$5,600
over \$9,100 but not	\$335 plus 6.8 percent of
over \$12,600	the excess over \$9,100
over \$12,600 but not	\$573 plus 8.5 percent of
over \$17,800	the excess over \$12,600
over \$17,800 but not	\$1,015 plus 9.3 percent of
over \$30,800	the excess over \$17,800
over \$30,800	\$2,224 plus 9.9 percent of
	the excess over \$30,800

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:	the tax is:
not over \$4,000	4 percent
over \$4,000, but not	\$160 plus 6 percent of the
over \$11,000	excess over \$4,000
over \$11,000, but not	\$580 plus 8 percent of the
over \$21,000	excess over \$11,000
over \$21,000	\$1,380 plus 9 percent of
	the excess over \$21,000

(2) For taxable years beginning after December 31, 1987

if taxable income is:	the tax is:
not over \$19,000	6 percent
over \$19,000	\$1,140 plus 8 percent of
	the excess over \$19,000;

plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(e) (b) The income taxes imposed by this chapter upon unmarried individuals, married individuals filing separate returns, estates, and trusts that elect to deduct federal income taxes under section 290.088 must be computed by applying to taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$700	1.3 percent
over \$700 but not	\$9 plus 1.9 percent of the
over \$1,400	excess over \$700
over \$1,400 but not	\$22 plus 3.2 percent of the
over \$2,800	excess over \$1,400
over \$2,800 but not	\$67 plus 5.4 percent of
over \$4,300	the excess over \$2,800
over \$4,300 but not	\$148 plus 6.9 percent of
over \$5,700	the excess over \$4,300
over \$5,700 but not	\$245 plus 8.4 percent of
over \$7,100	the excess over \$5,700
over \$7,100 but not	\$362 plus 9.8 percent of
over \$9,900	the excess over \$7,100
over \$9,900 but not	\$637 plus 11.1 percent of
over \$12,800	the excess over \$9,900

over \$12,800 but not	\$959 plus 12.4 percent of
over \$15,400	the excess over \$12,800
over \$15,400 but not	\$1,281 plus 13.6 percent of
over \$19,400	the excess over \$15,400
over \$19,400	\$1,825 plus 14 percent
	of the excess over \$19,400

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:	the tax is:
not over \$3,000	4 percent
over \$3,000, but not	\$120 plus 6 percent
over \$9,000	of the excess over \$3,000
over \$9,000, but not	\$480 plus 8 percent
over \$16,000	of the excess over \$9,000
over \$16,000	\$1,040 plus 9 percent
	of the excess over \$16,000

(2) For taxable years beginning after December 31, 1987

if taxable income is:	the tax is:
not over \$13,000	6 percent
over \$13,000	\$780 plus 8 percent
	of the excess over \$13,000;

plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(d) (c) The income taxes imposed by this chapter upon all other unmarried individuals, ~~married individuals filing separate returns, estates, and trusts qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986,~~ must be computed by applying to taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$300	1 percent
over \$300 but not	\$3 plus 1.3 percent of the
over \$600	excess over \$300
over \$600 but not	\$7 plus 1.6 percent of the
over \$900	excess over \$600
over \$900 but not	\$12 plus 2.1 percent of
over \$1,300	the excess over \$900
over \$1,300 but not	\$20 plus 2.7 percent of
over \$2,000	the excess over \$1,300
over \$2,000 but not	\$39 plus 3.7 percent of
over \$2,800	the excess over \$2,000
over \$2,800 but not	\$69 plus 4.5 percent of
over \$4,300	the excess over \$2,800
over \$4,300 but not	\$136 plus 6.1 percent of
over \$6,400	the excess over \$4,300
over \$6,400 but not	\$264 plus 7.5 percent of
over \$9,400	the excess over \$6,400
over \$9,400 but not	\$489 plus 9.3 percent of
over \$16,200	the excess over \$9,400
over \$16,200	\$1,122 plus 9.9 percent

of the excess over \$16,200

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:	the tax is:
not over \$3,500	4 percent
over \$3,500, but not	\$140 plus 6 percent
over \$10,000	of the excess over \$3,500
over \$10,000, but not	\$530 plus 8 percent
over \$18,500	of the excess over \$10,000
over \$18,500	\$1,210 plus 9 percent
	of the excess over \$18,500

(2) For taxable years beginning after December 31, 1987

if taxable income is:	the tax is:
not over \$16,000	6 percent
over \$16,000	\$960 plus 8 percent
	of the excess over \$16,000;

plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(e) (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(F) (e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) The numerator is the individual's Minnesota sourced federal adjusted gross income, ~~computed as if the~~ as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1986, after applying the allocation and assignability provisions of section 290.081, clause (a), 290.17, subdivision 2, ~~or 290.171 applied~~; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 32. Minnesota Statutes 1986, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. [INFLATION ADJUSTMENT OF BRACKETS.] (a) For taxable years beginning after December 31, 1985 1990, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning

after December 31, 1984 1987, and before January 1, 1986 1991. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets by the percentage determined ~~under~~ pursuant to the provisions of section 1(f) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, except that in section 1(f)(3)(B) the word "1984 1989" shall be substituted for the word "1983 1987." For 1991, the commissioner shall then determine the percent change from the 12 months ending on September 30, 1984 August 31, 1989, to, for 1986, the 12 months ending on September 30, 1985 August 31, 1990, and in each subsequent year, from the 12 months ending on September 30, 1984 August 31, 1989, to the 12 months ending on September 30 August 31 of the preceding year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the administrative procedure act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets, the maximum standard deduction amount, and the personal credit amounts.

Sec. 33. Minnesota Statutes 1986, section 290.06, is amended by adding a subdivision to read:

Subd. 20. [ELDERLY AND DISABLED PERSONS.] An individual may take a credit against the tax due under this chapter equal to 40 percent of the credit for which the individual qualifies under section 22 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 34. Minnesota Statutes 1986, section 290.06, is amended by adding a subdivision to read:

Subd. 21. [ALTERNATIVE MINIMUM TAX.] (a) A corporation is allowed a credit for alternative minimum tax previously paid for any taxable year in which the corporation has no tax liability under section 290.092, and has an alternative minimum tax credit carryover from a previous year. The credit shall be equal to the lesser of (1) the excess of the tax under section 290.06 for the taxable year over the amount computed under section 290.092, subdivision 1, clause (a), for the taxable year, or (2) the alternative minimum tax credit carryover to the taxable year.

(b) The tax imposed under section 290.092 for any taxable year is a credit for alternative minimum tax previously paid which is a carryover to each of the 15 taxable years succeeding the taxable year. The entire amount of the alternative minimum tax credit must be carried to the earliest of the taxable years to which such amount may be carried. The portion of the alternative minimum tax credit which is carried to each of the other taxable years to which the credit may be carried is the excess, if any, of the credit over the amount allowable under paragraph (a) for each of the taxable years to which the credit may be carried. In each taxable year in which a credit is allowable under paragraph (a), the credit for alternative minimum tax previously paid must be used beginning with the earliest taxable year from which the credit may be carried.

Sec. 35. Minnesota Statutes 1986, section 290.067, subdivision 1, is

amended to read:

Subdivision 1. [AMOUNT OF CREDIT.] A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code of 1954, as amended through December 31, 1985, subject to the limitations provided in subdivision 2.

Sec. 36. Minnesota Statutes 1986, section 290.067, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS.] The credit for expenses incurred for the care of each dependent shall not exceed \$720 in any taxable year, and the total credit for all dependents of a claimant shall not exceed \$1,440 in a taxable year. The maximum total credit shall be reduced according to the amount of the combined federal adjusted gross income, plus the ordinary income portion of any lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1985, of the claimant and a spouse, if any, as follows:

income up to ~~\$10,000~~ \$12,200, \$720 maximum for one dependent, \$1,440 for all dependents;

income of ~~\$10,001 to \$11,000~~, ~~\$660~~ maximum for one dependent, ~~\$1,320~~ for all dependents;

income over ~~\$11,000~~ \$12,200, the maximum credit for one dependent shall be reduced by ~~\$10~~ \$12 for every \$200 of additional income, ~~\$20~~ \$24 for all dependents;

for income of \$24,001 and over, no credit shall be received.

The commissioner shall construct and make available to taxpayers tables showing the amount of the credit at various levels of income and expenses. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transitions between expenses and income brackets.

Sec. 37. Minnesota Statutes 1986, section 290.067, is amended by adding a subdivision to read:

Subd. 2a. [INCOME.] *For purposes of this section, "income" means the sum of the following:*

(1) *the greater of federal adjusted gross income as defined in section 62 of the Internal Revenue Code or zero; and*

(2) *the sum of the following amounts to the extent not included in clause (1):*

(i) *all nontaxable income;*

(ii) *the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (1) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;*

(iii) *an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;*

(iv) *cash public assistance and relief;*

(v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vi) interest received from the federal or a state government or any instrumentality or political subdivision thereof;

(vii) workers' compensation;

(viii) nontaxable strike benefits;

(ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

(x) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code; and

(xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal Revenue Code.

Sec. 38. Minnesota Statutes 1986, section 290.067, is amended by adding a subdivision to read:

Subd. 6. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 39. Minnesota Statutes 1986, section 290.068, subdivision 1, is amended to read:

Subdivision 1. [CREDIT ALLOWED.] ~~In addition to the deduction provided in section 290.09,~~ A corporation, other than a corporation with a valid election in effect under section 290.9725, is allowed a credit against the tax imposed by this chapter for the taxable year equal to:

(a) ~~12.5~~ 5 percent of the first \$2 million of the excess (if any) of

(1) the qualified research expenses for the taxable year, over

(2) the base period research expenses; and

(b) ~~6.25~~ 2.5 percent on all of such excess expenses over \$2 million.

Sec. 40. Minnesota Statutes 1986, section 290.068, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) "Qualified research expenses" means (i) qualified research expenses as defined in section ~~30~~ 41(b) and (e) of the Internal Revenue Code, except it shall not include expenses incurred for basic research conducted outside the state of Minnesota pursuant to section ~~30~~ 41(e); or (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317 for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested

by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section 3041(d) of the Internal Revenue Code, except that the term shall not include qualified research conducted outside the state of Minnesota.

(c) "Base period research expenses" means base period research expenses as defined in section 3041(c) of the Internal Revenue Code, except that "December 31, 1981" shall be substituted for "June 30, 1981" in subparagraph (B) of paragraph (2) and the definitions contained in clauses (a) and (b) shall apply.

(d) "Internal Revenue Code" means the Internal Revenue Code of 1954 1986, as amended through December 31, 1984 1986.

Sec. 41. Minnesota Statutes 1986, section 290.068, subdivision 3, is amended to read:

Subd. 3. [LIMITATION; ~~CARRYBACK AND CARRYOVER.~~] (a)(1) The credit for the taxable year shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable year exceeds the limitation under clause (a), the excess shall be a research credit ~~carryback to each of the three preceding taxable years and a research credit~~ carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

For the purposes of sections 290.46 and 290.50, if the claim for refund relates to an overpayment attributable to a research and experimental expenditure credit ~~carryback under this subdivision, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period of limitation shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the taxable year in which the research and experimental expenditure credit arises which results in the carryback, plus any extension of time granted for filing the return, but only if the return was filed within the extended time. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the period of limitations shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the subsequent taxable year, plus any extension of time granted for filing the return, but only if the return was filed within the extended~~

time. In any case in which a taxpayer is entitled to a refund in a carryback year due to the carryback of a research and experimental expenditure credit, interest shall be computed only from the end of the taxable year in which the credit arises. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, interest shall be computed from the end of the subsequent taxable year.

Sec. 42. Minnesota Statutes 1986, section 290.068, subdivision 4, is amended to read:

Subd. 4. [PARTNERSHIPS.] In the case of partnerships the credit shall be allocated in the same manner provided by section 30 41(f)(2) of the Internal Revenue Code.

Sec. 43. Minnesota Statutes 1986, section 290.068, subdivision 5, is amended to read:

Subd. 5. [ADJUSTMENTS; ACQUISITIONS AND DISPOSITIONS.] If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period shall be adjusted in the same manner provided by section 30 41(f)(3) of the Internal Revenue Code, except that "December 31, 1980" shall be substituted for "June 30, 1980."

Sec. 44. Minnesota Statutes 1986, section 290.068, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL CREDIT.] (a) *For taxable years beginning after December 31, 1986, and before January 1, 1988*, in addition to the credit allowed by subdivision 1, a credit shall be allowed against the tax imposed by this chapter for the taxable year equal to ~~12.5~~ *five* percent of the amount of qualified research expenses paid or incurred for qualified research performed by a Minnesota-domiciled corporation for or on behalf of one or more of its wholly-owned subsidiary corporations which has in effect during the taxable year a valid election under section 936 of the Internal Revenue Code, including any expenses paid or incurred that are attributable to a wholly-owned subsidiary corporation by reason of paragraph (h) of section 936 for purposes of determining each corporation's combined taxable income.

(b) The maximum credit allowed by clause (a) for the taxable year shall be the excess of

(1) the total amount of tax imposed by this chapter on all members of the unitary group for the taxable year, over

(2) the sum of (A) the total amount of tax which would be imposed on the unitary group, if the corporation or corporations with valid elections under section 936 of the Internal Revenue Code were excluded from the unitary group, plus (B) the tax, if any, which would be imposed on the corporation or corporations with valid elections under section 936 of the Internal Revenue Code without regard to the other members of the unitary group.

(c)(1) If the amount of the credit determined under clause (a) for any taxable year exceeds the limitation provided in clause (b), the excess shall be a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be

carried and then to each successive year to which the credit may be carried.

(2) The amount of the unused credit which may be added under subparagraph (1) for any preceding taxable year shall not exceed the amount by which the limitation provided by clause (b) for the taxable year exceeds the sum of

(i) the credit allowable under this subdivision for the taxable year, and

(ii) the amounts, which, by reason of subparagraph (1), are added to the amount allowable for the taxable year and which are attributable to taxable years preceding the taxable year in which an excess credit arises.

Sec. 45. Minnesota Statutes 1986, section 290.069, subdivision 2a, is amended to read:

Subd. 2a. [RECAPTURE; TECHNOLOGY TRANSFER CREDIT.] (a) A corporation which receives a tax reduction pursuant to *Minnesota Statutes 1986, section 290.069*, subdivision 2 shall repay to the commissioner an amount of the tax reduction as specified in paragraph (b) if any of the following conditions occur within a three-year period after the date of transfer of the technology.

(1) The transferee ceases operations in the technology corridor project area.

(2) The transferee becomes a subsidiary or affiliate of the transferor.

(3) The transferee sells, transfers, or otherwise disposes of the rights to technology.

(4) The transferee fails to make the necessary payments or expenditures required by *Minnesota Statutes 1986, section 290.069*, subdivision 2, paragraph (g).

(5) The transferee grants an interest to the transferor in violation of *Minnesota Statutes 1986, section 290.069*, subdivision 2, paragraph (h).

(b) The amount of the repayment is determined pursuant to the following schedule:

Occurrence of event causing recapture	Repayment portion
Less than six months	100 percent
Six months or more but less than 12 months	83-1/3 percent
12 months or more but less than 18 months	66-2/3 percent
18 months or more but less than 24 months	50 percent
24 months or more but less than 30 months	33-1/3 percent
30 months or more but less than 36 months	16-2/3 percent

Sec. 46. Minnesota Statutes 1986, section 290.069, subdivision 4b, is amended to read:

Subd. 4b. [MULTISTATE BUSINESSES.] If a qualified small business is engaged in a business partly within and partly without the state, the credit allowable pursuant to subdivision 2 for technology transferred to the business must be apportioned. The credit determined pursuant to *Minnesota Statutes 1986, section 290.069*, subdivision 2 must be multiplied by the arithmetical average of the qualified small business' property and payrolls, determined as provided by section 290.19, subdivision 1, clauses (2)(a)(2) and (2)(a)(3), using data from the most recently available year. After the technology is transferred, the qualified small business shall certify to the transferor taxpayer its factors under section 290.19, subdivision 1, clauses

(2)(a)(2) and (2)(a)(3) for each of the succeeding two tax years. If the factors for either of these years would result in at least a 25 percent change in the allowable credit, the taxpayer shall file an amended return repaying or claiming the difference in the credit. The preceding sentence does not apply if the qualified small business ceases operations in Minnesota and the recapture provisions of subdivision 2a or 4a apply.

Sec. 47. Minnesota Statutes 1986, section 290.077, subdivision 1, is amended to read:

Subdivision 1. [INCLUSION IN GROSS INCOME.] *Notwithstanding any other provision of law, income in respect of a decedent shall be included in gross income in accordance with the method set forth in section 691(a) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall be included in the gross income of the estate in the year any right to receive it is transferred to a nonresident by the personal representative of an estate. The fair market value of the right at the date of the transfer shall be included in the gross income of the estate for the year in which the transfer occurs and the value of the right shall not be allowed as a deduction in computing the taxable net income of the estate. The estate shall not include the value of the right in its gross income and the personal representative shall be relieved of any further liability with respect to that right if the nonresident: (1) includes the fair market value of the right (as of the date the right is received) in the nonresident's gross income for the year the right is received and pays the tax thereon; or (2) elects to include the amount received in payment of the right in the nonresident's gross income for the year in which the payment is received and pays the tax on it in the same manner as a resident of this state and files a bond with the commissioner of revenue during the year the right is received, in the form and in the amount as the commissioner considers necessary to assure payment of the tax. A bond required under clause (2) shall be considered sufficient if in an amount equivalent to the tax that would be due if the method provided in clause (1) were followed.*

Sec. 48. Minnesota Statutes 1986, section 290.081, is amended to read:

290.081 [INCOME OF NONRESIDENTS, RECIPROCITY; CREDIT FOR TAXES PAID TO ANOTHER STATE.]

(a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein, or

(b) If any taxpayer who is a resident of this state, or a domestic corporation or corporation commercially domiciled therein, has become liable for taxes on or measured by net income to another state or a province or territory of Canada upon, if the taxpayer is an individual, or if the taxpayer is an athletic team and all of the team's income is apportioned to Minnesota, any income, or if it is a corporation, estate, or trust, upon income derived from the performance of personal or professional services within such other state or province or territory of Canada and subject to taxation under this chapter the taxpayer shall be entitled to a credit against the amount of taxes payable under this chapter, of such proportion thereof, as such gross income subject to taxation in such state or province or territory of Canada bears

to the taxpayer's entire gross income subject to taxation under this chapter; provided (1) that such credit shall in no event exceed the amount of tax so paid to such other state or province or territory of Canada on the gross income earned within such other state or province or territory of Canada and subject to taxation under this chapter, and (2) the allowance of such credit shall not operate to reduce the taxes payable under this chapter to an amount less than would have been payable if the gross income earned in such other state or province or territory of Canada had been excluded in computing net income under this chapter. *A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7a, clause (2), and is subject to income tax as a resident in the state of the individual's domicile is not allowed this credit unless the state of domicile does not allow a similar credit.*

(c) The commissioner shall by rule determine with respect to gross income earned in any other state the applicable clause of this section. When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of clause (a) shall not apply. As long as the provisions of clause (a) apply between Minnesota and Wisconsin, the provisions of clause (a) shall apply to any individual who is domiciled in Wisconsin.

(d) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state or province or territory of Canada on income earned within the taxable year for which the credit is claimed, provided that such tax is actually paid in that taxable year, or subsequent taxable years.

For purposes of clause (b), where a Minnesota resident reported an item of income to Minnesota and is assessed tax in another state or a province or territory of Canada on that same item of income after the Minnesota statute of limitations has expired, the taxpayer shall be allowed to receive a credit for that year based on clause (b), notwithstanding the provisions of sections 290.49, 290.50, and 290.56. For purposes of the preceding sentence, the burden of proof shall be on the taxpayer to show entitlement to a credit.

(e) For the purposes of clause (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without clause (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without clause (a), or vice versa, then the state with the net revenue loss resulting from clause (a) shall receive from the other state the amount of such loss. This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due on any delinquent amounts.

If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair. Such board may administer oaths, take testimony,

subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

Notwithstanding the provisions of section 290.61, the commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

Sec. 49. Minnesota Statutes 1986, section 290.091, subdivision 1, is amended to read:

Subdivision 1. [IMPOSITION OF TAX.] In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to ~~four~~ six percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

Sec. 50. Minnesota Statutes 1986, section 290.091, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal ~~adjusted gross~~ *alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;*

(2) the taxpayer's *itemized deductions allowed in computing federal tax preference items alternative minimum taxable income, but excluding the portion of the charitable contribution deduction that constitutes an item of tax preference under section 57(a)(6) of the Internal Revenue Code;*

(3) *to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 20a, clauses (1), (3), and (4) 19a, clause (1); less the sum of*

(i) interest income as defined in section 290.01, subdivision 20b 19b, clause (1);

(ii) an overpayment of state income tax as provided by section 290.01, subdivision 20b 19b, clause (4) (2); and

(iii) the amount of *investment* interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed ~~qualified~~ net investment income, as defined in section 55(e)(5) 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(iv) to the extent included in the taxpayer's federal adjusted gross income, gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

In the case of an estate or trust, adjusted gross *alternative minimum taxable income* must be *modified computed* as provided in section 55(e)(6)(B) 59(c) of the Internal Revenue Code and reduced by the deductions allowed under sections 642(e), 651(a), and 661(a) of the Internal Revenue Code.

(b) "Federal tax preference items" means items as defined in sections 57, 58, and 443(d) of the Internal Revenue Code, modified as follows:

(1) The capital gain preference item shall be reduced

(i) where the gain would be modified because some or all of the assets have a higher basis for Minnesota purposes than for federal purposes; and

(ii) to the extent it includes gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

(2) In the case of a nonresident individual, or an estate or trust, with a net operating loss that is a larger amount for Minnesota than for federal, the capital gain preference item shall be reduced to the extent it was reduced in the allowance of the net operating loss.

(3) Federal preference items from the business of mining or producing iron ore and other ores which are subject to the occupation tax and exempt from taxation under section 290.05, subdivision 1, shall not be a preference item for Minnesota.

(4) Other federal preference items to the extent not allowed in the computation of Minnesota gross income, as determined by the commissioner, are not preference items for Minnesota.

(e) "Internal Revenue Code" means the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

(c) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

Sec. 51. Minnesota Statutes 1986, section 290.091, subdivision 3, is amended to read:

Subd. 3. [EXEMPTION AMOUNT.] For purposes of computing the alternative minimum tax, the exemption amount is:

(a) \$40,000 in the case of a married couple filing a joint return;

(b) \$30,000 in the case of an individual who is not married, as defined in section 143 of the Internal Revenue Code;

(c) \$20,000 in the case of

(1) an estate or trust or

(2) a married individual who files a separate tax return the exemption determined under section 55(d) of the Internal Revenue Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out under section 55(d)(3).

Sec. 52. Minnesota Statutes 1986, section 290.091, subdivision 4, is amended to read:

Subd. 4. [PART YEAR RESIDENTS; ESTATES AND TRUSTS.] (a) An individual who is not a Minnesota resident for the entire year must compute alternative minimum tax liability using a regular tax liability determined under section 290.06, subdivision 2c, paragraph ~~(f)~~ (e), without regard to the provision for allocation to Minnesota. The resulting alternative minimum tax liability must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph ~~(f)~~ (e).

(b) In the case of an estate or trust, the alternative minimum tax liability must be computed by multiplying alternative minimum taxable income and the exemption amount by a fraction, the numerator of which is the amount of the taxpayer's alternative minimum taxable income allocated to this state pursuant to the provisions of sections 290.17 to 290.20, and the denominator of which is the taxpayer's total alternative minimum taxable income.

Sec. 53. Minnesota Statutes 1986, section 290.091, subdivision 5, is amended to read:

Subd. 5. [TAX BENEFIT RULE.] The tax benefit rule contained in section ~~58(h)~~ 59(g) of the Internal Revenue Code applies to the computation of the tax under this section only to the extent that it determines if there is an item of tax preference for purposes of subdivision 2, clause ~~(a)(2)~~ (a)(1).

Sec. 54. [290.092] [ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.]

Subdivision 1. [IMPOSITION OF TAX.] For taxable years beginning after December 31, 1986, and before January 1, 1990, in addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, of:

- (1) .001 multiplied by the alternative minimum tax base, over*
- (2) the amount of tax computed under this chapter without regard to this section.*

Subd. 2. [EXEMPTIONS.] Corporations subject to tax under sections 290.05, subdivision 3; or 60A.15, subdivision 1 and 290.35; real estate investment trusts; regulated investment companies; cooperatives taxable under subchapter T of the Internal Revenue Code of 1986 or organized under chapter 308 or a similar law of another state; and entities having a valid election in effect under section 1362 or 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not subject to the tax imposed in subdivision 1 or subdivision 5.

Subd. 3. [ALTERNATIVE MINIMUM TAX BASE.] The alternative minimum tax base equals the sum of:

- (1) the total amount of Minnesota sales and receipts;*
 - (2) the amount of the taxpayer's total Minnesota property; and*
 - (3) the taxpayer's total Minnesota payrolls;*
- less the exemption amount, if any.*

Subd. 4. [DEFINITIONS.] (a) "Minnesota sales and receipts" means the total sales apportioned to Minnesota pursuant to section 290.191,

subdivision 5, the total receipts attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the total sales or receipts apportioned or attributed to Minnesota pursuant to any other apportionment formula applicable to the taxpayer.

(b) "Minnesota property" means total Minnesota tangible property as provided in section 290.191, subdivisions 9 to 11, and any other tangible property located in Minnesota. Intangible property shall not be included in Minnesota property for purposes of this section: Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section. For the first five taxable years during which a corporation is subject to taxation under this chapter, the amount of its Minnesota property and payrolls shall be deemed to be zero for purposes of this section.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 290.191, subdivision 12. Taxpayers who do not utilize payrolls to apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

(d) The "exemption amount" equals the lesser of (1) the sum of the taxpayer's Minnesota sales and receipts, property, and payrolls or (2) \$5,000,000 reduced by one-half of the amount of the taxpayer's total sales and receipts, property, and payrolls in excess of \$10,000,000. Total sales and receipts, property, and payroll means the total determined under section 290.191 as the denominator of the apportionment formula. In the case of a unitary business, the amount must reflect the factors of the entire unitary business as reported on the combined report. A corporation that has as its sole or primary business activity (1) the providing of professional services; (2) operation as a financial institution; (3) sales or management of real estate; or (4) operation as an insurance agency does not have an exemption amount.

Subd. 5. [IMPOSITION OF TAX AFTER 1989.] For taxable years beginning after December 31, 1989, in addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, of:

(1) 40 percent of the tax imposed upon the corporation under section 55(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986, apportioned to Minnesota under section 290.191. In computing the amount of the liability under section 55(a) of the Internal Revenue Code of 1986, the regular federal tax liability under section 55(a)(2) of the Internal Revenue Code of 1986, must be determined using federal taxable income as modified by sections 290.01, subdivisions 19c and 19d, 290.095, and 290.21, and alternative minimum taxable income under section 56 of the Internal Revenue Code of 1986 must be computed as if the section 290.095 restrictions on net operating losses applied.

(2) the amount of tax computed under this chapter without regard to this section.

Subd. 6. [CREDITS.] In computing the tax under this section, the following credits are allowed:

(1) the enterprise zone credits allowed by section 273.1314, subdivision 9;

(2) the credits for estimated taxes paid; and

(3) the research and development credit allowed by section 290.068.

Sec. 55. [290.093] [TAX COMPUTATION FOR MUTUAL SAVINGS BANKS CONDUCTING LIFE INSURANCE BUSINESS.]

Mutual savings banks as defined in section 594 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are subject to a tax consisting of the sum of the taxes determined under clauses (1) and (2):

(1) a tax computed on the taxable income determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, at the rates and in the manner as if this section did not apply; and

(2) a tax computed on the income of the life insurance department determined without regard to any items of gross income or deductions not properly allocable to the department computed in the manner provided in section 290.35 and at the rate provided in section 290.06.

This section applies only if the life insurance department would, if it were treated as a separate corporation, qualify as a life insurance company under section 816 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 56. Minnesota Statutes 1986, section 290.095, subdivision 1, is amended to read:

Subdivision 1. [ALLOWANCE OF DEDUCTION.] (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as defined in subdivision 2, clause (b); ~~provided, however, that the modifications specified in subdivision 4 shall be made in computing the taxable net income for the taxable year before the net operating loss deduction shall be allowed provided in section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1986, subject to the limitations and modifications provided in this section.~~

(b) A net operating loss deduction shall be available under this section only to corporate taxpayers except ~~as provided in that subdivisions 7, 9, and 11 hereof apply only to individuals, estates, and trusts.~~

Sec. 57. Minnesota Statutes 1986, section 290.095, subdivision 2, is amended to read:

Subd. 2. [DEFINED AND LIMITED.] (a) The term "net operating loss" as used in this section shall mean ~~the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 22, over the gross income used in computing such taxable net income~~ a net operating loss as defined in section 172(c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, with the modifications specified in subdivision 4. The deductions provided in section 290.21 cannot be used in the determination of a net operating loss.

(b) The term "net operating loss deduction" as used in this section means the aggregate of the net operating loss ~~carrybacks and carryovers to the taxable year, computed in accordance with subdivision 3. The provisions of section 172(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, relating to the carryback of net operating losses, do not apply.~~

Sec. 58. Minnesota Statutes 1986, section 290.095, subdivision 3, is amended to read:

Subd. 3. **[CARRYOVER AND CARRYBACK.]** (a) ~~Except as provided in clause (d) or subdivision 8,~~ A net operating loss for any taxable year shall be:

(1) ~~A net operating loss carryback to each of the three taxable years preceding the taxable year of such loss; and~~

(2) ~~a net operating loss carryover to each of the five 15 taxable years following the taxable year of such loss.~~

(b) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which, ~~by reason of subdivision 3, clause (a) or (d),~~ such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the ~~prior~~ taxable years to which such loss may be carried.

(c) Where a corporation does business both within and without Minnesota, and apportions its income under the provisions of section ~~290.19~~ 290.191, the net operating loss deduction shall be allowed to the extent of the apportionment ratio of the loss year, ~~or the year to which the loss is carried, whichever is smaller.~~

(d) ~~Where a corporation files a combined report which reflects the entire unitary business as provided in section 290.34, subdivision 2, the corporation shall not be allowed a net operating loss carryback to a year in which it did not file a combined report. The number of taxable years for which a net operating loss carryover is allowed shall be increased by the number of taxable years for which a net operating loss carryback is not allowed under this clause. No additional net operating loss deduction is allowed in a subsequent taxable year for the portion of a net operating loss deduction used to offset Minnesota income in a year in which the taxpayer is subject to the alternative minimum tax in section 290.092.~~

Sec. 59. Minnesota Statutes 1986, section 290.095, subdivision 4, is amended to read:

Subd. 4. **[COMPUTATION AND MODIFICATIONS.]** The following modifications shall be made in computing a net operating loss in any taxable year and also in computing the taxable net income for any taxable year before a net operating loss deduction shall be allowed:

(a) No deduction shall be allowed for or with respect to losses connected with income producing activities if the income therefrom would not be required to be either assignable to this state or included in computing the taxpayer's taxable net income.

(b) A net operating loss deduction shall not be allowed.

(c) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets. ~~The deduction for long-term capital gains provided by section 290.16, subdivision 4, shall not be allowed.~~

(d) Renegotiation of profits for a prior taxable year under the renegotiation laws of the United States of America, including renegotiation of the profits with a subcontractor, shall not enter into the computation.

(e) Federal income and excess profits taxes shall not be allowed as a deduction.

Sec. 60. Minnesota Statutes 1986, section 290.095, subdivision 7, is amended to read:

Subd. 7. [TENTATIVE CARRYBACK ADJUSTMENTS.] (a) Application for adjustment. ~~A taxpayer~~ *An individual, estate or trust* may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a loss ~~or credit~~ carryback from any taxable year. The application shall be signed and verified as provided in section 290.37, subdivision 1, and shall be filed on or after the date of filing of the return for the taxable year from which the carryback results and within a period of 12 months from the end of such taxable year ~~(or with respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the application shall be filed within a period of 12 months from the end of the subsequent taxable year)~~, in the manner and form required by rules prescribed by the commissioner. The application shall set forth in such detail and with such supporting data and explanation as such rules shall require:

- (1) the amount of the loss ~~or credit~~;
- (2) the amount of the tax previously determined for the prior taxable year affected by such carryback;
- (3) the amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;
- (4) the unpaid amount of such tax;
- (5) such other information for purposes of carrying out the provisions of this subdivision as may be required by such rules.

An application under this subdivision shall not constitute a claim for refund until 90 days from the date on which the application was filed, at which time it will become a claim for refund under the provisions of section 290.50.

(b) Allowance of adjustments. Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year from which such carryback results, whichever is the later, the commissioner shall make, to the extent the commissioner deems practicable in such period a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the commissioner may disallow, without further action, any application on finding that it contains errors of computation which the commissioner deems cannot be corrected by the commissioner within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of tax decreased and any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) The provisions of this subdivision shall apply to net operating loss carrybacks as provided in subdivision 3 ~~or~~ 11; capital loss carrybacks as

provided in section 290.16, subdivision 6; research credit carrybacks as provided in section 290.068, subdivision 3 290.01, subdivisions 19, 19a, and 19b; and to any other carrybacks which may be provided in this chapter.

Sec. 61. Minnesota Statutes 1986, section 290.095, subdivision 9, is amended to read:

Subd. 9. [SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS CARRYBACKS.] For the purposes of sections 290.46 and 290.50 if the claim for refund relates to an overpayment attributable to a net operating loss carryback under this section or as the result in the case of an individual of an adjustment of "federal adjusted gross income" because of the carryback under section 172 of the Internal Revenue Code of 1954, as amended through December 31, 1985, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period shall be that period which ends with the expiration of the 15th day of the 46th month (or the 45th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback or adjustment of "federal adjusted gross income," plus any extension of time granted for filing the return, but only if the return was filed within the extended time. During this extended period, for taxable years beginning before January 1, 1985, married individuals who elected to file separate returns or a combined return may change their election and file a joint return.

Sec. 62. Minnesota Statutes 1986, section 290.095, subdivision 11, is amended to read:

Subd. 11. [CARRYBACK OR CARRYOVER ADJUSTMENTS.] (a) For individuals the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal adjusted gross income. For estates and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income.

(b), provided that, notwithstanding any other provision, estates and trusts must apply the following adjustments to the amount of the net operating loss that may be carried back or carried over must be made for:

(1) Nonassignable income or losses for estates and trusts as required by section 290.17, subdivision 2.

(2) Adjustments to the determination of federal adjusted gross income that must be made because of changes in the Internal Revenue Code that have not yet been adopted by the legislature by updating the reference to the Internal Revenue Code contained in section 290.01, subdivision 20.

(3) Gains or losses which result from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes subject to the limitations contained in section 290.01, subdivision 20b, clauses (2) and (3).

(4) Interest, taxes, and other expenses Deductions not allowed allocable to Minnesota under section 290.10, clause (9); for estates and trusts 290.17.

(5) The modification for accelerated cost recovery system depreciation as provided in section 290.01, subdivision 20f.

(e)(1) (b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried

back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income ~~(or federal taxable income for provided that trusts and estates)~~ subject to *must apply* the following modifications contained in clause (b) and to the following modifications:

(A) (1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

(B) (2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year.

(C) A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

(2) The provisions of section 172(b) of the Internal Revenue Code of 1954 as amended through December 31, 1985 (relating to carrybacks and carryovers) shall apply. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (c)(1) (b) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. However, if a net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(d) A net operating loss shall be allowed to be carried back or carried forward only to the extent that loss was assignable to Minnesota in the year the loss occurred or in the year to which the loss was carried over, whichever would allow more of the loss to be allowed for Minnesota purposes.

Sec. 63. Minnesota Statutes 1986, section 290.10, is amended to read:
290.10 [NONDEDUCTIBLE ITEMS.]

Notwithstanding any other provision of law, in computing the net income of a corporation no deduction shall in any case be allowed for:

(1) personal, living or family expenses;

(2) amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, except as otherwise provided in this chapter;

(3) amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) premiums paid on any life insurance policy covering the life of the taxpayer or of any other person;

(5) the shrinkage in value, due to the lapse of time, of a life or terminable interest of any kind in property acquired by gift, devise, bequest or inheritance;

(6) losses from sales or exchanges of property, directly or indirectly.

between persons as defined and as provided in section 267 of the Internal Revenue Code;

(7) in computing net income, no deduction shall be allowed under section 290.09, subdivision 2, relating to expenses incurred or under section 290.09, subdivision 3, relating to interest accrued as provided in section 267 of the Internal Revenue Code;

(8)(a) contributions by employees under the federal Railroad Retirement Act and the federal Social Security Act; (b) Payments to Minnesota or federal public employee retirement funds; (c) 60 percent of the amount of taxes imposed on self-employment income under section 1401 of the Internal Revenue Code. Effective for taxable years beginning after December 31, 1989, no deduction is allowed for self-employment taxes where the taxpayer claimed a deduction for those taxes under section 164(f) of the Internal Revenue Code;

(9) expenses, interest and taxes connected with or allocable against the production or receipt of all income not included in the measure of the tax imposed by this chapter, except that for persons corporations engaged in the business of mining or producing iron ore, the mining of which is subject to the occupation tax imposed by section 298.01, subdivision 1, this shall not prevent a subtraction to the extent allowed under section 290.01, subdivision 20b, clause (10)(b), or the deduction by a corporate taxpayer of expenses and other items to the extent that the expenses and other items are allowable under section 290.09 *this chapter* and are not deductible, capitalizable, retainable in basis, or taken into account by allowance or otherwise in computing the occupation tax and do not exceed the amounts taken for federal income tax purposes for that year. Occupation taxes imposed under chapter 298, royalty taxes imposed under chapter 299, or depletion expenses may not be deducted under this clause;

(10) in situations where this chapter provides for a subtraction from gross income of a specific dollar amount of an item of income assignable to this state, and within the measure of the tax imposed by this chapter, that portion of the federal income tax liability assessed upon such income subtracted, and any expenses attributable to earning such income, shall not be deductible in computing net income;

(11) amounts paid or accrued for such taxes and carrying charges as, under rules prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such rules, to treat such taxes or charges as so chargeable;

(12) no deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if the trade or business (or the activities which comprise the trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the federal Controlled Substances Act) which is prohibited by federal law or the law of Minnesota.

For purposes of this section, reference to the Internal Revenue Code means the Internal Revenue Code of 1954, as amended through December 31, 1985.

Sec. 64. Minnesota Statutes 1986, section 290.12, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENTS.] *For taxable years beginning before January*

1, 1987, in computing the amount of gain or loss under subdivision 1 the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter. In addition to other adjustments provided in this chapter, the adjusted basis of property for federal income tax purposes shall be increased by the amount of accelerated cost recovery system depreciation which was allowed for federal income tax purposes but not allowed for Minnesota income tax purposes under *Minnesota Statutes 1986*, section 290.01, subdivision 20f or 290.09, subdivision 7, paragraph (A)(c). The basis shall be diminished by the allowance for amortization of bond premium if an election to amortize was made in accordance with *Minnesota Statutes 1986*, section 290.09, subdivision 13, which could, during the period of the taxpayer's ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this chapter, the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter.

Sec. 65. Minnesota Statutes 1986, section 290.131, subdivision 1, is amended to read:

Subdivision 1. [DISTRIBUTIONS OF PROPERTY.] *For taxable years beginning before January 1, 1987*, the effects on recipients of a distribution by a corporation shall be governed by the provisions of sections 301 to 307 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. However, in section 301(c)(3)(B) the date January 1, 1933 shall be substituted for March 1, 1913 when determining the amount of a distribution that is not taxable.

Sec. 66. Minnesota Statutes 1986, section 290.132, subdivision 1, is amended to read:

Subdivision 1. [TAXABILITY OF CORPORATION ON DISTRIBUTION.] *For taxable years beginning before January 1, 1987*, no gain or loss shall be recognized to a corporation on the distribution, with respect to its stock as provided in section 311 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

The effect on earnings and profits shall be determined according to the provisions of section 312 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. However, when determining earnings and profits in section 312(f) and (g), the date December 31, 1932 shall be substituted for February 28, 1913, and January 1, 1933 shall be substituted for March 1, 1913.

Sec. 67. Minnesota Statutes 1986, section 290.133, subdivision 1, is amended to read:

Subdivision 1. [DIVIDEND DEFINED.] *For taxable years beginning before January 1, 1987*, for purposes of this chapter, the definitions provided in sections 316 to 318 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply. However, in section 316 (a)(1), "December 31, 1932" shall be substituted for "February 28, 1913" when determining dividends.

Sec. 68. Minnesota Statutes 1986, section 290.134, subdivision 1, is amended to read:

Subdivision 1. [GAIN OR LOSS TO SHAREHOLDERS IN CORPORATE LIQUIDATIONS.] *For taxable years beginning before January 1, 1987, the effects on recipients of corporate liquidations shall be governed by the provisions of sections 331 to 334 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. However, in section 333(f)(2), the date December 31, 1932, shall be substituted for February 28, 1913 when determining accumulated earnings and profits.*

Sec. 69. Minnesota Statutes 1986, section 290.135, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] *For taxable years beginning before January 1, 1987, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation or on any distribution or sale of an interest in a partnership as provided in sections 336 to 346 and 386 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.*

Sec. 70. Minnesota Statutes 1986, section 290.136, subdivision 1, is amended to read:

Subdivision 1. [TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.] *For taxable years beginning before January 1, 1987, the provisions of sections 351 to 368 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply to corporate organizations and reorganizations. However, in section 362, the phrase "acquired in a taxable year beginning after December 31, 1956" shall be substituted for "acquired on or after June 22, 1954" when determining the property to which this section applies.*

Sec. 71. Minnesota Statutes 1986, section 290.138, subdivision 3, is amended to read:

Subd. 3. [CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.] *The provisions of sections 381 and 382 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply to carryovers in certain corporate acquisitions and special limitations on net operating loss carryovers.*

Sec. 72. Minnesota Statutes 1986, section 290.14, is amended to read:

290.14 [GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.]

For taxable years beginning before January 1, 1987, except as otherwise provided in this chapter, the basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be its adjusted basis for federal income tax purposes, with the following exceptions:

(1) Corporations, partnerships, or individuals subject to the occupation tax under chapter 298, shall use the occupation tax basis;

(2) The basis of property subject to the provisions of section 1034 of the Internal Revenue Code of 1954, as amended through December 31, 1985 (relating to the rollover of gain on sale of principal residence) shall be increased by the amount of gain realized on the sale of a principal residence outside of Minnesota, while a nonresident of this state, which gain was not recognized because of the provisions of section 1034.

Sec. 73. Minnesota Statutes 1986, section 290.17, is amended to read:

Subdivision 1. **[INCOME OF RESIDENT INDIVIDUALS SCOPE OF ALLOCATION RULES.]** The gross income of individuals shall be their gross income as defined in section 290.01, subdivision 20 (a) *The income of resident individuals is not subject to allocation outside this state. The allocation rules apply to nonresident individuals, estates, trusts, nonresident partners of partnerships, nonresident shareholders of corporations having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and all corporations not having such an election in effect. If a partnership or corporation would not otherwise be subject to the allocation rules, but conducts a trade or business that is part of a unitary business involving another legal entity that is subject to the allocation rules, the partnership or corporation is subject to the allocation rules.*

(b) *Expenses, losses, and other deductions (referred to collectively in this paragraph as "deductions") must be allocated along with the item or class of gross income to which they are definitely related for purposes of assignment under this section or apportionment under section 290.191, 290.20, 290.35, or 290.36. Deductions not definitely related to any item or class of gross income are assigned to the taxpayer's domicile.*

Subd. 1a. **[SUBSEQUENT ADJUSTMENT.]** When a loss has been reduced by the amount of tax preference items pursuant to Minnesota Statutes 1983 Supplement, section 290.17, subdivision 1, and the taxpayer subsequently sells or otherwise disposes of an asset in relation to which arose an item of tax preference which caused the reduction of the loss, the taxpayer may increase the basis of the asset by the amount of the tax preference item that was used to reduce the loss. If the asset is a depletable asset, the taxpayer may elect to so increase its basis upon disposition or to reduce the amount of otherwise taxable income subsequently produced by that asset by the amount of the tax preference item.

Subd. 2. **[OTHER TAXPAYERS INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.]** In the case of an individual who is not a full-year resident, this subdivision applies to determine what income is assignable to Minnesota for purposes of determining the numerator of the fraction used in section 290.06, subdivision 2c. In the case of taxpayers not subject to the provisions of subdivision 1, items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

(1)(a) The entire income of all resident or domestic taxpayers from compensation for labor or personal services, or from a business consisting principally of the performance of personal or professional services, shall be assigned to this state, and the income of nonresident taxpayers from such sources shall be assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state.

The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) *Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income*

from such sources is treated as income from sources without this state.

(b) (2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:-

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota. In order to eliminate the need to file state or provincial income tax returns in several states or provinces, Minnesota will exclude from income any income assigned to Minnesota under the provisions of this clause for a nonresident athlete who is employed by an athletic team whose operations are not based in this state and for a nonresident salaried entertainer who is employed by an entertainment organization whose operations are not based in this state if the state or province in which the athletic team or entertainment organization is based provides a similar income exclusion. If the state or province in which the athletic team's or the entertainment organization's operations are based does not have an income tax on an individual's personal service income, it will be deemed that that state or province has a similar income exclusion. As used in the preceding sentence, the term "province" means a province of Canada; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(2) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state. Income from winnings on Minnesota pari-mutuel betting tickets shall be assigned to this state. Income and gains received from tangible property not employed in the business of the recipient of such income or gains, and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, shall be assigned to this state if such property has a situs within it, and to other states only if it has no situs in this state. Income or gains from intangible personal property not employed in the business of the recipient of such income or gains, and from intangible personal property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held, whether in trust, or otherwise, shall be assigned to this state if the recipient thereof is domiciled within this state or is a resident trust or estate.

(3) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for the owner's services and the use of the owner's property therein, shall be assigned to this state if the trade or business is conducted wholly within this state, and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provisions of clause (1).

(4) When a trade or business is carried on partly within and partly without this state, the entire income derived from such trade or business, including income from intangible property employed in such business and including, in the case of a business owned by natural persons, the income imputable to the owner for the owner's services and the use of the owner's property therein, shall be governed, except as otherwise provided in sections 290.35 and 290.36, by the provisions of section 290.19, notwithstanding any provisions of this subdivision to the contrary. This shall not apply to business income subject to the provisions of clause (1); nor shall it apply to income from the operation of a farm which is subject to the provisions of clause (2). For the purposes of this clause, a trade or business located in Minnesota is carried on partly within and partly without this state if tangible personal property is sold by such trade or business and delivered or shipped to a purchaser located outside the state of Minnesota.

If the trade or business carried on wholly or partly in Minnesota is part of a unitary business, the entire income of that unitary business shall be subject to apportionment under section 290.19 except for business income subject to the provisions of clause (1) and farm income subject to the provisions of clause (2). The term "unitary business" shall mean business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. Unity shall be presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction but the absence of these centralized activities will not necessarily evidence a non-unitary business. Unity of ownership will not be deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more corporations more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

The entire income of a unitary business shall be subject to apportionment as provided in section 290.19. None of the income of a unitary business shall be considered as derived from any particular source and none shall be allocated to any particular place except as provided by the applicable apportionment formula.

In determining whether or not intangible property is employed in a unitary business carried on partly within and partly without this state so that income derived therefrom is subject to apportionment under section 290.19 the following rules and guidelines shall apply.

(a) Intangible property is employed in a business if the business entity owning intangible property holds it as a means of furthering the business operation of which a part is located within the territorial confines of this state.

(b) Where a business operation conducted in Minnesota, is owned by a business entity which carries on business activity outside of the state different in kind from that conducted within this state, and such other business is conducted entirely outside the state, it will be presumed that the two business operations are unitary in nature, interrelated, connected and interdependent unless it can be shown to the contrary.

(5) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve

Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 408, or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1985, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(6) All other items of gross income shall be assigned to the taxpayer's domicile.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Except upon the sale of a partnership interest, income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Subd. 3. [TRADE OR BUSINESS INCOME; GENERAL RULE.] Income derived from carrying on a trade or business must be assigned to this state if the trade or business is conducted wholly within this state, assigned outside this state if conducted wholly without this state and apportioned

between this state and other states and countries under this subdivision if conducted partly within and partly without this state. For purposes of determining whether a trade or business is carried on exclusively within or without this state:

(a) A trade or business physically located exclusively within this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state.

(b) A trade or business physically located exclusively without this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state. The jurisdiction to tax such a business under this chapter must be determined in accordance with sections 290.014 and 290.015.

Subd. 4. [UNITARY BUSINESS PRINCIPLE.] (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to farm income subject to subdivision 5, paragraph (a), business income subject to subdivision 5, paragraph (b) or (c), income of an insurance company determined under section 290.35, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

(f) For purposes of determining the net income of a unitary business

and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of corporations or other entities created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any the foregoing and of any FSC as defined in section 922 of the Internal Revenue Code of 1986, as amended through December 31, 1986, that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that other corporations or other entities organized in foreign countries might be included in the unitary business.

(g) Each corporation or other entity that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (f) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (f) in the denominators of the apportionment formula.

Subd. 5. [SPECIAL RULES.] Notwithstanding subdivisions 3 and 4, all income from the operation of the following types of businesses must be allocated as follows:

(a) All income from the operation of a farm is assigned to this state if the farm is located within this state and no such income is assigned to this state if the farm is located without this state.

(b) Income from a trade or business consisting principally of the performance of personal or professional services is assigned to this state if, and to the extent that, the services are performed within this state.

(c) For athletic teams when the visiting team does not share in the gate receipts, all of the team's income is assigned to the state in which the team's operation is based.

Subd. 6. [NONBUSINESS INCOME.] For a trade or business for which allocation of income within and without this state is required, if the taxpayer has any income not connected with the trade or business carried on partly within and partly without this state that income must be allocated under subdivision 2. Intangible property is employed in a trade or business if the owner of the property holds it as a means of furthering the trade or business.

Sec. 74. Minnesota Statutes 1986, section 290.171, is amended to read:
290.171 [ENACTMENT OF MULTISTATE TAX COMPACT.]

The "multistate tax compact" is hereby enacted into law to the extent provided in this section and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

2. "Subdivision" means any governmental unit or special district of a state.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of ~~articles III, IV and article V~~ of this compact shall apply only to the taxes specifically designated therein ~~and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.~~

Article III. Elements of Income Tax Laws.**Taxpayer Option, State and Local Taxes.**

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option, Short Form.

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The commissioner of revenue, after consultation with the Multistate Tax Commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commissioner, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business, and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other

form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual or any income received by a Minnesota resident individual or income from the operation of a farm, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

5. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

6. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate.

Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subtenants.

7. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

8. The payroll factor is a fraction; the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

9. Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state;

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

10. The sales factor is a fraction; the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

11. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the state of the purchaser.

12. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

13. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of one or more additional factors which will fairly

represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a

chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and

local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

2. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident, provided that such state has adopted this article.

3. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has

adopted this article.

4. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

5. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

6. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

7. In no event shall the commission make any charge against a taxpayer for an audit.

8. As used in this article, "tax," in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state states or subdivision subdivisions thereof are substantially identical with the relevant provisions of article IV, this chapter, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons

selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the

parties to the arbitration proceedings.

Article X. Entry Into Force and Withdrawal.

1. This compact shall become effective as to any other state upon its enactment. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdictions.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation; ~~except that a party state shall be obligated to implement article III 2 of this compact.~~

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax, provided that the definition of "tax" in article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Sec. 75. [290.191] [APPORTIONMENT OF NET INCOME.]

Subdivision 1. [GENERAL RULE.] Except as otherwise provided in section 290.17, subdivision 5, the net income from a trade or business carried on partly within and partly without this state must be apportioned to this state as provided in this section.

Subd. 2. [APPORTIONMENT FORMULA OF GENERAL APPLICA-

TION.] Except for those trades or businesses required to use a different formula under subdivision 3 or section 290.35 or 290.36, and for those trades or businesses that receive permission to use some other method under section 290.20 or under subdivision 4, a trade or business required to apportion its net income must apportion its income to this state on the basis of the percentage obtained by taking the sum of:

(1) 70 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 15 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 3. [APPORTIONMENT FORMULA FOR FINANCIAL INSTITUTIONS.] Except for an investment company required to apportion its income under section 290.36, a financial institution that is required to apportion its net income must apportion its net income to this state on the basis of the percentage obtained by taking the sum of:

(1) 70 percent of the percentage which the receipts from within this state in connection with the trade or business during the tax period are of the total receipts in connection with the trade or business during the tax period, from wherever derived;

(2) 15 percent of the percentage which the sum of the total tangible property used by the taxpayer in this state and the intangible property owned by the taxpayer and attributed to this state in connection with the trade or business during the tax period is of the sum of the total tangible property, wherever located, used by the taxpayer and the intangible property owned by the taxpayer and attributed to all states in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 4. [APPORTIONMENT FORMULA FOR CERTAIN MAIL ORDER BUSINESSES.] If the business consists exclusively of the selling of tangible personal property and services in response to orders received by United States mail or telephone, and 100 percent of the taxpayer's property and payroll is within Minnesota, then the taxpayer may apportion net income to Minnesota based solely upon the percentage that the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period. Property and payroll factors are disregarded. In determining eligibility for this subdivision, the sale not in the ordinary

course of business of tangible or intangible assets used in conducting business activities must be disregarded. This subdivision is repealed effective for taxable years beginning after December 31, 1988.

Subd. 5. [DETERMINATION OF SALES FACTOR.] (a) For purposes of this section, the following rules apply in determining the sales factor.

(b) Sales of tangible personal property are made within this state if the property is received by a purchaser at a point within this state, and the taxpayer is taxable in this state, regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination of the property.

(c) Tangible personal property delivered to a common or contract carrier or foreign vessel for delivery to a purchaser in another state or nation is a sale in that state or nation, regardless of f.o.b. point or other conditions of the sale.

(d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine, fermented malt beverages, cigarettes, or tobacco products are sold to a purchaser who is licensed by a state or political subdivision to resell this property only within the state of ultimate destination, the sale is made in that state.

(e) Sales made by or through a corporation that is qualified as a domestic international sales corporation under section 992 of the Internal Revenue Code are not considered to have been made within this state.

(f) Sales, other than sales of tangible personal property, are made in this state if the property is used, or the benefits of the services are consumed, in this state. If the property is used or the benefits of the services are consumed in more than one state, the sales must be apportioned pro rata according to the portion of use or consumption of benefits in this state.

Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.] (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market transactions, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this

state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under paragraphs (e) to (h). A participation loan is a loan in which more than one lender is a creditor to a common borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

Subd. 7. [RECEIPTS FROM INVESTMENTS IN NONSTATE SECURITIES; HOW APPORTIONED.] Receipts from investments of a financial institution in other securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents, including any business with an office or other place of business in this state, its political subdivisions, agencies, and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities must be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

Subd. 8. [DEPOSIT; DEFINITION.] (a) "Deposit," as used in subdivision 7, has the meanings in this subdivision.

(b) "Deposit" means the unpaid balance of money or its equivalent received or held by a financial institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account whether or not advance notice is required to withdraw the credited funds, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, or certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the financial institution, or a letter of credit or a traveler's check on which the financial institution is primarily liable. However, without limiting the generality of the term "money or its equivalent," any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining the credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to the bank for collection.

(c) "Deposit" means trust funds received or held by the financial institution, whether held in the trust department or held or deposited in any other department of the financial institution.

(d) "Deposit" means money received or held by a financial institution, or the credit given for money or its equivalent received or held by a financial institution, in the usual course of business for a special or specific purpose, regardless of the legal relationship so established. Under this paragraph, "deposit" includes, but is not limited to, escrow funds, funds held as security for an obligation due to the financial institution or others, including funds held as dealers reserves, or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes. It does not include funds received by the financial institution for immediate application to the reduction of an indebtedness to the receiving financial institution, or under condition that the receipt of the funds immediately reduces or extinguishes the indebtedness.

(e) "Deposit" means outstanding drafts, including advice or authorization to charge a financial institution's balance in another such institution, cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the financial institution itself.

(f) "Deposit" means money or its equivalent held as a credit balance by a financial institution on behalf of its customer if the entity is engaged in soliciting and holding such balances in the regular course of its business.

(g) Interinstitution fund transfers are not deposits.

Subd. 9. [DETERMINATION OF PROPERTY FACTOR; GENERAL RULES.] For all taxpayers, the property factor includes tangible property, real, personal, and mixed, owned or rented, and used by the taxpayer in connection with the trade or business, as set forth in subdivision 10. For financial institutions only, the property factor also includes intangible property, as set forth in subdivision 11. For both tangible and intangible property, the property included in the property factor is the average of the total property used by the taxpayer in connection with its business during the tax period. Such averages must be on a commensurate basis for property within and without the state.

Subd. 10. [PROPERTY FACTOR; TANGIBLE PROPERTY.] (a) Tangible property includes land, buildings, machinery and equipment, inventories, and other tangible personal property actually used by the taxpayer during the taxable year in carrying on the business activities of the taxpayer. Tangible property which is separately allocated under section 290.17 is not includable in the property factor.

(b) Cash on hand or in banks, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, and goodwill, are specifically excluded from the property factor, except as otherwise provided for financial institutions in subdivision 11.

(c) The value of tangible property that is owned by the taxpayer and that is to be used in the apportionment fraction is the original cost adjusted for any later capital additions or improvements and partial disposition by reason of sale, exchange, or abandonment.

(d) For purposes of computing the property factor, United States government property that is used by the taxpayer must be considered owned by the taxpayer.

(e) Property that is rented by the taxpayer is valued at eight times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from subrentals. If the subrents taken into account in determining the net annual rental produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the commissioner or requested by the taxpayer. In no case, however, shall the value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. Rents paid during the year cannot be averaged.

(f) A person filing a combined report shall use this method of calculating

the property factor for all members of the group.

Subd. 11. [FINANCIAL INSTITUTIONS; PROPERTY FACTOR.] (a) For financial institutions, the property factor includes, as well as tangible property, intangible property as set forth in this subdivision.

(b) Intangible personal property must be included at its tax basis for federal income tax purposes.

(c) Goodwill must not be included in the property factor.

(d) Coin and currency located in this state must be attributed to this state.

(e) Lease financing receivables must be attributed to this state if and to the extent that the property is located within this state.

(f) Assets in the nature of loans that are secured by real or tangible personal property must be attributed to this state if and to the extent that the security property is located within this state.

(g) Assets in the nature of consumer loans and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan was made to a resident of this state.

(h) Assets in the nature of commercial loan and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the assets must be attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) A participating financial institution's portion of a participation loan must be attributed under paragraphs (e) to (h).

(j) Financial institution credit card and travel and entertainment credit card receivables must be attributed to the state to which the credit card charges and fees are regularly billed.

(k) Receivables arising from merchant discount income derived from financial institution credit card holder transactions with a merchant are attributed to the state in which the merchant is located. In the case of merchants located within and without the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Assets in the nature of securities and money market instruments are apportioned to this state based upon the ratio that total deposits from this state, its residents, its political subdivisions, agencies and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies and instrumentalities. In the case of an unregulated financial institution subject to this regulation, the receipts are apportioned to this state based upon the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this subsection, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities are attributed to this state, whether or not the deposits are

accepted or maintained by the taxpayer at locations within this state.

Subd. 12. [DETERMINATION OF PAYROLL FACTOR.] (a) The payroll factor must be determined in the same way for all taxpayers.

(b) Wages or salaries must be determined to be paid or incurred in this state if the individual with respect to whom the wages or salaries are paid is either employed within this state or is actually engaged in work in the territorial confines of this state, or if working without this state, is identified with or accountable to an office within this state.

(c) The wages or salaries paid to officers and employees working from offices within this state are considered payroll within this state even though the officer's and employee's employment requires them to spend working time without this state. Officers and employees whose employment requires them to work without the state entirely and who are assigned to an office without the state, are not considered employees within the state for the purpose of apportionment even though their salaries are paid from the taxpayer's general offices within the state.

Sec. 76. Minnesota Statutes 1986, section 290.20, subdivision 1, is amended to read:

Subdivision 1. The methods prescribed by section ~~290.19~~ 290.191 shall be presumed to determine fairly and correctly the taxpayer's taxable net income allocable to this state. ~~Any taxpayer feeling aggrieved by the application of the methods so prescribed may petition the commissioner for determination of such net income by the use of some other method, including separate accounting. Thereupon, the commissioner on finding that the application of the methods prescribed by section 290.19 will be unjust to the taxpayer, may allow the use of the methods so petitioned for by the taxpayer, or may determine such net income by other methods if satisfied that such other methods will fairly reflect such net income. A petition within the meaning of this section shall be deemed to have been filed by the taxpayer if the taxpayer's return uses a method other than the methods prescribed by section 290.19, and if such return shall have attached thereto a statement setting forth the reasons for the use of such other method. If the methods prescribed by section 290.191 do not fairly reflect all or any part of taxable net income allocable to this state, the taxpayer may petition for or the commissioner may require the determination of net income by the use of another method, if that method fairly reflects net income. These other methods may include:~~

- (1) separate accounting;*
- (2) excluding any one or more of the factors;*
- (3) including one or more additional factors; or*
- (4) some other method.*

Sec. 77. Minnesota Statutes 1986, section 290.20, is amended by adding a subdivision to read:

Subd. 1a. A petition within the meaning of this section must be filed by the taxpayer in the form required by the commissioner.

Sec. 78. Minnesota Statutes 1986, section 290.21, subdivision 3, is amended to read:

Subd. 3. An amount for contribution or gifts made within the taxable

year:

(a) to or for the use of the state of Minnesota, or any of its political subdivisions for exclusively public purposes,

(b) to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation located in and carrying on substantially all of its activities within this state, organized and operating exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual,

(c) to a fraternal society, order, or association, operating under the lodge system located in and carrying on substantially all of their activities within this state if such contributions or gifts are to be used exclusively for the purposes specified in subdivision 3(b), or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual,

(d) to or for the use of the United States of America for exclusively public purposes; ~~and to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively for any of the purposes specified in subdivision 3(b) and (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual, but not carrying on substantially all of their activities within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income if the contribution or gift consists of real property located in Minnesota,~~

(e) the total deduction hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the deductions allowable under this section other than those for contributions or gifts,

(f) in the case of a corporation reporting its taxable income on the accrual basis, if: (A) the board of directors authorizes a charitable contribution during any taxable year, and (B) payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year; then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the commissioner shall by rules prescribe.

Sec. 79. Minnesota Statutes 1986, section 290.21, subdivision 4, is amended to read:

Subd. 4. (a) 85 80 percent of dividends received by a corporation during the taxable year from another corporation, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The remaining 45 20 percent shall be allowed if the recipient owns 80 percent or more of all the voting stock of the other corporation and the dividends were paid from income arising out of business done in this state

by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the remainder shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of remainder claimed as a deduction has been received from income arising out of business done in this state.

(b) If the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 percent or more of all the voting stock of the other corporation, from income arising out of business done in this state by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the dividends shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of dividends claimed as a deduction has been received from income arising out of business done in this state.

(c) The dividend deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

The dividend deduction provided in this subdivision does not apply to a dividend from a corporation which, for the taxable year of the corporation in which the distribution is made or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

The dividend deduction provided in this subdivision applies to the amount of regulated investment company dividends only to the extent determined under section 854(b) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

The dividend deduction provided in this subdivision shall not be allowed with respect to any dividend for which a deduction is not allowed under the provisions of section 246(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

(d) If dividends received by a corporation that does not have nexus with Minnesota under the provisions of Public Law Number 86-272 are included as income on the return of an affiliated corporation permitted or required to file a combined report under section 290.34, subdivision 2, then for purposes of this subdivision the determination as to whether the trade or business of the corporation consists principally of the holding of stocks and the collection of income and gains therefrom shall be made with reference to the trade or business of the affiliated corporation having a

nexus with Minnesota.

(e) Dividends received by a corporation from another corporation which is organized under the laws of a foreign country or a political subdivision of a foreign country, if the dividends are paid from income arising from sources without the United States, the commonwealth of Puerto Rico, and the possessions of the United States. The deduction provided by this clause *subdivision* does not apply if the corporate stock with respect to which dividends are paid constitutes the stock in trade of the taxpayer, or would be included in the inventory of the taxpayer, or constitutes property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or if the trade or business of the taxpayer consists principally of the holding of stocks and the collection of the income or gains therefrom, or if the dividends are paid by a FSC as defined in section 922 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985. No dividend may be deducted under this clause if it is deducted under clause (a) 1986.

Sec. 80. Minnesota Statutes 1986, section 290.21, subdivision 8, is amended to read:

Subd. 8. [FOREIGN SOURCE ROYALTIES.] (a) *An amount equal to 35 percent of rentals, fees, and royalties accrued or received from a foreign corporation for the use of or for the privilege of using outside of the United States patents, copyrights, secret processes and formulas, good will, know-how, trademarks, trade brands, franchises, and other like property. Rentals, fees, or royalties deducted under this subdivision shall not be included in the taxpayer's apportionment factors under section 290.19, subdivision 1, clause (1)(a) or (2)(a)(1). The preceding sentence shall not be construed to imply that nondeductible rentals, fees, and royalties from such properties are or were included in or excluded from the apportionment factors under any other provision of law.*

(b) ~~A corporation is allowed~~ The deduction provided by this subdivision *is allowed only if during the taxable year it the corporation receiving the income received or accrued at least 80 percent of its gross income during the taxable year from sources as defined in clause (a) and from dividends received from foreign corporations. A corporation's gross income for purposes of paragraphs (b) and (c) shall be computed without regard to the requirement of section 290.34, subdivision 2, that a combined report be filed reflecting the entire income of the unitary business.*

(c) For purposes of this subdivision, a foreign corporation is (i) a corporation organized under the laws of a foreign country or the political subdivision of a foreign country or (ii) a corporation which for the taxable year derives at least 80 percent of its gross income from sources without the United States, the commonwealth of Puerto Rico, and the possessions of the United States. A foreign corporation does not include a DISC as defined in section 992(a) of the Internal Revenue Code of 1954, as amended through December 31, 1985, or a FSC as defined in section 922 of the Internal Revenue Code of 1954, as amended through December 31, 1985.

(d) The deduction provided in this subdivision is allowed only with respect to rentals, fees, and royalties that are included in a corporation's Minnesota taxable net income for the taxable year.

(e) *In the case of a unitary business required to file a combined report, one or more members of which meet the requirements of paragraph (b)*

and received rentals, fees or royalties as defined in paragraph (a), the deduction under this subdivision for each member of the unitary business required to file a return under this chapter is the product of (1) 100 percent of the rentals, fees, and royalties as defined in paragraph (a) received by the members of the unitary business meeting the requirements of paragraph (b); (2) 35 percent; and (3) the percentage of business income of the unitary business apportionable to this state for the deducting corporation for the taxable year under this chapter.

Sec. 81. Minnesota Statutes 1986, section 290.23, subdivision 3, is amended to read:

Subd. 3. [UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES.] If on the termination of an estate or trust, the estate or trust has

(1) a net operating loss carryover under section 290.095, ~~a capital loss carryover under section 290.01, subdivisions 20 to 20f~~ or any other loss or credit carryover allowed under this chapter; or

(2) for the last taxable year of the estate or trust deductions (other than the charitable deduction) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with rules prescribed by the commissioner, to the beneficiaries succeeding to the property of the estate or trust. *This provision does not apply to individuals, and carryovers and deductions must be reported as provided in section 290.01, subdivisions 19 to 19b.*

Sec. 82. Minnesota Statutes 1986, section 290.23, subdivision 5, is amended to read:

Subd. 5. [DISTRIBUTABLE NET INCOME, INCOME, BENEFICIARY; DEFINED.] (1) For purposes of sections 290.22 through 290.25, the term "distributable net income" means the same as that term is defined in section 643(a) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986 with the following modification:

There shall be included any tax-exempt interest to which section 290.01, subdivision 20b 19b, clause (1) applies, ~~reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of section 290.10(9) (relating to disallowance of certain deductions).~~

If the estate or trust is allowed a deduction under section 642(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, the amount of the modification shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in that section of the Internal Revenue Code is deemed to consist of items specified in the modification. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(2) The term "income," and the term "beneficiary" have the same meaning as those terms are defined in section 643(b) and (c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. The treatment of property distributed in kind and of multiple trusts shall be the same as provided in section 643 of the Internal Revenue Code

of 1954 1986, as amended through December 31, 1985 1986.

Sec. 83. Minnesota Statutes 1986, section 290.31, subdivision 2, is amended to read:

Subd. 2. [INCOME AND CREDITS OF PARTNER.] (1) In determining income tax, each partner shall take into account separately the partner's distributive share of the partnership's

(a) gains and losses from sales or exchanges of short-term capital assets as defined in section 290.16, subdivision 3,

(b) gains and losses from sales or exchanges of long-term capital assets as defined in section 290.16, subdivision 3,

(c) gains and losses from sales or exchanges of property described in section 1231 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986 (relating to certain property used in a trade or business and involuntary conversions),

(d) charitable contributions as defined in section 170(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986,

(e) dividends with respect to which there is provided an exclusion under section 116 or a deduction under sections 241 to 247 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986,

(f) other items of income, gain, loss, deduction, or credit, to the extent provided by rules prescribed by the commissioner, and

(g) taxable net income or loss, exclusive of items requiring separate computation under other subparagraphs of this paragraph (1).

(2) The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (a) through (f) of paragraph (1) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(3) In any case where it is necessary to determine the gross income of a partner for purposes of this chapter, such amount shall include the partner's distributive share of the gross income of the partnership.

Sec. 84. Minnesota Statutes 1986, section 290.31, is amended by adding a subdivision to read:

Subd. 2a. The provisions of subdivisions 2 and 5 do not apply to individuals, and items of income, gain, loss, or deduction must be reported as provided in section 290.01, subdivisions 19 to 19b.

Sec. 85. Minnesota Statutes 1986, section 290.31, subdivision 3, is amended to read:

Subd. 3. [PARTNERSHIP COMPUTATIONS.] The taxable net income of a partnership shall be computed in the same manner as in the case of an individual except that

(1) the items described in subdivision 2(1) shall be separately stated, and

(2) the following deductions shall not be allowed to the partnership:

(a) the deduction for taxes provided in section 164(a) of the Internal Revenue Code of 1954, as amended through December 31, 1985, with respect to taxes, described in section 901 of the Internal Revenue Code of 1954, as amended through December 31, 1985, paid or accrued to foreign countries and to possessions of the United States;

(b) the deduction for charitable contributions provided in section 290.21, subdivision 3 or section 170 of the Internal Revenue Code of 1954, as amended through December 31, 1985;

(c) the net operating loss deduction provided in section 290.095;

(d) the additional itemized deductions for individuals provided in sections 211 to 223 of the Internal Revenue Code of 1954, as amended through December 31, 1985; and;

(e) the deduction for depletion under section 290.09, subdivision 8 with respect to oil and gas wells as provided in section 703(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that, in the case of a corporate partner, the deduction for depletion shall be computed under section 290.01, subdivisions 19c and 19d.

Any election affecting the computation of taxable net income derived from a partnership shall be made by the partnership except as provided in section 703(b) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

Sec. 86. Minnesota Statutes 1986, section 290.31, subdivision 5, is amended to read:

Subd. 5. [DETERMINATION OF BASIS OF PARTNER'S INTEREST.] The adjusted basis of a partner's interest in a partnership shall, except as provided in the last paragraph of this subdivision, be the basis of such interest determined under section 722 or 742 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, relating to contributions to a partnership or transfers of partnership interests

(1) increased by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) net income of the partnership as determined under subdivision 3(1) and (2),

(b) income of the partnership exempt from tax under this chapter,

(c) the excess of the deductions for depletion over the basis of the property subject to depletion, and

(2) decreased (but not below zero) by distributions by the partnership as provided in section 733 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, and by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) losses of the partnership, and

(b) expenditures of the partnership not deductible in computing its taxable net income and not properly chargeable to capital account, and

(3) decreased, but not below zero, by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent the deduction does not exceed the proportionate share of the adjusted basis of the property allocated to the partner under section 613A(c)(7)(D) of the

Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. For corporate partners, the deduction for depletion with respect to oil and gas wells shall be computed as provided in section 290.09, subdivision 8 290.01, subdivisions 19c and 19d.

The commissioner shall prescribe by rule the circumstances under which the adjusted basis of a partner's interest in a partnership may be determined by reference to the partner's proportionate share of the adjusted basis of partnership property upon a termination of the partnership.

Sec. 87. Minnesota Statutes 1986, section 290.34, subdivision 2, is amended to read:

Subd. 2. [AFFILIATED OR RELATED CORPORATIONS, COMBINED REPORT.] (a) When a corporation which is required to file an income tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or has its income regulated through contract or other arrangement, the commissioner of revenue may permit or require such combined report as, in the commissioner's opinion, is necessary in order to determine the taxable net income of any one of the affiliated or related corporations. For purposes of computing either the arithmetic average or weighted apportionment formulas under section 290.19, subdivision 1 for each corporation involved, the numerator of the fraction shall be that corporation's sales, property, and payroll in Minnesota and the denominator shall be the total sales, payroll, and property of all the corporations shown on the combined report. The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 2, clause (4). The combined report shall reflect income only from corporations created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any of the foregoing and from a FSC as defined in section 922 of the Internal Revenue Code of 1954, as amended through December 31, 1985. All intercompany transactions between companies which are contained on the combined report shall be eliminated. This subdivision shall not apply to insurance companies whose income is determined under section 290.35 or to investment companies whose income is determined under section 290.36.

(b) If a corporation has been divested from the unitary group and is included in a combined report for a fractional part of the common accounting period that the report is based on, then the sales, property, and payroll attributed to the corporation in the apportionment formula must be prorated or separately accounted and must show for what part of the accounting period the corporation is included in the report.

(c) The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 4. If a corporation has been divested from the unitary group and is included in the combined report for a fractional part of the common accounting period that the combined report is based on, its income includable in the combined report is its income for that part of the year.

Sec. 88. Minnesota Statutes 1986, section 290.35, is amended to read:

290.35 [INSURANCE COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.]

Subdivision 1. [COMPUTATION OF TAXABLE NET INCOME.] The

taxable net income of insurance companies taxable under this chapter shall be computed as follows:

Each such company shall report to the commissioner the net income returned by it for the taxable year to the United States under the provisions of the act of congress, known as the revenue act of 1936, or that it would be required to return as net income thereunder if it were in effect. *Notwithstanding the provisions of the Revenue Act of 1936, whether or not an insurance company is exempt from taxation must be determined under section 290.05.*

Subd. 2. [APPORTIONMENT OF TAXABLE NET INCOME.] The commissioner shall compute therefrom the taxable net income of such companies by assigning to this state that proportion thereof which the gross premiums collected by them during the taxable year from old and new business within this state bears to the total gross premiums collected by them during that year from their entire old and new business, *including reinsurance premiums*; provided, the commissioner shall add to the taxable net income so apportioned to this state the amount of any taxes on premiums paid by the company by virtue of any law of this state (other than the surcharge on premiums imposed by sections 69.54 to 69.56) which shall have been deducted from gross income by the company in arriving at its total net income under the provisions of such act of congress.

(a) For purposes of determining the Minnesota apportionment percentage, premiums from reinsurance contracts assumed from companies domiciled in Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of Minnesota residents shall be assigned to Minnesota and premiums from reinsurance contracts assumed from companies domiciled outside of Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of non-Minnesota residents shall be assigned outside of Minnesota.

(b) The apportionment method prescribed by paragraph (a) shall be presumed to fairly and correctly determine the taxpayer's taxable net income. If the method prescribed in paragraph (a) does not fairly reflect all or any part of taxable net income, the taxpayer may petition for or the commissioner may require the determination of taxable net income by use of another method if that method fairly reflects taxable net income. A petition within the meaning of this section must be filed by the taxpayer on such form as the commissioner shall require.

Subd. 3. [CREDIT.] An insurance company shall receive a credit against the tax equal to any taxes based on premiums paid by it that are attributable to the period for which the tax under this chapter is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by sections 69.54 to 69.56.

Subd. 4. [NONPROFIT HEALTH SERVICE CORPORATION.] For purposes of this section, a nonprofit health service corporation is not an insurance company and the taxable income of a nonprofit health service corporation must be determined as provided under the Internal Revenue Code of 1986 and section 290.01, subdivisions 19c and 19d.

Sec. 89. Minnesota Statutes 1986, section 290.36, is amended to read:

290.36 [INVESTMENT COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.]

The taxable net income of investment companies shall be computed as follows:

Each investment company transacting business as such in this state shall report to the commissioner the net income returned by the company for the taxable year to the United States under the provisions of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, less the credits provided therein and subject to the adjustments required by this chapter. The commissioner shall compute therefrom the taxable net income of the investment company by assigning to this state that proportion of such net income, less such credits which the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of this state, bears to the total amount of the gross payments collected during such year by the company from such business upon investment contracts issued by the company and held by persons residing within the state and elsewhere.

As used in this section, the term "investment company" means any person, copartnership, association, or corporation, whether local or foreign, coming within the purview of section 54.26, and who or which is registered under the Investment Company Act of 1940 (United States Code, title 15, section 80a-1 and following), *as amended through December 31, 1986*, and who or which solicits or receives payments to be made to itself and which issues therefor, or has issued therefor and has or shall have outstanding so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date; and as to whom the gross payments received during the taxable year in question upon outstanding investment contracts, plus interest and dividends earned on investment contracts determined by prorating the total dividends and interest for the taxable year in question in the same proportion that certificate reserves as defined by the Investment Company Act of 1940, *as amended through December 31, 1986*, is to total assets, shall be at least 50 percent of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year in question. The term "investment contract" shall mean any such so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement issued by an investment company.

Sec. 90. Minnesota Statutes 1986, section 290.37, subdivision 1, is amended to read:

Subdivision 1. [PERSONS MAKING RETURNS.] (a) ~~The commissioner of revenue shall annually determine the gross income levels at which individuals, trusts, and estates shall be required to file a return for each taxable year. A taxpayer shall file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's Minnesota gross income computed under section 290.06, subdivision 2c, clause (f)(1) derived from Minnesota sources under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for an a single individual who is a full year resident of Minnesota with the same marital status and number of personal credits.~~

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

Every corporation shall file a return, *if the corporation is subject to the state's jurisdiction to tax under section 290.014, subdivision 5. The return in the case of a corporation must be signed by a person designated by the corporation.* The commissioner may adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a ~~corporation~~ bank subject to tax under ~~section 290.361~~. ~~The return in the case of a corporation shall be signed by a person designated by the corporation this chapter. Members of an affiliated group that elect to file one return on behalf of the members of the group under rules adopted by the commissioner may modify or rescind the election by filing the form required by the commissioner.~~

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

(e) ~~For purposes of this subdivision the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1985, modified and adjusted in accordance with the provisions of sections 290.01, subdivision 20b, clauses (1), (6), (7), and (8), 290.08, and 290.17.~~

Sec. 91. Minnesota Statutes 1986, section 290.37, subdivision 3, is amended to read:

Subd. 3. [INFORMATION INCLUDED IN RETURN.] The return ~~provided for herein~~ shall require a statement of the name of the taxpayer, or taxpayers, if the return ~~be~~ is a joint return, and the address of ~~such~~ the taxpayer in the same name or names and same address as the taxpayer has used in making the taxpayer's income tax return to the United States ~~under the terms of the internal revenue code of 1954~~, and shall include the social security number of the taxpayer, or taxpayers, if a social security number has been issued by the United States with respect to ~~said~~ the taxpayers, and shall include the amount of the ~~adjusted gross taxable~~ income of ~~such~~ the taxpayer as ~~the same~~ it appears on ~~said~~ the federal return to the United States ~~internal revenue service~~ for the taxable year to which ~~such~~ the Minnesota state return is applicable; ~~and the commissioner may require~~. The taxpayer ~~to~~ shall attach to the taxpayer's Minnesota state income tax return a copy of the federal income tax return which the taxpayer has filed or is

about to file for such the period.

Sec. 92. [290.371] [NOTICE OF BUSINESS ACTIVITIES REPORT.]

Subdivision 1. [REPORT REQUIRED.] Every corporation that, during any calendar year or fiscal accounting year ending after December 31, 1986, carried on any activity or owned or maintained any property in this state, unless specifically exempted under subdivision 3, must file a notice of business activities report, as provided in this section. Filing of the report is not a factor in determining whether a corporation is subject to taxation under this chapter.

Subd. 2. [ACTIVITIES.] Activities or property maintenance in this state which require corporations to file this report are:

- (1) the maintenance in this state of an office or other place of business;*
- (2) the maintenance of personnel in Minnesota, including the presence of employees, agents, representatives, or independent contractors in connection with the corporation's business, even though not residing in or regularly stationed in Minnesota;*
- (3) the ownership or maintenance of real property, tangible personal property, or intangible property used by the corporation in Minnesota; and*
- (4) any of the activities referred to in section 290.015, subdivision 1, clauses (3) to (8).*

Subd. 3. [EXEMPTIONS.] A corporation is not required to file a notice of business activities report if:

- (1) by the end of an accounting period for which it was otherwise required to file a notice of business activities report under this section, it had received a certificate of authority to do business in this state;*
- (2) a timely return or report has been filed under section 290.05, subdivision 4; or 290.37; or*
- (3) the corporation is exempt from taxation under this chapter pursuant to section 290.05, subdivision 1.*

Subd. 4. [ANNUAL FILING.] Every corporation not exempt under subdivision 3 must file annually a notice of business activities report, including such forms as the commissioner may require, with respect to all or any part of each of its calendar or fiscal accounting years beginning after December 31, 1986, on or before the 15th day of the fourth month after the close of the calendar or fiscal accounting year.

Subd. 5. [FAILURE TO FILE TIMELY REPORT.] (a) Any corporation required to file a notice of business activities report does not have any cause of action upon which it may bring suit under Minnesota law unless the corporation has filed a notice of business activities report.

(b) The failure of a corporation to file a timely report prevents the use of the courts in this state for all contracts executed and all causes of action that arose at any time before the end of the last accounting period for which the corporation failed to file a required report.

(c) The court in which the issues arise has the power to excuse the corporation for its failure to file a report when due, and restore the cor-

poration's cause of action under the laws of this state, if the corporation has paid all taxes, interest, and civil penalties due the state for all periods, or provided for payment of them by adequate security or bond approved by the commissioner.

Sec. 93. Minnesota Statutes 1986, section 290.38, is amended to read:
290.38 [RETURNS OF MARRIED PERSONS.]

A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If the husband and wife have elected to file separate federal income tax returns they must file separate Minnesota income tax returns. This election to file a joint or separate returns must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by rule.

The determination of whether an individual is married is *shall be* made as of the close of that person's taxable year, except that if that person's spouse dies during the taxable year the determination is made as of the time of the death. An individual who is legally separated from a spouse under a decree of divorce, dissolution, or of separate maintenance is not considered to be married under provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the personal representative of the decedent's estate, except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both the survivor and the decedent if (a) no return for the taxable year has been made by the decedent, (b) no personal representative has been appointed, and (c) no personal representative is appointed before the last day prescribed by law for filing the return of the surviving spouse. If a personal representative of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the personal representative may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute the survivor's separate return provided that the election has been also disaffirmed for federal purposes.

Sec. 94. Minnesota Statutes 1986, section 290.39, subdivision 3, is amended to read:

Subd. 3. [~~SHORT FORM~~ FORMS.] The commissioner shall provide for use a long form individual income tax return and may provide for use a short form individual income tax return ~~which~~. The returns shall be in the form and provide for items as the commissioner may prescribe which are consistent with the provisions of this chapter, notwithstanding any other law to the contrary. The ~~political checkoff provided in section 10A.31 nongame wildlife checkoff provided in section 290.431 and the dependent care credit provided in section 290.067~~ shall be included on the short form.

Sec. 95. Minnesota Statutes 1986, section 290.41, subdivision 2, is amended to read:

Subd. 2. [BY PERSONS, CORPORATIONS, COOPERATIVES, GOVERNMENTAL ENTITIES OR SCHOOL DISTRICTS.] *To the extent required by section 6041 of the Internal Revenue Code of 1986, as amended through December 31, 1986*, every person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and every city, county and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of \$600 or more on account of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account of dividends or patronage dividends, or \$600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 290.92, subdivision 7, or on account of earnings of \$10 or more distributed to its members by savings, building and loan associations or credit unions chartered under the laws of this state or the United States, (a) shall make a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and such return is therefore filed only with the commissioner of internal revenue pursuant to the applicable filing and informational reporting requirements of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986) in respect to such payments in excess of the amounts specified, giving the names and addresses of the persons to whom such payments were made, the amounts paid to each, and (b) shall make a return in respect to the total number of such payments and total amount of such payments, for each category of income specified, which were in excess of the amounts specified. This subdivision shall not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year.

A person, corporation, or cooperative required to file returns under this subdivision on interest, dividends, or patronage dividend payments with respect to more than 50 payees for any calendar year must file all of these returns on magnetic media unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

Sec. 96. Minnesota Statutes 1986, section 290.41, subdivision 3, is amended to read:

Subd. 3. [BY BROKERS.] The commissioner of revenue may require every person doing business as a broker to furnish the commissioner with the name and address of each customer for whom they have transacted business, and with such details regarding gross proceeds and other information as to transactions of any customer as will enable the commissioner to determine whether all income tax due on profits or gains of such customers has been paid. The provisions of section 6045 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, which define terms and provide the requirements that a statement be furnished to the customer shall apply.

Sec. 97. Minnesota Statutes 1986, section 290.42, is amended to read:

290.42 [FILING RETURNS, DATE.]

The returns required to be made under sections 290.37 to 290.39 and 290.41, other than those under section 290.41, subdivisions 3 and 4, which shall be made within 30 days after demand therefor by the commissioner, shall be filed at the following times:

(1) Returns made on the basis of the calendar year shall be filed on the fifteenth day of April, following the close of the calendar year, except that returns of corporations shall be filed on the fifteenth day of March following the close of the calendar year;

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the fourth month following the close of such fiscal year, except that returns of corporations shall be filed on the fifteenth day of the third month following the close of the fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the fifteenth day of the fourth month following the close of the period for which made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the close of the period for which made;

(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made:

In the case of a final return of a decedent for a fractional part of a year, such return shall be filed on the fifteenth day of the fourth month following the close of the 12-month period which began with the first day of such fractional part of a year.

(4a) In the case of the return of a cooperative association such returns shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(4b) If a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.34, subdivision 2, the divested corporation's return must be filed on the 15th day of the third month following the close of the common accounting period that includes the fractional year.

(5) If the due date for any return required under this chapter falls upon:

A Saturday, Sunday, or a legal holiday such return filed by the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be considered to be timely filed. The term "legal holiday" means any day made a holiday in Minnesota by section 645.44, subdivision 5 or by the laws of the United States.

(6) In case of sickness, absence, or other disability, or when, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except as provided for corporations and except that where the failure is due to absence outside the United States the commissioner may extend the period as provided in section 6081 of the Internal Revenue Code of 1954, as amended through December 31, 1985. The commissioner may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from the taxpayer, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The com-

missioner may grant an extension of up to seven months for filing the return of a corporation subject to tax under this chapter if the corporation files a tentative return at the time fixed for filing the regularly required return and pays the tax on the basis of the tentative return in accordance with this section and section 290.45.

(7) Every person making a return under section 290.41 (except subdivisions 3 and 4) shall furnish to each person whose name is set forth in the return a written statement showing

(A) the name and address of the person making the return, and

(B) the aggregate amount of payments to the person shown on the return.

This written statement shall be furnished to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement shall be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

Sec. 98. Minnesota Statutes 1986, section 290.45, subdivision 1, is amended to read:

Subdivision 1. [DATE DUE, ~~INSTALLMENTS.~~] The tax imposed by this chapter shall be paid to the commissioner of revenue at the time fixed for filing the return on which the tax is based; ~~except that at the election of estates the balance of tax due may be paid in two equal installments.~~

~~The first shall be paid at the time fixed for filing the return, and the second on or before six months thereafter.~~

~~If any installment is not paid on or before the date fixed for its payment the whole amount of the tax unpaid shall become due and payable. They shall be paid to the commissioner or to the local officers designated by the commissioner with whom the return is filed as hereinbefore provided.~~

Sec. 99. Minnesota Statutes 1986, section 290.45, subdivision 2, is amended to read:

Subd. 2. [EXTENSIONS.] At the request of the taxpayer, and for good cause shown, the commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, ~~or any installment thereof,~~ or any amount determined as a deficiency, for a period not to exceed six months from the date prescribed for the payment of the tax ~~or an installment thereof.~~ In such case the amount in respect of which the extension is granted shall be paid together with interest at the rate specified in section 270.75 on or before the date of the expiration of the period of the extension.

Sec. 100. Minnesota Statutes 1986, section 290.46, is amended to read:

290.46 [EXAMINATION OF RETURNS; ASSESSMENTS, REFUNDS.]

The commissioner shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that the commissioner may deem necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 60 days after notice

of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on the return which have not yet been paid shall be paid to the commissioner within 60 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided by section 290.50 (except that no demand therefor shall be necessary), if the taxpayer has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 290.50.

The commissioner, on examining returns of a taxpayer for more than one year, may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 290.46 to 290.48 shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the taxpayer at the address given in the return, or to the taxpayer's last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary; further, written findings by the commissioner, notice by mail to the taxpayer and certificate for refundment by the commissioner shall not be necessary and the provisions of section 270.10, in such case, shall not be applicable.

~~In the case of an individual, estate or trust, The commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income (or federal taxable income for estates or trusts) to make it properly conform with the provisions of section 290.01, subdivision 20 subdivisions 19 to 19e, or the items of federal tax preferences or federal credit amounts to make them properly conform with the provisions of this chapter. In the case of an individual, the commissioner may audit and adjust the taxpayer's computation of itemized deductions to make them properly conform with the provisions of section 290.089.~~

Sec. 101. Minnesota Statutes 1986, section 290.48, subdivision 10, is amended to read:

Subd. 10. [PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.] (a) If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash, or *does not* claim it belongs to another person whose identity the commissioner can readily ascertain and who acknowledges ownership of such cash, then, for purposes of subdivisions 3 and 4, it shall be presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) In the case of any assessment resulting from the application of clause (a), the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs, such income shall be treated

as taxable at an eight percent rate, and except as provided in clause (c), the possessor of the cash shall be treated (solely with respect to the cash) as the taxpayer for purposes of this chapter and the assessment and collection of the tax.

(c) If, after an assessment resulting from the application of clause (a), the assessment is abated and replaced by an assessment against the owner of the cash, the later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this subdivision, the definitions contained in section 6867 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply.

Sec. 102. Minnesota Statutes 1986, section 290.491, is amended to read:
290.491 [TAX ON GAIN; DISCHARGE IN BANKRUPTCY.]

(a) Any tax due under this chapter on a gain realized on a forced sale pursuant to foreclosure of a mortgage or other security interest in agricultural production property, other real property, or equipment, used in a farm business that was owned and operated by the taxpayer shall be a dischargeable debt in a bankruptcy proceeding under United States Code, title 11, section 727.

(b) Income realized on a sale or exchange of agricultural production property, other real property, or equipment, used in a farm business that was owned and operated by the taxpayer shall be exempt from taxation under this chapter, if the taxpayer was insolvent at the time of the sale and the proceeds of the sale were used solely to discharge indebtedness secured by a mortgage, lien or other security interest on the property sold. For purposes of this section, "insolvent" means insolvent as defined in section 108(d)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985. This paragraph applies only to the extent that the gain is includable in federal adjusted gross income or in the computation of the alternative minimum taxable income under section 290.091 for purposes of the alternative minimum tax. The amount of the exemption is limited to the excess of the taxpayer's (1) liabilities over (2) the total assets and any exclusion claimed under section 108 of the Internal Revenue Code of 1954, as amended through December 31, 1985, determined immediately before application of this paragraph.

(c) For purposes of this section, any tax due under this chapter specifically includes, but is not limited to, tax imposed under sections 290.02 and 290.03 on income derived from a sale or exchange, whether constituting gain, discharge of indebtedness or recapture of depreciation deductions, or the alternative minimum tax imposed under section 290.091.

Sec. 103. Minnesota Statutes 1986, section 290.50, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE, TIME LIMIT.] (a) A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time)

or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer. For this purpose an income tax return or amended return claiming an overpayment shall constitute a claim for refund.

(b) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable if a claim was filed on the date the credit or refund is allowed.

(c) If a claim relates to an overpayment on account of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim shall be allowed if filed within seven years from the date prescribed in section 290.42 for the filing of the return, and the refund or credit shall be limited to the amount of overpayment attributable to the loss.

(d) For purposes of this section, the prepayment of tax made through the withholding of tax at the source, or payment of estimated tax, prior to the due date of the tax are considered as having been paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date shall be considered as filed on the due date.

(e) Except as provided in sections 273.1314, subdivision 10a, 290.92, subdivision 13, 290.93, subdivision 9, and 290.936, interest on the overpayment refunded or credited to the taxpayer shall be allowed at the rate specified in section 270.76 computed from the date of payment of the tax until the date the refund is paid or credit is made to the taxpayer. However, to the extent that the basis for the refund is a net operating loss carryback or a capital loss carryback, interest shall be computed only from the end of the taxable year in which the loss occurs.

(f) If a taxpayer reports a change in federal gross income, items of tax preference, deductions, credits, or a renegotiation, or files a copy of the taxpayer's amended federal return, within 90 days as provided by section 290.56, subdivision 2, a refund may be made of any overpayment within one year after such report or amended return is filed except as provided in subdivision 2.

(g) There is hereby appropriated from the general fund to the commissioner of revenue the amounts necessary to make payments of refunds allowed pursuant to this section.

Sec. 104. Minnesota Statutes 1986, section 290.56, subdivision 2, is amended to read:

Subd. 2. [CHANGE IN FEDERAL RETURN.] If the amount of gross income, items of tax preference, deductions, or credits for any year of any taxpayer as reported to the Internal Revenue Service is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in gross income, items of tax preference, deductions, or credits, such taxpayer shall report in writing to the commissioner, in such form as the commissioner may require, such change or correction, or the results of such renegotiation, within 90 days ~~thereafter~~ *after the final determination of the change, correction, or renegotiation*, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter a copy of such amended return with the commissioner of revenue.

Sec. 105. Minnesota Statutes 1986, section 290.92, subdivision 2a, is amended to read:

Subd. 2a. [COLLECTION AT SOURCE.] (1) [DEDUCTIONS.] Every employer making payment of wages shall deduct and withhold upon such wages a tax as provided in this section.

(2) [WITHHOLDING ON PAYROLL PERIOD.] The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) [WITHHOLDING TABLES.] Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during the individual's taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year, upon the individual's salary, wages, or compensation for personal services of any kind for the employer, ~~and shall take into consideration the deduction allowable under section 290.089, subdivision 3, and the personal credits allowed against the tax.~~

(4) [MISCELLANEOUS PAYROLL PERIOD.] If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) [MISCELLANEOUS PAYROLL PERIOD.] (a) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in clause (a), in respect of any wages is less than one week, the commissioner, under rules prescribed by the commissioner, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) [WAGES COMPUTED TO NEAREST DOLLAR.] If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) [RULES ON WITHHOLDING.] The commissioner may, by rule, authorize employers:

(a) to estimate the wages which will be paid to any employee in any

quarter of the calendar year;

(b) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) [ADDITIONAL WITHHOLDING.] The commissioner is authorized to provide by rule for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests the changes. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

(9) [TIPS.] In the case of tips which constitute wages, this subdivision shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053 of the Internal Revenue Code of 1954 1986 as amended through December 31, 1985 1986, to which subdivision 1 is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under the employer's control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds as are under the control of the employer minus any tax required by other provisions of state or federal law to be collected from such wages and funds.

(10) [VEHICLE FRINGE BENEFITS.] An employer shall not deduct and withhold any tax under this section with respect to any vehicle fringe benefit provided to an employee if the employer has so elected for federal purposes and the requirement of and the definition contained in section 3402(s) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, are complied with.

Sec. 106. Minnesota Statutes 1986, section 290.92, subdivision 4a, is amended to read:

Subd. 4a. [TAX WITHHELD FROM NONRESIDENTS.] (1) ["WAGES" PAID TO NONRESIDENT EMPLOYEES.] For the purposes of this section: The term "wages" means all remuneration taxable under this chapter including all remuneration paid to a nonresident employee for services performed in this state.

(2) ["EMPLOYER," "WAGES" AND "EMPLOYEE" CONCERNING

NONRESIDENTS.] Notwithstanding any other provision of this section, under rules to be prescribed by the commissioner of revenue, for purposes of this section any person having control, receipt, custody, disposal or payment of compensation taxable under this chapter and earned by a nonresident for personal services, shall be deemed an employer, any compensation taxable under this chapter and earned by a nonresident for personal services shall be deemed wages, and a nonresident entitled to compensation taxable under this chapter and earned by the nonresident for personal services shall be deemed an employee.

When compensation for personal services is paid to a corporation in which all or substantially all of the shareholders are individual entertainers, performers or athletes who gave an entertainment or athletic performance in this state for which the compensation was paid, the compensation shall be deemed wages of the individual entertainers, performers or athletes and shall be subject to the provisions of this section. Advance payments of compensation for personal services to be performed in Minnesota shall be deemed wages and subject to the provisions of this section. ~~The individual, and not the corporation, shall be subject to the Minnesota income tax as provided in this chapter on the compensation for personal services.~~

(3) [NONRESIDENTS, EMPLOYER'S DUTY.] The employer of any employee domiciled in a state with which Minnesota has reciprocity under section 290.081 is not required to withhold under this chapter from the wages earned by such employee in this state *if the employee annually submits to the employer an affidavit of residency in the form prescribed by the commissioner. The affidavit must be submitted by the later of*

(i) 30 days after the employment date or

(ii) August 31 for calendar year 1987 and February 28 for subsequent calendar years.

Sec. 107. Minnesota Statutes 1986, section 290.92, subdivision 5, is amended to read:

Subd. 5. [EXEMPTIONS.] (1) [ENTITLEMENT.] An employee receiving wages shall on any day be entitled to claim withholding exemptions equal to the same number as the personal credits that the employee is entitled to claim under the provisions of section 290.06, subdivision 3f, ~~(not including those credits that the taxpayer's spouse may claim)~~ in a number not to exceed the number of withholding exemptions that the employee claims and that are allowable pursuant to section 3402(f)(1), (m), and (n) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for federal withholding purposes.

(2) [WITHHOLDING EXEMPTION CERTIFICATE.] The provisions concerning exemption certificates contained in section 3402(f)(2) and (3) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply.

(3) [FORM OF CERTIFICATE.] Withholding exemption certificates shall be in such form and contain such information as the commissioner may by rule prescribe.

(4) [NUMBER MAY BE SAME AS THAT FOR FEDERAL PURPOSES.] Notwithstanding the provisions of this subdivision, an employee may elect to claim a number not to exceed the number of withholding

~~exemptions that the employee claims and which are allowable for federal withholding purposes.~~

Sec. 108. Minnesota Statutes 1986, section 290.92, subdivision 5a, is amended to read:

Subd. 5a. [VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL.] (1) An employer shall submit to the commissioner a copy of any withholding exemption certificate *or any affidavit of residency* received from an employee on which the employee claims any of the following:

(a) a total number of withholding exemptions in excess of ~~44~~ *ten* or a number prescribed by the commissioner, or

(b) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates *and affidavits of residency* required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that the employer is required to submit them to the Internal Revenue Service.

(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify entitlement to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, to verify nonresidency. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to the commissioner, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. Notwithstanding the provisions of section 290.61, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

However, where the commissioner has reasonable grounds for believing that the employee is about to leave the state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, notwithstanding

section 290.61, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 109. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. [RETURNS, DEPOSITS.] (1)(a) [RETURNS.] Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than ~~six months~~ 60 days.

(b) [ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.] (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) [OTHER METHODS.] The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which the commissioner deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one

year.

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner 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 to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immediately assess the tax, whether or not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within 3-1/2 years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

(7)(a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3 shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of

this subdivision, any tax required to be withheld in accordance with the provisions of subdivision 2a or 3, or if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as security for any judgment which has been or may be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 110. Minnesota Statutes 1986, section 290.92, subdivision 15, is amended to read:

Subd. 15. [PENALTIES.] (1) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, there shall be added to the tax a penalty equal to ten percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding 25 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(2) If any employer required to withhold a tax on wages, make deposits,

make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000. The penalty imposed by this paragraph is due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to withhold a tax on wages, file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully failing to withhold the tax, file the return, or make the payment or deposit, or (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to an employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) The term "person," as used in this section, includes an officer or

employee of a corporation, or a member or employee of a partnership, who as an officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate *or a residency affidavit* to an employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate *or a residency affidavit* required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event the actor is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 111. Minnesota Statutes 1986, section 290.93, subdivision 10, is amended to read:

Subd. 10. [UNDERPAYMENT OF ESTIMATED TAX.] (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (5) or (6), there must be added to and become a part of the taxes imposed by this chapter, for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment for the period of the underpayment.

(2) For purposes of the preceding paragraph, the amount of underpayment shall be the excess of

(a) the amount of the installment required to be paid over

(b) the amount, if any, of the installment paid on or before the last day prescribed for such payment.

(3) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier

(a) The 15th day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this subparagraph, a payment of estimated tax on any installment date shall be considered a payment of any unpaid required installments in the order in which the installments are required to be paid.

(4) The amount of any installment required to be paid shall be 25 percent of the required annual payment except as provided in paragraph (c). The term "required annual payment" means the lesser of

(a) 80 90 percent (66-2/3 percent in the case of farmers referred to in subdivision 5, paragraph (2)), of the tax shown on the return for the taxable year or 80 90 percent (66-2/3 percent in the case of farmers referred to above) of the tax for the year if no return is filed, or

(b) The total tax liability shown on the return of the individual for the preceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or

(c) An amount equal to the applicable percentage of the tax for the taxable year (~~after deducting personal credits~~) computed by placing on an annualized basis the taxable income and alternative minimum taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The applicable percentage of the tax is 20 22.5 percent in the case of the first installment, 40 45 percent for the second installment, 60 67.5 percent for the third installment, and 80 90 percent for the fourth installment. For purposes of this subparagraph, the taxable income and alternative minimum taxable income shall be placed on an annualized basis by

(i) Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income and alternative minimum taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls.

(5) No addition to the tax shall be imposed under this subdivision for any taxable year if:

(a) the individual did not have any liability for tax for the preceding taxable year,

(b) the preceding taxable year was a taxable year of 12 months, and

(c) the individual was a resident of Minnesota throughout the preceding taxable year.

(6) No addition to the tax shall be imposed under this subdivision with respect to any underpayment to the extent the commissioner determines that the provisions of section 6654(e)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985, apply.

(7) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as the individual's credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and any other refundable credits which are allowed against income tax liability, and the amount of such credits for the taxable year shall be deemed a payment of estimated

tax, and an equal part of such amounts shall be deemed paid on each installment date (determined under subdivisions 6 and 7) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

Sec. 112. Minnesota Statutes 1986, section 290.934, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF UNDERPAYMENT.] For purposes of subdivision 1, the amount of the underpayment shall be the excess of

(1) the amount of ~~the installment tax shown on the return for the tax year or, if no return is filed, the tax for the tax year~~, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 113. Minnesota Statutes 1986, section 290.9725, is amended to read:

290.9725 [ELECTION BY SMALL BUSINESS CORPORATION.]

Any corporation having a valid election in effect under section 1362 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall not be subject to the taxes imposed by this chapter, ~~except the tax imposed under section 290.92:~~

(1) *the corporation is subject to the tax imposed under section 290.92;*
and

(2) *the corporation is subject to the tax imposed under section 290.02 in any tax period in which it recognizes income for federal income tax purposes under Internal Revenue Code, Section 1363(d), 1374, or 1375; the total amount of income recognized is the federal taxable income for the corporation within the meaning of section 290.01, subdivision 19; the provisions of sections 290.01, subdivisions 19a to 19f, and 290.17 to 290.20, must be employed to determine the taxable net income of the corporation; and the taxable net income of the corporation is its taxable income, except that any net operating loss carryforward that arose in a year when there was no election in effect under Section 1362 of the Internal Revenue Code is allowed as a deduction.*

Sec. 114. Minnesota Statutes 1986, section 290.9726, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] The gross income of the shareholders of corporations described in section 290.9725 shall be computed under the provisions of section 290.01, ~~subdivisions subdivision 20 to 20f.~~

Sec. 115. Minnesota Statutes 1986, section 290.9726, subdivision 2, is amended to read:

Subd. 2. [CHARACTER OF ITEMS DISTRIBUTED OR CONSIDERED DISTRIBUTED.] The character of any item of income, gain, loss, or deduction included in shareholder's income, for the period of time that the shareholder is not a resident of Minnesota, shall be ~~assignable as provided in section 290.17, subdivision 2,~~ determined as if the item were realized directly from the source from which it was realized by the corporation or incurred in the same manner as incurred by the corporation.

Sec. 116. Minnesota Statutes 1986, section 290.9726, subdivision 4, is amended to read:

Subd. 4. [TREATMENT OF FAMILY GROUPS.] Any amount of taxable income apportioned or allocated to a shareholder may be apportioned reappportioned or allocated by the commissioner between or among shareholders of the corporation who are members of the shareholder's family, as defined in section 290.10, clause (6) reallocated under the provisions of section 1366(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986, if the commissioner determines that the apportionment or allocation is it necessary in order to correctly reflect the value of services rendered to the corporation by the shareholders.

Sec. 117. Minnesota Statutes 1986, section 290.974, is amended to read:

290.974 [RETURN OF S CORPORATION.]

Every S corporation shall make a return for each taxable year during which said election is in effect stating specifically the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information for the purposes of carrying out the provisions of sections 290.01, subdivisions 20 19 to 20f 19b and 290.9725 as the commissioner may by forms and rules prescribe.

Sec. 118. [290.9741] [ELECTION BY REMIC.]

An entity having a valid election as a Real Estate Mortgage Investment Conduit (REMIC) in effect under section 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall not be subject to the taxes imposed by this chapter except the tax imposed under section 290.92.

Sec. 119. [290.9742] [REMIC INCOME TAXABLE TO HOLDERS OF INTERESTS.]

The income of a REMIC is taxable to the holders of interests in the REMIC as provided in sections 860A to 860G of the Internal Revenue Code of 1986, as amended through December 31, 1986. The income of the holders must be computed under the provisions of this chapter.

Sec. 120. [ESTIMATED TAXES, EXCEPTION.]

Subdivision 1. [CORPORATE MINIMUM TAX.] For taxable years beginning after December 31, 1986, but before January 1, 1988, the commissioner of revenue may not assess any penalties, interest, or additions to tax that are the result of the taxpayer's failure to make sufficient estimated tax payments due to the alternative minimum tax imposed by section 290.092. This exception shall apply only to the extent that the corporation's liability for the alternative minimum tax increases the corporation's liability under the franchise tax imposed by section 290.02.

Subd. 2. [CORPORATE INCOME DEFINITION.] No addition to tax, penalties or interest may be made under Minnesota Statutes, section 290.53 or 290.934 for any period before December 15, 1987, with respect to an underpayment of estimated tax, to the extent the underpayment was created or increased by the enactment of changes in the definition of taxable income enacted as part of the Tax Reform Act of 1986, Public Law Number

99-514, and adopted by reference to federal law.

Subd. 3. [INDIVIDUAL SUBTRACTIONS ELIMINATED.] No addition to tax, penalties, or interest may be made under Minnesota Statutes, section 290.53 or 290.93, for any period before January 15, 1988, with respect to an underpayment of estimated tax, to the extent that the underpayment was created or increased by elimination of the subtractions for pension income, military pay, or unemployment compensation.

Sec. 121. [LUMP SUM DISTRIBUTIONS.]

If an individual elects to treat a lump sum distribution received after December 31, 1986, and before March 16, 1987, as if it were received in taxable year 1986 under section 1124 of the Tax Reform Act of 1986, Public Law Number 99-514, the individual shall treat the distribution as if it were received in taxable year 1986 for purposes of the lump sum distribution tax imposed under Minnesota Statutes 1986, section 290.032.

Sec. 122. [ALTERNATIVE MINIMUM TAX.]

In taxable years beginning prior to January 1, 1988, for purposes of the tax imposed by Minnesota Statutes, section 290.091, section 13208(a), of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law Number 99-272, shall be effective at the same time that it became effective for federal income tax purposes. The time limit for filing a claim or an amended return for the year 1982 shall be the same as the time provided under section 1896 of the Tax Reform Act of 1986, Public Law Number 99-514, for the filing of a similar claim or amended return for federal purposes.

Sec. 123. [MINISTERS; MILITARY PERSONNEL.]

Mortgage interest and property taxes paid by a minister or by military personnel allocable to a parsonage allowance or an off base military allowance are deductible for all taxable years to the extent allowed by section 144 of the Tax Reform Act of 1986, Public Law Number 99-514.

Sec. 124. [DEPARTMENT OF REVENUE STUDY.]

The department of revenue shall study application of the income tax allocation and apportionment rules with respect to income from highly technologically related agricultural production. The department must consider whether the following types of income are income from the operation of a farm:

(1) income of a taxpayer from an operation classified by the United States Department of Commerce Standard Industrial Classification as industrial, manufacturing, or distribution;

(2) income attributable to activities that occur prior to the commencement of the biological process creating the product or other value or after the biological process terminates;

(3) income attributable to testing; research; genetic or biological selection; genetic engineering; creation or licensing of patents, copyrights, trademarks, or other intellectual property; processing, packaging, grading, promotion, or distribution of products or value attributable thereto;

(4) income from any activity, which, if performed by another person not otherwise engaged in farming, would not in itself be farming; or

(5) income derived from the sale, exchange, or distribution of living

livestock and poultry purchased or leased by the taxpayer.

The study shall also consider how income should be apportioned between farm and nonfarm activities, particularly if:

(i) one or more activities or businesses of the taxpayer is wholly separate and unrelated to the taxpayer's farm income; or

(ii) a small proportion of the taxpayer's income is income from the operation of a farm.

In conducting the study the department shall solicit advice and comments from persons outside state government.

The department of revenue shall report to the committee on taxes and tax laws in the senate and the tax committee of the house of representatives by January 1, 1988. The report must summarize the scope and methodology of the study, the conclusions reached, and recommendations for legislation, if any.

Sec. 125. [PURPOSE.]

It is the intent of the legislature to simplify Minnesota's income tax. In order to simplify, many complicating provisions are repealed by this article and the revenue is used to fund income tax relief. It is the clear intent of the legislature to eliminate all carryovers and basis adjustments of these complicating provisions and conform with federal tax law as quickly as possible.

Sec. 126. [INSTRUCTION TO REVISOR:]

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute the phrase "Internal Revenue Code of 1986, as amended through December 31, 1986" for the words "Internal Revenue Code of 1954 as amended through December 31, 1985" wherever that phrase occurs in chapter 290, except in section 290.01, subdivisions 19(e) and 20, and in chapter 291.

Sec. 127. [REPEALER.]

Minnesota Statutes 1986, sections 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.17, subdivision 1a; 290.175; 290.18; 290.19; 290.21, subdivisions 5 and 6; 290.26, subdivision 2; 290.361; and 290.9726, subdivisions 3, 5, and 6, are repealed.

Sec. 128. [REPEAL OF RULES.]

The following parts of Minnesota Rules are repealed: 8001.0500; 8001.0600; 8001.0700; 8002.0100; 8006.0100; 8006.0200; 8007.0100; 8007.0400 to 8007.4000; 8008.0100 to 8008.0500; 8009.0100 to 8009.2700; 8009.4000 to 8009.6500; 8009.7000; 8010.0100 to 8010.0400; 8011.0100 to 8011.1000; 8014.1000 to 8014.2000; 8017.0100; 8017.2000; 8017.3000; 8023.0100 to 8023.0400; 8031.0200; 8031.0400; 8043.0100; 8093.0200, subpart 4; and 8099.0100 to 8099.0400.

Sec. 129. [EFFECTIVE DATE.]

Section 16 is effective the day following final enactment. Section 18 is

effective for taxable years beginning after December 31, 1986, except as otherwise provided in clauses (i) to (v) of that section. Section 58 is effective for losses incurred in taxable years beginning after December 31, 1986. Sections 64 to 72 are effective when the corresponding provisions of the Internal Revenue Code of 1986 are effective. Section 87, paragraph (b) and the provisions in paragraph (c) relating to divestment of a corporation from a unitary group and section 97 are effective for taxable years beginning after December 31, 1985. The remainder of section 87 is effective for taxable years beginning after December 31, 1986. Sections 98 and 99 are effective for taxable years ending after the date of final enactment. Section 104 is effective for final determinations made after the day after enactment of this act. Sections 105 to 110 are effective the day after final enactment. The repeal of Minnesota Statutes 1986, section 290.16, subdivision 4, in section 127, is effective for sales or exchanges occurring after December 31, 1986. The remainder of this article is effective for taxable years beginning after December 31, 1986.

ARTICLE 2

INSURANCE TAXES

Section 1. Minnesota Statutes 1986, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES OTHER THAN TOWN AND FARMERS' MUTUAL AND DOMESTIC MUTUALS OTHER THAN LIFE.] On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, ~~except~~ including town and farmers' mutual insurance companies and domestic mutual insurance companies ~~other than life~~, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6. Failure of a company to make payments of at least one-third of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this ~~subdivision~~ section.

Sec. 2. Minnesota Statutes 1986, section 60A.199, subdivision 1, is amended to read:

Subdivision 1. [EXAMINATION OF BOOKS AND RECORDS.] If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines licensee to determine whether the licensee is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the licensee shall allow the commissioner free access at reasonable times to all of the licensee's books and records relating to the transactions to which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the ~~insurer~~ surplus line agent or agency.

Sec. 3. Minnesota Statutes 1986, section 60A.199, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF RETURNS; ASSESSMENT; REFUNDS.]

The commissioner of revenue shall, as soon as practicable after a return required by section 60A.198 is filed, examine it and make any investigation or examination of the ~~company's licensee's~~ records and accounts that the commissioner deems necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of the examination and investigation is the tax to be paid by the ~~company licensee~~. If the tax found due is greater than the amount reported due on the ~~company's licensee's~~ return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment is mailed to the ~~company licensee~~ by the commissioner. ~~If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the state treasurer within 60 days after notice of the amount thereof and demand for payment is mailed to the company by the commissioner. If the amount of the tax found due by the commissioner is less than that reported due on the company's licensee's return, the excess shall be refunded to the company licensee in the manner provided by this section; except that no demand therefor is necessary, if the whole of the tax has been paid or credited against any unpaid installment thereof.~~ No refund shall be made except as provided in this section after the expiration of 3-1/2 years after the filing of the return.

If the commissioner examines returns of a ~~company licensee~~ for more than one year, the commissioner may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by this section shall be in the form the commissioner determines, including a statement, and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the ~~company licensee~~ at the address given ~~in its~~ on the return. If the address is not given, then they will be sent to the last known address.

At the request of the commissioner of revenue, the commissioner of commerce may examine and investigate the returns under section 60A.198 that the commissioner of revenue designates. The commissioner of commerce shall report to the commissioner of revenue the results of the examination in the manner required by the commissioner of revenue.

Sec. 4. Minnesota Statutes 1986, section 60A.199, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO FILE; FALSE OR FRAUDULENT RETURN.] If any ~~company licensee~~ required by section 60A.198 to file any return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, ~~it the licensee must, on the written demand of the commissioner of revenue, file the return, or corrected return, within 60 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If the company licensee fails within that time to file the return, or corrected return, the commissioner shall make for it a return, or corrected return, from personal knowledge and from the information obtainable through testimony, or otherwise, and assess a tax on the basis thereof. The tax assessed, less any payments theretofore made on account of the tax for the taxable year covered by the return, must be paid within 60 days after the commissioner has mailed to the company licensee a written notice of the~~

amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of the *company licensee* to make a return, or a corrected return, is prima facie correct and valid, and the *company licensee* has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 5. Minnesota Statutes 1986, section 60A.199, subdivision 5, is amended to read:

Subd. 5. [INTENT TO EVADE TAX; PENALTY.] If any *company licensee* with intent to evade the tax imposed by this chapter, fails to file any return required by this chapter or with such intent files a false or fraudulent return there shall also be imposed on it a penalty as provided in section 290.53, subdivision 3.

Sec. 6. Minnesota Statutes 1986, section 60A.199, subdivision 7, is amended to read:

Subd. 7. [COLLECTION OF TAX.] The tax required to be paid by section 60A.198 may be collected in any ordinary action at law by the commissioner of revenue against the *company licensee*. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the court administrator of the district court wherein the action was commenced shall enter judgment for the state for the amount demanded in the complaint together with costs and disbursements.

Sec. 7. Minnesota Statutes 1986, section 60A.199, subdivision 8, is amended to read:

Subd. 8. [REFUND PROCEDURE; TIME LIMIT; APPROPRIATION.] A *company licensee* which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of the excess. Except as provided in subdivision 3, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the *company licensee*. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim the commissioner shall examine ~~the same it~~, shall make ~~and file~~ written findings thereon denying or allowing the claim in whole or in part, and shall mail a notice thereof to the *company licensee* at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue a certificate for a refund of the excess paid by the *company licensee*, with interest at the rate specified in section 270.76 computed from the date of the payment of the tax until the date the refund is paid or credit is made to the *company licensee*. The commissioner of finance shall cause the refund to be paid as other state moneys are expended. So much of the proceeds of the taxes as is necessary are appropriated for that purpose.

Sec. 8. Minnesota Statutes 1986, section 60A.199, subdivision 9, is amended to read:

Subd. 9. [DENIAL OF CLAIM; COURT PROCEEDINGS.] If the claim is denied in whole or in part, the commissioner shall mail an order of

denial to the ~~company~~ licensee in the manner prescribed in this section. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the ~~company~~ licensee may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court shall be commenced within 18 months following the mailing of the order of denial to the ~~company~~ licensee. If a claim for refund is filed by a ~~company~~ licensee and no order of denial is issued within six months of the filing, the ~~company~~ licensee may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

Sec. 9. Minnesota Statutes 1986, section 60A.199, subdivision 10, is amended to read:

Subd. 10. [CONSENT TO EXTEND TIME.] If the commissioner and the ~~company~~ licensee have, within the periods prescribed in ~~subdivision 4~~ by this section, consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, is the period within which the commissioner and the ~~company~~ licensee have consented to an extension for the assessment of the tax and six months thereafter, the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

Sec. 10. Minnesota Statutes 1986, section 60A.199, subdivision 11, is amended to read:

Subd. 11. [OVERPAYMENT; REFUNDS.] If the amount determined to be an overpayment exceeds the taxes imposed by section 60A.198, the amount of excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which the amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner, within the applicable period of limitations, shall refund any balance of more than \$1 to the ~~company~~ \$10 if the ~~company~~ licensee so requests.

Sec. 11. Minnesota Statutes 1986, section 60A.209, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION; REGULATION.] A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines licensee. The licensee shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not obtainable from a licensed insurer or an eligible surplus lines insurer, the licensee shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the licensee shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10 point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE

COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

Sec. 12. Minnesota Statutes 1986, section 60A.209, subdivision 3, is amended to read:

Subd. 3. [DUTY TO REPORT.] Each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or subdivision 1 of this section shall file a written report regarding the insurance with the commissioner of revenue on forms prescribed by the commissioner of revenue and furnished to the insured upon request. The report shall be filed within 30 days after the date the insurance was procured, continued, or renewed and shall be accompanied by the tax on the premiums of two percent. The report shall show all of the following:

- (a) The name and address of the insured;
- (b) The name and address of the insurer;
- (c) The subject of the insurance;
- (d) A general description of the coverage;
- (e) The amount of premium currently charged for the insurance; and
- (f) Any additional pertinent information reasonably requested by the commissioner of revenue.

Sec. 13. Minnesota Statutes 1986, section 60C.06, is amended by adding a subdivision to read:

Subd. 5. [SURCHARGE.] (a) *The plan of operation adopted pursuant to section 60C.07 must require each member insurer to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this chapter applies.*

(b) *The amount of any surcharge must be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these are mandatory for all member insurers of the association who write business in those categories. The amount of the surcharge determined under this section is included in the insurance company's premiums for purposes of the gross premiums tax imposed under section 60A.15.*

(c) *The plan of operation may permit a member insurer to omit collection of the surcharge from its insured when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.*

Sec. 14. Minnesota Statutes 1986, section 61B.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] Sections 61B.01 to 61B.16 apply to direct life insurance policies, health insurance policies *including subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C*, annuity contracts, and contracts supplemental to life and health insurance policies or annuity contracts, issued by persons authorized at any time to transact insurance or business as a nonprofit health service plan corporation operating under chapter 62C in this state. Sections 61B.01 to 61B.16 do not apply to:

(a) any policy or contract or part thereof under which the risk is borne by the policyholder;

(b) any policy or contract or part thereof assumed by an impaired insurer under a contract of reinsurance other than reinsurance for which assumption certificates have been issued;

(c) any policy or contract issued by an assessment benefit association operating under chapter 63, or a fraternal benefit society operating under chapter 64B;

~~(d) any subscriber contract issued by a nonprofit health service plan corporation operating under chapter 62C; or~~

~~(e)~~ (d) any health insurance policies issued by a person other than a person authorized to write life insurance in this state or other than a person whose corporate charter would permit the writing of life insurance but who is authorized to write only health insurance in this state.

Sec. 15. Minnesota Statutes 1986, section 61B.03, subdivision 8, is amended to read:

Subd. 8. "Health insurance" means accident and health insurance regulated under chapter 62A and credit accident and health insurance regulated under chapter 62B *and subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C*.

Sec. 16. Minnesota Statutes 1986, section 61B.03, subdivision 10, is amended to read:

Subd. 10. "Member insurer" means any person authorized to transact in this state any kind of insurance or business to which sections 61B.01 to 61B.16 apply under section 61B.02.

Sec. 17. Minnesota Statutes 1986, section 62E.02, subdivision 23, is amended to read:

Subd. 23. "Contributing member" means those companies operating pursuant to chapter 62A, ~~paying premium taxes pursuant to section 60A.15,~~ and offering, selling, issuing, or renewing policies or contracts of accident and health insurance or health maintenance organizations and nonprofit health service plan corporations incorporated under chapter 62C or fraternal benefit society operating under chapter 64.

Sec. 18. Minnesota Statutes 1986, section 67A.11, subdivision 3, is amended to read:

Subd. 3. [ANNUAL STATEMENT.] (a) On or before March first, following the end of each fiscal year, the president and the secretary shall file with the commissioner a verified statement of the entire business and condition of the company, which statement shall contain such data and information in reference to the business of the preceding fiscal year as shall be required by the commissioner.

(b) On or before March 1 of each year, the president and secretary shall also file with the commissioner of revenue a copy of the verified statement required by paragraph (a). Failure to file the statement on or before March 1 will subject the company to a penalty of \$10 a day up to a maximum of \$100.

Sec. 19. Minnesota Statutes 1986, section 69.011, subdivision 1, is amended to read:

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

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

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

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

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

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

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in ~~auto liability-bodily injury, auto liability-property damage, and auto physical damage insurance coverages~~ as reported in the Minnesota business schedule of the ~~fire and casualty insurance companies~~ annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct

employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

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

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

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

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

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

(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section 424A.05, subdivision 3, clauses (2), (3) and (4).

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

Sec. 20. Minnesota Statutes 1986, section 69.011, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATION FOR FIRE OR POLICE STATE AID.] (a) In order to qualify to receive fire state aid, on or before July 1, annually, in conjunction with the financial report required pursuant to section 69.051, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association whichever is applicable, and the ~~secretary and the treasurer of the firefighters' relief association~~ *fire chief*, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31. Certification shall be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification shall be made to the commissioner in duplicate. Each copy of the certificate shall be duly executed and deemed an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and retain one copy.

(b) On or before July 1 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form pre-

scribed by the commissioner together with the other facts the commissioner or auditor may require.

On or before July 1 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (h), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers employed less than a full year shall be apportioned. Each full month of employment of a qualifying officer during the calendar year shall entitle the employing municipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a peace officer shall commence when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer shall be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 21. Minnesota Statutes 1986, section 69.021, subdivision 1, is amended to read:

Subdivision 1. [MINNESOTA FIRETOWN PREMIUM REPORT AND MINNESOTA AID TO POLICE PREMIUM REPORT.] The commissioner of revenue shall, at the time of mailing annual statement and tax forms, send blank copies of the Minnesota Firetown Premium Report and when applicable the Minnesota Aid to Police Premium Report to each insurer, including township and farmers mutual insurance companies licensed to write insurance as described in section 69.011, subdivision 1, clauses (c) and (f) in this state. These reports shall contain space for the insurers name, address, gross premiums less return premiums, dividends, net premiums, certification and other facts the commissioner may require.

Sec. 22. Minnesota Statutes 1986, section 69.021, subdivision 2, is amended to read:

Subd. 2. [REPORT OF PREMIUMS.] Each insurer, including township and farmers mutual insurers where applicable, shall return to the commissioner of commerce with its annual financial statement the reports described in subdivision 1 certified by its secretary and president or chief financial officer. The Minnesota Firetown Premium Report shall contain a true and accurate statement of the total premium for all gross direct fire, lightning, and sprinkler leakage insurance of all domestic mutual insurers and the total premiums for all gross direct fire, lightning, sprinkler leakage and extended coverage insurance of all other insurers, less return premiums and dividends received by them on that business written or done during the preceding calendar year upon property located within the state or brought into the state for temporary use. The fire and extended coverage portion of multiperil and multiple peril package premiums and all other combination premiums shall be determined by applying percentages determined by the commissioner of commerce or by rating bureaus recognized by the commissioner of commerce. The Minnesota Aid to Police Premium Report shall contain a true and accurate statement of the total premiums, less return premiums and dividends received, on all direct business received by such insurer in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for perils described in section 69.011, subdivision 1, clause (f), except that domestic mutual insurance companies must not file a report.

Each insurer shall, in addition to filing with the commissioner of com-

~~meree the reports required by this subdivision, file the reports required by this subdivision with the commissioner of revenue.~~

Sec. 23. Minnesota Statutes 1986, section 69.021, subdivision 3, is amended to read:

Subd. 3. [PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF COMMERCE.] When it appears to the commissioner of ~~commerce~~ that any insurer has made an incomplete or inaccurate report the commissioner of ~~commerce~~ shall return the report and demand that a complete and accurate report be filed. If the insurer fails to file a report ~~by on or before March 1, annually, or within 30 days after demand by the commissioner of commerce,~~ the insurer shall be liable and shall pay \$25 for each seven days delinquent or fraction thereof ~~not to exceed \$200. If the insurer fails to file a corrected report within 30 days after demand, the insurer is liable for the penalties provided in this subdivision for knowingly filing an inaccurate or false report.~~

Any insurer who knowingly makes and files an inaccurate or false report shall be liable to a fine of not less than \$25 nor more than \$1,000 and the commissioner of commerce may revoke the insurer's certificate of authority.

Any person whose duty it is to make the report who fails or refuses to make it within 30 days after notification by the commissioner of ~~commerce~~ shall be fined not more than \$1,000. Failure of the insurer to receive a reporting form shall not excuse the insurer from filing the report.

Sec. 24. Minnesota Statutes 1986, section 69.54, is amended to read:

69.54 [SURCHARGE ON PREMIUMS TO RESTORE DEFICIENCY IN SPECIAL FUND.]

The commissioner shall order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any *licensed* foreign or domestic fire insurance company on property in this city of the first class, or by its agents for it, in cash or otherwise. This surcharge shall be due and payable from these companies to the state treasurer, ~~in equal installments,~~ on March 15, May 15, and November 15 of each calendar year, and if not paid within 30 days after these dates, a penalty of ten percent shall accrue thereon and thereafter this sum and penalty shall draw interest at the rate of one percent per month until paid.

Sec. 25. Minnesota Statutes 1986, section 69.55, is amended to read:

69.55 [WARRANT ON STATE TREASURER.]

The commissioner of finance ~~semiannually after July 31, 1934, by July 31 and December 31 of each year~~ shall issue and deliver to the treasurer of the relief association in ~~such each city~~ a warrant upon the state treasurer for an amount equal to the total amount of the surcharge on the premiums within the city theretofore so collected and transmitted to the state treasurer by these insurance companies. There is ~~hereby appropriated out of any money in from the general fund in the state treasury not otherwise appropriated such sums as may, from time to time, be the amount necessary to pay these warrants.~~

Sec. 26. Minnesota Statutes 1986, section 79.34, subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15. ~~The reinsurance association is exempt from taxation under the laws of this state and~~ All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 27. Minnesota Statutes 1986, section 79.34, is amended by adding a subdivision to read:

Subd. 1a. The direct funded premium received by the reinsurance association is subject to the gross premium tax imposed by section 60A.15. Only direct funded premium payments made to the reinsurance association by self-insurers approved pursuant to section 176.181 and each political subdivision that self-insures shall be subject to the gross premiums tax.

Sec. 28. Minnesota Statutes 1986, section 176.129, subdivision 4a, is amended to read:

Subd. 4a. [CONTRIBUTION RATE ADJUSTMENT.] In determining the rate of adjustment as provided by subdivision 3, the commissioner shall determine the revenues received less claims received for the preceding 12 months ending June 30, 1984, and each June 30 thereafter.

If the result is:	the range of adjustment is:
over \$15,000,000	-10% to 0%
less than \$15,000,000 but more than \$10,000,000	-7% to +3%
less than \$10,000,000 but more than \$5,000,000	-5% to +5%
less than \$5,000,000 but more than \$0	-3% to +7%
\$0 but less than a \$5,000,000 deficit	0% to +10%
more than a \$5,000,000 deficit	+5% to +12%

The adjustment under this subdivision shall be used for assessments for calendar year 1984 and each year thereafter.

An amount assessed pursuant to this section is payable to the commissioner within 45 days of mailing notice of the amount due unless the commissioner orders otherwise.

The commissioner may allow an offset of the reimbursements due an employer pursuant to sections 176.131 and 176.132 against the assessment due under this section and may promulgate rules to establish the terms and conditions under which an employer will be allowed the offset.

Sec. 29. Minnesota Statutes 1986, section 176A.08, is amended to read:

176A.08 [EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.]

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, and 43A. However, the fund shall be subject to sections 179A.01 to 179A.25. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of commerce has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15, subdivision 2. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

Sec. 30. Minnesota Statutes 1986, section 299F21, subdivision 1, is amended to read:

Subdivision 1. [ESTIMATED INSTALLMENT PAYMENTS.] On or before April 15, June 15, and December 15 of each year, every licensed insurance company, including reciprocals, or interinsurance exchanges or Lloyds, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall pay to the

commissioner of revenue installments equal to one-third of, a tax upon its fire premiums or assessments or both, as follows:

A based on a sum equal to one-half of one percent of the estimated gross fire premiums and assessments, less return premiums and dividends, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund.

If the tax prescribed by this section is not paid by those dates, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed. A company that fails to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year is subject to the penalty and interest provided in this chapter.

Sec. 31. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1a. [ADDITION TO THE TAX.] In case of an underpayment of installments by an insurer, there must be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

Sec. 32. Minnesota Statutes 1986, section 299F.21 is amended by adding a subdivision to read:

Subd. 1b. [AMOUNT OF UNDERPAYMENT.] For purposes of subdivision 1a, the amount of the underpayment is the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 33. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1c. [PERIOD OF UNDERPAYMENT.] The period of the underpayment runs from the date the installment was required to be paid to the earliest of the following dates:

(1) on March 1 following the close of the taxable year;

(2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under clause (1), for the installment date.

Sec. 34. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1d. [DEFINITION OF TAX.] The term "tax" means the tax imposed by chapter 299F.

Sec. 35. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1e. [FAILURE TO FILE AN ESTIMATE.] In the case of an insurer that fails to file an estimated tax statement for a taxable year when one is

required, the period of the underpayment runs from the installment dates as set forth in subdivision 1 to whichever of the periods set forth in subdivision 1c is the earlier.

Sec. 36. Minnesota Statutes 1986, section 299F.21, subdivision 2, is amended to read:

Subd. 2. [ANNUAL RETURNS.] (a) Every insurer required to pay a ~~premium~~ tax under this section shall make and file a statement of estimated ~~premium~~ taxes for the period covered by the installment tax payment. The statement shall be in the form prescribed by the commissioner of revenue.

(b) On or before March 1, annually every insurer subject to taxation under this section shall make an annual return for the preceding calendar year setting forth information the commissioner of revenue may reasonably require on forms prescribed by the commissioner.

(c) On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, the overpayment may be credited without interest on the estimated tax due April 15.

(d) If unpaid by this date, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.

Sec. 37. [COMPUTATION OF 1987 GROSS PREMIUMS TAX.]

For calendar year 1987 the gross premiums tax under Minnesota Statutes, section 60A.15, as applied to the premiums of town and farmers mutual insurance companies, domestic mutual insurance companies, and the workers' compensation reinsurance association or other companies or entities that were exempt prior to enactment of this act shall equal one-half of the amount of tax that would be due if the tax were imposed for the full calendar year. Estimated tax equal to, at least, 80 percent of the tax computed under this section must be paid by December 15, 1987, or the penalties and interest for failure to pay or for underpayments of estimated tax under Minnesota Statutes, section 60A.15, apply.

Sec. 38. [REPEALER.]

(a) Minnesota Statutes 1986, sections 60A.15, subdivision 2; 61A.49; 62E.13, subdivision 9; and 69.021, subdivision 3a, are repealed.

(b) Section 62E.11, subdivision 8, is repealed.

Sec. 39. [EFFECTIVE DATE.]

Section 17 is effective January 1, 1987 for the calendar year 1987 assessments of the Comprehensive Health Association. Section 38, clause (b) is effective for taxable years beginning after December 31, 1986. The remainder of the article is effective July 1, 1987.

ARTICLE 3

PROPERTY TAX REFUND

Section 1. Minnesota Statutes 1986, section 290A.03, subdivision 3, is amended to read:

Subd. 3. [INCOME.] (1) "Income" means the sum of the following:

(a) *the greater of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1985 or zero;* and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in section 290.01, subdivision 20a, clauses (1), (2), (3), and (4);

(ii) all nontaxable income;

(iii) ~~recognized net long-term capital gains~~ (ii) *the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (1) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;*

(iv) ~~dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954~~ (iii) *an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;*

(v) (iv) cash public assistance and relief;

(vi) (v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vii) (vi) ~~nontaxable interest received from the state or federal or a state government or any instrumentality or political subdivision thereof;~~

(viii) (vii) workers' compensation;

(ix) (viii) ~~unemployment benefits;~~

(x) ~~nontaxable strike benefits;~~

(xi) (ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

(xii) (x) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954; and

(xiii) (xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code of 1954; or deferred compensation plan under section 457 of the Internal Revenue Code of 1954.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carryback.

(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a), 102, 117, and 121;

(b) amounts of any pension or annuity which was exclusively funded by

the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter; *or*

(e) child support payments received under a temporary or final decree of dissolution or legal separation; *or*

(f) the first \$2,000 of household income if the claimant was disabled on or before June 1 or attained the age of 65 prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid.

Sec. 2. Minnesota Statutes 1986, section 290A.03, subdivision 8, is amended to read:

Subd. 8. [CLAIMANT.] (a) "Claimant" means a person, other than a dependent, who filed a claim authorized by this chapter and who was ~~domiciled in a resident of this state as provided in chapter 290~~ during the calendar year for which the claim for relief was filed.

(b) In the case of a claim relating to rent constituting property taxes, the claimant shall have resided in a rented or leased unit on which ad valorem taxes or payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes, are payable at some time during the calendar year covered by the claim.

(c) "Claimant" shall not include a resident of a nursing home, intermediate care facility, or long-term residential facility whose rent constituting property taxes is paid pursuant to the supplemental security income program under title XVI of the Social Security Act, the Minnesota supplemental aid program under sections 256D.35 to 256D.41, the medical assistance program pursuant to title XIX of the Social Security Act, or the general assistance medical care program pursuant to section 256D.03, subdivision 3. If only a portion of the rent constituting property taxes is paid by these programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section 290A.04 shall be multiplied by a fraction, the numerator of which is income as defined in subdivision 3 reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in subdivision 3 plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter. ~~For purposes of this paragraph and paragraph (d), household income or income as defined in subdivision 3 must not be reduced by the \$2,000 reduction provided in subdivision 3, paragraph (2), clause (f), for claimants who are disabled or age 65 or more.~~

(d) Notwithstanding paragraph (c), if the claimant was a resident of the nursing home, intermediate care facility or long-term residential facility for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home, intermediate care facility, or long-term residential facility and use only that amount of rent con-

stituting property taxes or property taxes payable relating to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

(e) In the case of a claim for rent constituting property taxes of a part-year Minnesota resident, the income and rental reflected in this computation shall be for the period of Minnesota residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. If a homestead property owner was a part-year Minnesota resident, the income reflected in the computation made pursuant to section 290A.04 shall be for the entire calendar year, including income not assignable to Minnesota.

(f) If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be each renter's household income for purposes of computing the amount of credit to be allowed.

Sec. 3. Minnesota Statutes 1986, section 290A.03, is amended by adding a subdivision to read:

Subd. 15. [INTERNAL REVENUE CODE.] "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 4. Minnesota Statutes 1986, section 290A.04, subdivision 2, is amended to read:

Subd. 2. A claimant who is disabled or has attained the age of 65 by June 1 of the year in which a refund is payable or who, on the federal tax return filed for the prior year, claimed a personal exemption for a dependent pursuant to section 151 of the Internal Revenue Code, and whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and up to \$2,999	1.0 percent	5 percent	\$1,125
3,000 to 3,499	1.0 percent	6 percent	\$1,125
3,500 to 3,999	1.0 percent	7 percent	\$1,125
4,000 to 4,499	1.0 percent	8 percent	\$1,125
4,500 to 4,999	1.0 percent	9 percent	\$1,125
5,000 to 5,999	1.0 percent	10 percent	\$1,125
6,000 to 6,999	1.0 percent	11 percent	\$1,125

7,000 to 7,999	1.0 percent	12 percent	\$1,125
8,000 to 8,999	1.1 percent	13 percent	\$1,125
9,000 to 9,999	1.2 percent	14 percent	\$1,125
10,000 to 10,999	1.3 percent	15 percent	\$1,125
11,000 to 11,999	1.4 percent	16 percent	\$1,125
12,000 to 12,999	1.5 percent	17 percent	\$1,125
13,000 to 13,999	1.5 percent	18 percent	\$1,125
14,000 to 14,999	1.5 percent	19 percent	\$1,125
15,000 to 15,999	1.5 percent	20 percent	\$1,125
16,000 to 16,999	1.5 percent	21 percent	\$1,125
17,000 to 17,999	1.5 percent	22 percent	\$1,125
18,000 to 18,999	1.5 percent	23 percent	\$1,125
19,000 to 19,999	1.5 percent	24 percent	\$1,125
20,000 to 20,999	1.6 percent	25 percent	\$1,125
21,000 to 21,999	1.6 percent	27 percent	\$1,125
22,000 to 22,999	1.6 percent	29 percent	\$1,125
23,000 to 23,999	1.8 percent	31 percent	\$1,125
24,000 to 24,999	1.8 percent	33 percent	\$1,105
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$990
29,000 to 29,999	2.0 percent	47 percent	\$960
30,000 to 30,999	2.0 percent	50 percent	\$930
31,000 to 31,999	2.2 percent	50 percent	\$900
32,000 to 32,999	2.2 percent	50 percent	\$800
33,000 to 33,999	2.2 percent	50 percent	\$700
34,000 to 34,999	2.2 percent	50 percent	\$600
35,000 to 35,999	2.2 percent	50 percent	\$500
36,000 to 36,999	2.4 percent	50 percent	\$400
37,000 to 37,999	2.4 percent	50 percent	\$300
38,000 to 38,999	2.4 percent	50 percent	\$200
39,000 to 39,999	2.4 percent	50 percent	\$100
40,000 and over	2.4 percent	50 percent	0
\$0 to 999	1.0 percent	10 percent	\$1,100
1,000 to 1,999	1.0 percent	10 percent	\$1,100
2,000 to 2,999	1.0 percent	10 percent	\$1,100
3,000 to 3,499	1.0 percent	11 percent	\$1,100
3,500 to 3,999	1.0 percent	11 percent	\$1,100
4,000 to 4,499	1.0 percent	11 percent	\$1,100
4,500 to 4,999	1.0 percent	12 percent	\$1,100
5,000 to 5,999	1.0 percent	12 percent	\$1,100
6,000 to 6,999	1.1 percent	12 percent	\$1,100
7,000 to 7,999	1.1 percent	13 percent	\$1,100
8,000 to 8,999	1.2 percent	13 percent	\$1,100
9,000 to 9,999	1.2 percent	13 percent	\$1,100
10,000 to 10,999	1.3 percent	14 percent	\$1,075
11,000 to 11,999	1.4 percent	14 percent	\$1,075
12,000 to 12,999	1.5 percent	14 percent	\$1,075
13,000 to 13,999	1.5 percent	15 percent	\$1,075
14,000 to 14,999	1.5 percent	16 percent	\$1,075
15,000 to 15,999	1.6 percent	17 percent	\$1,075
16,000 to 16,999	1.7 percent	18 percent	\$1,075
17,000 to 17,999	1.8 percent	19 percent	\$1,050
18,000 to 18,999	1.9 percent	20 percent	\$1,050

19,000 to 19,999	2.0 percent	22 percent	\$1,050
20,000 to 20,999	2.1 percent	24 percent	\$1,050
21,000 to 21,999	2.2 percent	26 percent	\$1,050
22,000 to 22,999	2.2 percent	28 percent	\$1,050
23,000 to 23,999	2.2 percent	30 percent	\$1,025
24,000 to 24,999	2.3 percent	32 percent	\$1,025
25,000 to 25,999	2.3 percent	34 percent	\$1,025
26,000 to 26,999	2.3 percent	36 percent	\$1,025
27,000 to 27,999	2.4 percent	38 percent	\$1,000
28,000 to 28,999	2.4 percent	40 percent	\$ 900
29,000 to 29,999	2.4 percent	42 percent	\$ 800
30,000 to 30,999	2.4 percent	44 percent	\$ 700
31,000 to 31,999	2.5 percent	46 percent	\$ 600
32,000 to 32,999	2.5 percent	48 percent	\$ 500
33,000 to 33,999	2.5 percent	50 percent	\$ 300
34,000 to 34,999	2.5 percent	50 percent	\$ 100

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is \$40,000 \$35,000 or more.

Sec. 5. Minnesota Statutes 1986, section 290A.04, is amended by adding a subdivision to read:

Subd. 2a. A claimant who is ineligible for a refund pursuant to subdivision 2 and whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund equals the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
\$0 to 999	2.5 percent	10 percent	\$1,100
1,000 to 1,999	2.5 percent	10 percent	\$1,100
2,000 to 2,999	2.5 percent	10 percent	\$1,100
3,000 to 3,499	2.5 percent	11 percent	\$1,100
3,500 to 3,999	2.5 percent	11 percent	\$1,100
4,000 to 4,499	2.5 percent	11 percent	\$1,100
4,500 to 4,999	2.5 percent	12 percent	\$1,100
5,000 to 5,999	2.5 percent	12 percent	\$1,100
6,000 to 6,999	2.6 percent	12 percent	\$1,100
7,000 to 7,999	2.6 percent	13 percent	\$1,100
8,000 to 8,999	2.7 percent	13 percent	\$1,100
9,000 to 9,999	2.7 percent	13 percent	\$1,100
10,000 to 10,999	2.8 percent	14 percent	\$1,075
11,000 to 11,999	2.9 percent	14 percent	\$1,075
12,000 to 12,999	3.0 percent	14 percent	\$1,075
13,000 to 13,999	3.0 percent	15 percent	\$1,075
14,000 to 14,999	3.0 percent	16 percent	\$1,075
15,000 to 15,999	3.1 percent	17 percent	\$1,075
16,000 to 16,999	3.2 percent	18 percent	\$1,075

17,000 to 17,999	3.3 percent	19 percent	\$1,050
18,000 to 18,999	3.4 percent	20 percent	\$1,050
19,000 to 19,999	3.5 percent	22 percent	\$1,050
20,000 to 20,999	3.6 percent	24 percent	\$1,050
21,000 to 21,999	3.7 percent	26 percent	\$1,050
22,000 to 22,999	3.7 percent	28 percent	\$1,050
23,000 to 23,999	3.7 percent	30 percent	\$1,025
24,000 to 24,999	3.8 percent	32 percent	\$1,025
25,000 to 25,999	3.8 percent	34 percent	\$1,025
26,000 to 26,999	3.8 percent	36 percent	\$1,025
27,000 to 27,999	3.9 percent	38 percent	\$1,000
28,000 to 28,999	3.9 percent	40 percent	\$ 900
29,000 to 29,999	3.9 percent	42 percent	\$ 800
30,000 to 30,999	3.9 percent	44 percent	\$ 700
31,000 to 31,999	4.0 percent	46 percent	\$ 600
32,000 to 32,999	4.0 percent	48 percent	\$ 500
33,000 to 33,999	4.0 percent	50 percent	\$ 300
34,000 to 34,999	4.0 percent	50 percent	\$ 100

The payment made to a claimant must be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is \$35,000 or more.

Sec. 6. Minnesota Statutes 1986, section 290A.04, is amended by adding a subdivision to read:

Subd. 2b. The commissioner may reconstruct the tables in subdivisions 2 and 2a to reflect the elimination of the homestead credit beginning for claims based on taxes payable in 1989.

Sec. 7. Minnesota Statutes 1986, section 290A.06, is amended to read:

290A.06 [FILING TIME LIMIT, LATE FILING; INCOME TAX RETURN.]

Any claim for a refund based on property taxes payable shall be filed with the department of revenue on or before August 15 of the year in which the property taxes are due and payable. A copy of the claimant's federal income tax return for the taxable year preceding the year in which the property taxes are payable must be filed with the claim if the claimant filed a federal income tax return for that year.

Any claim for rent constituting property taxes shall be filed with the department of revenue on or before August 15 of the year following the year in which the rent was paid. A copy of the claimant's federal income tax return for the taxable year in which the rent was paid must be filed with the claim if the claimant filed a federal income tax return for that year.

The commissioner may extend the time for filing these claims for a period not to exceed six months in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good cause exists.

A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent which may be canceled or reduced by the commissioner in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good

cause exists. In any event no claim shall be allowed if the initial claim is filed one year after the original due date for filing the claim.

The time limit on redetermination of claims for refund and examination of records shall be governed by sections 290.49, 290.50, and 290.56 and for purposes of computing the time limit as provided in these sections the due date of the property tax refund return shall be the same as the due date contained in section 290.42 for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

Sec. 8. [290A.091] [CLAIMS OF TENANTS IN LEASEHOLD COOPERATIVES.]

The cooperative manager of a leasehold cooperative shall furnish a statement to each tenant by March 31 of the year in which the property tax is payable showing each unit's share of the gross property tax and each unit's share of any property tax credits. Each tenant may apply for a property tax refund under this chapter as a homeowner based on each tenant's share of property taxes. The tenant may not include any rent constituting property taxes paid on that unit.

Sec. 9. Minnesota Statutes 1986, section 290A.18, is amended to read:
290A.18 [RIGHT TO FILE CLAIM; RIGHT TO RECEIVE CREDIT.]

Subdivision 1. [CLAIM BY SURVIVING SPOUSE OR DEPENDENT.]
If a person entitled to relief under this chapter dies prior to receiving relief, the surviving spouse or dependent of the person shall be entitled to file the claim and receive relief. If there is no surviving spouse or dependent, the right to the credit shall lapse.

Subd. 2. [CLAIMANT CANNOT BE LOCATED.] *If the commissioner cannot locate the claimant within two years from the date that the original warrant was issued, the right to the credit shall lapse, and the warrant shall be deposited in the general fund.*

Sec. 10. Minnesota Statutes 1986, section 290A.19, is amended to read:

290A.19 [OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; PENALTY.]

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent constituting property tax to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the owner or managing agent has the option to either provide the certificate to the renter at the time of moving, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate shall be made available to the renter not later than January 31 of the year following the year in which the rent was paid.

(b) Any owner or managing agent who willfully fails to furnish a certificate ~~as provided herein shall be to the renter and the commissioner as required by this section~~ is liable to the commissioner for a penalty of \$20 \$100 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax. *If the owner or managing agent willfully furnishes certificates that report total rent constituting property taxes in excess of the amount of actual property taxes paid on the rented part of a property,*

as determined under this section, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. If the owner or managing agent reports a total amount of rent constituting property taxes that exceeds by ten percent or more the actual property taxes, the report is deemed to be willful.

(b) (c) If the owner or managing agent elects to provide the renter with the certificate at the time of moving, rather than after December 31, the amount of rent constituting property taxes shall be computed as follows:

(i) The net tax shall be reduced by 1/12 for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy shall be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

(c) (d) The certificate of rent constituting property taxes shall include the address of the property, including the county, and the property tax parcel identification number and any additional information which the commissioner determines is appropriate.

(d) (e) If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer which gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

(f) *The owner or managing agent must file a copy of the certificate of rent paid with the commissioner before April 15 of the year following the year in which the rent was paid. The commissioner may require that each owner or managing agent report on a single form the total property taxes for a property and the allocation of the property taxes as rent constituting property taxes among the renters of the property.*

Sec. 11. [AUDIT; REPORT TO LEGISLATURE.]

The department of revenue shall, during fiscal years 1988 and 1989, verify and audit a sample of property tax refund claims for accuracy. The sampling methods, size of the sample, and the study methodology must permit reliable conclusions to be drawn regarding compliance with the property tax refund law by both renters and landlords regarding the reporting of household income, property taxes paid, and rent constituting property taxes by claimants and landlords. The department shall report the results of the study to the legislature by February 1, 1989.

Sec. 12. [LIMITATIONS ON PROPERTY TAX REFUNDS.]

(a) *For claims filed based on rent paid in 1986 and property taxes payable in 1987, the commissioner shall pay 67 percent of the payments allowable under section 290A.04, subdivisions 1 and 2. The commissioner shall include with each reduced refund a statement that the reduction is required by this section.*

(b) *Minnesota Statutes 1986, section 290A.23 does not apply to claims based on property taxes payable in 1988 and rent paid in 1987 under*

section 290A.04, subdivisions 1 and 2. \$125,000,000 is appropriated to the commissioner of revenue for fiscal year 1989 to pay the claims. The commissioner shall estimate the amount of payments allowable under section 290A.04, subdivisions 1 and 2, by August 25, 1988. If the estimate exceeds the \$125,000,000 limitation, the commissioner shall proportionally reduce the refunds paid so that the refunds paid equal \$125,000,000. All refunds for claims based on property taxes payable in 1988 and rent paid in 1987 must be reduced by the same percentage. If reduced, the commissioner shall include with each refund a statement that the reduction is required by this section.

Sec. 13. [REPEALER.]

Minnesota Statutes 1986, section 290A.04, subdivisions 2e and 2g, are repealed.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 8 and 10 are effective for claims based on property taxes payable in 1988 and rent paid during calendar year 1987, and thereafter, except the requirement in section 10 that copies of the certificate of rent paid be filed with the commissioner of revenue is effective for rent paid during calendar year 1988. Section 9 is effective the day following final enactment and applies to all unclaimed warrants held by the commissioner on January 1, 1987, or issued after that date.

ARTICLE 4

SALES TAX

Section 1. 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 meals or drinks served to patients or persons residing at 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.~~ "Sales" also includes meals furnished by employers to employees at less than fair market value. 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, recreational areas, or athletic events and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, massage parlors, health clubs, and spas 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, and interstate toll service, if that service originates from and is charged to a telephone located in this state; 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 furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter; and*

(j) *The furnishing for a consideration of services listed in this paragraph:*

(i) *laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;*

(ii) *motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;*

(iii) *building and residential cleaning, maintenance, and disinfecting and exterminating services;*

(iv) *services provided by detective agencies, security services, burglar, fire alarm, and armored car services;*

(v) *pet grooming services; and*

(vi) *lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for public utility lines.*

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a corporation, partnership, or association for another corporation, partnership, or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity.

(k) *A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program.*

Sec. 2. Minnesota Statutes 1986, section 297A.01, subdivision 4, is amended to read:

Subd. 4. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business. Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. *Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale.* Sales of building materials, supplies and equipment to owners,

contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and whether or not for purpose of resale in the form of real property or otherwise. A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property. Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall ~~not~~ be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall ~~not~~ be considered a sale ~~notwithstanding subdivision 3 if the tax imposed by this chapter was paid on the initial purchase as provided by this subdivision.~~

Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section 297A.14.

Sec. 3. Minnesota Statutes 1986, section 297A.01, subdivision 8, is amended to read:

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to (f). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales; or the amount refunded either in cash or in credit for property returned by purchasers ~~or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.~~

Sec. 4. Minnesota Statutes 1986, section 297A.01, subdivision 11, is amended to read:

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

Personal property does not include:

(a) large ponderous machinery and equipment used in a business or

production activity which at common law would be considered to be real property;

(b) property which is subject to an ad valorem property tax;

(c) property described in section 272.02, subdivision 1, clause (8), paragraphs (a) to (d);

(d) property described in section 272.03, subdivision 2, clauses (3) and (5).

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices.

Sec. 5. Minnesota Statutes 1986, section 297A.01, is amended by adding a subdivision to read:

Subd. 17. [CUSTOM COMPUTER PROGRAM.] "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

Sec. 6. Minnesota Statutes 1986, section 297A.01, subdivision 15, is amended to read:

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" shall include includes

(1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or mowing of sod, and certain machinery for dairy, livestock and poultry farms, together with;

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations, whether or not the equipment is installed

by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, except irrigation equipment which is situated below ground and considered to be a part of the real property; ~~shall be included in the definition of farm machinery;~~ and

(4) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds five cubic inches; ~~shall be included in the definition of farm machinery.~~

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery.

Tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment and other farm supplies shall not be considered to be farm machinery. "Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers *except those used in the production of sod for sale*, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

Sec. 7. Minnesota Statutes 1986, section 297A.14, is amended to read:

297A.14 [USING, STORING OR CONSUMING TANGIBLE PERSONAL PROPERTY; ADMISSIONS; UTILITIES USE TAX.]

Subdivision 1. [IMPOSITION.] For the privilege of using, storing or consuming in Minnesota tangible personal property, tickets or admissions to places of amusement and athletic events, electricity, gas, and local exchange telephone service purchased for use, storage or consumption in this state, a use tax is imposed on every person in this state at the rate of ~~six percent of tax imposed under section 297A.02 on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price. Notwithstanding the provisions of the preceding sentence, the rate of the use tax imposed upon the sales price of sales of special tooling, and capital equipment is four percent and upon the sales price of sales of farm machinery is two percent.~~

Subd. 2. [MOTOR VEHICLES.] A motor vehicle subject to tax under this section shall be taxed at its fair market value at the time of transport into Minnesota if the motor vehicle was acquired more than three months prior to its transport into this state.

Sec. 8. Minnesota Statutes 1986, section 297A.18, is amended to read:

297A.18 [ADVERTISING NO TAX; MINIMUM TAX.]

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the use tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that in computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

It is unlawful for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this

state, that states that no sales or use tax is due under this chapter, when the person knows the advertisement is false.

Sec. 9. Minnesota Statutes 1986, section 297A.211, subdivision 2, is amended to read:

Subd. 2. (a) Such persons, when properly registered as retailers, may make purchases in this state, or import property into this state, without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) Any person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment shall be multiplied by a fraction, the numerator of which is the mileage operated during the past calendar year within the state of Minnesota and the denominator is the total mileage operated during the past calendar year. The amount so determined shall be multiplied by the tax rate to disclose the tax due.

In computing the tax under this section "sales price" does not include the amount of any tax, except any manufacturer's or importer's excise tax, imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer.

(d) Each such retailer shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with the provisions of sections 297A.26 and 297A.27.

Sec. 10. Minnesota Statutes 1986, section 297A.211, is amended by adding a subdivision to read:

Subd. 4. Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety, whereby upon approval of both commissioners, the commissioner of public safety will collect the motor vehicle excise tax from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety shall act as the agent of the commissioner of revenue and shall be subject to all rules not inconsistent with the provisions of this chapter, that may be prescribed by the commissioner.

Sec. 11. [297A.212] [RAILROAD ROLLING STOCK.]

Railroad rolling stock used by a railroad operating in this state that is licensed as a common carrier by the Interstate Commerce Commission and used to transport persons or property in interstate or foreign commerce is subject to taxation under this chapter only to the extent provided in this section. The ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier must be determined at the close of the carrier's fiscal year. This ratio must be applied each month to the purchase price of total purchases of rolling stock that are used in this state by the railroad to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. "Railroad rolling stock" means all portable or moving

apparatus and machinery of a railroad company and includes engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of the rolling stock.

Sec. 12. Minnesota Statutes 1986, section 297A.25, subdivision 3, is amended to read:

Subd. 3. [MEDICINES; MEDICAL DEVICES.] The gross receipts from the sale of prescribed drugs ~~and, prescribed medicine and insulin~~, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings ~~and products consumed by humans for the preservation of health~~ are exempt, ~~including together with~~ prescription glasses, therapeutic, and prosthetic devices; ~~but not including~~ ~~cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein.~~

Sec. 13. Minnesota Statutes 1986, section 297A.25, subdivision 7, is amended to read:

Subd. 7. [PETROLEUM PRODUCTS.] The gross receipts from the sale of and storage, use or consumption of the following petroleum products are exempt:

(1) products upon which a tax has been imposed *and paid* under the provisions of chapter 296, ~~whether or not any part of said tax may be subsequently refunded and no refund has been or will be allowed because the buyer used the fuel for nonhighway use, or~~

(2) products which are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures.

Sec. 14. Minnesota Statutes 1986, section 297A.25, subdivision 11, is amended to read:

Subd. 11. [SALES TO GOVERNMENT.] The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities ~~or a state and its agencies, instrumentalities, and political subdivisions of the state~~ are exempt. ~~Sales exempted by this subdivision include sales pursuant to section 297A.01, subdivision 3, clauses (d) and (f).~~ This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.

Sec. 15. Minnesota Statutes 1986, section 297A.25, subdivision 12, is amended to read:

Subd. 12. [OCCASIONAL SALES.] The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale

are exempt. For purposes of this subdivision, sales by a nonprofit organization shall be deemed to be "isolated or occasional" if they occur at sale events that have a duration of three or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this subdivision shall be available only if the sum of the days on which the organization and any subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit conduct sales of tangible personal property, plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement, does not exceed eight days in a calendar year. For purposes of this subdivision, a "nonprofit organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual.

Sec. 16. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 35. [FOOD STAMPS.] The gross receipts from the sale of tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program are exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Sec. 17. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 36. [INCOMING, INTERSTATE WATS LINES.] The gross receipts from the sale of long distance telephone services are exempt, if the service consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call.

Sec. 18. Minnesota Statutes 1986, section 297A.256, is amended to read:

297A.256 [EXEMPTIONS FOR CERTAIN NONPROFIT GROUPS.]

Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group which qualifies for exemption on its purchases pursuant to section 297A.25, subdivision 16 or association of groups that in general limits membership to persons age 55 or older and

is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and no part of the net earnings inure to the benefit of any private shareholders. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this clause, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which enures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this section does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this section is limited to no more than 24 days a year. Fundraising events conducted on premises leased or occupied for more than four days but less than 30 days do not qualify for this exemption.

Sec. 19. Minnesota Statutes 1986, section 297A.26, is amended by adding a subdivision to read:

Subd. 4. When a retailer located outside of a city that imposes a local sales and use tax collects use tax to be remitted to that city, the retailer is not required to remit the tax until the amount collected reaches \$10.

Sec. 20. Minnesota Statutes 1986, section 297A.43, is amended to read:

297A.43 [CONFIDENTIAL NATURE OF INFORMATION.]

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars disclosed in any report or return required by sections 297A.01 to 297A.44, or any information concerning the affairs of the person making the return acquired from the person's records, officers, or employees while examining or auditing under the authority of sections 297A.01 to 297A.44, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such report or return or to comply with the provisions of section 297A.431 or where a question arises as to the proper tax applicable, that is, sales or use tax. In the latter instance, the commissioner may furnish information to a buyer and a seller with respect

to the specific transaction in question. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of a sales and/or use tax for the purpose of promoting fair and equitable administration of such acts and to eliminate double taxation.

Notwithstanding the above provisions of this section, the commissioner, in order to implement the purposes of this chapter, may furnish information on a reciprocal basis to the taxing officials of another state, or to the taxing officials of any municipality of the state of Minnesota which has a local sales and/or use tax. The commissioner may furnish to the Minnesota supreme court and the board of professional responsibility information regarding the amount of any uncontested delinquent taxes due under this chapter or a failure to file a return due under this chapter by an attorney admitted to practice law in this state under chapter 481. *The commissioner may furnish information to taxing officials of another state where necessary in the administration of the laws of that state, to the extent that the state provides similar rights of examination or information to officials of this state, if the other state agrees to be subject to the confidentiality restrictions of this section.*

In order to facilitate processing of returns and payments of taxes required by this chapter, the commissioner may contract with outside vendors and may disclose private and nonpublic data to the vendor. The data disclosed will be administered by the vendor consistent with this section.

Sec. 21. Minnesota Statutes 1986, section 297B.03, is amended to read:
297B.03 [EXEMPTIONS.]

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) Purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by *the United States and its agencies and instrumentalities* and by any person described in and subject to the conditions provided in section 297A.25, ~~subdivisions 11, 16, and subdivision 18.~~

(2) Purchase or use of any motor vehicle by any person who was a resident of another state at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota.

(3) Purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.211.

(4) Purchase or use of any motor vehicle previously registered in the state of Minnesota by any corporation or partnership when such transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1954, as amended through December 31, 1974.

(5) Purchase or use of any vehicle owned by a resident of another state

and leased to a Minnesota based private or for hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales or motor vehicle excise tax on motor vehicles used in interstate commerce.

Sec. 22. Minnesota Statutes 1986, section 297B.031, is amended to read:

297B.031 [REFUND OF TAX; MANDATORY REFUND OR REPLACEMENT LAWS.]

If a manufacturer of motor vehicles is required by a court order under section 325F665 or a decision of an informal dispute settlement mechanism as defined in section 325F665, subdivision 3, to refund pay the consumer the tax imposed by this chapter, a portion of the tax so paid by the purchaser shall be refunded to the manufacturer. The amount of the refund shall be the tax paid by the purchaser 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. The refund shall be paid to the manufacturer only upon filing of a written application, in a form and providing information as prescribed by the commissioner. Payment of a refund pursuant to this section shall be made out of the general and highway user funds in the same proportion provided for deposit of tax proceeds for the fiscal year pursuant to section 297B.09, subdivision 1. The amounts necessary to pay the refunds are appropriated out of the respective funds.

Sec. 23. 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.

Sec. 24. Minnesota Statutes 1986, section 360.654, is amended to read:

360.654 [AIRCRAFT DEALER'S COMMERCIAL USE PERMIT.]

Upon written application by a dealer licensed in accordance with section 360.63 and payment of a fee of \$20 for each aircraft identified in the application, the commissioner of revenue shall issue a commercial use permit which shall entitle the dealer to use the aircraft for commercial purposes ~~without payment of the tax imposed by section 297A.02 or 297A.14~~ for a period of 12 months or until the aircraft is sold, whichever first occurs. *The dealer shall pay the tax imposed by section 297A.14 on all consideration received for use of the aircraft for commercial purposes during the period the dealer holds the commercial use permit.* Commercial purposes as used herein does not include rental or lease of the aircraft for which the aircraft dealers normally collect the sales tax from their customers. Applications shall be on forms prescribed and furnished by the commissioner of revenue and shall include the federal aircraft registration number of each aircraft for which a permit is to be issued. A permit shall be affixed to the dealer's license and shall be conspicuously displayed in the aircraft for which it was issued, which aircraft shall remain in the possession of or under the control of the licensed dealer to whom the permit was issued. The permit shall expire and the tax imposed by section 297A.02 or 297A.14 shall become due upon either sale of the aircraft by the dealer or expiration of the 12-month period. If the aircraft has not been sold within the 12-month period the tax is due on the purchase price of the aircraft and its auxiliary equipment to the dealer and the tax imposed by section 297A.02 shall become due on the eventual sale of the aircraft. Laws 1971, chapter 740 shall in no way apply to registration or taxation pursuant to sections 360.511 to 360.67.

Sec. 25. [REPEALER.]

(a) *Minnesota Statutes 1986, section 270.89 is repealed.*

(b) *Minnesota Statutes 1986, section 297A.25, subdivision 13, is repealed.*

(c) *Laws 1986, chapter 391, section 3, is repealed.*

Sec. 26. [EFFECTIVE DATE.]

Sections 1, paragraphs (a), (c), (d), except the reference to having access to and the use of amusement devices and athletic facilities, (f), and (k), 2, 4, 5, 11 to 14, 17, 20, 21, and 25, paragraph (b), are effective for sales at retail made after May 31, 1987, but shall not apply to sales of tangible personal property made pursuant to bona fide written contracts that were enforceable before June 1, 1987, and delivery is made on or before December 31, 1987. Section 6 is effective for sales at retail made after May 31, 1987. Sections 3, 8, 9, 24, and 25, paragraph (a), are effective June 1, 1987. Section 16 is effective for sales after September 30, 1987. The reference to having access to and the use of amusement devices and athletic facilities in section 1, paragraph (d), is effective February 1, 1987. Section 1, paragraphs (i) and (j), are effective for services provided after June 30, 1987, except that taxation of services

described in paragraph (j), clauses (i), (iii), (iv), and (vi), is effective for services provided after September 30, 1987. Section 10 is effective upon approval of the agreement by the commissioner of revenue and the commissioner of public safety.

ARTICLE 5

PROPERTY TAXES

Section 1. Minnesota Statutes 1986, section 273.11, subdivision 8, is amended to read:

Subd. 8. [LIMITED EQUITY COOPERATIVE APARTMENTS.] For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter 308, which has as its primary purpose the provision of housing and related services to its members, whose income must not exceed 90 percent of the median St. Paul-Minneapolis metropolitan area income as determined by the United States Department of Housing and Urban Development at the time they purchase their membership, and which meets the following requirements:

(a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:

(1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;

(2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;

(3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or fraction of a year the membership or share was owned; plus

(4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit

the purchase price of stock or membership interests for new member-occupants or resident shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1984 1986, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned or leased by a limited equity cooperative. ~~If the dwelling unit is leased by the cooperative the lease agreement must meet the conditions for a cooperative lease stated in section 273.124, subdivision 6.~~

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

Sec. 2. [273.1195] [STATE PAID SMALL BUSINESS PROPERTY TAX TRANSITION CREDIT.]

For property taxes payable in 1988 only, class 3a commercial industrial property is eligible for a state paid small business transition property tax credit if the payable 1988 property taxes on the first \$120,000 of market value of the property exceed three percent of the January 2, 1987 market value. The credit is equal to 50 percent of the property tax amount which is in excess of three percent of market value. Only the first \$120,000 of market value of a qualifying parcel and the taxes attributable to the first \$120,000 of market value are eligible for the computation of this credit. Only a parcel that qualifies for the 28 percent assessment ratio contained in section 273.13, subdivision 24, paragraph (a), qualifies for the credit provided in this section.

In the case of taxes paid in installments pursuant to section 279.01, subdivision 1, the credit under this section must be deducted from the second one-half installment payable October 15. The amount of the reduction must be reported to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29.

There is annually appropriated from the general fund to the commissioners of revenue and education the amount necessary to replace the

revenue lost to local units of government and school districts as a result of the reduction in property taxes provided in this section. The payment amounts must be determined and the installments paid under the provisions of sections 273.13, subdivision 15a, and 273.1392.

Sec. 3. Minnesota Statutes 1986, section 273.124, subdivision 7, is amended to read:

Subd. 7. [LEASED BUILDINGS OR LAND.] For purposes of class 1 determinations, homesteads include:

(a) buildings and appurtenances owned and used by the occupant as a permanent residence which are located upon land the title to which is vested in a person or entity other than the occupant;

(b) all buildings and appurtenances located upon land owned by the occupant and used for the purposes of a homestead together with the land upon which they are located, if all of the following criteria are met:

(1) the occupant is using the property as a permanent residence;

(2) the occupant is paying the property taxes and any special assessments levied against the property;

(3) the occupant has signed a lease which has an option to purchase the buildings and appurtenances; ~~and~~

(4) the term of the lease is at least five years; *and*

(5) the occupant has made a down payment of at least \$5,000 in cash if the property was purchased by means of a contract for deed or subject to a mortgage.

Any taxpayer meeting all the requirements of this paragraph must notify the county assessor, or the assessor who has the powers of the county assessor pursuant to section 273.063, in writing, as soon as possible after signing the lease agreement and occupying the buildings as a homestead.

Sec. 4. Minnesota Statutes 1986, section 273.13, subdivision 22, is amended to read:

Subd. 22. [CLASS 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first ~~\$64,000~~ \$68,000 of market value of class 1a property must be assessed at ~~18~~ 17 percent of its market value. The homestead value of class 1a property that exceeds ~~\$64,000~~ \$68,000 must be assessed at ~~28~~ 27 percent of its value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to

the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to clause (1) only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

Class 1b property is valued and assessed as follows: in the case of agricultural land, including a manufactured home, used for a homestead, the first ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at 14 percent, and the remaining market value shall be valued and assessed at 18 percent; and in the case of all other real estate and manufactured homes, the first ~~\$32,000~~ \$34,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$34,000 of market value shall be valued and assessed at ~~18~~ 17 percent, and the remaining market value shall be valued and assessed at ~~28~~ 27 percent. In the case of agricultural land including a manufactured home used for purposes of a homestead, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates; and for all other real estate and manufactured homes, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and ~~18~~ 17 percent rates. Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income.

(c) Class 1c property is commercial use real property that abuts a lake-shore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. It must be assessed at 12 percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

(d) The tax to be paid on class 1a or class 1b property, less any reduction received pursuant to sections 273.123 and 473H.10, shall be reduced by 54 percent of the tax imposed on the first \$68,000 of market value. The amount of the reduction shall not exceed \$700.

Sec. 5. Minnesota Statutes 1986, section 273.133, subdivision 3, is amended to read:

Subd. 3. [LEASEHOLD COOPERATIVES.] When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317 or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, homestead treatment, as provided under section 273.13, subdivision 7, may be claimed for each dwelling unit occupied by a member of the cooperative. To qualify for the treatment provided by this subdivision, the following conditions shall be met: (a) the cooperative association must be organized under sections 308.05 to 308.18; (b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years; (c) the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale; (d) *the cooperative must meet one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires his or her cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development; and* (e) if a limited partnership owns the property, it must include as the managing general partner either the cooperative association or a nonprofit organization operating under the provisions of chapter 317. Homestead treatment shall be afforded to units occupied by members of the cooperative association and the units shall be assessed as provided in subdivision 1, provided that any unit not so occupied shall be classified and assessed pursuant to section 273.13, subdivision 19. No more than three acres of land shall, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

Sec. 6. Minnesota Statutes 1986, section 273.1392, is amended to read:

273.1392 [PAYMENT; AIDS TO SCHOOL DISTRICTS.]

The amounts of homestead credit under section 273.13, subdivisions 22 and 23; wetlands credit and reimbursement under section 273.115; native prairie credit and reimbursement under section 273.116; *small business transition credit* under section 2; disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 7. Minnesota Statutes 1986, section 273.1393, is amended to read:

273.1393 [COMPUTATION OF NET PROPERTY TAXES.]

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

(1) *small business property tax transition credit* as provided in section 2;

(2) disaster credit as provided in section 273.123;

~~(2)~~(3) wetlands credit as provided in section 273.115;

~~(3)~~(4) native prairie credit as provided in section 273.116;

~~(4)~~(5) powerline credit as provided in section 273.42;

~~(5)~~(6) agricultural preserves credit as provided in section 473H.10;

~~(6)~~(7) enterprise zone credit as provided in section 273.1314;

~~(7)~~(8) state school agricultural credit as provided in section 124.2137;

~~(8)~~(9) state paid homestead credit as provided in section 273.13, subdivisions 22 and 23;

~~(9)~~(10) taconite homestead credit as provided in section 273.135;

~~(10)~~(11) supplemental homestead credit as provided in section 273.1391.

The combination of all property tax credits must not exceed the gross tax amount.

Sec. 8. [273.1397] [INCOME MAINTENANCE TAX DISPARITY AID.]

Subdivision 1. [DEFINITIONS.] (a) In this section, the following terms have the meanings given them.

(b) "Income maintenance programs" means general assistance payments as defined in section 256D.02, subdivision 4, less any amounts paid under the third paragraph of section 256D.03, subdivision 2; general assistance medical care payments as defined in section 256D.02, subdivision 4a; and work readiness assistance under section 256D.051.

(c) "Unreimbursed local share" means the county's cost of income maintenance programs for the previous state fiscal year, excluding administrative costs, and excluding costs that are reimbursed by the federal government, or by the state under section 256D.03, subdivisions 2, 4, and 6.

(d) "Adjusted assessed value" has the meaning given it in section 124A.02, subdivision 3a.

(e) "Preliminary aid amount" means the unreimbursed local share, less the product of one-half mill times the most recent adjusted assessed value of all taxable property in the county excluding the captured value of tax increment financing property and the net value adjustment under chapter 473F.

Subd. 2. [AID TO COUNTY.] A county whose preliminary aid amount is greater than zero shall receive a payment equal to the lesser of (1) the preliminary aid amount, or (2) 95 percent of the unreimbursed local share. The commissioner of revenue shall annually determine the amounts pursuant to this section and shall notify the county of the resulting income maintenance tax disparity aid amount. The commissioner of revenue shall pay to each affected county treasurer the county's total payment for the year in equal installments on or before July 15 and December 15 of each year.

Subd. 3. [APPROPRIATION.] An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 9. Minnesota Statutes 1986, section 276.04, is amended to read:

276.04 [NOTICE OF RATES; PROPERTY TAX STATEMENTS.]

On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose. The treasurer shall, whether or not directed by the county board, cause to be printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district shall be separately stated but the amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in bold face print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property. The county treasurer shall mail to taxpayers statements of their personal property taxes due, such statements to be mailed not later than February 15 (except in the case of manufactured homes and sectional structures taxed as personal property), statements of the real property taxes due shall be mailed not later than January 31; provided, that the validity of the tax shall not be affected by failure of the treasurer to mail such statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement shall show the amount attributable to section 124.2137 as "state paid agricultural credit" and the amount attributable to section 273.13, subdivisions 22 and 23 as "state paid homestead credit." The

statement must state the amount deducted under section 2 and identify it as "state paid small business transition credit." If so directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving taxes and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.

Sec. 10. Minnesota Statutes 1986, section 477A.012, subdivision 1, is amended to read:

Subdivision 1. [AID AMOUNT.] In calendar year 1987 1988 and calendar years thereafter, each county government shall receive a distribution equal to ~~104 percent of the aid amount certified for 1986 1987 pursuant to sections 477A.011 to 477A.03.~~ Each county government that received no distribution in 1986 pursuant to sections 477A.011 to 477A.03 shall receive a distribution in calendar year 1987 computed by multiplying the county's population by a factor equal to the total increase in aid certified to all other counties under this section in 1987 over the total amount certified in 1986, divided by the total population of those counties this subdivision.

Sec. 11. Minnesota Statutes 1986, section 477A.013, is amended to read:

477A.013 [MUNICIPAL GOVERNMENT DISTRIBUTIONS.]

Subdivision 1. [TOWNS.] In calendar year 1987 1988 and calendar years thereafter, each town which had levied for taxes payable in the previous year at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to ~~104 percent of the greater of:~~ (a) 60 percent of the amount received in 1983 pursuant to Minnesota Statutes 1982, sections 273.138, 273.139, and 477A.011 to 477A.03; or (b) the amount received certified in 1986 1987 pursuant to sections 477A.011 to 477A.03.

Subd. 2. [CITIES.] In calendar year 1987 1988 and calendar years thereafter, each city shall receive a local government aid distribution as determined by the following steps:

(1) A preliminary aid amount shall be computed for each city equal to the amount obtained by subtracting its local effort mill rate multiplied by its equalized assessed value from its fiscal need factor, except that its preliminary aid amount may not be less than its previous year aid amount.

For any city which received more than \$70 per capita in attached machinery aids in 1983 pursuant to Minnesota Statutes 1982, section 273.138, an amount equal to the amount of attached machinery aids received in 1983 shall be added to the preliminary aid amount.

(2) For each city, an aid increase amount equal to the amount by which its preliminary aid amount exceeds its previous year aid amount shall be determined. Each city's aid increase amount shall be reduced by a uniform percentage as determined by the commissioner of revenue, to make the sum of the final aid distributions for all cities equal the aid limitation imposed by subdivision 3.

(3) Each city's final aid amount shall be equal to the sum of its aid increase amount, as adjusted, and its previous year aid amount; provided, however, that no city's aid shall exceed its maximum aid amount, and further provided that no city which is a city of the first class shall have a final aid amount which is less than 102 percent of its previous year aid.

Subd. 3. [AID LIMITATION.] The total amount available for distribution to cities pursuant to subdivision 2 shall be \$297,440,000 for calendar year 1987 equal to the amount that the city was certified to receive for calendar year 1987 under this subdivision.

Sec. 12. [LEVY LIMITATIONS FOR TAXES PAYABLE IN 1988.]

Subdivision 1. [GENERALLY.] Notwithstanding any other law to the contrary, for taxes levied in 1987, payable in 1988 only, the provisions of Minnesota Statutes, sections 275.50 to 275.56, shall not apply, and the provisions of this section shall govern the levies for all counties and all cities regardless of population.

Subd. 2. [CITIES.] For any home rule charter or statutory city, the levy limit base for taxes payable in 1988 is the sum of (1) the city's total levy for taxes payable in 1987, excluding the amount levied in that year for debt service and the amount claimed as a special levy for unfunded accrued pension liabilities under section 275.50, subdivision 5, clause (o); and (2) the amount received in 1987 under Minnesota Statutes 1986, section 275.51, subdivision 3i. This sum shall be increased by a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived under Minnesota Statutes, section 275.51, subdivision 6. The resulting amount for each home rule charter or statutory city multiplied by 103 percent is the city's levy limit base for taxes payable in 1988. The payable 1988 levy limitation for each city shall be equal to the levy limit base determined under this section reduced by the aids for 1988 enumerated in section 275.51, subdivision 3i.

Subd. 3. [COUNTIES.] For any county, the levy limit base for taxes payable in 1988 is the sum of (1) the county's total levy for taxes payable in 1987, excluding the amount levied in that year for (a) debt service; (b) amount claimed as a special levy for unfunded accrued pension liabilities under section 275.50, subdivision 5, clause (o); (c) income maintenance programs except for the administrative costs associated with those programs; and (d) social services programs, including the administrative costs associated with those programs, plus (2) the amount received in 1987 under Minnesota Statutes 1986, section 275.51, subdivision 3i. This sum shall be increased by a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived under Minnesota Statutes, section 275.51, subdivision 6. The resulting amount for each county multiplied by 103 percent is the county's levy limit base for taxes payable in 1988. The payable 1988 levy limitation for each county shall be equal to the levy limit base determined under this section reduced by the aids for 1988 enumerated in section 275.51, subdivision 3i.

Subd. 4. [EXCEPTIONS.] For taxes payable in 1988, the amounts levied for the following costs are not subject to the limitation under subdivision 2 or 3:

(1) levies for debt service,

(2) levies for unfunded accrued pension liabilities as specified under section 275.50, subdivision 5, clause (o),

(3) levies for income maintenance programs, net of any aid payments received under section 8, and excluding the administrative costs associated with those programs, and

(4) levies for social service programs including the administrative costs associated with those programs.

The amount levied by the county for taxes payable in 1988 to pay the costs of programs described in clauses (3) and (4) of this subdivision shall be subject to the percentage limitations provided in section 275.50, subdivision 5, clause (d).

Subd. 5. [APPEALS.] A governmental subdivision subject to the limitations in this section may appeal to the commissioner of revenue for an adjustment in its levy limit base under this section. If the governmental subdivision can provide evidence satisfactory to the commissioner that its levy for taxes payable in 1987 had been reduced because it had made expenditures from reserve funds, or for any other reason, or that it is necessary to levy additional amounts for taxes payable in 1988 which were not levied in 1987, the commissioner may permit the governmental subdivision to increase its levy limit base under this section by the amount determined by the commissioner. The commissioner's decision is final.

Sec. 13. [EFFECTIVE DATE.]

Sections 1, 3, 4, 5, and 8 are effective for taxes levied in 1987 payable in 1988 and subsequent years.

ARTICLE 6

1989 AND SUBSEQUENT PROPERTY TAX

Section 1. Minnesota Statutes 1986, section 116C.63, subdivision 4, is amended to read:

Subd. 4. When private real property ~~defined as class 1a, 1b, 1c, 2a, 2c, 4a, 5a, or 6a pursuant to that is an agricultural or nonagricultural home-~~stead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner, shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner or vendee wholly owns or has contracted to own in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. The owner or, when applicable, the contract vendee shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a high voltage transmission line right-of-way shall automatically be converted into a fee

taking.

Sec. 2. Minnesota Statutes 1986, section 124.155, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENT TO AIDS.] The amount specified in subdivision 1 shall be used to adjust the following state aids and credits in the order listed:

- (a) foundation aid as defined in section 124A.01;
- (b) secondary vocational aid authorized in section 124.573;
- (c) special education aid authorized in section 124.32;
- (d) secondary vocational aid for handicapped children authorized in section 124.574;
- (e) gifted and talented aid authorized in section 124.247;
- (f) aid for pupils of limited English proficiency authorized in section 124.273;
- (g) aid for chemical use programs authorized in section 124.246;
- (h) interdistrict cooperation aid authorized in section 124.272;
- (i) summer program aid authorized in section 124A.033;
- (j) transportation aid authorized in section 124.225;
- (k) community education programs aid authorized in section 124.271;
- (l) adult education aid authorized in section 124.26;
- (m) early childhood family education aid authorized in section 124.2711;
- (n) capital expenditure equalization aid authorized in section 124.245;
- (o) homestead credit *replacement aid* authorized in section ~~273.13~~, *subdivisions 22 and 23* 273.1394;
- (p) ~~state school~~ agricultural ~~tax~~ credit *replacement aid* authorized in section ~~124.2137~~ 273.1395;
- (q) ~~wetlands credit~~ authorized in section 273.115;
- (~~r~~) ~~native prairie credit~~ authorized in section 273.116;
- (~~s~~) attached machinery aid authorized in section 273.138, subdivision 3; and
- (~~t~~) (*r*) teacher retirement and F.I.C.A. aid authorized in sections 124.2162 and 124.2163.

The commissioner of education shall schedule the timing of the adjustments to state aids and credits specified in subdivision 1, as close to the end of the fiscal year as possible.

Sec. 3. Minnesota Statutes 1986, section 124.2131, subdivision 3, is amended to read:

Subd. 3. [DECREASE IN IRON ORE ASSESSED VALUE.] If in any year the assessed value of ~~class 9a and 9b iron ore~~ property, as defined in section 273.13, ~~subdivision 30~~, in any district is less than the assessed value of such property in the ~~immediately~~ preceding year, the equalization aid review committee shall redetermine for all purposes the adjusted assessed

value of the ~~immediately~~ preceding year taking into account only the decrease in assessed value of ~~class 9a and 9b iron ore~~ property. If subdivision 2, clause (a) is applicable to ~~such a the~~ district, the decrease in ~~class 9a and 9b iron ore~~ property shall be applied to the adjusted assessed value as limited therein. In all other respects, the provisions of clause (1) shall be ~~applicable apply~~.

Sec. 4. Minnesota Statutes 1986, section 124.2139, is amended to read:

124.2139 [REDUCTION OF HOMESTEAD CREDIT PAYMENTS TO SCHOOL DISTRICTS.]

The commissioner of revenue shall reduce homestead credit ~~replacement~~ aid payments made to school districts pursuant to section ~~273.13~~, subdivisions ~~22 and 23~~, ~~273.1394~~ by the product of:

(1) the district's fiscal year 1984 payroll for coordinated plan members of the public employees retirement association, times

(2) the difference between the employer contribution rate in effect prior to July 1, 1984, and the total employer contribution rate in effect after June 30, 1984.

Sec. 5. Minnesota Statutes 1986, section 124A.02, subdivision 11, is amended to read:

Subd. 11. [MINIMUM AID.] A qualifying district's minimum aid for each school year shall equal its minimum guarantee for that school year, minus the sum of:

(1) the amount of the district's ~~state school homestead credit replacement aid paid under section 273.1394 and its agricultural tax credit replacement aid under section 273.1395~~ for that school year, *after any positive tax base adjustment but prior to any negative tax base adjustment under section 273.1396*;

(2) the amount by which property taxes of the district for use in that school year are reduced by the homestead credit provisions in section ~~273.13~~, subdivisions ~~22 and 23~~;

(3) the amount by which property taxes of the district for use in that school year are reduced by the taconite homestead credit provisions in section ~~273.135~~;

(4) the amount by which property taxes of the district for use in that school year are reduced by the attached machinery provisions in section ~~273.138~~, subdivision 6;

(5) the amount by which property taxes of the district for use in that school year are reduced by the state paid wetlands credit provisions in section ~~273.115~~;

(6) the amount by which property taxes of the district for use in that school year are reduced by the state paid native prairie credit provisions in section ~~273.116~~;

(7) (3) the amount by which property taxes of the district for use in that school year are reduced by the state reimbursed disaster or emergency reassessment provisions in section ~~273.123~~; and

(8) (4) the amount by which property taxes of the district for use in that school year are reduced by the metropolitan agricultural preserve provisions

in section 473H.10.

Sec. 6. Minnesota Statutes 1986, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity except parcels of property containing structures and the structures assessed as class 7(a), (b), (c), or (d) described in section 273.13, subdivision 25, paragraph (c), clauses (1) or (2), or paragraph (d), clause (2);
- (7) All public property exclusively used for any public purpose;
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d) shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On deter-

mining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1982 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydro-mechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8 and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band;

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band; and

(c) a facility at which a licensed Minnesota manufacturer produces distilled spirituous liquors, liqueurs, cordials, or liquors designated as specialties regardless of alcoholic content, but not including ethyl alcohol, distilled with a majority of the ingredients grown or produced in Minnesota.

An exemption provided by paragraph (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, non-profit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

Sec. 7. Minnesota Statutes 1986, section 272.02, subdivision 1a, is amended to read:

Subd. 1a. The exemptions granted by subdivision 1 are subject to the limits contained in the other subdivisions of this section, section 272.025, or 273.13, subdivision 28 25, ~~paragraphs (a), (b), (c) and (d) paragraph (c), clause (1) or (2), or paragraph (d), clause (2).~~

Sec. 8. Minnesota Statutes 1986, section 272.115, subdivision 4, is amended to read:

Subd. 4. No real estate sold on or after January 1, 1978 for which a certificate of value is required pursuant to subdivision 1 shall receive the homestead credit provided under section 273.13, subdivisions 22 and 23;

value exemption amount or the agricultural mill credit provided exemption amount computed in section ~~124.2137~~ 275.081; or the taconite homestead credit provided in sections 273.134 to 273.136, unless a certificate of value has been filed with the county auditor in accordance with this section.

This subdivision shall apply to any real estate taxes that are payable the year or years following the sale of the property.

Sec. 9. Minnesota Statutes 1986, section 273.1102, is amended to read:

273.1102 [RATE OF TAX, TERMINOLOGY OF LAWS OR CHARTERS.]

Subdivision 1. [PRE-1988 ADJUSTMENT.] The rate of property taxation by any political subdivision or other public corporation for any purpose for which any law or charter now provides a maximum tax rate expressed in mills times the assessed value or times the full and true value of taxable property (except any value determined by the state equalization aid review committee) shall not exceed 33-1/3 percent of such maximum tax rate until and unless such law or charter is amended to provide a different maximum tax rate.

Subd. 2. [1988 ADJUSTMENT.] The rate of property taxation, salary limits, or aid formulas set for any political subdivision or other public corporation for which any law or charter provide a maximum tax rate expressed in mills effective on July 1, 1988, shall be adjusted by multiplying the mill rate provision in effect for taxes levied in 1987, payable in 1988, by 45 percent.

Sec. 10. Minnesota Statutes 1986, section 273.1104, subdivision 1, is amended to read:

Subdivision 1. The term value as applied to iron ore in sections 273.165, subdivision 2 and 273.13, subdivision ~~30~~ 31, ~~paragraph (b)~~ shall be deemed to be three times the present value of future income notwithstanding the provisions of section 273.11. The present value of future income shall be determined by the commissioner of revenue in accordance with professionally recognized mineral valuation practice and procedure. Nothing contained herein shall be construed as requiring any change in the method of determining present value of iron ore utilized by the commissioner prior to the enactment hereof or as limiting any remedy presently available to the taxpayer in connection with the commissioner's determination of present value, or precluding the commissioner from making subsequent changes in the present worth formula.

Sec. 11. Minnesota Statutes 1986, section 273.123, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section (a) "disaster or emergency" means

- (1) a major disaster as determined by the president of the United States;
- (2) a natural disaster as determined by the secretary of agriculture;
- (3) a disaster as determined by the administrator of the small business administration; or
- (4) a tornado, storm, flood, earthquake, landslide, explosion, fire or similar catastrophe, as a result of which a local emergency is declared pursuant to section 12.29.

(b) "disaster or emergency area" means an area

(1) in which the president of the United States, the secretary of agriculture, or the administrator of the small business administration has determined that a disaster exists pursuant to federal law or in which a local emergency has been declared pursuant to section 12.29; and

(2) for which an application by the local unit of government requesting property tax relief under this section has been received by the governor and approved by the executive council.

(c) "homestead property" means homestead dwelling that is classified as class ~~1a, 1b~~ (1), or 2a property or a manufactured home or sectional home used as a homestead and taxed pursuant to section 274.19, subdivision 8, paragraph (b), (c), or (d).

Sec. 12. Minnesota Statutes 1986, section 273.123, subdivision 4, is amended to read:

Subd. 4. [STATE REIMBURSEMENT.] The county auditor shall calculate the tax on the property described in subdivision 2 based on the assessment made on January 2 of the year in which the disaster or emergency occurred. The difference between the tax determined on the January 2 assessed value and the tax actually payable based on the reassessed value determined under subdivision 2 shall be reimbursed to each taxing jurisdiction in which the damaged property is located. The amount shall be certified by the county auditor and reported to the commissioner of revenue. The commissioner shall make the payments to the taxing jurisdictions containing the property at the time distributions are made pursuant to section ~~273.13, subdivision 15a~~ 273.1394, in the same proportion that the ad valorem tax is distributed.

Sec. 13. Minnesota Statutes 1986, section 273.123, subdivision 5, is amended to read:

Subd. 5. [COMPUTATION OF CREDITS.] The amounts of any credits or tax relief which reduce the gross tax shall be computed upon the reassessed value determined under subdivision 2. Payment shall be made pursuant to section ~~273.13, subdivision 15a~~ 273.1394. For purposes of the property tax refund, property taxes payable, as defined in section 290A.03, subdivision 13, and net property taxes payable, as defined in section 290A.04, subdivision 2d, shall be computed upon the reassessed value determined under subdivision 2.

Sec. 14. Minnesota Statutes 1986, section 273.123, subdivision 7, is amended to read:

Subd. 7. [LOCAL OPTION; *OTHER PROPERTY*.] The owner of homestead property not qualifying for an adjustment in valuation pursuant to subdivisions 1 to 5 *or of nonhomestead property* may receive a reduction in the amount of taxes payable for the year in which the destruction occurs on the ~~homestead portion~~ property if:

(a) 50 percent or more of the homestead dwelling *or other structure*, as established by the county assessor, is unintentionally or accidentally destroyed and the homestead is uninhabitable *or the other structure is not usable*;

(b) the owner of the property makes written application to the county assessor as soon as practical after the damage has occurred; and

(c) the owner of the property makes written application to the county board; ~~upon completion of the restoration of the destroyed structure.~~

The county board may grant a reduction in the amount of property tax which the owner must pay on the qualifying ~~home~~ *property* in the year of destruction. Any reduction in the amount of tax payable which is authorized by county board action shall be calculated based upon the number of months that the home is uninhabitable *or the other structure is unusable*. The amount of net tax due from the taxpayer shall be multiplied by a fraction, the numerator of which is the number of months the dwelling was occupied by that taxpayer, *or the number of months the other structure was used by the taxpayer*, and the denominator of which is 12. For purposes of this subdivision, if a structure is occupied *or used* for a fraction of a month, it is considered a month. "Net tax" is defined as the amount of tax after the subtraction of all of the state paid property tax credits. If application is made following payment of all property taxes due for the year of destruction, the amount of the reduction granted by the county board shall be refunded to the taxpayer by the county treasurer as soon as practical.

Any reductions or refunds approved by the county board shall not be subject to approval by the commissioner of revenue.

The county board may levy in the following year the amount of tax dollars lost to the county government as a result of the reductions granted pursuant to this subdivision. Any amount levied for this purpose shall be exempt from the levy limit provisions of sections 275.50 to 275.56.

Sec. 15. Minnesota Statutes 1986, section 273.124, subdivision 8, is amended to read:

Subd. 8. [HOMESTEAD OWNED BY FAMILY FARM CORPORATION OR PARTNERSHIP] (a) Each family farm corporation and each partnership operating a family farm is entitled to ~~class 1b or~~ class 2a assessment for one homestead occupied by a shareholder or partner thereof who is residing on the land and actively engaged in farming of the land owned by the corporation or partnership. Homestead treatment applies even if legal title to the property is in the name of the corporation or partnership and not in the name of the person residing on it. "Family farm corporation" and "family farm" have the meanings given in section 500.24.

(b) In addition to property specified in paragraph (a), any other residences owned by corporations or partnerships described in paragraph (a) which are located on agricultural land and occupied as homesteads by shareholders or partners who are actively engaged in farming on behalf of the corporation or partnership must also be assessed as ~~class 1b or~~ class 2a property, but the property eligible is limited to the residence itself and as much of the land surrounding the homestead, not exceeding one acre, as is reasonably necessary for the use of the dwelling as a home, and does not include any other structures that may be located on it.

Sec. 16. Minnesota Statutes 1986, section 273.124, subdivision 11, is amended to read:

Subd. 11. [LIMITATION ON HOMESTEAD CLASSIFICATION.] If the assessor has classified a property as both homestead and nonhomestead, the greater of the value attributable to the portion of the property classified as class ~~1a, 1b, 1~~ or class 2a or the value of the first tier of assessment percentages provided under section 273.13, subdivision 22, ~~paragraph (a) or (b)~~ or subdivision 23, paragraph (a) is entitled to *assessment as a homestead treatment under section 273.13, subdivision 22 or 23, and the home-*

stead exemption under section 275.081, subdivision 2. The limitation in this subdivision does not apply to buildings containing fewer than four residential units or to a single rented or leased dwelling unit located within or attached to a private garage or similar structure owned by the owner of a homestead and located on the premises of that homestead.

If the assessor has classified a property as both homestead and non-homestead, ~~the homestead credit provided in section 273.13, subdivisions 22 and 23, and the reductions in tax provided under sections 273.135 and 273.1391~~ apply to the value of both the homestead and the nonhomestead portions of the property.

Sec. 17. Minnesota Statutes 1986, section 273.124, subdivision 13, is amended to read:

Subd. 13. [SOCIAL SECURITY NUMBER REQUIRED FOR HOMESTEAD APPLICATION.] Beginning with the January 2, 1987, assessment, every property owner applying for homestead classification must furnish to the county assessor that owner's social security or taxpayer identification number. If the social security or taxpayer identification number is not provided, the county assessor shall classify the property as nonhomestead. The social security numbers of the property owners are private data on individuals as defined by section 13.02, subdivision 12, but, notwithstanding that section, the private data may be disclosed to the commissioner of revenue.

At the request of the commissioner, each county must give the commissioner a listing that includes the name and social security or taxpayer identification number of each property owner applying for homestead classification.

If, in comparing the lists supplied by the counties, the commissioner finds that a property owner is claiming more than one homestead, the commissioner shall notify the appropriate counties. Within 90 days of the notification, the county assessor shall investigate to determine if the homestead classification was properly claimed. If the property owner does not qualify, the county assessor shall notify the county auditor who will determine the amount of homestead benefits that had been improperly allowed. For the purpose of this section, "homestead benefits" means *the tax reduction resulting from the homestead credit exemption amount provided under section 275.081, taconite homestead credit, supplemental homestead credit, and the the tax reduction resulting from agricultural school credit which is in excess of the credit which would be allowed if the property had been classified as nonhomestead property exemption amount provided in section 275.081.* The county auditor shall send a notice to the owners of the affected property, demanding reimbursement of the homestead benefits plus a penalty equal to 25 percent of the homestead benefits. The property owners may appeal the county's determination by filing a notice of appeal with the Minnesota tax court within 60 days of the date of the notice from the county.

If the amount of homestead benefits and penalty is not paid within 60 days, and if no appeal has been filed, the county auditor shall certify the amount to the succeeding year's tax list to be collected as part of the property taxes.

Any amount of homestead benefits recovered from the property owner must be transmitted to the commissioner by the end of each calendar

quarter. Any amount recovered attributable to taconite homestead credit shall be transmitted to the St. Louis county auditor to be deposited in the taconite property tax relief account. The amount of penalty collected must be deposited in the county general fund.

The commissioner will provide suggested homestead applications to each county. If a property owner has applied for more than one homestead and the county assessors cannot determine which property should be classified as homestead, the county assessors will refer the information to the commissioner. The commissioner shall make the determination and notify the counties within 60 days.

In addition to lists of homestead properties, the commissioner may ask the counties to furnish lists of all properties and the record owners.

Sec. 18. Minnesota Statutes 1986, section 273.13, subdivision 15a, is amended to read:

Subd. 15a. [GENERAL FUND, REPLACEMENT OF REVENUE.] (1) Payment from the general fund shall be made, as provided herein, for the purpose of replacing revenue lost as a result of the reduction of property taxes provided in subdivisions 22 and subdivision 23.

(2) Each county auditor shall certify, not later than May 1 of each year to the commissioner of revenue the amount of reduction resulting from subdivisions 22 and subdivision 23 in the auditor's county. This certification shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under the provisions of section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner of revenue shall review such certifications to determine their accuracy. The commissioner may make such changes in the certification as are deemed necessary or return a certification to the county auditor for corrections.

(3) Based on current year tax data reported in the abstracts of tax lists, the commissioner of revenue shall annually determine the taxing district distribution of the amounts certified under clause (2). The commissioner of revenue shall pay to each taxing district, other than school districts, its total payment for the year in equal installments on or before July 15 and December 15 of each year.

Sec. 19. Minnesota Statutes 1986, section 273.13, subdivision 22, is amended to read:

Subd. 22. [CLASS 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$64,000 \$68,000 of market value of class 1a property must be assessed at 18 37 percent of its market value. The homestead value of class 1a property that exceeds \$64,000 \$68,000 must be assessed at 28 60 percent of its value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to clause (1) only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

Class 1b property is valued and assessed as follows: in the case of agricultural land, including a manufactured home, used for a homestead, the first \$32,000 of market value shall be valued and assessed at five percent, the next \$32,000 of market value shall be valued and assessed at 14 percent, and the remaining market value shall be valued and assessed at 18 percent; and in the case of all other real estate and manufactured homes, the first \$32,000 of market value shall be valued and assessed at five percent, the next \$32,000 of market value shall be valued and assessed at 18 percent, and the remaining market value shall be valued and assessed at 28 percent. In the case of agricultural land including a manufactured home used for purposes of a homestead, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates; and for all other real estate and manufactured homes, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the

five percent and 18 percent rates. Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income.

(c) Class 1c property is commercial use real property that abuts a lake-shore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. It must be assessed at 12 percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

(d) The tax to be paid on class 1a or class 1b property, less any reduction received pursuant to sections 273.123 and 473H.10, shall be reduced by 54 percent of the tax imposed on the first \$68,000 of market value. The amount of the reduction shall not exceed \$700.

Sec. 20. Minnesota Statutes 1986, section 273.13, subdivision 23, is amended to read:

Subd. 23. [CLASS 2.] (a) Class 2a property is agricultural land that is homesteaded, together with the house and garage. The first \$64,000 \$66,000 of market value of an agricultural homestead is valued at 14 30 percent. The remaining value of class 2a property is assessed at 18 40 percent of market value.

Noncontiguous land shall constitute class 2a only if the homestead is classified as class 2a and the detached land is located in the same township or city or not farther than two townships or cities or combination thereof from the homestead.

Agricultural land used for purposes of a homestead and actively farmed by a person holding a vested remainder interest in it must be classified class 2a. If agricultural land is classified class 2a, any other dwellings on the land used for purposes of a homestead by persons holding vested remainder interests who are actively engaged in farming the property, and up to one acre of the land surrounding each homestead and reasonably necessary for the use of the dwelling as a home, must also be assessed class 2a and is entitled to the homestead credit.

The tax to be paid on class 2a property, less any reduction received pursuant to sections 24.2137, 273.123, and 473H.10 shall be reduced by 54 52 percent of the tax. The amount of the reduction shall not exceed \$700.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products. It is assessed at 18 percent of market value.

(c) Class 2c Property is; and (2) real estate that is nonhomestead agricultural land. It Class 2b property is assessed at 18 40 percent of market value.

Agricultural land as used in this section shall mean contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land and land included in federal farm programs.

Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, shall be considered as agricultural land, if it is not used primarily for residential purposes.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Sec. 21. Minnesota Statutes 1986, section 273.13, subdivision 24, is amended to read:

Subd. 24. [CLASS 3.] (a) Commercial and industrial property is class 3a. It is assessed at ~~28 60~~ percent of the first ~~\$60,000~~ ~~\$80,000~~ of market value and ~~43 96~~ percent ~~for~~ of the market value over ~~\$60,000~~ ~~\$80,000~~. In the case of state-assessed commercial or industrial property owned by one person or entity, only one parcel may qualify for the ~~28 60~~ percent assessment. In the case of other commercial or industrial property owned by one person or entity, only one parcel in each county may qualify for the ~~28 60~~ percent assessment.

(b) Employment property defined in section 273.1313, during the period provided in section 273.1313, shall constitute class 3b and shall be valued and assessed at ~~20 45~~ percent of the first \$50,000 of market value and ~~24 50~~ percent of the remainder, except that for employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), the first ~~\$60,000~~ ~~\$80,000~~ of market value shall be valued and assessed at ~~28 60~~ percent and the remainder shall be assessed and valued at ~~38 58~~ percent, unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section 273.1314, subdivision 9, paragraph (a).

~~(c) Real property which is not improved with a structure and which is not utilized as part of a commercial or industrial activity shall constitute class 3c and shall be valued and assessed at 40 percent of market value.~~

Sec. 22. Minnesota Statutes 1986, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property is assessed at ~~34 70~~ percent of market value.

~~(b) Class 4b is tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures. Class 4b property is assessed at 33 1/3 percent of market value.~~

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, recreational, and homesteads;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing;

(3) manufactured homes not classified under any other provision; and

(4) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4b property is assessed at 60 percent for taxes levied in 1988, payable in 1989 and thereafter.

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter.

For all properties described in clauses (1) and (2) and in paragraph (d), clause (2), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

(3) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area; and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity

which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(4) except as provided in paragraph (d), clause (1), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 200 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property also includes the remainder of class 4d resorts; and

(5) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1986. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property is assessed at 50 percent.

(d) Class 4d property includes:

(1) commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. The area of the property that is classified as class 4d must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore;

(2) any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property must be assessed under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The 30 percent and 50 percent assessment ratios apply to the properties described in paragraph (c), clauses (1) and (2) and this clause, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity; and

(3) the first \$34,000 of market value of real estate or manufactured homes used for the purposes of a homestead by

(i) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(ii) any person, hereinafter referred to as "veteran," who:

(A) served in the active military or naval service of the United States; and

(B) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(C) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(iii) any person who:

(A) is permanently and totally disabled and

(B) receives 90 percent or more of total income from

- (1) aid from any state as a result of that disability; or
- (2) supplemental security income for the disabled; or
- (3) workers' compensation based on a finding of total and permanent disability; or
- (4) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or
- (5) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or
- (6) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to this clause only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

The remaining value of class 4(d)(3) property in excess of \$34,000 shall be valued and assessed under subdivision 22 or 23, as appropriate, provided that only the value in excess of \$34,000 but not in excess of \$68,000 is assessed at the rate provided for the first tier of value in subdivision 22 or only the value in excess of \$34,000 but not in excess of \$66,000 is assessed at the rate provided for the first tier of value in subdivision 23.

Class 4d property is assessed at 30 percent of market value.

Sec. 23. Minnesota Statutes 1986, section 273.13, subdivision 31, is amended to read:

Subd. 31. [CLASS 40 5.] All property not included in any other class is class 40 5 property and is assessed at 43 96 percent of market value.

Sec. 24. Minnesota Statutes 1986, section 273.1313, subdivision 3, is amended to read:

Subd. 3. [CLASSIFICATION.] Property shall be classified as employment property and assessed as provided for class 4d 3b property in section 273.13, subdivision 24, paragraph (b), for taxes levied in the year in which the classification is approved and for the four succeeding years after the approval. If the classification is revoked, the revocation is effective for taxes levied in the next year after revocation.

Sec. 25. Minnesota Statutes 1986, section 273.135, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be

(a) In the case of property located within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 66 percent of the net tax up to the ~~taconite breakpoint~~ ~~plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c).

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area but which is outside the bound-

aries of a municipality which meets the qualifications prescribed in section 273.134, 57 percent of the net tax up to the ~~taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c).

(e) (1) ~~The maximum reduction of the net tax up to the taconite breakpoint is \$225.40 on property described in clause (a) and \$200.10 on property described in clause (b); for taxes payable in 1985. These maximum amounts shall increase by \$15 times the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.~~

(2) The total maximum reduction of the net tax on property described in clause (a) is \$490 for taxes payable in 1985. The total maximum reduction for the net tax on property described in clause (b) is \$435 for taxes payable in 1985. These maximum amounts shall increase by \$15 per year for taxes payable in 1986 and thereafter.

For the purposes of this subdivision, "net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23; ~~"taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar, and "homestead credit equivalency percentage" means a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22 before application of the credit payable under this section.~~

Sec. 26. Minnesota Statutes 1986, section 273.1391, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the net tax up to the ~~taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint on qualified property located in the school district that does not meet the qualifications of section 273.134~~, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c). The reduction provided by this clause shall only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the net tax up to the ~~taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, but not to exceed the maximums

specified in clause (c).

(c) (1) The maximum reduction of the net tax up to the taconite breakpoint is \$200.10 for taxes payable in 1985. This maximum amount shall increase by \$15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

(2) The total maximum reduction of the net tax is \$435 for taxes payable in 1985. This total maximum amount shall increase by \$15 per year for taxes payable in 1986 and thereafter.

For the purposes of this subdivision, "net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23; "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar; and "homestead credit equivalency percentage" means a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22 before application of the credit under this section.

Sec. 27. Minnesota Statutes 1986, section 273.1392, is amended to read:
273.1392 [PAYMENT; AIDS TO SCHOOL DISTRICTS.]

The amounts of homestead credit under section 273.13, subdivisions 22 and 23; wetlands credit and reimbursement under section 273.115; native prairie credit and reimbursement under section 273.116; disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; homestead credit replacement aid under section 273.1394; agricultural credit replacement aid under section 273.1395; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 28. Minnesota Statutes 1986, section 273.1393, is amended to read:
273.1393 [COMPUTATION OF NET PROPERTY TAXES.]

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

- (1) disaster credit as provided in section 273.123;
- (2) wetlands credit as provided in section 273.115;
- (3) native prairie credit as provided in section 273.116;
- (4) powerline credit as provided in section 273.42;
- (5) (3) agricultural preserves credit as provided in section 473H.10;
- (6) (4) enterprise zone credit as provided in section 273.1314;
- (7) state school agricultural credit as provided in section 124.2137;
- (8) (5) state paid homestead credit as provided in section 273.13, subdivisions 22 and subdivision 23;
- (9) (6) taconite homestead credit as provided in section 273.135;
- (10) (7) supplemental homestead credit as provided in section 273.1391.

The combination of all property tax credits must not exceed the gross

tax amount.

Sec. 29. [273.1394] [HOMESTEAD CREDIT REPLACEMENT AID.]

Subdivision 1. [PAYMENT.] There shall be paid to each taxing jurisdiction in 1989 and subsequent years a homestead credit replacement aid, determined as provided in this section.

Subd. 2. [COMPUTATION.] (a) The initial aid will be computed as follows:

(1) for aids paid in 1989 only, determine the amount of homestead credit reimbursement that would have been paid to the taxing jurisdiction in 1988 under Minnesota Statutes 1986, section 273.13, subdivision 15a, on non-agricultural homesteads in 1988 if the homestead credit percentage provided in Minnesota Statutes 1986, section 273.13, subdivision 22, had been determined by using a rate of 52 percent and as if there had been no \$700 maximum;

(2) for aids payable in 1990 and subsequent years, the initial aid is the amount paid in the previous year; and

(3) for aids paid in 1988 only, the initial amount determined under clause (1) for all taxing jurisdictions levying within each school district shall be reapportioned among all taxing jurisdictions in proportion to their share of the total levy by all taxing jurisdictions in payable 1988.

(b) The amount determined in paragraph (a) shall be multiplied by a fraction, the numerator of which is the ratio of the estimated assessed value of the total homestead base value of nonagricultural homesteads in the taxing jurisdiction for the current assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the current assessment year, and the denominator of which is the ratio of the estimated assessed value of the total homestead base value of nonagricultural homesteads in the taxing jurisdiction for the previous assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the previous assessment year. The county auditor shall certify the estimated assessed value of the total homestead base value and the total homestead exemption amount, of nonagricultural homesteads and the estimated assessed value of all property in the taxing jurisdiction as of July 15 to the commissioner of revenue.

(c) for aids paid in 1989 and thereafter, the amounts determined under paragraph (b) shall be adjusted as follows:

(i) for cities, towns, and special taxing districts, multiply the amount by one plus the implicit price deflator as defined in section 275.50, subdivision 8;

(ii) for counties, multiply the amount by the following factors: first, by the ratio of the total county levy, except the sum of the levy for income maintenance not including administrative costs plus the levy for social services, to the total county levy multiplied by one plus the implicit price deflator as defined in section 275.50, subdivision 8; second, by the ratio of the sum of the levy for income maintenance, not including administrative costs plus the social service levy of the county to the total county levy multiplied by the estimated increase in county social service costs and income maintenance program costs, not including income maintenance administrative costs; as used in this subclause (ii), "levy" means the levy for taxes payable in the year preceding the year in which the aid is paid;

(iii) for school districts, multiply the amount by the ratio of the school district's levy limit, exclusive of any referendum levy authorized under section 124A.03, subdivision 2, for taxes payable in the preceding year to its levy limit for taxes payable in the year in which the aid is paid exclusive of any such referendum levy.

The county must certify actual social service and income maintenance levies to the commissioner of revenue, who will adjust the final aid amounts paid under this section and section 273.1395 accordingly.

Subd. 3. [PAYMENT.] The commissioner shall certify and pay the homestead credit replacement aid at the times provided in sections 477A.014 and 477A.015 for certification and payment of local government aid to other taxing jurisdictions. Aids to school districts must be certified to the commissioner of education and paid pursuant to section 273.1392. Payment shall not be made to any taxing jurisdiction that has ceased to levy a property tax.

Subd. 4. [APPROPRIATION.] An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 30. [273.1395] [AGRICULTURAL CREDIT REPLACEMENT AID.]

Subdivision 1. [PAYMENT.] There shall be paid to each taxing jurisdiction in 1989 and subsequent years an agricultural credit replacement aid determined as provided in this section.

Subd. 2. [COMPUTATION.] (a) The initial aid will be computed as follows:

(1) The amount of aid that would have been paid to a taxing jurisdiction in 1988 pursuant to Minnesota Statutes 1986, section 124.2137, if the aid paid to school districts under that provision had been distributed among all taxing jurisdictions containing property with respect to which the credit had been paid in proportion to their share of the total levy by all taxing jurisdictions in payable 1988. For aid payable in 1990 and subsequent years, the initial aid is the amount paid in the previous year.

(2) An amount determined in clause (1) shall be multiplied by a fraction, the numerator of which is the ratio of the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, in the taxing jurisdiction for the current assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the current assessment year, and the denominator of which is the ratio of the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, in the taxing jurisdiction for the previous assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the previous assessment year. The county auditor shall certify the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, and the estimated assessed value of all property in the taxing jurisdiction as of July 15 to the commissioner of revenue.

(b) For aids paid in 1989 and subsequent years, the amounts determined in paragraph (a) would be adjusted according to the formula provided in section 273.1394, subdivision 2, paragraph (c).

Subd. 3. [CERTIFICATION AND PAYMENT.] The commissioner shall certify and pay the agricultural credit replacement aid at the times provided in sections 477A.014 and 477A.015 for certification and payment of local government aid to other taxing jurisdictions. Aids to school districts must be certified to the commissioner of education and paid pursuant to section 273.1392. Payment shall not be made to any special taxing district that has ceased to levy a property tax.

Subd. 4. [APPROPRIATION.] An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 31. [273.1396] [TAX BASE ADJUSTMENT AID.]

Subdivision 1. [ADJUSTMENT.] There shall be added to or subtracted from the aid paid to each taxing jurisdiction under sections 273.1394, 273.1395, 477A.015, and chapter 124A an amount determined under this section.

Subd. 2. [1989 COMPUTATION.] The amount shall be computed for aids paid to each taxing jurisdiction in 1989 as follows:

(a) multiply the assessment ratios provided in section 273.13, for taxes payable in 1989 by 45 percent and redetermine the assessed value of the taxing jurisdiction for taxes payable in 1988 using the resulting ratios. Any recomputed captured assessed value of a tax increment district as defined in section 273.73 would not be included in the assessed value of the taxing jurisdiction. The recomputed assessed values would not be adjusted to reflect any change in the effects of chapter 473F or in assessed value pursuant to section 273.425 as a result of the recomputation but would be adjusted for those values as originally certified;

(b) subtract the amount determined in paragraph (a) from the actual taxable assessed value of the taxing jurisdiction for taxes payable in 1988, and multiply that amount by the actual mill rate of the taxing jurisdiction for taxes payable in 1988;

(c) if the amount determined in paragraph (b) is positive, it shall be added to the taxing jurisdiction's homestead credit replacement aid under section 273.1394 or if no homestead credit replacement aid is payable, granted as an additional aid. If the amount determined in paragraph (b) is negative, it shall be subtracted from the sum of the taxing jurisdiction's homestead credit replacement aid under section 273.1394, and agricultural credit replacement aid under section 273.1394. If the amount determined in paragraph (b) is negative and is not totally offset against the homestead and agricultural credit reimbursement aid then the remainder shall be subtracted from a taxing jurisdiction's local government aid paid under section 477A.015 and school aids paid under chapter 124A.

Subd. 3. [SUBSEQUENT COMPUTATIONS.] For aids paid under sections 273.1394 and 273.1395 in 1990 and subsequent years, the amount to be added or subtracted under this section shall be equal to the amount determined under subdivision 2.

Subd. 4. [APPROPRIATION.] An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 32. Minnesota Statutes 1986, section 273.165, subdivision 2, is amended to read:

Subd. 2. [IRON ORE.] Unmined iron ore included in class 9 5 must be assessed with and as a part of the real estate in which it is located, but at the rate established in section 273.13, subdivision 30. The real estate in which iron ore is located, other than the ore, must be classified and assessed in accordance with the provisions of the appropriate classes. In assessing any tract or lot of real estate in which iron ore is known to exist, the assessable value of the ore exclusive of the land in which it is located, and the assessable value of the land exclusive of the ore must be determined and set down separately and the aggregate of the two must be assessed against the tract or lot.

Sec. 33. Minnesota Statutes 1986, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69 kv and above located in an unorganized township, and ~~distribution lines~~, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before the 15th day of November, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 34. Minnesota Statutes 1986, section 273.38, is amended to read:
273.38 [PERCENTAGE OF ASSESSMENTS; EXCEPTIONS.]

~~The commissioner of revenue shall assess distribution lines, and the attachments and appurtenances thereto, used primarily for supplying electricity to farmers at retail, which shall be taxed at the average rate of taxes levied for all purposes throughout the county, and which shall be entered, certified and credited as provided in section 273.42. It is further provided that~~ The distribution lines and the attachments and appurtenances thereto of cooperative associations organized under the provisions of Laws 1923, chapter 326, and laws amendatory thereof and supplemental thereto, and engaged in the electrical heat, light and power business, upon a mutual, nonprofit and cooperative plan, shall be assessed and taxed as provided in sections 273.40 and 273.41.

Sec. 35. Minnesota Statutes 1986, section 273.42, subdivision 2, is amended to read:

Subd. 2. Owners of land ~~defined as class 1a, 1b, 1c, 2a, 2c, 4a, 5a, or 6a, pursuant to that is an agricultural or nonagricultural homestead, non-homestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 listed on records of the county auditor or county treasurer over which runs a high voltage transmission line as defined in section 116C.52, subdivision 3, except a high voltage transmission line the construction of which was commenced prior to July 1, 1974, shall receive a property tax credit in an amount determined by multiplying a fraction, the numerator of which is the length of high voltage transmission line which runs over that parcel and the denominator of which is the total length of that particular line running over all property within the city or township by ten percent of the transmission line tax revenue derived from the tax on that portion of the line within the city or township~~

pursuant to section 273.36. In the case of property owners in unorganized townships, the property tax credit shall be determined by multiplying a fraction, the numerator of which is the length of the qualifying high voltage transmission line which runs over the parcel and the denominator of which is the total length of the qualifying high voltage transmission line running over all property within all the unorganized townships within the county, by the total utility property tax credit fund amount available within the county for that year pursuant to subdivision 1. Where a right-of-way width is shared by more than one property owner, the numerator shall be adjusted by multiplying the length of line on the parcel by the proportion of the total width on the parcel owned by that property owner. The amount of credit for which the property qualifies shall not exceed 20 percent of the total gross tax on the parcel prior to deduction of the state paid agricultural credit and the state paid homestead credit, provided that, if the property containing the right-of-way is included in a parcel which exceeds 40 acres, the total gross tax on the parcel shall be multiplied by a fraction, the numerator of which is the sum of the number of acres in each quarter-quarter section or portion thereof which contains a right-of-way and the denominator of which is the total number of acres in the parcel set forth on the tax statement, and the maximum credit shall be 20 percent of the product of that computation, prior to deduction of those credits. The auditor of the county in which the affected parcel is located shall calculate the amount of the credit due for each parcel and transmit that information to the county treasurer. The county auditor, in computing the ~~credits~~ credit received pursuant to ~~sections 273.13 and~~ section 273.135, shall reduce the gross tax by the amount of the credit received pursuant to this section, unless the amount of the credit would be less than \$10.

If, after the county auditor has computed the credit to those qualifying property owners in unorganized townships, there is money remaining in the utility property tax credit fund, then that excess amount in the fund shall be returned to the general school fund of the county.

Sec. 36. Minnesota Statutes 1986, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, ~~and towns, and school districts~~ shall be certified by the proper authorities to the county auditor on or before October 10 in each year. *The taxes of a school district must be certified to the commissioner of education by October 10 in each year.* If a city, town, county, school district or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue, *or the commissioner of education in the case of a school district,* before October 10 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy.

Sec. 37. [275.081] [FARM AND HOMESTEAD VALUE EXEMPTION.]

Subdivision 1. [PROCEDURE.] After certification of assessed valuations pursuant to section 274.04 and adjustments pursuant to sections 270.13, 274.01, 274.08, 274.09, 274.12, 274.16, and 274.17, the county auditor shall reduce the assessed value of each farm and homestead according to this section.

Subd. 2. [NONAGRICULTURAL HOMESTEADS.] The assessed value

of a nonagricultural homestead is reduced by 52 percent, but not to exceed 52 percent of the assessed value of a class 1 homestead having an estimated market value of \$68,000.

Subd. 3. [AGRICULTURAL HOMESTEADS.] *The assessed value of the first 320 acres of property classified as an agricultural homestead is reduced by 36 percent of the assessed value of the first 320 acres less the value of the homestead dwelling, garage, and one acre on which the dwelling is situated. The assessed value of the property in excess of 320 acres is reduced by 26 percent of its assessed value.*

Subd. 4. [NONHOMESTEAD FARMS AND TIMBERLAND.] *The assessed value of a nonhomestead farm, excluding the value of any dwelling, garage, and one acre surrounding it, is reduced by 26 percent of its assessed value. For purposes of this section, nonhomestead farms shall include timberlands.*

Subd. 5. [SEASONAL RESIDENTIAL RECREATIONAL PROPERTY.] *The assessed value of noncommercial seasonal residential recreational property is reduced by 15 percent, but not to exceed 15 percent of the assessed value of a noncommercial seasonal residential recreational property with \$31,000 of assessed value.*

Sec. 38. [275.082] [COMPUTATION OF TAX ON PARCELS.]

Subdivision 1. [NONAGRICULTURAL HOMESTEADS.] *For use in taxing nonagricultural homesteads, a mill rate shall be computed for each taxing jurisdiction based on the assessed value of properties as reduced under section 275.081. The homestead credit amount for each nonagricultural homestead shall be the exemption amount computed under section 275.081, multiplied by the total mill rate, and the gross tax is the sum of that credit amount plus the net tax determined by multiplying the mill rate by the assessed value of the property after subtraction of the exemption amount.*

Subd. 2. [AGRICULTURAL AND OTHER PROPERTY.] *For use in taxing agricultural homesteads, nonhomestead agricultural land, timberland, and seasonal recreational property, the mill rate as computed under subdivision 1 shall be applied to the assessed value of the property after deduction of the exemption amount computed under section 275.081. From that amount of tax on agricultural homesteads there shall be deducted a homestead credit in an amount equal to 52 percent of the tax on the property, less any reduction received under sections 273.123 and 473H.10, but not to exceed \$700.*

Sec. 39. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 21. [AID ADJUSTMENT.] *If a school district's aids pursuant to chapter 124A or sections 273.1394 and 273.1395 for the school year beginning following the levy year are reduced pursuant to section 273.1396, then the district's levy limit shall be increased by the amount of the reduction. If the district's aids are increased pursuant to section 273.1396, then its levy limit shall be reduced by the amount of the increase.*

Sec. 40. Minnesota Statutes 1986, section 275.50, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, home rule charter city, or ~~statutory city, except~~

a home rule charter or statutory city that has a population of less than 5,000 according to the most recent federal census.

(b) "Governmental subdivision" also includes any city or town that receives a distribution from the taconite municipal aid account in the levy year.

Sec. 41. Minnesota Statutes 1986, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. [ADJUSTED LEVY LIMIT BASE.] For taxes levied in 1985 and thereafter 1988 and thereafter, the adjusted levy limit base is equal to the levy limit base computed pursuant to article 4, section 12, or subdivision 3f, increased by:

(a) a percentage equal to the percentage growth in the implicit price deflator, or five three percent, whichever is lesser;

(b) a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived pursuant to subdivision 6;

(c) one-half of the amount levied as a special levy in the previous year for paying the costs of municipal services provided to new private industrial and nonresidential commercial development pursuant to section 275.50, subdivision 5, clause (m), if the special levy is discontinued;

(d) the amount of any permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending September 30 of the levy year, pursuant to section 275.58, subdivisions 1 and 2; and

(e) the amount, if known, equal to the decrease in federal revenue sharing allotment from the levy year to the year in which the levy is payable; otherwise the amount equal to the decrease in federal revenue sharing allotment in the levy year as compared to the previous year if the levy base for the previous year has not been adjusted for a decrease in federal revenue sharing allotment.

Sec. 42. Minnesota Statutes 1986, section 276.04, is amended to read:

276.04 [NOTICE OF RATES; PROPERTY TAX STATEMENTS.]

On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose. The treasurer shall, whether or not directed by the county board, cause to be printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district shall be separately stated but the amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in bold face print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY

PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property. The county treasurer shall mail to taxpayers statements of their personal property taxes due, such statements to be mailed not later than February 15 (except in the case of manufactured homes and sectional structures taxed as personal property), statements of the real property taxes due shall be mailed not later than January 31; provided, that the validity of the tax shall not be affected by failure of the treasurer to mail such statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement shall show the amount attributable to the decrease in tax under section 275.082 attributable to Minnesota Statutes 1986, section 124.2137 as "state paid agricultural credit amount" and the amount attributable to the decrease in tax under section 275.082 attributable to Minnesota Statutes 1986, section 273.13, subdivisions 22 and 23 as "state paid homestead credit amount." If so directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving taxes and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.

Sec. 43. Minnesota Statutes 1986, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on nonhomestead property, except that this penalty shall not accrue until June 1 of each year on commercial use real property used for seasonal residential recreational purposes and classified as class ~~4e~~ 4d or ~~6a~~ 4c, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any property owner of such class 3a property who pays the first half of the tax due on the property after May 15 and before June 1 shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the 16th day of each month, up to and including October 16 following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of four percent for each month

shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following; provided, also, that the same may be paid in installments as follows: One-fourth prior to March 16; one-fourth prior to May 16; one-fourth prior to August 16; and the remaining one-fourth prior to October 16, subject to the aforesaid penalties. Where the taxes delinquent after October 16 against any tract or parcel exceed \$100, upon resolution of the county board, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

Sec. 44. Minnesota Statutes 1986, section 279.06, is amended to read:
279.06 [COPY OF LIST AND NOTICE.]

Within five days after the filing of such list, the court administrator shall return a copy thereof to the county auditor, with a notice prepared and signed by the court administrator, and attached thereto, which may be substantially in the following form:

State of Minnesota)
) ss.
County of)

District Court
..... Judicial District.

The state of Minnesota, to all persons, companies, or corporations who have or claim any estate, right, title, or interest in, claim to, or lien upon, any of the several parcels of land described in the list hereto attached:

The list of taxes and penalties on real property for the county of remaining delinquent on the first Monday in January, 19 . . . , has been filed in the office of the court administrator of the district court of said county, of which that hereto attached is a copy. Therefore, you, and each of you, are hereby required to file in the office of said court administrator, on or before the 20th day after the publication of this notice and list, your answer, in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any parcel of land described in the list, in, to, or on which you have or claim any estate, right, title, interest, claim, or lien, and, in default thereof, judgment will be entered against such parcel of land for the taxes on such list appearing against it, and for all penalties, interest, and costs. Based upon said judgment, the land shall be sold to the state of Minnesota on the second Monday in May, 19 The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) non-agricultural homesteaded land as defined in section 273.13, subdivision 22; (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a); or (c) seasonal recreational land as defined in section 273.13, subdivision 22 25, paragraph (c) (d)(1) or subdivision 27, paragraph (a) (c)(4), in which event the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale.

Inquiries as to the proceedings set forth above can be made to the county auditor of county whose address is

(Signed)
Court Administrator of the District Court of the County
of
(Here insert list.)

The list referred to in the notice shall be substantially in the following form:

List of real property for the county of, on which taxes remain delinquent on the first Monday in January, 19 . . . :

Town of (Fairfield),
Township (40), Range (20),

Names (and Current Filed
Addresses) for the Taxpayers
and Fee Owners and in Addition
Those Parties Who Have Filed
Their

Addresses Pursuant to section 276.041	Subdivision of Section	Section	Tax Parcel Number	Total Tax and Penalty
--	---------------------------	---------	-------------------------	--------------------------

John Jones (825 Fremont Fairfield, MN 55000)	S.E. 1/4 of S.W. 1/4	10	23101	\$ cts. 2.20
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Bruce Smith (2059 Hand Fairfield, MN 55000) and Fairfield State Bank (100 Main Street Fairfield, MN 55000)	That part of N.E. 1/4 of S.W. 1/4 desc. as follows: Beg. at the S.E. corner of said N.E. 1/4 of S.W. 1/4; thence N. along the E. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence W. parallel with the S. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence S. parallel with said E. line a distance of 600 ft. to S. line of said N.E. 1/4 of S.W. 1/4; thence E. along said S. line a distance of 600 ft. to the point of beg.	21	33211	3.15
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As to platted property, the form of heading shall conform to circumstances and be substantially in the following form:

City of (Smittown)
Brown's Addition, or Subdivision

Names (and Current Filed Addresses) for the Taxpayers and Fee Owners and in Addition Those Parties Who have Filed Their Addresses Pursuant to section 276.041	Lot	Block	Tax Parcel Number	Total Tax and Penalty \$ cts
John Jones (825 Fremont Fairfield, MN 55000)	15	9	58243	2.20
Bruce Smith (2059 Hand Fairfield, MN 55000) and Fairfield State Bank (100 Main Street Fairfield, MN 55000)	16	9	58244	3.15

The names, descriptions, and figures employed in parentheses in the above forms are merely for purposes of illustration.

The name of the town, township, range or city, and addition or subdivision, as the case may be, shall be repeated at the head of each column of the printed lists as brought forward from the preceding column.

Errors in the list shall not be deemed to be a material defect to affect the validity of the judgment and sale.

Sec. 45. Minnesota Statutes 1986, section 281.17, is amended to read:
281.17 [PERIOD FOR REDEMPTION.]

The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) nonagricultural homesteaded land as defined in section 273.13, subdivision 22, (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a), or (c) seasonal recreational land as defined in section 273.13, subdivision 27.25, paragraph (a), (d)(1) or subdivision 22, paragraph (c)(4), in which event the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale.

Sec. 46. Minnesota Statutes 1986, section 290A.03, subdivision 13, is amended to read:

Subd. 13. [PROPERTY TAXES PAYABLE.] "Property taxes payable" means the property tax exclusive of special assessments, penalties, and

interest payable on a claimant's homestead ~~before reductions made pursuant to section 273.13, subdivisions 22 and 23, but~~ after deductions made pursuant to sections ~~124.2137, 273.115, 273.116, 273.135, 273.1391, 273.42, subdivision 2,~~ and any other state paid property tax credits in any calendar year. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 274.19, subdivision 8, "property taxes payable" shall also include the amount of the gross rent paid in the preceding year for the site on which the homestead is located, which is attributable to the net tax paid on the site. The amount attributable to property taxes shall be determined by multiplying the net tax on the parcel by a fraction, the numerator of which is the gross rent paid for the calendar year for the site and the denominator of which is the gross rent paid for the calendar year for the parcel. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.13, subdivision 22 or 23 on or before June 1 of the year in which the "property taxes payable" were levied; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made prior to October 1 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

Sec. 47. Minnesota Statutes 1986, section 290A.03, subdivision 14, is amended to read:

Subd. 14. [NET TAX.] "Net tax" means

(a) the property tax, exclusive of special assessments, interest, and penalties, and after reduction for any state paid property tax credits as required in subdivision 13 ~~except for the reduction pursuant to section 273.13, subdivisions 22 and 23,~~ or

(b) the payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes,

for the calendar year in which the rent was paid. If a portion of the property is occupied as a homestead or is used for other than rental purposes, the net tax shall be the amount of tax reduced by the percentage that the nonrental use comprises of the total square footage of the building. If a portion of the property is used for purposes other than for residential rental and none of the property is occupied as a homestead, the net tax shall be the amount of the tax of the parcel multiplied by a fraction, the

numerator of which is the assessed value of the residential rental portion and the denominator of which is the total assessed value of the parcel. If a portion of the property is used for other than rental residential purposes, the county treasurer shall list on the property tax statement the amount of net tax pertaining to the rental residential portion of the property.

The amount of the net tax shall not be reduced by an abatement or a court ordered reduction in the property tax on the property made after the certificate of rent constituting property tax has been provided to the renter.

Sec. 48. Minnesota Statutes 1986, section 290A.04, subdivision 2, is amended to read:

Subd. 2. A claimant whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and up to \$2,999	1.0 percent	5 percent	\$1,125
3,000 to 3,499	1.0 percent	6 percent	\$1,125
3,500 to 3,999	1.0 percent	7 percent	\$1,125
4,000 to 4,499	1.0 percent	8 percent	\$1,125
4,500 to 4,999	1.0 percent	9 percent	\$1,125
5,000 to 5,999	1.0 percent	10 percent	\$1,125
6,000 to 6,999	1.0 percent	11 percent	\$1,125
7,000 to 7,999	1.0 percent	12 percent	\$1,125
8,000 to 8,999	1.1 percent	13 percent	\$1,125
9,000 to 9,999	1.2 percent	14 percent	\$1,125
10,000 to 10,999	1.3 percent	15 percent	\$1,125
11,000 to 11,999	1.4 percent	16 percent	\$1,125
12,000 to 12,999	1.5 percent	17 percent	\$1,125
13,000 to 13,999	1.5 percent	18 percent	\$1,125
14,000 to 14,999	1.5 percent	19 percent	\$1,125
15,000 to 15,999	1.5 percent	20 percent	\$1,125
16,000 to 16,999	1.5 percent	21 percent	\$1,125
17,000 to 17,999	1.5 percent	22 percent	\$1,125
18,000 to 18,999	1.5 percent	23 percent	\$1,125
19,000 to 19,999	1.5 percent	24 percent	\$1,125
20,000 to 20,999	1.6 percent	25 percent	\$1,125
21,000 to 21,999	1.6 percent	27 percent	\$1,125
22,000 to 22,999	1.6 percent	29 percent	\$1,125
23,000 to 23,999	1.8 percent	31 percent	\$1,125
24,000 to 24,999	1.8 percent	33 percent	\$1,105
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$ 990
29,000 to 29,999	2.0 percent	47 percent	\$ 960

30,000 to 30,999	2.0 percent	50 percent	\$ 930
31,000 to 31,999	2.2 percent	50 percent	\$ 900
32,000 to 32,999	2.2 percent	50 percent	\$ 800
33,000 to 33,999	2.2 percent	50 percent	\$ 700
34,000 to 34,999	2.2 percent	50 percent	\$ 600
35,000 to 35,999	2.2 percent	50 percent	\$ 500
36,000 to 36,999	2.4 percent	50 percent	\$ 400
37,000 to 37,999	2.4 percent	50 percent	\$ 300
38,000 to 38,999	2.4 percent	50 percent	\$ 200
39,000 to 39,999	2.4 percent	50 percent	\$ 100
40,000 and over	2.4 percent	50 percent	-0-

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision, ~~less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23.~~ No payment is allowed if the claimant's household income is \$40,000 or more.

Sec. 49. Minnesota Statutes 1986, section 473.446, subdivision 1, is amended to read:

Subdivision 1. [TAXATION WITHIN TRANSIT TAXING DISTRICT.] For the purposes of sections 473.401 to 473.451 and the metropolitan transit system, except as otherwise provided in this subdivision the regional transit board shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

(a) an amount up to two mills times the assessed value of all such property, based upon the level of transit service provided for the property, the proceeds of which shall be used for payment of the expenses of operating transit and paratransit service and to provide for payment of obligations issued by the commission under section 473.436, subdivision 6;

(b) an additional amount, if any, as the board determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council or board has specifically pledged tax levies under this clause.

The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.5 mills on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.75 mills on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a

certification to the county auditor for corrections. The commissioner shall pay to the regional transit board the amounts certified by the county auditors on the dates provided in section 273.13, subdivision 15a, clause (3) 273.1394. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments in fiscal year 1987 and thereafter.

For the purposes of this subdivision, "full peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

Sec. 50. Minnesota Statutes 1986, section 473F02, subdivision 4, is amended to read:

Subd. 4. "Residential property" means the following categories of property, as defined in section 273.13, excluding that portion of such property exempt from taxation pursuant to section 272.02:

(a) Class ~~1a, 1b~~ 1, 2a, 4a, ~~5a, 5b, 7a, 7b, 7c, and 7d~~ 4b, 4c, and 4d property *except resorts*

(b) And that portion of class 3a, 3b, and ~~40~~ 5 property used exclusively for residential occupancy.

Sec. 51. Minnesota Statutes 1986, section 473F02, subdivision 17, is amended to read:

Subd. 17. "Public grants" means (1) the sum of all money received by a municipality pursuant to ~~sections 273.13, subdivisions 3 and 15(4), 290.361, subdivision 4, 297.13 section 273.1394;~~ and (2) one-tenth of all other money received by a municipality from the federal and state governments, and their agencies and political subdivisions, under programs of intergovernmental aids and grants distributed by formula or upon application. The state auditor shall certify the public grants of each municipality for each year to the commissioner of finance not later than September 1 of the subsequent year.

Sec. 52. Minnesota Statutes 1986, section 475.61, subdivision 3, is amended to read:

Subd. 3. [IRREVOCABILITY.] Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

In each year when there is on hand any excess amount in the debt redemption fund of a school district at the time the district makes its property tax levies, the amount of the excess shall be certified by the school board to the *commissioner of education who shall compute the reduced tax levy, after adjustment for the homestead credit replacement aid paid pursuant to section 273.1394, the agricultural credit replacement aid paid pursuant to section 273.1395, and the tax base adjustment pursuant to section 273.1396. The commissioner of education shall certify the adjusted reduced tax levy to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified, unless the school board determines that the excess amount is necessary to ensure the prompt and full payment of the obligations and any call premium on the obligations, or will be used for redemption of the obligations in accordance with their terms. An amount shall be presumed to be excess for a school district in the amount that it, together with the*

levy required by subdivision 1, will exceed 106 percent of the amount needed to meet when due the principal and interest payments on the obligations due before the second following July 1. This subdivision shall not limit a school board's authority to specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of moneys actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

Sec. 53. [REPEALER.]

Minnesota Statutes 1986, sections 13.58; 124.2131, subdivision 4; 124.2137; 124.2139; 124A.031, subdivision 4; 273.112, subdivision 9; 273.115; 273.116; 273.13, subdivisions 26, 27, 28, and 29; 273.1311; 273.1315; 273.135, subdivision 5; and 273.1391, subdivision 4, are repealed.

Sec. 54. [EFFECTIVE DATE.]

Except where provided otherwise, sections 1 to 53 are effective for taxes levied in 1988, payable in 1989, and thereafter.

ARTICLE 7

PROPERTY TAX ADMINISTRATION

Section 1. [3.861] [TAX STUDY COMMISSION.]

Subdivision 1. [CREATION.] A legislative tax study commission is created.

Subd. 2. [DUTIES.] The commission shall:

(1) examine the burden of income maintenance and social services on the property tax levies of the counties, and of each county individually, and determine the impact of total or increased state funding of income maintenance and social services on those levies;

(2) examine and recommend to the legislature alternative methods of income adjusted property tax relief for homeowners and renters;

(3) examine and recommend to the legislature alternative property tax classification systems that reduce the number of property classifications, and determine the effects of the consolidation by type and use of property;

(4) examine the tax structures and revenue needs and revenue resources of state and local governments;

(5) study and make recommendations about long-range tax policy;

(6) analyze proposed tax legislation, with particular reference to revenue and distribution impact, local government financing, and adherence to sound tax policies, and report its findings to the legislature;

(7) examine the property tax burdens on agricultural, commercial, industrial, and employment property by county, and by type, use, and market value; and

(8) file a report at least biennially with the legislature.

Subd. 3. [MEMBERSHIP.] *The commission consists of seven members of the senate, including the chair of the committee on taxes and tax laws, to be appointed by the subcommittee on committees of the committee on rules and administration, and seven members of the house of representatives, including the chair of the committee on taxes, to be appointed by the speaker.*

Appointees are members of the commission only while they are members of the bodies from which they were appointed. The first members serve for a term expiring on January 15 of the next biennial session of the legislature and until their successors are appointed. Later members must be appointed at the start of each biennial session of the legislature for a two-year term beginning on January 16 of that year. Vacancies must be filled in the same manner as the original appointment.

Subd. 4. [MEETINGS; OFFICERS.] *The commission shall hold meetings at the times and places it designates. The commission's first chair shall be the chair of the house tax committee. Every two years, the chair of the house tax committee and the chair of the senate committee on taxes and tax laws shall alternate the office of commission chair. The commission shall select a vice-chair and other officers from its membership.*

Subd. 5. [STAFF; OFFICE; EQUIPMENT.] *(a) In performing its duties, the commission must utilize existing legislative staff.*

(b) The commission may purchase equipment and supplies, and may enter into contracts for the furnishing of services, equipment, and supplies necessary to discharge its duties.

Subd. 6. [ASSISTANCE OF OTHER AGENCIES.] *(a) The commission may request information from any state officer or agency to assist in carrying out this section. The officer or agency shall promptly provide the data requested to the extent permitted by law.*

(b) The commissioner of revenue shall prepare, maintain, and make available to the commission data that compares (1) household incomes with rents and property tax burdens; and (2) household incomes with home market values and property tax burdens. The data must be furnished and made available in the form and manner that the commission determines will facilitate its use to discharge the duty imposed in subdivision 2, clause (2). The data must not disclose the name, address, social security number, or any other item of information that the commissioner believes may identify an individual. The data must be furnished to the commission by September 15, 1987, and subsequently maintained by the commissioner so that the most complete and current data available is furnished to the commission.

Subd. 7. [EXPENSES AND REIMBURSEMENT OF MEMBERS AND STAFF.] *The members of the commission may receive per diem when attending meetings and other commission business. Members and legislative employees must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.*

Subd. 8. [COMMISSION EXPENSES AND REPORTS.] *Expenses of the commission must be approved by the chair or other member as the rules of the commission may provide. The expenses must then be paid in the same way as other state expenses are paid. A general summary or statement of expenses incurred by the commission and paid must be made to the*

legislature by November 15 of each even-numbered year.

Subd. 9. [APPROPRIATION.] \$300,000 is appropriated for the biennium ending June 30, 1989, from the general fund to the tax study commission.

Sec. 2. Minnesota Statutes 1986, section 88.49, is amended by adding a subdivision to read:

Subd. 9a. [LAND TRADES WITH GOVERNMENTAL UNITS.] Notwithstanding subdivisions 6 and 9, or section 88.491, subdivision 2, if an owner trades land under auxiliary forest contract for land owned by a governmental unit and the owner agrees to use the land received in trade from the governmental unit for the production of forest products, upon resolution of the county board, no taxes and assessments shall be levied against the land traded, except that any current or delinquent annual taxes or yield taxes due on that land while it was under the auxiliary forest provision must be paid prior to the land exchange. The land received from the governmental unit in the land trade automatically qualifies for inclusion in the tree growth tax law.

Sec. 3. Minnesota Statutes 1986, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED ASSESSED VALUE.] (a) [COMPUTATION.] ~~The equalization aid review committee, consisting of the commissioner of education, the commissioner of administration, the commissioner of agriculture, and the commissioner of revenue, is hereby continued and permanently established. The duty of this committee shall be to review the assessed valuation of the districts of the state. The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures referenced in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized assessed value for the various strata of taxable property in each school district, which value shall be designated as the adjusted assessed value. The department of revenue shall take such steps as are necessary in the performance of that duty and may incur such expense as is necessary therefor. The commissioner of revenue is authorized to reimburse any county or governmental official for requested services performed in ascertaining such adjusted valuation. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted assessed values. On or before March June 15, annually, the department of revenue shall submit file its final report on the assessed values established by the previous year's assessment to said committee for approval or rejection and, if approved, such report shall be filed not later than the following July 1 with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of mill rates. A copy of the adjusted assessed value so filed shall be forthwith mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which such each district is located.~~

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general meth-

odology with specific procedures necessary for proper execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted assessed value of agricultural lands for the calculation of ~~1977~~ 1987 adjusted assessed values and thereafter, the market value of agricultural lands shall be the ~~arithmetic average of (1) the price for which the property would sell in an arms length transaction, and (2) the income which could be derived from its free market gross rental rate capitalized at a rate of nine percent.~~

Sec. 4. Minnesota Statutes 1986, section 124.2131, subdivision 2, is amended to read:

Subd. 2. [ADJUSTED ASSESSED VALUE; GROWTH LIMIT.] In the calculation of adjusted assessed valuations for ~~1979~~ 1987 and each year thereafter, the ~~committee~~ commissioner of revenue shall not increase the adjusted assessed valuation of taxable property for any school district over the adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year by more than the greater of (1) 19 percent of the certified adjusted assessed valuation established and filed with the commissioner of education for the year immediately preceding, or (2) 40 percent of the difference between the district's total adjusted assessed valuation for the current year calculated without the application of this subdivision and the district's certified adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year.

Sec. 5. Minnesota Statutes 1986, section 124.2131, subdivision 3, is amended to read:

Subd. 3. [DECREASE IN IRON ORE ASSESSED VALUE.] If in any year the assessed value of ~~class 9a and 9b iron ore~~ property, as defined in section 273.13, ~~subdivision 30,~~ in any district is less than the assessed value of such property in the immediately preceding year, the ~~equalization aid review committee~~ commissioner of revenue shall redetermine for all purposes the adjusted assessed value of the immediately preceding year taking into account only the decrease in assessed value of ~~class 9a and 9b iron ore~~ property. If subdivision 2, clause (a) is applicable to such a district, the decrease in ~~class 9a and 9b iron ore~~ property shall be applied to the adjusted assessed value as limited therein. In all other respects, the provisions of clause (1) shall be applicable.

Sec. 6. Minnesota Statutes 1986, section 124.2131, subdivision 5, is amended to read:

Subd. 5. [ADJUSTED ASSESSED VALUE; APPEALS.] Should any

district within 60 30 days after receipt of a copy of a report filed with the commissioner of education made pursuant to subdivision 1 or 3, be of the opinion that the ~~equalization aid review committee~~ commissioner of revenue has made an error in the determination of the school district's market value, it may appeal from the report or portion thereof relating to the school district to the commissioner of revenue for a review and determination of the matters contained in the appeal. The commissioner shall advise the school district of the determination within 30 days. If the school district wishes to appeal the determination of the commissioner, it must file a notice of appeal with the tax court, as provided in subdivisions 6 to 11 within ten days of the notice of determination from the commissioner.

Sec. 7. Minnesota Statutes 1986, section 124.2131, subdivision 6, is amended to read:

Subd. 6. [NOTICE OF APPEAL.] The school district shall file with the court administrator of the tax court a notice of appeal from the determination of the ~~equalization aid review committee~~ commissioner of revenue fixing the market value of the school district, and such notice shall show the basis of the alleged error. A copy of such notice of appeal shall be served upon the ~~commissioners~~ commissioner of revenue and education, and proof of service shall be filed with the court administrator.

Sec. 8. Minnesota Statutes 1986, section 124.2131, subdivision 7, is amended to read:

Subd. 7. [HEARING.] Upon receipt of the notice of appeal the tax court shall review the notice of appeal and determine whether it appears from the allegations and proofs therein contained that an error has been made in the determination by the ~~equalization aid review committee~~ commissioner of revenue of the market value of the property in the school district. If the court finds it probable that such an error has been made, it shall notice the matter for hearing; otherwise, it shall dismiss the appeal and notify the parties thereof. Hearing shall be set and held in the same manner as other hearings of the tax court are set and heard, *except that an appeal filed under subdivision 5 shall take precedence over other appeals pending before the court.* The attorney general shall represent the ~~commissioners~~ commissioner of revenue and education and ~~equalization aid review committee~~. The administrative procedure act, sections 14.09 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.70, shall apply to hearings insofar as it is applicable.

Sec. 9. Minnesota Statutes 1986, section 124.2131, subdivision 8, is amended to read:

Subd. 8. [TAX COURT DETERMINATION.] The tax court shall hear, consider and determine such appeal, de novo upon the issues made by the notice of appeal, if a hearing has been granted thereon. At the conclusion of the hearing the court shall (1) file findings of fact, or (2) ~~refer~~ refer the issues to the ~~equalization aid review committee~~ commissioner of revenue with instructions and recommendations for a determination and correction of the market value of the appealing school district. The decision of the tax court, if it decides the matter de novo, shall have the same force and effect as a determination by the ~~equalization aid review committee~~ commissioner of revenue in the first instance under this section, and the ~~equalization aid review committee~~ commissioner of revenue shall be notified thereof. If the matter is rereferred to the ~~equalization aid review committee~~ commissioner of revenue, a redetermination by the ~~equalization aid review~~

~~committee commissioner of revenue~~ in accordance with the recommendations of the tax court shall likewise have the same force and effect as a determination by it in the first instance under this section.

Sec. 10. Minnesota Statutes 1986, section 124.2131, subdivision 11, is amended to read:

Subd. 11. [AIDS PENDING APPEALS.] During the pendency of any appeal from an ~~equalization aid review committee~~ *the commissioner of revenue* evaluation, state aids to the district so appealing shall be paid on the basis of the evaluation subject to adjustment upon final determination of the appeal.

Sec. 11. Minnesota Statutes 1986, section 124.38, subdivision 8, is amended to read:

Subd. 8. "Adjusted assessed valuation" means, as of any date, the valuation of all taxable property most recently determined by the ~~equalization aid review committee commissioner of revenue~~ in accordance with the provisions of section 124.2131. "Market value" means the value of all taxable property in the district on which its net debt limit is based as provided in section 475.53, subdivision 4.

Sec. 12. Minnesota Statutes 1986, section 124A.02, subdivision 3a, is amended to read:

Subd. 3a. [ADJUSTED ASSESSED VALUATION.] "Adjusted assessed valuation" ~~or "EARC valuation"~~ means the assessed valuation of the taxable property notwithstanding the provisions of section 275.49 of the school district as adjusted by the ~~equalization aid review committee commissioner of revenue under section 124.2131~~. The adjusted assessed valuation for any given calendar year shall be used to compute levy limitations for levies certified in the succeeding calendar year and aid for the school year beginning in the second succeeding calendar year.

Sec. 13. Minnesota Statutes 1986, section 124A.02, subdivision 8, is amended to read:

Subd. 8. [EQUALIZING FACTOR.] "Equalizing factor" means a number equal to the minimum ~~EARC adjusted assessed valuation~~ per total pupil unit which disqualifies a district from earning any basic foundation aid. The equalizing factor for each school year and for levies for use in that school year equals the ratio, rounded to the nearest dollar, of the foundation aid formula allowance for that school year to the basic maintenance mill rate for that school year.

Sec. 14. Minnesota Statutes 1986, section 124A.08, subdivision 5, is amended to read:

Subd. 5. [SECOND TIER LEVY FUND BALANCE.] Beginning with the 1983 payable 1984 levy, for a district where the net unappropriated operating fund balance as of the June 30 before the levy is certified exceeds \$500 per total pupil unit in the year when the levy is certified, the second tier levy shall be reduced by the amount of the excess times the lesser of (a) one, or (b) the ratio of the district's ~~EARC adjusted assessed valuation~~ for the preceding year per total pupil unit in the school year for which the levy is attributable, to the equalizing factor. Beginning with the 1984-1985 school year, the second tier aid for the year when that levy is used shall be reduced by any amount of the excess which is not subtracted from the levy.

Sec. 15. Minnesota Statutes 1986, section 134.33, subdivision 1, is amended to read:

Subdivision 1. An establishment grant as described in section 134.32, subdivision 2, shall be made to any regional public library system for the first two state fiscal years after a board of county commissioners has contracted to join that system and has agreed that the county will provide the levels of support for public library service specified in this section. In the first year of participation, the county shall provide an amount of support equivalent to .3 mill times the adjusted assessed valuation of the taxable property of the county as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year or two-thirds of the per capita amount established under the provisions of section 134.34, subdivision 1, whichever amount is less. In the second year of participation and in each year thereafter, the county shall provide an amount of support equivalent to .4 mill times the adjusted assessed valuation of the taxable property of the county as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year or the per capita amount established under the provisions of section 134.34, subdivision 1, whichever is less. The minimum level of support shall be certified annually to the county by the department of education. In no event shall the department of education require any county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for an establishment grant. This section shall not be construed to prohibit any county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 16. Minnesota Statutes 1986, section 134.34, subdivision 1, is amended to read:

Subdivision 1. A regional library basic system support grant shall be made to any regional public library system where there are at least three participating counties and where each participating city and county, except in the first year of participation as provided in section 134.33, is providing for public library service support the lesser of (a) an amount equivalent to .4 mill times the adjusted assessed valuation of the taxable property of that city or county, as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year or (b) a per capita amount calculated under the provisions of this subdivision. The per capita amount is established for calendar year 1980 as \$3. In succeeding calendar years, the per capita amount shall be increased by a percentage equal to one-half of the percentage by which the total state adjusted assessed valuation of property as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year increases over that total adjusted assessed valuation for the third year preceding that calendar year. The minimum level of support shall be certified annually to the participating cities and counties by the department of education. A city which is a part of a regional public library system shall not be required to provide this level of support if the property of that city is already taxable by the county for the support of that regional public library system. In no event shall the department of education require any city or county to provide a higher level of support than the level of support specified in this section in order for a system to

qualify for a regional library basic system support grant. This section shall not be construed to prohibit a city or county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 17. Minnesota Statutes 1986, section 134.34, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of section 134.33 and subdivision 1 of this section, after the second year of participation by a city or county, the dollar amount of the minimum level of support for that city or county shall not be required to increase by more than ten percent over the dollar amount of the minimum level of support required of it in the previous year. If a participating city or county which has been providing for public library service support in an amount equivalent to .67 mill times the assessed valuation of the taxable property of that city or county for the year preceding that calendar year would be required to increase the dollar amount of such support by more than ten percent to reach the equivalent of .4 mill times the adjusted assessed valuation of the taxable property of that participating city or county as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1, it shall only be required to increase the dollar amount of such support by ten percent per year until such time as it reaches an amount equivalent to .4 mill times the adjusted assessed valuation of that taxable property as determined by the ~~equalization aid review committee~~ *commissioner of revenue* for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1.

Sec. 18. Minnesota Statutes 1986, section 270.11, subdivision 1, is amended to read:

Subdivision 1. [TO ACT AS STATE BOARD OF EQUALIZATION.] The commissioner of revenue shall have and exercise all the rights, powers and authority by law vested in the state board of equalization, which board of equalization is hereby continued, with full power and authority to review, modify, and revise all of the acts and proceedings of the commissioner in so far as they relate to the equalization and valuation of property assessed for taxation, as prescribed by section 270.12; ~~which state board of equalization shall meet on August 15 of each year during its existence.~~

Sec. 19. Minnesota Statutes 1986, section 270.11, subdivision 2, is amended to read:

Subd. 2. [COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.] *Each county assessor shall file by June 15 with the commissioner of revenue a copy of the abstract that will be acted upon by the county board of review. The abstract must list the real and personal property in the county, as equalized by the local board of review or equalization, itemized by assessment districts. A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner. The commissioner of revenue may require* The assessor of each county in the state ~~to shall~~ file with the commissioner, ~~on or before August 1, each year, complete abstracts of all real and personal property in the county, as equalized by the county board of equalization, and itemized by assessment districts, within five working days following final action of the county board of equalization, any changes made by the county board of equalization. The information must be filed in the manner~~

prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the county board of equalization; and it shall be the duty of the county assessor to so report to the commissioner of revenue.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before ~~January 1~~ *November 15* of each calendar year.

Sec. 20. Minnesota Statutes 1986, section 270.12, subdivision 2, is amended to read:

Subd. 2. The board shall meet annually ~~on August 15 between July 15 and October 1~~ at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its market value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its market value in money, such percent as will bring the same to its market value in money;

(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its market value in money, such percent as will reduce the same to its market value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its market value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the market value thereof, such percent as will raise the same to its market value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the market value thereof, such percent as will reduce the same to its market value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof;

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing.

The board shall not decrease any such assessment below the valuation placed by the county board of equalization; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the median ratio as the statistical measure of the level of assessment for any particular category of property.

Sec. 21. Minnesota Statutes 1986, section 270.12, subdivision 3, is amended to read:

Subd. 3. ~~For taxes levied in 1985 and thereafter~~ When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted assessed value as determined by the ~~equalization aid review committee~~ *commissioner* in each portion is to the total adjusted assessed value of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the ~~equalization aid review committee~~ *commissioner* shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on ~~August~~ *July* 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the

appropriate county auditors by the following ~~November 15~~ *October 1*.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 22. Minnesota Statutes 1986, section 270.13, is amended to read:

270.13 [RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION; DUTIES OF COUNTY AUDITOR.]

A record of all proceedings of the commissioner of revenue affecting any change in the assessed valuation of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before ~~November 15~~ *October 1* or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the valuation of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no valuation of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no valuation of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

Sec. 23. [270.485] [SENIOR ACCREDITATION.]

The legislature finds that the property tax system would be enhanced by requiring that every county assessor and senior appraiser in the department of revenue's property tax review division obtain senior accreditation from the state board of assessors. By January 1, 1989, every county assessor and senior appraiser, including the department's regional representatives, must obtain senior accreditation from the state board of assessors. The board shall provide the necessary courses or training. If a department senior appraiser or regional representative fails to obtain senior accreditation by January 1, 1989, the failure shall be grounds for dismissal, disciplinary action, or corrective action. After December 30, 1988, the commissioner must not approve the appointment of a county assessor who is not senior accredited by the state board of assessors. No employee hired by the commissioner as a senior appraiser or regional representative after June 30, 1987, shall attain permanent status until the

employee obtains senior accreditation.

Sec. 24. Minnesota Statutes 1986, section 270.87, is amended to read:
270.87 [CERTIFICATION TO COUNTY ASSESSORS.]

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor *on or before October 1*, which shall constitute the equalized fair market value of the operating property of the railroad company in such county and the taxing districts therein upon which taxes shall be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

Sec. 25. Minnesota Statutes 1986, section 271.21, subdivision 2, is amended to read:

Subd. 2. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) any case concerning the valuation, assessment, or taxation of residential property homesteaded by the taxpayer; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5 in which the amount in controversy does not exceed ~~\$2,500~~ \$5,000, including penalty and interest.

Sec. 26. Minnesota Statutes 1986, section 272.115, subdivision 2, is amended to read:

Subd. 2. The certificate of value shall require such facts and information as may be determined by the ~~equalization aid review committee commissioner~~ to be reasonably necessary in the administration of the state education aid formulas. The form of the certificate of value shall be prescribed by the department of revenue which shall provide an adequate supply of forms to each county auditor.

Sec. 27. [272.121] [CURRENT TAX ON DIVIDED PARCELS.]

If a deed or other instrument conveys a parcel of land that is less than a whole parcel of land as described in the current tax list, the county auditor shall not transfer or divide the land in the auditor's official records, and the county recorder shall not file and record the instrument, unless the instrument of conveyance contains a certification by the county treasurer that the taxes due in the current tax year for the whole parcel have been paid. This certification is in addition to the certification for delinquent tax required by section 272.12. No certification of current tax paid is required for any sheriff's or referee's certificate of sale or other instrument if a certification of delinquent tax for the instrument is not required under section 272.12.

Sec. 28. Minnesota Statutes 1986, section 273.061, subdivision 1, is amended to read:

Subdivision 1. [OFFICE CREATED; APPOINTMENT, QUALIFICATIONS.] Every county in this state shall have a county assessor. The county assessor shall be appointed by the board of county commissioners and shall be a resident of this state. The assessor shall be selected and appointed because of knowledge and training in the field of property taxation and

appointment shall be approved by the commissioner of revenue before the same shall become effective. Upon receipt by the county commissioners of the commissioner of revenue's refusal to approve an appointment, the term of the appointee shall terminate at the end of that day. *Notwithstanding any law to the contrary, a county assessor must have senior accreditation from the state board of assessors by January 1, 1989.*

Sec. 29. Minnesota Statutes 1986, section 273.061, subdivision 8, is amended to read:

Subd. 8. [POWERS AND DUTIES.] The county assessor shall have the following powers and duties:

(1) To call upon and confer with the township and city assessors in the county, and advise and give them the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real property in the county will be attained.

(2) To assist and instruct the local assessors in the preparation and proper use of land maps and record cards, in the property classification of real and personal property, and in the determination of proper standards of value.

(3) To keep the local assessors in the county advised of all changes in assessment laws and all instructions which the assessor receives from the commissioner of revenue relating to their duties.

(4) To have authority to require the attendance of groups of local assessors at sectional meetings called by the assessor for the purpose of giving them further assistance and instruction as to their duties.

(5) To immediately commence the preparation of a large scale topographical land map of the county, in such form as may be prescribed by the commissioner of revenue, showing thereon the location of all railroads, highways and roads, bridges, rivers and lakes, swamp areas, wooded tracts, stony ridges and other features which might affect the value of the land. Appropriate symbols shall be used to indicate the best, the fair and the poor land of the county. For use in connection with the topographical land map, the assessor shall prepare and keep available in the assessor's office tables showing fair average minimum and maximum market values per acre of cultivated, meadow, pasture, cut-over, timber and waste lands of each township. The assessor shall keep the map and tables available in the office for the guidance of town assessors, boards of review, and the county board of equalization.

(6) To also prepare and keep available in the office for the guidance of town assessors, boards of review and the county board of equalization, a land valuation map of the county, in such form as may be prescribed by the commissioner of revenue. This map, which shall include the bordering tier of townships of each county adjoining, shall show the average market value per acre, both with and without improvements, as finally equalized in the last assessment of real estate, of all land in each town or unorganized township which lies outside the corporate limits of cities.

(7) To regularly examine all conveyances of land outside the corporate limits of cities of the first and second class, filed with the county recorder of the county, and keep a file, by descriptions, of the considerations shown thereon. From the information obtained by comparing the considerations shown with the market values assessed, the assessor shall make recom-

mendations to the county board of equalization of necessary changes in individual assessments or aggregate valuations.

(8) To prepare annually and keep available in the assessor's office for the guidance of boards of review and the county board of equalization, a table showing the market value per capita of all personal property in each assessment district in the county as finally equalized in the last previous assessment of personal property. For the guidance of the county board of equalization, the assessor shall also add to the table the market value per capita of all personal property of each assessment district for the current year as equalized by the local board of review.

(9) To become familiar with the values of the different items of personal property so as to be in a position when called upon to advise the boards of review and the county board of equalization concerning property, market values thereof.

(10) While the county board of equalization is in session, to give it every possible assistance to enable it to perform its duties. The assessor shall furnish the board with all necessary charts, tables, comparisons and data which it requires in its deliberations, and shall make whatever investigations the board may desire.

(11) At the request of either the board of county commissioners or the commissioner of revenue, to investigate applications for reductions of valuation and abatements and settlements of taxes, examine the real or personal property involved, and submit written reports and recommendations with respect to the applications, in such form as may be prescribed by the board of county commissioners and commissioner of revenue.

(12) To make diligent search each year for real and personal property which has been omitted from assessment in the county, and report all such omissions to the county auditor.

(13) To regularly confer with county assessors in all adjacent counties about the assessment of property in order to uniformly assess and equalize the value of similar properties and classes of property located in adjacent counties. The conference shall emphasize the assessment of agricultural and commercial and industrial property or other properties that may have an inadequate number of sales in a single county.

(14) To render such other services pertaining to the assessment of real and personal property in the county as are not inconsistent with the duties set forth in this section, and as may be required by the board of county commissioners or by the commissioner of revenue.

Sec. 30. Minnesota Statutes 1986, section 273.061, subdivision 9, is amended to read:

Subd. 9. [ADDITIONAL GENERAL DUTIES.] Additional duties of the county assessor shall be as follows: (a) to make all assessments, based upon the appraised values reported by the local assessors or assistants and the county assessor's own knowledge of the value of the property assessed; (b) to personally view and determine the value of any property which because of its type or character may be difficult for the local assessor to appraise; (c) to make all changes ordered by the local boards of review, relative to the assessed value of the property of any individual, firm or corporation after notice has been given and hearings held as provided by law. ~~A local board of review shall have the power to reduce assessments~~

upon petition of the taxpayer but the total of such adjustments shall not reduce the aggregate assessment made by the county assessor by more than one percent of said aggregate assessment. If the total of such adjustments would lower the aggregate assessments made by the county assessor by more than one percent, none of such adjustments shall be allowed. The assessor shall correct any clerical errors or double assessments discovered by the board of review without affecting the one percent referred to above; (d) to enter all assessments in the assessment books, furnished by the county auditor, with each book and the tabular statements for each book in correct balance; (e) to prepare all assessment cards, charts, maps and any other forms prescribed by the commissioner of revenue; (f) to attend the meeting of the county board of equalization; to investigate and report on any assessment ordered by said board; to enter all changes made by said board in the assessment books and prepare the abstract of assessments for the commissioner of revenue; to enter all changes made by the state board of equalization in the assessment books; to deduct all exemptions authorized by law from each assessment and certify to the county auditor the taxable value of each parcel of land, as described and listed in the assessment books by the county auditor, and the taxable value of the personal property of each person, firm, or corporation assessed; (g) to investigate and make recommendations relative to all applications for the abatement of taxes or applications for the reduction of the assessed valuation of any property; (h) to perform all other duties relating to the assessment of property for the purpose of taxation which may be required by the commissioner of revenue.

Sec. 31. Minnesota Statutes 1986, section 273.065, is amended to read:

273.065 [DELIVERY OF ASSESSMENT APPRAISAL RECORDS; EXTENSIONS.]

Assessment districts shall complete the assessment appraisal records on or before *May 4 March 15*. The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by *May 4 March 15* shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064. Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Sec. 32. Minnesota Statutes 1986, section 273.11, is amended by adding a subdivision to read:

Subd. 10. [VALUATION OF AGRICULTURAL LAND.] Annually on November 15, beginning in 1988 and each year thereafter, the commissioner of revenue shall provide county assessors with a land valuation schedule showing a range of values to be used in the valuation of agricultural lands for the succeeding year's assessment. The land valuation schedule shall be developed matching the sales data obtained on the certificates of real estate value filed in the 12-month period between October 1 of the year immediately preceding to September 30 of the current year with information obtained from soil surveys. A range of values for each major soil type by region will be provided. Counties having similar soil types, number of degree days, and other similar characteristics will be grouped into regions

for purposes of the valuation schedule. The department of revenue, in consultation with the county assessors, shall develop the land valuation schedule.

Sec. 33. Minnesota Statutes 1986, section 273.1102, is amended to read:

273.1102 [RATE OF TAX, TERMINOLOGY OF LAWS OR CHARTERS.]

The rate of property taxation by any political subdivision or other public corporation for any purpose for which any law or charter now provides a maximum tax rate expressed in mills times the assessed value or times the full and true value of taxable property (except any ~~value adjusted assessed values determined by the state equalization aid review committee~~ *by the commissioner under section 124.2131*) shall not exceed 33-1/3 percent of such maximum tax rate until and unless such law or charter is amended to provide a different maximum tax rate.

Sec. 34. Minnesota Statutes 1986, section 273.1103, is amended to read:

273.1103 [NET DEBT, TERMINOLOGY OF LAWS OR CHARTERS.]

Net debt incurred by any political subdivision or other public corporation for which any law or any charter provision provides a limit expressed as a percentage of the assessed value or the full and true value of taxable property (except any ~~adjusted assessed value determined by the state equalization aid review committee~~ *commissioner under section 124.2131*) shall not exceed 33-1/3 percent of such limit until and unless such law or charter is amended to provide a different limit.

Sec. 35. Minnesota Statutes 1986, section 273.33, subdivision 2, is amended to read:

Subd. 2. The personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline, crude oil, or other petroleum products by pipe lines, shall be listed with and assessed by the commissioner of revenue. This subdivision shall not apply to the assessment of the products transported through the pipe lines nor to the lines of local commercial gas companies engaged primarily in the business of distributing gas to consumers at retail nor to pipe lines used by the owner thereof to supply natural gas or other petroleum products exclusively for such owner's own consumption and not for resale to others. On or before ~~the fifteenth day of November~~ *October 1*, the commissioner shall certify to the auditor of each county, the amount of such personal property assessment against each company in each district in which such property is located.

Sec. 36. Minnesota Statutes 1986, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69 kv and above located in an unorganized township, and distribution lines, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before ~~the 15th day of November~~ *October 1*, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 37. Minnesota Statutes 1986, section 274.01, subdivision 1, is amended to read:

Subdivision 1. (a) The town board of each town, the council or other governing body of each city, except in cities whose charters provide for a board of equalization, shall be a board of review. The county assessor shall fix a day and time when each of such boards board and the board of equalization of any city whose charter provides for a board of equalization shall meet in the several assessment districts of the county, and shall on or before ~~April 1st~~ February 15 of each year give written notice thereof to the clerk. ~~Such meetings~~ Notwithstanding the provisions of any charter to the contrary ~~shall, the meeting must~~ be held between April 1st and ~~June 30th~~ May 31 in each year, and. The clerk shall give published and posted notice of ~~such the~~ meeting at least ten days prior to the date fixed. ~~Such~~ The board shall meet at the office of the clerk to review the assessment and classification of property in such town or district, and immediately proceed to examine and see that all taxable property in the town or district has been properly placed upon the list, and duly valued by the assessor. ~~In case~~ If any property, real or personal ~~shall have~~ has been omitted, the board shall place it upon the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, ~~shall be~~ is entered on the assessment list at its market value; but no assessment of the property of any person shall be raised until the person has been duly notified of the intent of the board so to do. On application of any person feeling aggrieved, the board shall review the assessment or classification or both, and correct it as shall appear just. A majority of the members may act at such meeting, and adjourn from day to day until they finish the hearing of all cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but shall not vote. The county assessor, or an assistant delegated by the county assessor shall attend such meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite such item. The county assessor shall enter all changes made by the board in the assessment book.

(b) If a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of equalization for a review of the assessment or classification, except when an assessment was made subsequent to the meeting of the board, as provided in section 273.01, or that the person can establish not having received notice of market value at least five days before the local board of review meeting.

(c) A local board of review may reduce assessments upon petition of the taxpayer but the total reductions must not reduce the aggregate assessment made by the county assessor by more than one percent. If the total reductions would lower the aggregate assessments made by the county assessor by more than one percent, none of the adjustments may be made. The assessor shall correct any clerical errors or double assessments discovered by the board of review without regard to the one percent limitation.

(d) The board of review, and the board of equalization of any city, unless

a longer period is approved by the commissioner of revenue, shall complete its work and adjourn within 20 days from the time of convening specified in the notice of the clerk and no action taken subsequent to such date shall be valid. All complaints in reference to any assessment or classification made after the meeting of such board, shall be heard and determined by the county board of equalization. Any nonresident may, at any time, before the meeting of the board of review file written objections to an assessment or classification with the county assessor and if any such objections are filed they shall be presented to the board of review at its meeting by the county assessor for its consideration.

Sec. 38. Minnesota Statutes 1986, section 274.14, is amended to read:
274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it ~~may continue in session and adjourn from time to time commencing on the first Monday following the fourth day of July or, if the first Monday following the fourth day of July is a legal holiday, the first Tuesday following the fourth day of July and ending on or before the tenth following working day; when it shall adjourn and no action taken subsequent to the day of adjournment shall be valid unless a longer session period is approved by the commissioner of revenue meet during the last two weeks in June.~~ The commissioner may extend the session period to ~~August 10~~ July 15 but no action taken by the county board of review after the extended termination date shall be valid. The county auditor shall keep an accurate record of the proceedings and orders of the board, which record shall be published in the same manner as other proceedings of county commissioners. A copy of ~~such~~ the published record ~~shall must~~ be transmitted to the commissioner of revenue, with the abstract of assessment required by section 274.16.

Sec. 39. Minnesota Statutes 1986, section 274.16, is amended to read:
274.16 [CORRECTED LISTS, ABSTRACTS.]

The county assessor or, in Ramsey county, the official designated by the board of county commissioners shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly, in the real or personal lists, or both, and shall make duplicate abstracts of the same; one shall be filed in the assessor's office, and one shall be forwarded to the commissioner of revenue ~~on or before August 1 as provided in section 270.11, subdivision 2.~~

Sec. 40. Minnesota Statutes 1986, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, and school districts shall be certified by the proper authorities to the county auditor on or before October 10 in each year. If a city, town, county, school district or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 10 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy ~~up to 15 calendar days beyond the date of request for extension. For 1988 only, the commissioner may extend the certification time to November 7 if the requirements of this subdivision are met.~~

Sec. 41. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections 294.21 to 294.26; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; 477A.15; and any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the ~~equalization aid review committee~~ *commissioner*. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by subdivision 11a, and the community service levy authorized by subdivision 8, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to subdivision 11a and for community services pursuant to subdivision 8. The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections 294.21 to 294.26; 298.23

to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; or any law imposing a tax on severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties; and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 42. Minnesota Statutes 1986, section 275.125, subdivision 9b, is amended to read:

Subd. 9b. [OPERATING DEBT LEVY.] (1) Each year, a district may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the district, determined as of June 30, 1983, and certified and adjusted by the commissioner. This levy may in each year be an amount not to exceed the amount raised by a levy of 1.5 mills times the adjusted assessed valuation of the district for the preceding year as determined by the ~~equalization aid review committee~~ commissioner. However, the total amount of this levy for all years it is made shall not exceed the lesser of (a) the amount of the deficit in the net unappropriated operating funds of the district as of June 30, 1983, or (b) the amount of the aid reduction, according to Laws 1981, Third Special Session chapter 2, article 2, section 2, but excluding clauses (l), (m), (n), (o), and (p), and Laws 1982, Third Special Session chapter 1, article 3, section 6, to the district in fiscal year 1983. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district which levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.03, subdivision 1 or 3 in that same year.

Sec. 43. Minnesota Statutes 1986, section 275.125, subdivision 15, is amended to read:

Subd. 15. [ADJUSTMENTS.] If any school district levy is found to be excessive as a result of a decision of the tax court or a redetermination by the ~~equalization aid review committee~~ commissioner of revenue under section 124.2131, subdivisions 2 to 11 or for any other reason, the amount of the excess shall be deducted from the levy certified in the next year for the same purpose; provided that if no levy is certified in the next year for the same purpose or if the amount certified is less than the amount of the excess, the excess shall be deducted from that levy and the levy certified pursuant to section 124A.03, subdivision 1. If any aid entitlement pursuant to sections 124.225, 124.245, and 124A.02 would have been increased in a prior year as a result of a decision of the tax court or a redetermination by the ~~equalization aid review committee~~ commissioner, the amount of the increase shall be added to the current aid entitlement for the same purposes.

Sec. 44. Minnesota Statutes 1986, section 276.11, is amended to read:

276.11 [WHEN TREASURER SHALL PAY FUNDS FROM MARCH AND MAY SETTLEMENTS.]

Subdivision 1. [GENERALLY.] As soon as practical after the March and May settlements the county treasurer shall pay over to the state treasurer or the treasurer of any town, city, school district, or special district, on the warrant of the county auditor, all receipts arising from taxes levied by and belonging to the state, or to such municipal corporation, or other body, and deliver up all orders and other evidences of indebtedness of such municipal corporation or other body, taking triplicate receipts therefor. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its reception to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall preserve the receipt in the clerk's office. Upon written request of the state, a municipal corporation or other public body, the county treasurer shall, to the extent practicable, make partial payments of amounts collected periodically in advance of the next settlement and distribution. Accompanying each payment shall be a statement prepared by the county treasurer designating the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties thereon. The county treasurer shall pay, upon written request of the state, a municipal corporation or other public body except school districts, at least 70 percent of the estimated collection within 30 days after the March and May settlement dates. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district and the remaining 50 percent of the estimated collections shall be paid to the treasurer of the school district within the next seven business days. The treasurer shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the March and May settlement dates, provided, however, that after 45 days interest shall accrue at a rate of eight percent per annum to the credit of and shall be paid to the state, municipal corporation or other body. Interest shall be payable upon appropriation from the general revenue fund of the county and, if not paid, may be recovered by the state, municipal corporation, or other body, in a civil action.

Subd. 2. [DEFINITION.] For purposes of this section and section 276.111, "estimated collections" includes estimated collections of taxes and special assessments, and penalties and interest due to the taxing district.

Subd. 3. [APPEAL.] The treasurer or other appropriate fiscal officer of a town, city, school district, or special district may appeal to the county board the determination of the amount of estimated collections by the county treasurer under this section or section 276.111. If the county board finds that the amount of estimated collections has been determined by the county treasurer incorrectly, resulting in underpayment to the local taxing districts, it shall order the county treasurer to pay the additional amount necessary to comprise the correct estimated collection amount.

Sec. 45. [276.19] [UNCLAIMED OVERPAYMENTS.]

Subdivision 1. [NOTICE OF OVERPAYMENT.] If an overpayment of property tax arises on a parcel for any reason, the responsible county official shall promptly notify the payer by regular mail that the overpayment has occurred. The notice must state the amount of overpayment and

identify the parcel on which the overpayment occurred. The notice must also instruct the payer how to claim the overpayment and advise that the overpayment is subject to forfeiture under this section. If the name or address of the payer is not known, the notice of unclaimed overpayment must be mailed to the taxpayer of record in the office of the county auditor.

Subd. 2. [FAILURE TO CLAIM REFUND.] If the person entitled to the refund fails to claim the overpayment within three years after the date of overpayment, the county auditor shall cause notice to be published at least once in an English language newspaper of general circulation in the county. The county board shall designate the newspaper of publication that in the judgment of the board is most likely to be read by the claimants, notwithstanding any law to the contrary. The published notice must be called "Notice of unclaimed property tax refunds." The notice must contain:

(1) the names in alphabetical order and last known addresses, if any, of persons listed in the notice that may be entitled to unclaimed property tax refund;

(2) a statement that information concerning the amount of overpayment and affected property may be obtained from the county auditor at the address given in the notice; and

(3) a statement that if proof of claim is not presented to the county auditor within 90 days from the date of publication of notice, the overpayment will be considered abandoned and all claims to property tax overpayment will be forfeited.

The county auditor is not required to include and publish in the notice any item of less than \$25 overpaid on a parcel.

Subd. 3. [DISTRIBUTION OF REFUNDS.] If the person entitled to the refund fails to claim the overpayment within the time provided in this section, the county auditor shall distribute the refund to the affected taxing districts in proportion to the amount of their respective taxes included in the levy for the tax year overpaid. At the option of the county auditor, the overpayment may be distributed to the affected taxing districts in proportion to the current tax year levy.

Subd. 4. [APPLICABILITY.] Sections 345.31 to 345.60 do not apply to unclaimed property tax refunds, overpayments, and warrants.

Sec. 46. Minnesota Statutes 1986, section 277.01, is amended to read:

277.01 [WHEN TAX IS DELINQUENT; PENALTY.]

Subdivision 1. All unpaid personal property taxes where the amount is \$10 \$50 or less shall be deemed delinquent on the later of March 1 next after they become due or 30 days after the postmark date on the envelope containing the property tax statement, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. When the amount of such tax exceeds the sum of \$10 \$50 the first half shall become delinquent if not paid prior to March 1 or 30 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on such unpaid first half. The second half of a tax in excess of \$10 \$50 shall become delinquent if not paid prior to July 1 and thereupon a penalty of eight percent shall attach on such unpaid second half. This section shall not apply to class 2a property.

A county may provide by resolution that in the case of a property owner that has multiple personal property tax statements with the aggregate taxes exceeding \$50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 47. Minnesota Statutes 1986, section 278.05, subdivision 4, is amended to read:

Subd. 4. [SALES RATIO STUDIES AS EVIDENCE.] The sales ratio studies published by the department of revenue, or any part of the studies, or any copy of the studies or records accumulated to prepare the studies which is prepared by the commissioner of revenue ~~for the equalization aid review committee~~ for use in determining school aids shall be admissible in evidence as a public record without the laying of a foundation if the sales prices used in the study are adjusted for the terms of the sale to reflect market value and are adjusted to reflect the difference in the date of sale compared to the assessment date. Additional evidence relevant to the sales ratio study is also admissible. No sales ratio study received into evidence shall be conclusive or binding on the court and evidence of its reliability or unreliability may be introduced by any party including, but not limited to, evidence of inadequate adjustment of sale prices for terms of financing, inadequate adjustment of sales prices to reflect the difference in the date of sale compared to the assessment date, and inadequate sample size.

No reduction in value on the grounds of discrimination shall be granted on the basis of a sales ratio study published by the department of revenue unless

(a) the sales prices are adjusted for the terms of the sale to reflect market value,

(b) the sales prices are adjusted to reflect the difference in the date of sale compared to the assessment date, and

(c) there is an adequate sample size.

Sec. 48. Minnesota Statutes 1986, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on nonhomestead property, except that this penalty shall not accrue until June 1 of each year on commercial use real property used for seasonal residential recreational purposes and classified as class 1c or 6a, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any property owner of such class 3a property who pays the first half of

the tax due on the property after May 15 and before June 1 shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the 16th day of each month, up to and including October 16 following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following; ~~provided, also, that the same may be paid in installments as follows: One-fourth prior to March 16; one-fourth prior to May 16; one-fourth prior to August 16; and the remaining one-fourth prior to October 16, subject to the aforesaid penalties.~~ Where the taxes delinquent after October 16 against any tract or parcel exceed \$100, upon resolution of the county board, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

A county may provide by resolution that in the case of a property owner that has multiple tracts or parcels with aggregate taxes exceeding \$50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 278.03 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 49. Minnesota Statutes 1986, section 282.014, is amended to read:

282.014 [COMPLETION OF SALE AND CONVEYANCE.]

Upon compliance by the purchaser with the provisions of sections 282.011 to 282.015 and with the terms and conditions of the sale, and upon full payment for the land, plus a \$10 \$20 fee in addition to the sale price, the sale shall be complete and a conveyance of the land shall be issued to the purchaser as provided by the appropriate statutes according to the status of the land upon forfeiture.

The conveyance must be forwarded to the county recorder who shall record the conveyance before the auditor issues it to the purchaser.

Sec. 50. Minnesota Statutes 1986, section 282.02, is amended to read:

282.02 [LIST OF LANDS OFFERED FOR SALE.]

Immediately after classification and appraisal of the land, and after approval by the commissioner of natural resources when required pursuant to section 282.01, subdivision 3, the county board shall provide and file with the county auditor a list of parcels of land to be offered for sale. This list shall contain a description of the parcels of land and the appraised value thereof; ~~provided that the description and appraised value may be omitted in the discretion of the county board.~~ The auditor shall publish a notice of the ~~forfeiture and~~ intended public sale of such parcels of land and a copy of the resolution of the county board fixing the terms of the sale, if other than for cash only, by publication once a week for two weeks in the official newspaper of the county, the last publication to be not less than ten days previous to the commencement of the sale.

A notice in substantially the following form shall be sufficient:

"Notice is hereby given that I shall sell to the highest bidder, at my office in the courthouse in the city of, in the county of, the following described parcels of land forfeited to the state for nonpayment of taxes which have been classified and appraised as provided by law. Such sale will be governed, as to terms, by the resolution of the county board authorizing the same, and commence at o'clock a.m., on the day of 19

Description				Appraised value
Subdivision	Sec.	Twp.	Range	\$
or	or			
Lot	Block			
Given under my hand and seal this day of, 19				

County Auditor,
County, Minnesota."

The notice shall include the parcel's description and appraised value. The notice shall also indicate the amount of any special assessments which may be the subject of a reassessment or new assessment or which may result in the imposition of a fee or charge pursuant to sections 429.071, subdivision 4, 435.23, and 444.076. The county auditor shall also mail notice to the owners of land adjoining the parcel to be sold and to the owners of platted or unplatted land whose boundaries are within 300 feet of the boundaries of a parcel offered for sale having an appraised value of \$1,000 or more. For purposes of this section, "owner" means the taxpayer as listed in the records of the county auditor.

If the county board of St. Louis or Koochiching counties determines that the sale shall take place in a county facility other than the courthouse, the notice shall specify the facility and its location.

Sec. 51. Minnesota Statutes 1986, section 282.241, is amended to read:

282.241 [REPURCHASE AFTER FORFEITURE FOR TAXES.]

The owner at the time of forfeiture or the owner's heirs, devisees, or representatives, or any person to whom the right to pay taxes was given by statute, mortgage, or other agreement, may repurchase any parcel of land claimed by the state to be forfeited to the state for taxes unless prior to the time repurchase is made such parcel shall have been sold under installment

payments, or otherwise, by the state as provided by law, or is under mineral prospecting permit or lease, or proceedings have been commenced by the state or any of its political subdivisions or by the United States to condemn such parcel of land. Said parcel of land may be repurchased for a sum equal to the aggregate of all delinquent taxes and assessments computed as provided by section 282.251, together with penalties, interest, and costs, which did or would have accrued if such parcel of land had not forfeited to the state. Except for property which was homesteaded on the date of forfeiture, such repurchase shall be permitted during one year only from the date of forfeiture, and in any case only after the adoption of a resolution by the board of county commissioners determining that thereby undue hardship or injustice resulting from the forfeiture will be corrected, or that permitting such repurchase will promote the use of such lands that will best serve the public interest; ~~provided further such~~. *If the county board has good cause to believe that a repurchase installment payment plan for a particular parcel is unnecessary and not in the public interest, the county board may require as a condition of repurchase that the entire repurchase price be paid at the time of repurchase.* A repurchase shall be subject to any easement, lease or other encumbrance granted by the state prior thereto, and if said land is located within a restricted area established by any county under Laws 1939, Chapter 340, such repurchase shall not be permitted unless said resolution with respect thereto is adopted by the unanimous vote of the board of county commissioners.

Sec. 52. Minnesota Statutes 1986, section 282.33, subdivision 1, is amended to read:

Subdivision 1. Whenever an unrecorded deed from the state of Minnesota conveying tax-forfeited lands shall have been lost or destroyed, an application, in form approved by the attorney general, for a new deed may be made by the grantee or the grantee's successor in interest to the commissioner of revenue. If it appears to the commissioner of revenue that the facts stated in the petition are true, the commissioner shall issue a new deed to the original grantee, in form approved by the attorney general, with like effect as the original deed. The commissioner shall send the new deed to the county recorder, who after recording the deed will forward it to the county auditor. The application shall be accompanied by a fee of ~~\$10~~ \$20, payable to the commissioner of revenue, which shall be deposited with the state treasurer and credited to the general fund.

Sec. 53. Minnesota Statutes 1986, section 473F02, subdivision 12, is amended to read:

Subd. 12. "Market value" of real property within a municipality means the "actual market value" of real property within the municipality, determined in the manner and with respect to the property described for school districts in section 475.53, subdivision 4, except that no adjustment shall be made for property on which taxes are paid into the state treasury under gross earnings tax laws applicable to common carrier railroads. For purposes of sections 473F01 to 473F13, the ~~equalization aid review committee~~ *commissioner of revenue* shall annually make determinations and reports with respect to each municipality which are comparable to those it makes for school districts under section 124.2131, subdivision 1, in the same manner and at the same times as are prescribed by the subdivision. The commissioner of revenue shall annually determine, for each municipality, information comparable to that required by section 475.53, subdivision 4, for school districts, as soon as practicable after it becomes available. The

commissioner of revenue shall then compute the market value of property within each municipality.

Sec. 54. Minnesota Statutes 1986, section 475.53, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] Except as otherwise provided by law, no school district shall be subject to a net debt in excess of ten percent of the actual market value of all taxable property and of exempt property referred to in section 275.49, situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. The county auditor of each county containing exempt property referred to in section 275.49, situated within any school district, shall certify to the district upon request the total market value of all such property as determined under section 275.49. The commissioner of revenue shall certify to the district upon request the market value of railroad property within the district as most recently determined under section 270.87. Whenever the ~~state equalization aid review committee~~ commissioner of revenue, in accordance with section 124.2131, subdivision 1, has determined that the assessed valuation of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors and, where applicable, by the commissioner of revenue under section 270.87, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

Sec. 55. [REPEALER.]

(a) Minnesota Statutes 1986, section 124.38, subdivision 10, is repealed.

(b) Minnesota Statutes 1986, section 282.021, is repealed.

Sec. 56. [EFFECTIVE DATE.]

Section 2 is effective August 1, 1987.

Sections 1, 3 to 17, 26, 30, 33, 34, 41 to 43, 47, 53, 54, and 55, paragraph (a), are effective the day following final enactment, except that paragraph (c) of section 3 is effective for the calculation of 1987 adjusted assessed values and thereafter. Sections 27, 46, 48 to 52, and 55, paragraph (b), are effective July 1, 1987. Section 44 is effective for taxes paid after July 31, 1987. Sections 18 to 22, 24, 29, 31, and 35 to 40, are effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter, except that the changes in references in section 21 from the equalization aid review committee to the commissioner are effective the day following final enactment, and the recodification of the local board of review's powers contained in section 37, clause (c), is effective the day after final enactment. Section 25 is effective for claims filed after July 1, 1987. Section 32 is effective for the 1989 assessment and thereafter, and taxes payable in 1990 and thereafter. Section 45 is effective for property tax overpayments unclaimed on or after the day of final enactment.

ARTICLE 8

TAX EXEMPT PROPERTY

Section 1. Minnesota Statutes 1986, section 272.01, subdivision 2, is amended to read:

Subd. 2. (a) When any real or personal property which for any reason is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to (1) property leased or used by way of a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 458C, municipal auditorium, ~~airport owned by a city, town, county or group thereof but not the metropolitan airports commission,~~ municipal museum or municipal stadium or (2) property constituting or used as a public pedestrian ramp, or concourse, ~~passenger check-in area or ticket sale counter, boarding area or luggage claim area~~ in connection with a public airport; provided that real estate which is owned by a municipality in connection with the operation of a public airport and which is leased or used for agricultural purposes shall not be exempt.

(c) Taxes imposed by this subdivision shall be due and payable as in the case of personal property taxes and such taxes shall be assessed to such lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.

Sec. 2. Minnesota Statutes 1986, section 272.01, subdivision 3, is amended to read:

Subd. 3. The provisions of subdivision 2 shall not apply to:

(a) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(b) Real estate exempt from ad valorem taxes and taxes in lieu thereof which is leased, loaned, or otherwise made available to telephone companies or electric, light and power companies upon which personal property consisting of transmission and distribution lines is situated and assessed pursuant to sections 273.37, 273.38, 273.40 and 273.41, or upon which are situated the communication lines of express, railway, telephone or telegraph companies, and pipelines used for the transmission and distribution of petroleum products;

(c) Property presently owned by any educational institution chartered by the territorial legislature;

(d) Inventories of raw materials, work in process and finished goods and machinery and equipment owned by the federal government and leased, loaned or otherwise made available and used by private individuals, associations or corporations in connection with the production of goods for sale to the federal government;

(e) Indian lands;

(f) Property of any corporation organized as a tribal corporation under the Indian Reorganization Act of June 18, 1934, (Statutes at Large, volume 48, page 984);

(g) Real property owned by the state and leased pursuant to section 161.23 and acts amendatory thereto;

(h) Real property owned by a seaway port authority on June 1, 1967 upon which there has been constructed docks, warehouses, tank farms, administrative and maintenance buildings, railroad and ship terminal facilities and other maritime and transportation facilities or those directly related thereto, together with facilities for the handling of passengers and baggage and for the handling of freight and bulk liquids, and personal property owned by a seaway port authority used or usable in connection therewith, when said property is leased to a private individual, association or corporation, but only when such lease provides that the said facilities are available to the public for the loading and unloading of passengers and their baggage and the handling, storage, care, shipment and delivery of merchandise, freight and baggage and other maritime and transportation activities and functions directly related thereto, but not including property used for grain elevator facilities; it being the declared policy of this state that such property when so leased is public property used exclusively for a public purpose, notwithstanding the ~~three~~ one year limitation in the provisions of section 273.19.

(i) Notwithstanding the provisions of clause (h) (g), when the annual rental received by a seaway port authority in any calendar year for such leased property exceeds an amount reasonably required for administrative expense of the authority per year, plus promotional expense for the authority not to exceed the sum of \$100,000 per year, to be expended when and in the manner decided upon by the commissioners, plus an amount sufficient to pay all installments of principal and interest due, or to become due, during such calendar year and the next succeeding year on any revenue bonds issued by the authority, plus 25 percent of the gross annual rental to be retained by the authority for improvement, development or other contingencies, the authority shall make a payment in lieu of real and personal property taxes of a reasonable portion of the remaining annual rental to the county treasurer of the county in which such seaway port authority is principally located. Any such payments to the county treasurer shall be disbursed by the treasurer on the same basis as real estate taxes are divided among the various governmental units, but if such port authority shall have received funds from the state of Minnesota and funds from any city and county pursuant to Laws 1957, chapters 648, 831 and 849 and acts amendatory thereof, then such disbursement by the county treasurer shall be on the same basis as real estate taxes are divided among the various governmental units, except that the portion of such payments which would otherwise go to other taxing units shall be divided equally among the state of Minnesota and said county and city.

Sec. 3. Minnesota Statutes 1986, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity except parcels of property containing structures and the structures assessed as class 7(a), (b), (c), or (d);
- (7) All public property exclusively used for any public purpose;
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d) shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is

mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1982, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydro-mechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8, and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band; and

(c) a facility at which a licensed Minnesota manufacturer produces distilled spirituous liquors, liqueurs, cordials, or liquors designated as specialties regardless of alcoholic content, but not including ethyl alcohol, distilled with a majority of the ingredients grown or produced in Minnesota.

An exemption provided by paragraph (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, non-profit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

Sec. 4. Minnesota Statutes 1986, section 273.19, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3 or 4, property held under a lease for a term of ~~three or more years~~ *at least one year*, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, when the property belongs to the United States, to the state, or to any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or to any railroad company or other corporation whose property is not taxed in the same manner as other property, or when the property is school or other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, clause (b)(2).

Sec. 5. Minnesota Statutes 1986, section 273.19, is amended by adding a subdivision to read:

Subd. 1a. For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants

or bidders through a competitive bidding or other form of offer to potential lessees or users.

Sec. 6. Minnesota Statutes 1986, section 273.19, subdivision 3, is amended to read:

Subd. 3. The assessed value of property held under a lease for a term of ~~three or more years~~ *at least one year* which (i) is located within a federal reservation; (ii) has been conveyed to the state of Minnesota by the federal government; and (iii) had been occupied and used by a branch of the armed services of the United States, shall be no greater than the value added to the property by improvements to the property made by the lessee.

Sec. 7. Minnesota Statutes 1986, section 273.19, subdivision 4, is amended to read:

Subd. 4. Property held under a lease for a term of ~~three or more years~~ *at least one year* which is owned by the United States and located within a national park shall be exempt, provided the property was acquired by the United States by condemnation or purchased by the United States under threat of condemnation, and within a reasonable time leased back for non-commercial residential purposes to the person owning the property at the time of acquisition by the United States. If property exempt under this subdivision is subsequently leased or subleased for a term of ~~three or more years~~ *at least one year* to another person, it shall no longer qualify for the exemption provided in this subdivision and shall be placed on the assessment rolls as provided in section 272.02, subdivision 4, and taxed pursuant to subdivision 1 of this section.

The value of improvements made to property otherwise exempt pursuant to this subdivision which are owned by the lessee or to which the lessee has salvage rights shall be taxable to the lessee pursuant to subdivision 1.

Sec. 8. [REPEALER.]

Minnesota Statutes 1986, section 297A.254 is repealed.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective beginning for property taxes assessed in 1987 and payable in 1988.

ARTICLE 9

MINERALS

Section 1. Minnesota Statutes 1986, section 16A.26, is amended to read:

16A.26 [ONE DEPOSITORY ACCOUNT FOR EACH TAX.]

Notwithstanding sections 290.361, 297.13, 298.17, 298.282, 298.39, 298.396, ~~298.51, 298.64, 298.65~~, 297C.02 to 297C.08 and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

Sec. 2. Minnesota Statutes 1986, section 121.904, subdivision 11a, is amended to read:

Subd. 11a. ~~Beginning with payments received in fiscal year 1978, Rev-~~

venues received pursuant to sections ~~294.21 to 294.28~~; 29; 298.23 to 298.28; 298.32; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~; or any law imposing a tax on severed mineral values or any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, shall be recognized as revenue in the school year received.

Sec. 3. Minnesota Statutes 1986, section 121.904, subdivision 11b, is amended to read:

Subd. 11b. (1) Each district affected by the provisions of subdivision 11a shall account for and expend according to the provisions of this subdivision the total amount by which its 1976 payable 1977 and its 1977 payable 1978 permissible levies pursuant to sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125 were reduced on account of payments pursuant to *Minnesota Statutes 1976*, sections 294.21 or 294.28; 298.23 to 298.28; 298.32; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties. Notwithstanding the provisions of section 124A.035, subdivision 5, clause (2) and the provisions of section 275.125, subdivision 9, clause (2) or any other law to the contrary, this total amount shall not be applied to reduce the foundation aid which the district is entitled to receive pursuant to section 124A.02 or again be applied to reduce the permissible levies of the district.

(2) The lesser of the amount in (1) or an amount equal to \$200 times the pupil units in the district computed pursuant to section 124.17 for the 1977-1978 school year shall be reflected in an "appropriated fund balance reserve account for current use of taconite payments" which shall be established in the general fund. Each school year, beginning in 1978-1979, each affected district shall transfer an amount equal to \$20 times the number of pupil units in the district in 1977-1978 out of this account into other operating accounts in the general fund, until the amount transferred equals the amount originally reflected in the reserve account; provided that in the last year in which the district is required to make this transfer, it shall transfer the balance of the reserve account, not to exceed an amount equal to \$20 times the number of pupil units in the district in 1977-1978. Notwithstanding the provisions of section 121.917, each affected district may use the amount so transferred each year to increase its expenditures above the amount it would otherwise be authorized to expend in that school year.

(3) Of the amount in (1), any amount not reflected in the account established pursuant to clause (2) shall be reflected in the district's appropriated fund balance reserve account for purposes of reducing statutory operating debt, if the district has established this account pursuant to section 275.125, subdivision 9a. The June 30, 1977 statutory operating debt of the district shall be reduced by the amount so reflected and shall be recertified accordingly by the commissioner.

(4) Notwithstanding the provisions of section 121.912, any portion of the amount in (1) remaining after the application of clauses (2) and (3) shall be transferred to the district's capital expenditure fund; provided that before July 1, 1979 not exceeding \$75,000 of the amount transferred to the capital expenditure fund pursuant to this clause may be transferred to the district's general fund.

Sec. 4. Minnesota Statutes 1986, section 124.195, subdivision 2, is

amended to read:

Subd. 2. [DEFINITIONS.] (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 124.09, apportionments by the county auditor pursuant to section 124.10, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to sections 294.21 to 294.26 and chapter 298.

(b) The term "cumulative amount guaranteed" means the sum of the following:

(1) one-third of the final adjustment payment according to subdivision 6; plus

(2) the product of

(i) the cumulative disbursement percentage shown in subdivision 3; times

(ii) the sum of

85 percent of the estimated aid and credit entitlements paid according to subdivision 10; plus

100 percent of the entitlements paid according to subdivisions 8 and 9; plus

the other district receipts; plus

the final adjustment payment according to subdivision 6.

Sec. 5. Minnesota Statutes 1986, section 124A.035, subdivision 5, is amended to read:

Subd. 5. [TACONITE DEDUCTIONS.] (1) Notwithstanding any provisions of any other law to the contrary, the adjusted assessed valuation used in calculating foundation aid shall include only that property which is currently taxable in the district.

(2) For districts which received payments under sections 294.21 to 294.26; 29; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67;~~ any law imposing a tax upon severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties~~ or recognized revenue pursuant to section 477A.15; the foundation aid shall be reduced in the October adjustment payment by the difference between the dollar amount of the payments received pursuant to those sections, or revenue recognized pursuant to section 477A.15 in the fiscal year to which the October adjustment is attributable and the amount which was calculated, pursuant to section 275.125, subdivision 9, as a reduction of the levy attributable to the fiscal year to which the October adjustment is attributable. If the October adjustment of a district's foundation aid for a fiscal year is a negative amount because of this clause, the next fiscal year's foundation aid to that district shall be reduced by this negative amount in the following manner: there shall be withheld from each monthly scheduled foundation aid payment due the district in such fiscal year, 15 percent of the total negative amount, until the total negative amount has been withheld. The amount reduced from foundation aid pursuant to this clause shall be recognized as revenue in the fiscal year to which the October adjustment payment is attributable.

Sec. 6. Minnesota Statutes 1986, section 270.80, subdivision 2, is amended to read:

Subd. 2. "Railroad company" means:

(1) any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota; or

(2) any company owning or operating, other than as a common carrier, a railway principally used for transportation of taconite concentrates from the plant at which the taconite concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state; or

(3) any company that produces concentrates from taconite and transports that taconite in the course of the concentrating process and before the concentrating process is completed to a concentrating plant located within the state over a railroad that is not a common carrier and shall not use a common carrier or taconite railroad company as defined in clause (2) of this section for the movement of the concentrate to a point of consumption or port for shipment beyond the state.

Sec. 7. Minnesota Statutes 1986, section 273.12, is amended to read:

273.12 [ASSESSMENT OF REAL PROPERTY.]

It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to every element and factor affecting the market value thereof, including its location with reference to roads and streets and the location of roads and streets thereon or over the same, and to take into consideration a reduction in the acreage of each tract or lot sufficient to cover the amount of land actually used for any improved public highway and the reduction in area of land caused thereby, provided, that in determining the market value of vacant land, the fact that such land is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the assessed value of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to lands which are comparable in character, quality, and location, to the end that all lands similarly located and improved will be assessed upon a uniform basis and without discrimination and, for agricultural lands, to consider and give recognition to its earning potential as measured by its free market rental rate.

Notwithstanding the provisions of this or any other section, no additional value shall be assessed for unmined mineral value except for iron ore or taconite.

Sec. 8. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections ~~294.21 to 294.26~~; 29; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, para-

graph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67; 477A.15;~~ and any law imposing a tax upon severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties;~~ or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the equalization aid review committee. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by ~~subdivision subdivisions 11a, 11c, 12, and 12a,~~ and the community service levy authorized by ~~subdivision subdivisions 8 and 8b,~~ the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to ~~subdivision subdivisions 11a, 11c, 12, and 12a,~~ and for community services pursuant to ~~subdivision subdivisions 8 and 8b.~~ The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections ~~294.21 to 294.26; 29;~~ 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67;~~ or any law imposing a tax on severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties;~~ and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986 and 1987, the amount required to be subtracted from the

previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 9. Minnesota Statutes 1986, section 275.51, subdivision 3i, is amended to read:

Subd. 3i. [LEVY LIMITATION.] The levy limitation for a governmental subdivision shall be equal to the adjusted levy limit base determined pursuant to subdivision 3h, reduced by (a) the total amount of local government aid that the governmental subdivision has been certified to receive pursuant to sections 477A.011 to 477A.014; (b) taconite aids pursuant to sections 298.28 and 298.282 including any aid received in the levy year which was required to be placed in a special fund for expenditure in the next succeeding year; (c) state reimbursements for wetlands and native prairie property tax exemptions pursuant to sections 273.115, subdivision 3 and 273.116, subdivision 3; ~~and~~ (d) payments in lieu of taxes to a county pursuant to section 477A.12 which are required to be used to provide property tax levy reduction certified to be paid in the calendar year in which property taxes are payable; ~~and (e) payments from the proceeds of the net proceeds tax under section 29.~~ If the sum of the taconite aids deducted exceeds the adjusted levy limit base, the excess must be used to reduce the amounts levied as special levies pursuant to section 275.50, subdivisions 5 and 7. The commissioner of revenue shall notify a governmental subdivision of any excess taconite aids to be used to reduce special levies.

As provided in section 298.28, one cent per taxable ton of the amount distributed under section 298.28, subdivision 5, paragraph d shall not be deducted from the levy limit base of the counties that receive that aid. The resulting figure is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

For taxes levied in 1987 and subsequent years, the levy limit for a county as calculated under paragraph (b) shall be decreased by an additional amount equal to the reduction in the distribution to the county under section 298.28, from the 1986 distribution to the 1987 distribution.

Sec. 10. Minnesota Statutes 1986, section 287.09, is amended to read:

287.09 [MORTGAGE ON EXEMPT PROPERTY; PROPERTY NOT DIRECTLY TAXED; RECEIPT; APPORTIONMENT OF TAX.]

When ~~any~~ real estate ~~situate in this state and~~ described in ~~any such a~~ mortgage is exempt from taxation under the Constitution of the state of Minnesota, article 10, section 1, the ~~mortgage registry tax herein provided~~ shall be paid to the treasurer of the county in which ~~such the~~ real estate is ~~situate located~~ in the same manner as if ~~such the~~ real estate ~~was were~~ not exempt from taxation. When any real estate ~~situate in this state and~~ described in ~~such a~~ mortgage is not exempt from taxation under ~~such that~~ section, but is not taxed by direct tax upon the assessed valuation thereof, ~~then the mortgage registry tax herein provided~~ shall be paid to the county; ~~this sentence does not apply to real estate taxed under sections 298.23 to 298.28, relating to taconite and taconite operations or under sections 294.21 to 294.28, relating to railroads transporting taconite or taconite concentrates other than as a common carrier, shall not be considered to be real estate~~

not taxed by direct tax upon the assessed valuation thereof within the meaning of this section.

Sec. 11. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. [RETURNS, DEPOSITS.] (1)(a) [RETURNS.] Every employer who is required to deduct and withhold tax under subdivision 2a or 3 *and every person required to deduct and withhold tax under section 21, subdivision 2*, shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than six months.

(b) [ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.] (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3, *or under section 21, subdivision 2*, exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer, *or person withholding tax under section 21, subdivision 2*, shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) [OTHER METHODS.] The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify ~~employers~~ *employers payors* according to the amount of their tax liability and may adopt an appropriate reporting period for each class which the commissioner deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year.

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times

as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner 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 to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immediately assess the tax, whether or not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer, *or person withholding tax under section 21, subdivision 2*, in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within 3-1/2 years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

(7)(a) Except as provided in (b) of this paragraph, every employer, *or person withholding tax under section 21, subdivision 2*, who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3, *or section 21, subdivision 2*, shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, *or person withholding tax under section 21, subdivision 2*, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer, *or person required to withhold tax under section 21, subdivision 2*, to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of this subdivision, any tax required to be withheld in accordance with the pro-

visions of subdivision 2a or 3, *or section 21, subdivision 2*, if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as security for any judgment which has been or may be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 12. Minnesota Statutes 1986, section 290.92, subdivision 7, is amended to read:

Subd. 7. [WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER.] (1) Every person required to deduct and withhold from an employee a tax under subdivision 2a or subdivision 3, *or section 21, subdivision 2*, or who would have been required to deduct and withhold a tax under subdivision 2a or subdivision 3, *or persons required to withhold tax under section 21, subdivision 2*, determined without regard to subdivision 19, if the employee *or payee* had claimed no more than one withholding exemption, or who paid wages *or made payments* not subject to withholding under subdivision 2a or 3, *or section 21, subdivision 2*, to an employee *or person receiving royalty payments* in excess of \$600, or who has entered into a voluntary withholding agreement with a payee pursuant to subdivision 20, shall furnish to each such employee *or person receiving royalty payments* in respect to the remuneration paid by such person to such employee *or person receiving royalty payments* during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement

showing the following:

- (a) Name of such person,
 - (b) The name of the employee or payee and the employee's or payee's social security account number,
 - (c) The total amount of wages as that term is defined in subdivision 1(1), and/or the total amount of remuneration subject to withholding pursuant to subdivision 20, and the amount of sick pay as required under section 6051(f) of the Internal Revenue Code of 1954, as amended through December 31, 1985,
 - (d) The total amount deducted and withheld as tax under subdivision 2a or subdivision 3, *or section 21, subdivision 2.*
- (2) The statement required to be furnished by this subdivision in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the commissioner may prescribe.
- (3) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to furnish such statements to their employees or payees under this subdivision.
- (4) A duplicate of any statement made pursuant to this subdivision and in accordance with rules prescribed by the commissioner, along with a reconciliation in such form as the commissioner may prescribe of all such statements for the calendar year (including a reconciliation of the quarterly returns required to be filed pursuant to subdivision 6), shall be filed with the commissioner on or before February 28 of the year after the payments were made.

Sec. 13. Minnesota Statutes 1986, section 290.92, subdivision 9, is amended to read:

Subd. 9. [DETERMINATION OF TAX DUE.] The commissioner may grant permission to employers, *or persons withholding tax under section 21, subdivision 2*, who do not desire to use the withholding tax tables provided in accordance with paragraph (3) of subdivision 2a, *or section 21, subdivision 2*, to determine the amount of tax to be withheld by use of a method of withholding other than withholding tax tables, provided such method will withhold from each employee *or person receiving royalty payments* substantially the same amount of tax as would be withheld by use of the withholding tax tables. Employers, *or persons withholding tax under section 21, subdivision 2*, who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the commissioner before the beginning of a payroll period for which the employer, *or person withholding tax under section 21, subdivision 2*, desires to withhold the tax by such other method. Applications to use such other method must be accompanied by evidence establishing the need for the use of such method.

Sec. 14. Minnesota Statutes 1986, section 290.92, subdivision 11, is amended to read:

Subd. 11. [REFUNDS.] Where there has been an overpayment of tax imposed by this section, refund of such overpayment or credit shall be made to the employer, *or person withholding tax under section 21, subdivision 2*, in accordance with rules prescribed by the commissioner, but

only to the extent that the amount of such overpayment was not deducted and withheld under subdivision 2a or 3, *or section 21, subdivision 2*, by the employer *or other person subject to withholding*. Any overpayment which is refunded shall bear interest at the rate specified in section 270.76, computed from the date of payment until the date the refund is paid to the employer. The commissioner of finance shall cause any such refund of tax and interest to be paid out of the general fund in accordance with the provisions of section 290.62 and so much of said fund as may be necessary is hereby appropriated for that purpose. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

Sec. 15. Minnesota Statutes 1986, section 290.92, subdivision 12, is amended to read:

Subd. 12. [WITHHELD AMOUNT, CREDIT AGAINST TAX.] The amount deducted and withheld as tax under subdivision 2a or subdivision 3, *or section 21, subdivision 2*, during any calendar year upon the wages of any individual *or person receiving royalty payments* shall be allowed as a credit to the recipient of the income against the taxes imposed by this chapter *or by chapter 298*, for a taxable year beginning in such calendar year. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the taxes for the last taxable year so beginning.

Sec. 16. Minnesota Statutes 1986, section 290.92, subdivision 13, is amended to read:

Subd. 13. [REFUNDS.] (1) Where the amount of the tax withheld at the source under subdivision 2a or 3, *or section 21, subdivision 2*, exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the ~~employee~~ taxpayer or imposed upon the ~~employee~~ taxpayer by this chapter, the amount of such excess shall be refunded to the ~~employee~~ taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund that amount. Where any amount of such excess to be refunded exceeds \$10, such amount on the original return shall bear interest at the rate specified in section 270.76, computed from 90 days after (a) the due date of the return of the ~~employee~~ taxpayer or (b) the date on which the return is filed, whichever is later, to the date the refund is paid to the taxpayer. A return shall not be treated as filed until it is in processible form. A return is in processible form when it is filed on a permitted form containing the taxpayer's name, address, social security account number, the required signature, and sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the ~~employee~~ taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest, to be paid out of the general fund in accordance with the provisions of section 290.62, and so much of said fund as may be necessary is hereby

appropriated for that purpose.

Sec. 17. Minnesota Statutes 1986, section 290.92, subdivision 14, is amended to read:

Subd. 14. [RECORDS MUST BE KEPT.] Every person liable for any tax imposed by this section, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules, as the commissioner may from time to time prescribe. Any such return or statement shall include therein the information required by such rules and by the forms prescribed by the commissioner. For the purpose of determining compliance with the provisions of this subdivision, or for the purpose of collection of any taxes due under this section *or section 21*, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determination, whether such books, papers, records, or memoranda are the property of or in the possession of such person or any other person or corporation. The commissioner shall further have power to require the attendance of any persons having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination, and to administer oaths or affirmations.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 18, is amended to read:

Subd. 18. [RETURNS; CONFESSION OF JUDGMENT.] Any return that is required to be filed with the commissioner of revenue under this section *or section 21* shall (a) contain a written declaration that it is correct and complete, and (b) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

Sec. 19. Minnesota Statutes 1986, section 290.92, subdivision 24, is amended to read:

Subd. 24. [APPLICATION FOR ACCOUNT NUMBER.] An employer, *or person withholding tax under section 21*, desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number on or before the due date of the first payment required to be made under the provisions of subdivision 6. An application for an account number shall be made upon a form prescribed by the commissioner and shall set forth the name of the employer *or payor*, the location of the place or places of business, the names, addresses and social security numbers of the owners or partners, or if the employer *or payor* is a corporation of the officers, or if the employer *or payor* is a trust of the trustees, and such other information as the commissioner may require. The application shall be filed by the owner if the employer *or payor* is a natural person; by a member or partner if the employer *or payor* is an association or partnership; by a trustee if the employer *or payor* be a trust, or by a person authorized to sign the application if the employer *or payor* is a corporation.

No fee shall be charged for the application.

The account number is not assignable.

An employer *or payor* who fails to file an application for a withholding account number shall be liable to the commissioner for a penalty of \$100.

The penalty shall be collected in the same manner as delinquent withholding tax is collected. The commissioner may abate this penalty.

Sec. 20. Minnesota Statutes 1986, section 290.92, subdivision 25, is amended to read:

Subd. 25. [DELEGATION OF DUTY OF EMPLOYER OR PAYOR.] The delegation to an agent, fiduciary or employee of an employer, or person withholding tax under section 21, of any duty prescribed for the employer or payor by this section shall not relieve the employer or payor of full compliance with such duty.

Sec. 21. [290.923] [TAX WITHHELD ON ROYALTIES UPON ORE.]

Subdivision 1. [DEFINITION.] In this section, "royalty" means the amount in money or value of property received by any person having any right, title, or interest in any tract of land in this state for permission to explore, mine, take out, and remove ore from the land.

Subd. 2. [COLLECTION AT SOURCE.] (a) Every person making payment of royalties shall deduct and withhold upon the royalties a tax as provided in this section.

(b) The amount of tax to be withheld shall be based upon tables to be prepared and distributed by the commissioner. The tables must be computed for several permissible withholding periods and shall take into account any exemptions allowed under this chapter. The amounts computed for withholding shall be such that the amount withheld for any person during the person's taxable year shall approximate in the aggregate as closely as possible the tax levied and imposed under this chapter for that taxable year upon the person's income subject to tax.

Subd. 3. [RETURNS; DEPOSITS.] Every person who is required to deduct and withhold tax under subdivision 2 shall file returns and make deposits as required under section 290.92, subdivision 6.

Subd. 4. [WITHHOLDING STATEMENT.] Every person required to deduct and withhold tax under this section shall furnish withholding statements as required by section 290.92, subdivision 7.

Subd. 5. [PAYOR LIABLE FOR TAX WITHHELD.] The payor shall be liable for the payment of tax required to be deducted and withheld under subdivision 2 and shall not be liable to any person for the amount of the payment.

Subd. 6. [DETERMINATION OF TAX DUE.] The commissioner may grant permission to payors who do not wish to use the withholding tax tables provided in accordance with subdivision (2), paragraph (b), in accordance with section 290.92, subdivision 9.

Subd. 7. [REFUNDS.] Refunds of overpayments or credits due to overpayments of tax imposed by this section shall be allowed in accordance with section 290.92, subdivisions 11 to 13.

Subd. 8. [RECORDS.] Every person liable for tax imposed by this section or for the collection of it shall be subject to the provisions of section 290.92, subdivision 14.

Subd. 9. [PAYEES INCURRING NO INCOME TAX LIABILITY.] Notwithstanding any other provision of this section a payor shall not be required to deduct and withhold any tax under this chapter upon a payment of

royalties to a payee if there is in effect with respect to the payment a withholding exemption certificate, in the form and containing the information prescribed by the commissioner, furnished to the payor by the payee certifying that the payee:

(1) incurred no liability for income tax imposed under this chapter for the payee's preceding taxable year; and

(2) anticipates incurring no liability for income tax under this chapter for the current taxable year.

The commissioner shall provide by rule for the coordination of the provisions of this subdivision with the provisions of subdivision 4.

Subd. 10. [APPLICATION FOR ACCOUNT NUMBER.] A payor desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number in accordance with section 290.92, subdivisions 24 and 25.

Sec. 22. Minnesota Statutes 1986, section 298.01, subdivision 1, is amended to read:

Subdivision 1. [OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES.] Every person engaged in the business of mining or producing iron ore or ~~other ores~~ *taconite concentrates* in this state shall pay to the state of Minnesota an occupation tax equal to ~~15 percent of the valuation of all ores mined or produced before January 1, 1986, 14.5 percent of the valuation of all ores produced after December 31, 1985 and before January 1, 1987, and 14 percent of the valuation of all the ores produced after December 31, 1986.~~ *Said The tax shall be in addition to all other taxes provided for by law and shall be due and payable from such person on or before June 15 of the year next succeeding the calendar year covered by the report thereon to be filed as hereinafter provided during which the ore was produced.*

Sec. 23. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 3. [OCCUPATION TAX; OTHER ORES.] Every person engaged in the business of mining or producing ores, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided in chapter 290, except that section 290.05, subdivision 1, clause (a), does not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Sec. 24. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 4. [OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES.] A person engaged in the business of mining or producing of iron ore or taconite concentrates shall pay an occupation tax to the state of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided for in chapter 290, except that section 290.05, subdivision 1, clause (a), does not apply. Corporations and individuals shall be subject

to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Sec. 25. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 5. [IF DECLARED UNCONSTITUTIONAL.] If the taxes imposed in subdivisions 3 and 4 are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore or other ores shall pay the occupation taxes imposed in Minnesota Statutes 1986, chapter 298.

Sec. 26. [298.015] [NET PROCEEDS TAX ON MINING.]

Subdivision 1. [TAX IMPOSED.] A person engaged in the business of mining shall pay to the state of Minnesota for distribution as provided in section 29 a net proceeds tax equal to two percent of the net proceeds from mining in Minnesota. The tax applies to all mineral and energy resources mined or extracted within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law. The tax is due by June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 2. [NET PROCEEDS.] For purposes of this section, the term "net proceeds" means the gross proceeds from mining, as defined in section 27, less the deductions allowed in section 28. No other credits or deductions shall apply to this tax except for those provided in section 28.

Sec. 27. [298.016] [GROSS PROCEEDS.]

Subdivision 1. [COMPUTATION; ARMS-LENGTH TRANSACTIONS.] When a metal or mineral product is sold by the producer in an arms-length transaction, the gross proceeds are equal to the proceeds from the sale of the product. This subdivision applies to sales realized on all metal or mineral products produced from mining, including reduction, beneficiation, or any treatment used by a producer to obtain a metal or mineral product which is commercially marketable.

Subd. 2. [OTHER TRANSACTIONS.] When a metal or mineral product is used by the producer or disposed of in a non-arms-length transaction, the gross proceeds must be determined using the alternative computation in subdivision 3. Transactions subject to this subdivision include, but are not limited to, shipments to a wholly owned smelter, transactions with associated or affiliated companies, and any other transactions which are not at arms-length.

Subd. 3. [ALTERNATIVE COMPUTATION.] The commissioner of revenue shall determine the alternative computation of gross proceeds using the following procedure:

(a)(1) Metal and mineral prices shall be determined by using the average annual market price as published in the Engineering and Mining Journal; (2) For metals or mineral products with a monthly or weekly price quotation in the Engineering and Mining Journal, but for which no average annual price has been published, an arithmetic average of the monthly or weekly prices published in the Engineering and Mining Journal shall be used; (3)

If the price of a particular metal or mineral product is not published in the Engineering and Mining Journal, another recognized published price, as established by the commissioner of revenue will be used.

(b) The quantity of each particular metal or mineral product recovered and paid or credited for by the smelter will be multiplied by the average annual market price as determined in clause (a). Special smelter charges for particular metals will be allowed as a deduction from this price. The resulting amount will be the gross proceeds for calculating the tax in section 26.

Subd. 4. [DEFINITIONS.] For the purposes of this section and sections 26 and 28, the terms defined in this subdivision have the meaning given them unless the context clearly indicates otherwise.

(a) "Metal or mineral products" means all those mineral and energy resources subject to the tax provided in section 26.

(b) "Exploration" means activities designed and engaged in to ascertain the existence, location, extent, or quality of any deposit of metal or mineral products prior to the development of a mining site.

(c) "Development" means activities designed and engaged in to prepare or develop a potential mining site for mining after the existence of metal or mineral products in commercially marketable quantities has been disclosed including, but not limited to, the clearing of forestation, the building of roads, removal of overburden, or the sinking of shafts.

(d) "Research" means activities designed and engaged in to create new or improved methods of mining, producing, processing, beneficiating, smelting, or refining metal or mineral products.

Sec. 28. [298.017] [DEDUCTIONS.]

Subdivision 1. [DEDUCTIONS NOT ALLOWED.] For purposes of calculating the net proceeds under section 26, the following expenses are not deductible: (1) all sales, marketing, and interest expenses; (2) all insurance expense and taxes, except as specifically provided in this section; (3) all administrative expenses outside of Minnesota; (4) any research expense prior to production; (5) all reclamation expenses after production ends; (6) royalty expenses, depletion allowances, and cost of mining land.

Subd. 2. [DEDUCTIONS ALLOWED.] (a) In calculating the net proceeds for the purpose of determining the tax provided in section 26, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for (1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance; (2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3); (3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and (4) administrative expenses inside Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale

price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

Sec. 29. [298.018] [DISTRIBUTION OF PROCEEDS.]

Subdivision 1. [WITHIN TACONITE TAX RELIEF AREA.] The proceeds of the tax paid under sections 26 to 28 on minerals and energy resources mined or extracted within the taconite tax relief area defined in section 273.134 shall be allocated as follows:

(1) five percent to the city or town within which the minerals or energy resources are mined or extracted;

(2) ten percent to the taconite municipal aid account to be distributed as provided in section 298.282;

(3) ten percent to the school district within which the minerals or energy resources are mined or extracted;

(4) 20 percent to a group of school districts comprised of those school districts wherein the mineral or energy resource was mined or extracted or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted assessed value per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted assessed value per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions;

(5) 20 percent to the county within which the minerals or energy resources are mined or extracted;

(6) 20 percent to St. Louis county acting as the counties' fiscal agent to be distributed as provided in sections 273.134 to 273.136;

(7) five percent to the iron range resources and rehabilitation board for the purposes of section 298.22;

(8) five percent to the northeast Minnesota economic protection trust fund; and

(9) five percent to the taconite environmental protection fund.

The proceeds of the tax shall be distributed on July 15 each year.

Subd. 2. [OUTSIDE TACONITE TAX RELIEF AREA.] The proceeds of the tax paid under sections 26 to 28 on minerals and energy resources mined or extracted outside of the taconite tax relief area shall be deposited in the general fund.

Sec. 30. Minnesota Statutes 1986, section 298.026, is amended to read:

298.026 [CREDIT FOR RESEARCH, EXPERIMENTATION, AND

EXPLORATION.]

A tax credit shall be allowed to each taxpayer against the taxes payable by such taxpayer as computed each year under sections 298.01, *subdivision 1*, and 298.02, for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Such credit shall be computed by applying to such costs and allowances the weighted average net effective rate of all the occupation taxes applicable to such taxpayer for such year imposed pursuant to section 298.01, *subdivision 1*, after the application of the credits against such occupation taxes allowed under section 298.02, *subdivision 1*, but before the application of the credit herein provided.

Any such credit shall be applied against the tax for the year for which such credit is computed except that any such credit in excess of such tax shall be applied in like manner in the next year and thereafter from year to year, but not exceeding two years, until the entire credit has been so applied.

The determination as to what type of costs will qualify under this law, and the amount allowable, will be made by the commissioner of revenue who may use the services of the University of Minnesota department of civil and mineral engineering which is hereby established as a technical consultant to the commissioner for the purposes of this section.

Sec. 31. Minnesota Statutes 1986, section 298.027, is amended to read:

298.027 [COSTS OF MINING EXCEEDING VALUE OF ORE TAX CREDIT.]

A tax credit shall be allowed to each taxpayer against the taxes computed under this chapter where the allowable costs for any mine determined under section 298.03 except taconite and semitaconite exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

The credit shall be computed by applying the tax rates specified in section 298.01, *subdivision 1*, to the excess of such deductions over such value, but limited to; in the case of open pit iron ore mines, 53.68 percent of the credit so computed and in the case of underground mines, 42.10 percent of the credit so computed.

Such credit shall be allowed for the year in which such excess occurs.

Sec. 32. Minnesota Statutes 1986, section 298.028, *subdivision 1*, is amended to read:

Subdivision 1. A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules or standards to the extent the property is so used may be deducted from the tax imposed by section 298.01, *subdivision 1*, in the first year in which the equipment is installed.

The credit allowed by this subdivision shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a

permit or order issued by the agency.

Sec. 33. Minnesota Statutes 1986, section 298.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULES.] The valuation of iron or other ores for the purposes of determining the amount of tax to be paid under the provisions of section 298.01, *subdivision 1*, shall be ascertained by subtracting from the value of such ore, at the place where the same is brought to the surface of the earth, such value to be determined by the commissioner of revenue:

(1) the reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth;

(2) if the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered, the number of tons of ore uncovered in each case to be determined by the commissioner of revenue;

(3) if the ore is taken from an underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each case to be determined by the commissioner of revenue;

(4) the amount of royalties paid on the ore mined or produced during the year;

(5) for persons mining or producing iron ore the mining or production of which is subject to the occupation tax imposed by section 298.01, subdivision 1, the amount of the ad valorem taxes levied and paid for the year against the realty in which the ore is deposited; for all others a percentage of the ad valorem taxes levied and paid for such year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine;

(6) in the case of taconite, semitaconite and iron sulphide operations, the tax payable under section 298.24, and that payable under section 298.35, on the concentrates produced in said year and any taxes paid under Laws 1955, chapter 391, 429, 514, 576 or 540, or any other law imposing on such taconite operations a specific tax for school or other governmental purposes;

(7) the amount or amounts of all the foregoing subtractions shall be ascertained and determined by the commissioner of revenue. Deductions for interest on plant investment shall not exceed the greater of (a) four percent of book value, or (b) the amount actually paid but not exceeding six percent of book value. No subtraction shall be allowed for shrinkage of iron ore.

Sec. 34. Minnesota Statutes 1986, section 298.031, subdivision 2, is amended to read:

Subd. 2. [VALUE OF CERTAIN ORE; HOW ASCERTAINED.] (1) The taxpayer shall be given a credit in each taxable year upon the occupation tax assessed in such year *upon iron ore or taconite concentrates*, under

Minnesota Statutes 1957, chapter 298, against a given mine after credit for labor credits has been given, in an amount equal to the occupation tax under said chapter 298 upon an amount produced by multiplying the number of tons of ore sold at a discount by the amount of such discount.

(2) The aggregate amount of all credits allowed under this section to all mines shall not exceed four percent of the aggregate amount of all occupation taxes imposed under section 298.01, subdivision 1, assessed against all mines in the state for said year prior to the deduction of the credit allowed by this section.

(3) The amount of the foregoing subtraction shall be ascertained and determined by the commissioner.

(4) If ore stockpiled from previous years operations is sold at a discount, the discount credit shall be allowed against all ore currently being produced by the same company to the extent that the discount credit is available. Any unused credit may be carried forward and utilized with future years production of ore from the stockpiled property or other properties operated by the same company.

Sec. 35. Minnesota Statutes 1986, section 298.08, is amended to read:

298.08 [PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR FAILURE TO REPORT.]

If any person subject to sections 298.01, 298.03, 298.05 to 298.16, and 298.21 ~~shall fail and section 26 fails~~ to make the report provided for in section 298.05 at the time and in the manner ~~therein~~ provided, the commissioner of revenue shall ~~in such case~~, upon information as the commissioner may possess or obtain, ascertain the kind and amount of ore mined or produced, together with ~~the~~ its valuation ~~thereof~~, and ~~thereon find and~~ determine the amount of the tax due from such person. There shall be added ~~thereto to the tax~~ a penalty for failure to report, ~~which penalty shall equal to ten percent of the tax imposed and which shall be treated as a part thereof of the tax.~~

Sec. 36. Minnesota Statutes 1986, section 298.09, subdivision 1, is amended to read:

Subdivision 1. On or before May 1 in each year, the commissioner of revenue shall send to each person subject to ~~an occupation tax~~ taxes under the provisions of ~~Laws 1924, chapter 223~~ section 298.01, as amended, ~~or the net proceeds tax under the provisions of section 26~~, a notice of the amount of the tax so determined to be due. Said notice shall be sent by certified mail and directed to the person at the address given in the report filed by the person, and, if no report has been filed or no address given, then at such address as the commissioner of revenue may be able to ascertain; but the validity of the tax shall not be affected by the failure of the commissioner of revenue to mail such notice or the failure of the person subject to the tax to receive it.

Sec. 37. Minnesota Statutes 1986, section 298.24, subdivision 1, is amended to read:

Subdivision 1. (a) For concentrate produced in 1986 and 1987 there is hereby imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) Except as provided in paragraph (c), for concentrates produced in ~~1987~~ 1988 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. "Implicit price deflator" for the gross national product means the implicit price deflator prepared by the bureau of economic analysis of the United States Department of Commerce.

(c) The provisions of paragraph (b) ~~will not be in effect for concentrates produced in 1987 if the 1987 production is not less than 33,000,000 tons, and will not be in effect for concentrates produced in 1988 if the 1988 production is not less than 34,000,000 tons.~~ If the provisions of paragraph (b) are not in effect for concentrates produced in a year, the rate of the tax for that year's production will be the rate of the tax imposed on the previous year's production. The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(d) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(e) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

Sec. 38. Minnesota Statutes 1986, section 298.25, is amended to read:

298.25 [TAXES ADDITIONAL TO OTHER TAXES.]

The taxes imposed under section 298.24 shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore ~~and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore.~~ Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite and iron sulphides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities. If electric or steam power for the mining, transportation or concentration of such taconite or the concentrates produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery, equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the min-

ing, quarrying or production of taconite and taconite concentrates within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of taconite or the transportation or loading of taconite or the concentrates thereof, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the generating capacity of the plant, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation or concentration of such taconite or concentrates produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing taconite and not occupied by such facilities or used in connection therewith at the value thereof without regard to the taconite or iron sulphides therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite or iron sulphides in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

Sec. 39. Minnesota Statutes 1986, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts wherein the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted assessed value per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted assessed value per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections ~~294.21 to 294.26~~; 29; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~ or any law imposing a tax on ~~several severed mineral values or any other law distributing proceeds in lieu of ad~~

~~valorem tax assessments on copper or nickel properties~~ that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. *On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator.* On July 15, ~~1988~~ 1989 and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1-3/4 mills times the district's taxable valuation in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of 1-3/4 mills times the district's taxable valuation in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$150 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce foundation aids which the district is entitled to receive pursuant to section 124A.02 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 40. Minnesota Statutes 1986, section 298.28, subdivision 7, is amended to read:

Subd. 7. [IRON RANGE RESOURCES AND REHABILITATION BOARD.] Three cents per taxable ton shall be paid to the iron range resources and rehabilitation board for the purposes of section 298.22. The amount determined in this subdivision shall be increased in 1981 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1, and shall be

increased in ~~1988~~ 1989 and subsequent years according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. *The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production.* The amount distributed pursuant to this subdivision shall be expended within or for the benefit of a tax relief area defined in section 273.134. No part of the fund provided in this subdivision may be used to provide loans for the operation of private business unless the loan is approved by the governor and the legislative advisory commission.

Sec. 41. Minnesota Statutes 1986, section 298.28, subdivision 10, is amended to read:

Subd. 10. [INCREASE.] The amounts determined under subdivisions 6, paragraph (a), and 9 shall be increased in 1979 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1. *The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production.* Those amounts shall be increased in ~~1988~~ 1989 and subsequent years in the same proportion as the increase in the implicit price deflator as provided in section 298.24, subdivision 1.

The distributions per ton determined under subdivisions 5, paragraphs (b) and (d), and 6, paragraphs (b) and (c) for distribution in 1988 and subsequent years shall be the distribution per ton determined for distribution in 1987.

Sec. 42. Minnesota Statutes 1986, section 298.28, is amended by adding a subdivision to read:

Subd. 15. [DISTRIBUTION OF DELAYED PAYMENTS.] *Notwithstanding any other provision of this section or any other law, if payment of taxes collected under section 298.24 is delayed past the due date because the taxpayer is a debtor in a pending bankruptcy proceeding, the amount paid shall be distributed as follows when received:*

(1) 50 percent to St. Louis county acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136;

(2) 25 percent to the northeast Minnesota economic protection trust fund; and

(3) 25 percent to the taconite environmental protection fund.

Sec. 43. [REPEALER.]

(a) Minnesota Statutes 1986, sections 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; and 299.14, are repealed.

(b) Minnesota Statutes 1986, sections 290.082; 298.04; 298.28, subdivision 14; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; and 298.67, are repealed.

(c) Minnesota Statutes 1986, sections 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; and 298.40 are repealed.

Sec. 44. [EFFECTIVE DATE.]

Section 1 and the parts of sections 2, 3, 5, 8, and 39 that strike references to sections 298.51 to 298.67 and references to other laws distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties are effective December 31, 1986. Section 6 is effective for taxes assessed in 1989 and thereafter. Sections 4, 10 to 21, 38, and 43, paragraph (a), and the parts of sections 2, 3, 5, 8, and 39 that strike references to sections 294.21 to 294.26 or sections 294.21 to 294.28 are effective for taxable years beginning after December 31, 1989. Sections 7, 9, 22, 26 to 36, and 43, paragraph (b), are effective for taxable years beginning after December 31, 1986. Section 23 is effective for ores mined after December 31, 1986. Section 24 and section 43, paragraph (c), are effective for iron ore and taconite concentrates mined after December 31, 1989. Section 37 is effective for taconite concentrates mined after December 31, 1986.

ARTICLE 10

ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 1986, section 273.1313, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of ~~revenue~~ energy and economic development.

(c) "Employment property" means taxable property, excluding land but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) The property is located within an enterprise zone designated according to section 273.1312.

(2) The property is commercial or industrial property which is not used in a trade or business which either is described in section 103(b)(6)(O) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is property of a public utility (i) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (ii) property of a public utility; (iii) property used in the operation of a financial institution; (iv) property owned by a fraternal or veterans' organization; or (v) property of a business operating under a franchise agreement that requires the business to be located in the state; except that, in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not in a city of the first class, employment property includes property used as a retail food or beverage facility or an automobile sales or service facility, and property described in (v) except for property of a retail food or beverage facility.

(d) "Market value" of a parcel of employment property means the value of the taxable property as annually determined pursuant to section 273.12,

less (i) the market value of all property existing at the time of application for classification, as last assessed prior to the time of application, and (ii) any increase in the market value of the property referred to in clause (i) as assessed in each year after the employment property is first placed in service. In each year, any change in the values of the employment property and the other property on the land shall be deemed to be proportionate unless caused by a capital improvement or loss.

(e) "Municipality" means any home rule charter or statutory city or county, but a county may not exercise the powers granted in this section with reference to property situated within a city.

(f) Notwithstanding the provisions of paragraphs (c) and (d) "employment property" and "market value" includes in the case of taxable real property located in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the entire value of the ~~commercial and industrial employment property, including land, used in a trade or business which is not used in a trade or business which either is described in section 103(b)(0)(ii) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is the property of a public utility.~~ The provisions of this paragraph shall not apply to employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b).

Sec. 2. Minnesota Statutes 1986, section 273.1313, subdivision 2, is amended to read:

Subd. 2. [PROGRAM.] (a) The governing body of any municipality which contains a designated enterprise zone as provided by section 273.1312 shall by resolution establish a program for classification of new property or improvements to existing property as employment property pursuant to the provisions of this section. Applications for classification under the program shall be filed with the municipal clerk or auditor in a form prescribed by the commissioner, with additions as may be prescribed by the municipal governing body. The application shall contain, where appropriate, a legal description of the parcel of land on which the facility is to be situated or improved; a general description of the facility or improvement and its proposed use, the probable time schedule for undertaking any construction or improvement, and information regarding the matters referred to in paragraph (d); the market value and the assessed value of the land and of all other taxable property then situated on it, according to the most recent assessment; and if the property is to be improved or expanded, an estimate of the probable cost of the new construction or improvement and the market value of the new or improved facility (excluding land) when completed.

(b) Upon receipt of an application the municipal clerk or auditor, subject to any prior approval required by the resolution establishing the program, shall furnish a copy to the assessor for the property and to the governing body of each school district and other public body authorized to levy taxes on the property, and shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published, stating that the applicant, the assessor, representatives of the affected taxing authorities, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned

from time to time; but the governing body shall take action on the application by resolution within 30 days after the hearing. If disapproved, the reasons shall be set forth in the resolution, and the applicant may appeal to the commissioner within 30 days thereafter, but only on the ground that the determination is arbitrary, in relation to prior determinations as to classification under the program, or based upon a mistake of law. If approved, the resolution shall include determinations as to the matters set forth in paragraph (d), and the clerk or auditor shall transmit it to the commissioner.

(c) Within 60 days after receipt of an approved application or an appeal from the disapproval of an application, the commissioner shall take action on it. The commissioner shall approve each application approved by the governing body on finding that it complies with the provisions of this section. If the commissioner disapproves the application, or finds grounds exist for appeal of a disapproved application, the commissioner shall transmit the finding to the governing body and the applicant. When grounds for appeal have been determined to exist, the governing body shall reconsider and take further action on the application within 30 days after receipt of the commissioner's notice and serve written notice of the action upon the applicant. The applicant, within 30 days after receipt of notice of final disapproval by the commissioner or the governing body, may appeal from the disapproval to a court of competent jurisdiction.

(d) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (1), an application shall not be approved unless the governing body finds and determines that the construction or improvement of the facility:

(1) is reasonably likely to create new employment or prevent a loss of employment in the municipality;

(2) is not likely to have the effect of transferring existing employment from one or more other municipalities within the state;

(3) is not likely to cause the total market value of employment property within the municipality to exceed five percent of the total market value of all taxable property within the municipality; or if it will, the resulting limitation upon the increase of the assessed value of all taxable property within the municipality, considering the amount of additional municipal services likely to be required for the employment property, is not likely to substantially impede the operation or the financial integrity of the municipality or any other public body levying taxes on property in the municipality; and

(4) will not result in the reduction of the assessed value of existing property within the municipality owned by the applicant, through abandonment, demolition, or otherwise, without provision for the restoration of the existing property within a reasonable time in a manner sufficient to restore the assessed valuation.

(e) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), an application for assessment as employment property under section 273.13, subdivision 24, paragraph (b), or for a tax reduction pursuant to section 273.1314, subdivision 9, may not be approved unless the governing body finds and determines that the construction or improvement of the facility is not likely to have the effect of transferring existing employment from one or more other municipalities within the state.

(f) All participating enterprise zone municipalities must submit, with each application from businesses that previously have not received enterprise zone credits, a written multiyear enterprise zone tax credit distribution plan. The plan must set forth: (1) the maximum amount of credits to be drawn over the five year allowable period; and (2) the maximum amount of state tax credits to be drawn each of those five years, and whether the form will be in tax credits or refunds.

(g) Within 90 days of final enactment of this act, all participating enterprise zone municipalities, except those containing an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), other than a zone in the city of the first class, must submit a written multiyear enterprise zone tax credit distribution plan. The plan must specify the maximum amounts of state tax credits previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits from a business that meets the requirements established in sections 273.1312 to 273.1314. The commissioner shall not approve any request for state tax credits from a business that exceeds the amount set forth in an enterprise zone municipality's multiyear enterprise zone tax credit distribution plan for that business entity for that year.

(h) Border city enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that are not located in cities of the first class shall, within 90 days of final enactment of this act, submit a written multiyear enterprise zone tax distribution plan. The plan must specify the maximum aggregate amount of tax credits all previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits for a business that meets the requirements established in sections 273.1312 to 273.1314.

Sec. 3. Minnesota Statutes 1986, section 273.1314, subdivision 9, is amended to read:

Subd. 9. [AUTHORIZED FORMS OF STATE TAX REDUCTIONS.] (a) The following types of tax reductions may be approved by the commissioner for businesses located in an enterprise zone:

(1) an exemption from the general sales tax imposed by chapter 297A for purchases of construction materials or equipment for use in the zone if the purchase was made after the date of application for the zone;

(2) a credit against the income tax of an employer for additional workers employed in the zone, other than workers employed in construction, up to a maximum of \$3,000 per employee per year;

(3) an income tax credit for a percentage of the cost of debt financing to construct new or expanded facilities in the zone;

(4) a state paid property tax credit for a portion of the property taxes paid by a new commercial or industrial facility or the additional property taxes paid by an expansion of an existing commercial or industrial facility in the zone; and

(5) a complete abatement of all corporate income and excise taxes under chapter 290, property taxes, and sales and use taxes under chapter 297A on the purchase of construction materials or equipment for use in the zone if the zone is designated pursuant to section 273.1312, subdivision (4),

paragraph (c), clause (4). Local taxing authorities with an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (4), will be reimbursed by the state for foregone property taxes only to the extent that the local taxing authority can demonstrate the development within that zone has imposed an additional net financial burden on its budget. The additional net financial burden shall be determined by subtracting the increase in the total equalized assessed property value of the local taxing authority that is in excess of a statewide average increase in equalized assessed property values as determined by the commissioner of revenue, multiplied by the mill rate of the local taxing authority for taxes payable in the current year, from the additional direct costs the development has placed on the local taxing authority's budget for the current year. The commissioner of energy and economic development, in consultation with the commissioner of revenue, shall review that local taxing authority's demonstration of additional financial burden and determine the amount which the state will reimburse the local taxing authority for foregone property tax revenue.

(b) The municipality shall specify in its application for designation the types of tax reductions it seeks to be made available in the zone and the percentage rates and other appropriate limitations on the reductions.

(c) Upon designation of an enterprise zone and approval by the commissioner of the tax reductions to be made available therein, the commissioner of revenue shall take the steps necessary to implement the tax reductions.

(d) The tax reductions provided by this subdivision shall not apply to **any facility described in section 103(b)(6)(O) of the Internal Revenue Code of 1954, as amended through January 15, 1983, or to any regulated public utility (1) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (2) property of a public utility; (3) property used in the operation of a financial institution; (4) property owned by a fraternal or veterans' organization; or (5) property of a business operating under a franchise agreement that requires the business to be located in the state; except that, in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not in a city of the first class, tax reductions may be provided to a retail food or beverage facility or an automobile sales or service facility, or a business operating under a franchise agreement that requires the business to be located in this state except for such a franchised retail food or beverage facility.**

(e) The commissioner shall approve tax reductions authorized by paragraph (a) within an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), only after the governing body of a city designated as an enterprise zone has designated an area or areas, each consisting of at least 100 acres, of the city not in excess of 400 acres in which the tax reductions may be provided.

(f) In addition to the tax reductions authorized by paragraph (a), for an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the following types of tax reductions may be approved:

(1) A credit against income tax for workers employed in the zone and not qualifying for a credit under paragraph (a), clause (2), subject to a maximum of \$1,500 per employee per year;

(2) A state paid property tax credit for a portion of the property taxes paid by a commercial or industrial facility located in the zone. ~~Notwithstanding paragraph (d), the credits provided by this paragraph may be provided to the businesses described in section 103(b)(6)(0)(i) of the Internal Revenue Code of 1954, as amended through December 31, 1982.~~

(g) Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business *unless the business is located in a border city enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not a city of the first class.* Each tax reduction provided to a business that is located in a border city enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not located in a city of the first class shall terminate not longer than seven years after the effective date of the tax reduction for the business. Subject to the five-year or the seven-year limitation, the tax reductions may be provided after expiration of the zone's designation.

(h) The income tax credits provided pursuant to clauses (a) and (f) may be refundable.

Sec. 4. Minnesota Statutes 1986, section 273.1314, subdivision 10, is amended to read:

Subd. 10. [RECAPTURE.] Any business which (a) receives tax reductions authorized by subdivision 9, classification as employment property pursuant to section 273.1312, or an alternative local contribution under subdivision 6; and (b) ceases to operate its facility located within the enterprise zone within two years after the expiration of the tax reductions shall repay the amount of the tax reduction or local contribution pursuant to the following schedule:

Termination of operations	Repayment Portion
Less than 6 months	100 percent
6 months or more but less than 12 months	75 percent
12 months or more but less than 18 months	50 percent
18 months or more but less than 24 months	25 percent

The repayment must be paid to the state to the extent it represents a tax reduction under subdivision 9 and to the municipality to the extent it represents a property tax reduction or other local contribution. Any amount repaid to the state must be credited to the amount certified as available for tax reductions in the zone pursuant to subdivision 8. Any amount repaid to the municipality must be used by the municipality for economic development purposes.

The commissioner of revenue may seek repayment of tax credits from a business ceasing to operate within an enterprise zone.

Sec. 5. Minnesota Statutes 1986, section 273.1314, is amended by adding a subdivision to read:

Subd. 8b. [ADDITIONAL BORDER CITY ALLOCATIONS.] *In addition to tax reductions authorized in subdivisions 8 and 8a, the commissioner may allocate \$2,000,000 for tax reductions pursuant to subdivision 9 to enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), except for zones located in cities of the first class. This money shall be allocated among the zones on a per capita basis. Limits on the maximum allocation to a zone imposed by subdivision 8 do not apply to allocations made under this subdivision. Tax reductions author-*

ized by this subdivision may not be allocated to any property which is:

(1) a facility the primary purpose of which is one of the following: the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack;

(2) property of a public utility;

(3) property used in the operation of a financial institution;

(4) property owned by a fraternal or veterans' organization;

(5) property of a retail food or beverage service business operating under a franchise agreement that requires the business to be located in the state.

Sec. 6. Minnesota Statutes 1986, section 273.1314, is amended by adding a subdivision to read:

Subd. 10a. [INTEREST.] When tax credits allowed under subdivision 9 result in an overpayment within the meaning of section 290.50, the excess to be refunded to the taxpayer shall bear interest at the amount specified in section 270.76, computed from 90 days after (1) the due date of the return or (2) the date on which the return is filed, whichever is later, to the date the refund is paid.

Sec. 7. Minnesota Statutes 1986, section 297A.257, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION OF DISTRESSED COUNTIES.] (a) The commissioner of energy and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies ~~either~~ at least one of the following ~~two~~ criteria:

(1) The county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivision shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1. A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires on June 30, 1989.

Sec. 8. Minnesota Statutes 1986, section 297A.257, subdivision 2, is amended to read:

Subd. 2. [SALES TAX EXEMPTION.] Purchase and use of capital equipment is exempt from the sales and use tax imposed by this chapter if the capital equipment is placed in service in connection with the construction of a new or an expansion of an existing manufacturing facility in a distressed county or in the taconite tax relief area defined in section 273.134. Purchase or use of equipment for use in an existing plant qualifies under this section and section 297A.01, subdivision 16, as an expansion if either the production capacity of the plant is increased by at least 20 percent as a result or if the total capital investments made within a 12-month period exceed \$25,000,000. Purchases of capital equipment are exempt under this section only to the extent that the purchases of capital equipment for the project during the calendar year exceed \$100,000. The county is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which the contract to purchase the equipment was executed.

A county meeting only the criteria in paragraph (a), clause (3), of subdivision 1 is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which sales and use tax on capital equipment purchased became due and payable.

Sec. 9. Minnesota Statutes 1986, section 297A.257, subdivision 2a, is amended to read:

Subd. 2a. [EXEMPTION FOR CONSTRUCTION MATERIALS.] Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, if all of the following conditions are met:

(a)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one in a distressed county; and

(2) the total capital investment made within a three-year period exceeds

\$75,000,000; or

(b)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one within the taconite tax relief area defined in section 273.134; and

(2) the total capital investment made within a three-year period exceeds \$50,000,000.

A county is a distressed county for purposes of a project qualifying under this subdivision if it was designated as a distressed county at the time the initial contract to purchase the materials and supplies was executed.

Sec. 10. Minnesota Statutes 1986, section 297A.257, is amended by adding a subdivision to read:

Subd. 2b. [PROJECTS; CONTINUED EXEMPTION.] If construction of a project is begun during a time period in which the county was designated as a distressed county and if the county ceases to be a distressed county, the provision of subdivisions 2 and 2a apply to the project as if the county were distressed for 12 months after the designation expired.

Sec. 11. [APPROPRIATION.]

\$500,000 is appropriated from the general fund to the commissioner of energy and economic development to be disbursed to the Aitkin county growth fund to be expended for economic development projects and activities within the county.

ARTICLE 11

GROSS EARNINGS

Section 1. Minnesota Statutes 1986, section 295.01, subdivision 10, is amended to read:

Subd. 10. [TELEPHONE COMPANY.] The term "telephone company" as used in this chapter means any person, firm, association or corporation, excluding municipal telephone companies, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, including radio and other advancements in the art of telephony but excluding cellular radio and sellers of telephone services, but excluding resellers and cellular radio. "Resellers of telephone services" as used in this chapter means any person, firm, association, or corporation that:

(1) resells telecommunications services purchased from telephone companies as defined in this chapter;

(2) does not own, operate, manage, or control transmission facilities that have the technological capability to provide telecommunication services; and

(3) incurs costs equal to at least 50 percent of its gross revenues for the telephone services purchased from telephone companies that own, operate, manage, or control transmission facilities.

Sec. 2. Minnesota Statutes 1986, section 295.32, is amended to read:

295.32 [GROSS EARNINGS TAX; ANNUAL RETURN.]

Every telegraph company as defined in section 295.01, subdivision 9, shall file a return with the commissioner of revenue, in such form as the commissioner shall prescribe, containing a true and just report of its gross

earnings derived from business within the state during the preceding calendar year, ~~which return shall contain a computation of tax of six percent and make payment of the tax based upon the following percentages of such gross earnings:~~

for calendar years beginning before December 31, 1989, 6 percent,

for calendar year 1990, 4.5 percent,

for calendar year 1991, 3 percent,

for calendar year 1992, 1.5 percent, and

for calendar years beginning after December 31, 1992, exempt.

Such return and payment of the tax due therewith shall be submitted on or before March first of each year, and shall be in lieu of all ad valorem taxes upon the property of such company within the state for the year during which such gross earnings accrued. The provisions of chapter 294 and acts amendatory thereto, shall be applicable to such telegraph companies and to the returns and to the taxes submitted therewith by them.

Sec. 3. Minnesota Statutes 1986, section 295.34, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2 every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, *including long distance access charges*, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, ~~1986~~ 1988, 4 percent,

for calendar year ~~1987~~ 1989, 3 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of four percent,

for calendar year ~~1988~~ 1990, 1.5 percent,

for calendar year ~~1989~~ 1991, 1 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt;
and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, ~~1986~~ 1988, 7 percent,

for calendar year ~~1987~~ 1989, 5.5 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of seven percent,

for calendar year ~~1988~~ 1990, 3 percent,

for calendar year ~~1989~~ 1991, 2.5 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt.

~~Beginning January 1, 1986,~~ A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating

outside of Minnesota, *except that the gross earnings tax is imposed on all long distance access charges allocated to interstate service received in payment from a telephone company before December 31, 1989.*

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in ~~1987~~ 1989, payable in ~~1988~~ 1990, and sales and use taxes imposed as a result of ~~section 296.22, subdivision 13~~ chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid, ~~but shall not be deemed earnings of the collecting and paying company.~~ For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

Sec. 4. Minnesota Statutes 1986, section 295.365, is amended to read:

295.365 [DECLARATIONS OF ESTIMATED GROSS EARNINGS TAX BY TELEGRAPH AND TELEPHONE COMPANIES.]

Subdivision 1. [PAYMENTS.] Every telegraph company subject to taxation pursuant to section 295.32 and every telephone company subject to taxation pursuant to section 295.34, shall make a declaration of estimated gross earnings tax for the calendar year if the gross earnings tax can reasonably be expected to be in excess of \$1,000. The declaration of estimated tax shall be filed on or before March 15. The amount of estimated tax with respect to which a declaration is required shall be paid in four equal installments on or before the 15th day of March, June, September, and December. *For calendar year 1989 only, the March 15 and June 15 installments for telephone companies shall be made as provided in section 295.34, subdivision 1. The remaining two installments for calendar year 1989 shall be calculated by subtracting the sum of the March 15 and June 15 installments from the estimated tax for the year and dividing the difference by two.* An amendment of a declaration may be filed in any interval between installment dates prescribed above but only one amendment may be filed in each such interval.

Subd. 2. [AMENDMENT OF DECLARATIONS.] (a) If any amendment of a declaration is filed, the amount of each remaining installment shall be the amount which would have been payable if the new estimate had been made when the first estimate for the calendar year was made, increased or decreased, as the case may be, by the amount computed by dividing

(1) the difference between (A) the amount of estimated tax required to be paid before the date on which the amendment was made, and (B) the amount of estimated tax which would have been required to be paid before such date if the new estimate had been made when the first estimate was made, by

(2) the number of installments remaining to be paid on or after the date on which the amendment is made.

(b) Notwithstanding paragraph (a), if an amendment of a declaration is filed for calendar year 1989 prior to payment of the June 15 installment, the amount of the June 15 installment shall be 31.5 percent of the estimated tax for the calendar year plus the difference between 31.5 percent of the reestimated tax for the calendar year and the March 15 installment.

Subd. 3. [EXTENSIONS.] The commissioner of revenue may grant a reasonable extension of time for filing any declaration but such extension

shall not be for more than six months.

Sec. 5. Minnesota Statutes 1986, section 295.366, is amended by adding a subdivision to read:

Subd. 5. [1989 EXCEPTION.] Notwithstanding subdivision 4, for calendar year 1989 only, the addition to the tax with respect to any underpayment of the March 15 or June 15 payment is imposed if the total amount of the payments of estimated tax made on or before June 15 does not equal or exceed the amount which would have been required to be paid on or before that date if the estimated tax for the first six months of 1989 were the lesser of:

(1) 50 percent of the tax shown on the return of the corporation for the preceding year; or

(2) 60 percent of the actual liability for the calendar year.

The addition to tax under this subdivision shall reduce any addition to tax imposed under subdivision 4 but not to less than zero.

Sec. 6. Minnesota Statutes 1986, section 295.39, is amended to read:

295.39 [REPORTS FILED BY TRUST COMPANIES WITH COMMISSIONER OF REVENUE COUNTY TREASURER.]

It shall be the duty of every trust company which is required to pay a tax of six percent of its gross earnings in lieu of taxes and assessments upon its capital stock and personal property pursuant to the provisions of section 295.37, on or before the first day of February, in each year, to make and file with the ~~commissioner of revenue~~ county treasurer of the county in which the trust has its principal place of business a report covering the preceding calendar year, verified by the oath of an officer of such company, setting forth correctly the full amount of the gross earnings of such company during the preceding calendar year, and such other and further information as the ~~commissioner of revenue~~ county treasurer may require.

Sec. 7. Minnesota Statutes 1986, section 295.40, is amended to read:

295.40 [TAX DETERMINED.]

Upon receipt of such report the ~~commissioner of revenue~~ county treasurer shall determine therefrom and from such other information as the ~~commissioner~~ treasurer may possess or obtain the amount of tax due from such company; and, on or before the 15th day of February, the ~~commissioner of revenue~~ county treasurer shall certify the amount of the taxes found and determined to be due from such company to the treasurer of the county in which such trust company has its principal place of business.

Sec. 8. Minnesota Statutes 1986, section 295.41, is amended to read:

295.41 [FAILURE TO REPORT; PENALTY.]

If any company subject to sections 295.39 to 295.43 shall fail to make the report provided for in section 295.39, at the time and in the manner therein provided, there shall be added to the tax found and determined by the ~~commissioner of revenue~~ county treasurer to be due from such company a penalty equal to ten percent of the tax imposed, which shall be treated as a part thereof.

Sec. 9. Minnesota Statutes 1986, section 295.43, is amended to read:

295.43 [LIEN OF TAX.]

Gross earnings taxes imposed under and pursuant to the provisions of section 295.37, which become delinquent, shall be a lien upon all of the property of the company owning the same, and shall be collected at the same time and in the same manner that delinquent ~~personal~~ property taxes are collected.

Sec. 10. Laws 1985, First Special Session chapter 14, article 3, section 18, is amended to read:

Sec. 18. [EFFECTIVE DATE.]

Section 3 and section 4, paragraph (d), are effective beginning with taxes assessed in ~~1987~~ 1989 and payable in ~~1988~~ 1990 and thereafter. Sections 2, 4, paragraph (c), 5 to 12, and 14 are effective beginning with taxes assessed in 1985 and payable in 1986 and thereafter. Sections 15 and 16 are effective the day after final enactment. The change in the classification ratio for employment property in section 9 does not modify the required amount of local contribution for enterprise zones, approved prior to enactment of this act, that provide local contributions in lieu of the employment classification for projects already approved.

Sec. 11. [REPEALER.]

(a) Laws 1985, First Special Session chapter 14, article 14, section 3, is repealed.

(b) Minnesota Statutes 1986, sections 295.32; 295.33; 295.34; 295.36; 295.365; and 295.366, are repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 3 and 6 to 11, paragraph (a), are effective for all tax years after December 31, 1986. Section 11, paragraph (b), is effective beginning calendar year 1992.

ARTICLE 12

LIQUOR TAX

Section 1. Minnesota Statutes 1986, section 297C.02, subdivision 1, is amended to read:

Subdivision 1. [DISTILLED SPIRITS AND WINE.] There is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state the following excise tax:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$4.39 per gallon \$5.03	\$1.16 per liter \$1.33
(b) Wine containing 14 percent or less	\$.27 per gallon \$.30	\$.07 per liter \$.08

alcohol by volume

- | | | |
|---|------------------------------|----------------------------|
| (c) Wine containing more | \$-.79 per gallon | \$.21 per liter |
| | \$1.95 | \$.25 |
| than 14 percent but
not more than 21
percent alcohol by
volume | | |
| (d) Wine containing more | \$1.58 per gallon | \$.42 per liter |
| | \$1.82 | \$.48 |
| than 21 percent but
not more than 24
percent alcohol by
volume | | |
| (e) Wine containing more | \$3.08 per gallon | \$.81 per liter |
| | \$3.52 | \$.93 |
| than 24 percent
alcohol by volume | | |
| (f) Natural and | \$1.50 per gallon | \$.40 per liter |
| | \$1.82 | \$.48 |
| artificial sparkling
wines containing
alcohol | | |

The metric tax is imposed on all products taxable under this subdivision when the net contents are stated in metric units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is ~~12~~ 14 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Sec. 2. Minnesota Statutes 1986, section 297C.02, subdivision 2, is amended to read:

Subd. 2. [FERMENTED MALT BEVERAGES.] There is imposed on the direct or indirect sale of fermented malt beverages the following excise tax:

(1) On fermented malt beverages containing not more than 3.2 percent alcohol by weight, ~~\$2~~ \$2.40 per barrel of 31 gallons;

(2) On fermented malt beverages containing more than 3.2 percent alcohol by weight, ~~\$4~~ \$4.60 per barrel of 31 gallons.

The tax is at a proportional rate for fractions of a barrel of 31 gallons.

Sec. 3. Minnesota Statutes 1986, section 297C.03, subdivision 1, is amended to read:

Subdivision 1. [MANNER AND TIME OF PAYMENT; PENALTIES; DEPOSIT OF TAX PROCEEDS.] The tax on wines and distilled spirits on which the excise tax has not been previously paid must be paid to the commissioner by persons having on file with the commissioner a sufficient bond as provided in subdivision 4 on or before the 25th 18th day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every person liable for the tax on wines or distilled spirits imposed by section 297C.02 must file with the commissioner on or before the 25th 18th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by rule of the commissioner, and must keep records and render reports required by rule of the commissioner. A person liable for any tax on wines or distilled spirits not having on file a sufficient bond must pay the tax within 24 hours after first sale in this state. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

If a person fails to pay the tax within the time specified or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there is added a penalty equal to ten percent of the remaining unpaid amount. The penalty must be collected as part of the tax. The amount of tax not timely paid, together with the penalty, must bear interest at the rate specified in section 270.75 from the time the tax should have been paid until it is paid.

Sec. 4. Minnesota Statutes 1986, section 297C.03, is amended by adding a subdivision to read:

Subd. 4a. [CERTIFIED CHECK.] In lieu of the bond required in subdivision 4, a certified check may be filed with the commissioner. The check must be payable to the commissioner in an amount to be established by the commissioner or the commissioner's designee but not to exceed twice the average monthly liability of the taxpayer. The department of revenue shall not pay interest on funds encumbered by the check.

Sec. 5. Minnesota Statutes 1986, section 297C.04, is amended to read:

297C.04 [PAYMENT OF TAX; MALT LIQUOR.]

The commissioner shall may by rule provide a reporting method for paying and collecting the excise tax on fermented malt beverages. The rules must require reports to be filed with and the excise tax to be paid to the commissioner on or before the 25th 18th day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. The rules must also require payments in June of 1987 and subsequent years according to the provisions of section 297C.05, subdivision 2, paragraph (b). If the excise tax is not paid when due, the amount due is increased by a penalty of ten percent thereof, and interest on the tax and penalty at an annual rate of 20 percent, adjusted as provided in section 270.75, from the date the tax became due until paid.

Sec. 6. Minnesota Statutes 1986, section 297C.05, subdivision 2, is amended to read:

Subd. 2. [MONTHLY ACCELERATED TAX PAYMENTS; PENALTY FOR NONPAYMENT PAYMENT.] (a) Subject to paragraph (b), all taxes shall be due and payable as directed in this chapter, and taxes not paid shall bear interest at the rate specified in section 270.75. The commissioner

in issuing a final assessment shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if the commissioner finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this chapter, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If the tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay the tax within the time provided for payment be less than \$10. The commissioner may extend the time for paying the tax without penalty for good cause shown.

(b) Every person liable for tax under this chapter having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25 18, 1987, or June 25 18 of each subsequent year, the taxpayer shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 18, 1987, or August 25 18 of each subsequent year, the taxpayer shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 7. Minnesota Statutes 1986, section 297C.06, is amended to read:
297C.06 [REFUNDS.]

Subdivision 1. [PRODUCTS DESTROYED.] The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or malt liquor which becomes unfit for human consumption and is destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. *Any destruction must meet the requirements of the environmental laws of this state.*

Subd. 2. [BAD DEBTS.] The commissioner may adopt rules providing a refund of the tax paid under this chapter on intoxicating liquor or wine if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Subd. 3. [PROOF OF LOSS.] Refunds shall be made only if satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund.

The commissioner may refund to a taxpayer the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The method of proof for obtaining the refund will be prescribed by the commissioner.

The commissioner may refund any overpayment of tax imposed under section 297C.02 provided that the claim for refund is filed within three

years from the due date of the return for which the refund is claimed. The refund of tax shall be paid out of the general fund and amounts necessary to pay the refunds are appropriated out of the general fund.

Subd. 4. [CREDIT AGAINST TAX.] The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Subd. 5. [CLAIMS; TIME LIMIT.] Claims for refund must be filed with the commissioner (1) for refunds under subdivision 1 within one year from the date of the breakage or the destruction order; and (2) for refunds under subdivision 2, within two years of the date the product is sold to the retailer.

Subd. 6. [ANNUAL APPROPRIATION.] There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

Sec. 8. Minnesota Statutes 1986, section 297C.09, is amended to read:
297C.09 [IMPORTATION BY INDIVIDUALS.]

A person, other than a person under the age of 21 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of malt liquor and a person entering Minnesota from a foreign country may have in possession four liters of intoxicating liquor or ten quarts (320 ounces) of malt liquor without the required payment of the Minnesota excise tax. A collector of commemorative bottles, other than a person under the age of 21 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. A person who imports or has in possession untaxed intoxicating liquor or malt liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or their authorized agents, may seize untaxed liquor.

Sec. 9. [297C.14] [PENALTIES.]

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. [PENALTY FOR FAILURE TO FILE.] If a person fails to make and file a return within the time required by this chapter or an extension of time, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in

the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

Subd. 3. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Subd. 4. [WILLFUL FAILURE; FRAUD.] If a person willfully fails to file a return or make a payment required by this chapter, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 5. [ORDER PAYMENTS CREDITED.] All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 6. [INTEREST.] The amount of tax not timely paid, together with any penalty imposed by this chapter, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 7. [NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES.] If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of tax together with this penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Subd. 8. [FAILURE TO FILE INFORMATIONAL RETURNS.] Any person required to file informational returns or reports that fails to do so by the time period established by law, will be assessed a \$25 penalty for each month the return remains unfiled.

Sec. 10. [297C.16] [PERSONAL DEBT; LIEN.]

The tax imposed by this chapter, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return

from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

Sec. 11. [REPEALER.]

Minnesota Statutes 1986, sections 297C.03, subdivisions 2 and 3, and 297C.05, subdivision 4, are repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 11 are effective June 1, 1987.

ARTICLE 13

CIGARETTE TAX AND SALES

Section 1. Minnesota Statutes 1986, section 297.01, subdivision 2, is amended to read:

Subd. 2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, ~~and encased in any~~ *irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.*

Sec. 2. Minnesota Statutes 1986, section 297.01, subdivision 4, is amended to read:

Subd. 4. "Person" means any individual, firm, *trade association, company, partnership, joint stock company, joint adventure, corporation, trustee club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of cigarettes.*

Sec. 3. Minnesota Statutes 1986, section 297.01, subdivision 7, is amended to read:

Subd. 7. "Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this state who brings, or causes to be brought, into this state from without the state any packages of cigarettes for sale;

(2) Any person who makes, manufactures, or fabricates cigarettes in this state for sale in this state;

(3) Any person engaged in the business without this state who ships or transports cigarettes to retailers in this state, to be sold by those retailers;

(4) ~~Any person who engages in this state in the business of selling packages of cigarettes which the person purchases unstamped from a licensee under sections 297.01 to 297.13. Any person who is on direct purchase from a cigarette manufacturer and applies cigarette stamps or indicia on at least 50 percent of cigarettes sold by that person.~~

A distributor who also sells at retail must maintain a separate inventory, substantiated with invoices for cigarettes that were acquired for retail sale.

A distributor may transfer another state's stamped cigarettes to another distributor for the purpose of resale in the other state.

Sec. 4. Minnesota Statutes 1986, section 297.01, subdivision 10, is amended to read:

Subd. 10. "Retailer" means any person engaged in *this state* in the business of selling ~~cigarettes to ultimate consumers, or offering to sell, cigarettes at retail.~~

Sec. 5. Minnesota Statutes 1986, section 297.01, subdivision 14, is amended to read:

Subd. 14. "Subjobber" means any person who ~~buys acquires~~ stamped cigarettes ~~and sells them to persons other than ultimate consumers for the primary purpose of resale to retailers,~~ and any licensed distributor who delivers to and sells or distributes stamped cigarettes from a place of business other than that licensed in the distributor's license. *The definition of subjobber does not include the occasional sale of stamped cigarettes from one retailer to another. Notwithstanding the foregoing, "subjobber" shall also mean any person who is a vending machine operator. A vending machine operator is any person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.*

For the purpose of this section, any subjobber that sells at retail must maintain a separate inventory, substantiated with invoices, that reflect the cigarettes were acquired for retail sale.

Sec. 6. Minnesota Statutes 1986, section 297.02, subdivision 1, is amended to read:

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

(1) On cigarettes weighing not more than three pounds per thousand, ~~19.5 19 mills minus the tax, not more than eight mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~39.8 38 mills minus the tax, not more than 16.8 mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette.

Sec. 7. Minnesota Statutes 1986, section 297.02, subdivision 6, is amended to read:

Subd. 6. [SALES BY STATE.] The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by this chapter on all cigarettes sold, in the same manner as distributors, if such unit is engaged in the purchase and sale of cigarettes.

Sec. 8. Minnesota Statutes 1986, section 297.03, subdivision 1, is amended to read:

Subdivision 1. [STAMP PUT ON BY DISTRIBUTOR; EXCEPTION.] Except as otherwise provided in this section payment of the tax imposed by section 297.02 shall be evidenced by stamps affixed to each package. Before delivering, or causing to be delivered, any package to any person in this state, ~~other than a licensed distributor,~~ every distributor shall firmly

affix to each package of cigarettes stamps in amounts equal to the tax on those cigarettes as provided for in section 297.02.

Sec. 9. Minnesota Statutes 1986, section 297.03, subdivision 5, is amended to read:

Subd. 5. [SALE OF STAMPS.] (a) ~~Except as provided in paragraph (b),~~ The commissioner shall sell stamps to any person licensed as a distributor at a discount of ~~two~~ 1.25 percent from the face amount of the stamps for the first ~~\$1,000,000~~ \$1,500,000 of such stamps purchased in any fiscal year; and at a discount of ~~1.25~~ .75 percent on the remainder of such stamps purchased in any fiscal year. The commissioner shall not sell stamps to any other person.

~~(b) If the tax exceeds 12.5 mills a cigarette, the discount is 1.5 percent from the face amount of the stamps for the first \$1,000,000 of the stamps purchased in a fiscal year and one percent for additional stamps purchased during the fiscal year. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.~~

Sec. 10. Minnesota Statutes 1986, section 297.03, subdivision 6, is amended to read:

Subd. 6. [TAX METER MACHINES.] (1) Before January 1, ~~1989~~ 1990, the commissioner may authorize any person licensed as a distributor to stamp packages with a tax meter machine, approved by the commissioner, which shall be provided by the distributor. The commissioner may provide for the use of such a machine by the distributor, supervise and check its operation, provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5, and in that connection require the furnishing of a corporate surety bond, *check guarantee bond*, or *certified check* in a suitable amount to guarantee the payment of the tax.

(2) Before January 1, ~~1989~~ 1990, the commissioner may authorize, and after December 31, ~~1988~~ 1989, the commissioner shall require any person licensed as a distributor to stamp packages with a heat-applied tax stamping machine, approved by the commissioner, which shall be provided by the distributor. The commissioner shall supervise and check the operation of the machines and shall provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5. The commissioner may sell heat-applied stamps on a credit basis under conditions prescribed by the commissioner, and in that connection require the furnishing of a corporate surety bond, *check guarantee bond*, or *certified check* in an amount suitable to guarantee payment of the tax stamps so purchased by a distributor. The stamps shall be sold by the commissioner at a price which includes the tax after giving effect to the discount provided in subdivision 5. The commissioner shall recover the actual costs of the stamps from the distributor.

(3) *If the commissioner finds that a stamping machine is not printing or affixing a legible stamp on the package, the commissioner may order the distributor to immediately cease the stamping process until the machine is functioning properly.*

Sec. 11. Minnesota Statutes 1986, section 297.04, subdivision 4, is amended to read:

Subd. 4. [DISTRIBUTOR'S APPLICATION; FEE, BOND; *CERTIFIED CHECK*; SUBJOBBER'S LICENSE.] (a) Except as otherwise provided in *clause paragraph* (b), each application for a distributor's license shall be accompanied by a fee of \$150 and a corporate surety bond issued by a surety licensed to do business in this state in the sum of \$1,000, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this act. This bond, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license. A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.01 to 297.13, provided that a separate application for a subjobber's license may be made by a licensed distributor for each place of business (other than that licensed in the distributor's license) to which the distributor delivers and from which the distributor sells or distributes stamped cigarettes.

Each application for a subjobber's license shall be accompanied by a fee of \$12.

A distributor or subjobber applying for a license between July 1 and December 31 of any year shall be required to pay only one-half of the license fee provided for herein.

(b) ~~Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$75 and the corporate surety bond prescribed by clause (a). Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$6. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check made payable to the commissioner may be filed with the commissioner. The department of revenue shall not pay interest on funds encumbered by the check.~~

Sec. 12. Minnesota Statutes 1986, section 297.04, subdivision 6, is amended to read:

Subd. 6. [EXPIRATION.] Each license issued for ~~any period subsequent to June 30, 1971,~~ shall expire on December 31 following its date of issue unless sooner revoked by the commissioner or unless the business with respect to which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the commissioner.

Sec. 13. Minnesota Statutes 1986, section 297.04, subdivision 9, is amended to read:

Subd. 9. [REVOCATION.] The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 297.01 to 297.13, or any other act applicable to the sale of cigarettes, or any rule promulgated by the commissioner, and may also revoke any such license or licenses of any distributor or subjobber for the violation of sections 297.31 to 297.39, or any other act applicable to the sale of tobacco products, or any rule promulgated by the commissioner in furtherance of sections 297.31 to 297.39. *The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 325D.31 to 325D.42.*

No license shall be revoked, canceled, or suspended except after notice and a hearing by the commissioner as provided in section 297.09.

Sec. 14. Minnesota Statutes 1986, section 297.07, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY RETURN FILED WITH COMMISSIONER.] On or before the 25th 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from without the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. Every licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 15. Minnesota Statutes 1986, section 297.07, subdivision 3, is amended to read:

Subd. 3. [DEALER MAY PROTEST; HEARING.] If, within 20 30 days after mailing of notice of the ~~proposed~~ assessment, the distributor or a legal representative shall file a protest to said ~~proposed~~ assessment and request a hearing thereon, the commissioner shall give notice to that distributor or legal representative of the time and place fixed for the hearing, shall hold a hearing in conformity with the provisions of sections 297.01 to 297.13, and pursuant thereto shall issue a final assessment to the distributor or legal representative for the amount found to be due as a result of the hearing. This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the distributor or legal representative, as such. Any tax due and owing after a final assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. *The tax due must be paid within 60 days after the mailing date of the assessment notice.*

Sec. 16. Minnesota Statutes 1986, section 297.07, subdivision 4, is amended to read:

Subd. 4. [MONTHLY ACCELERATED TAX PAYMENTS; PENALTY FOR NONPAYMENT PAYMENT.] (a) Except as provided in paragraph (b), all taxes shall be due and payable not later than the twenty-fifth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. The commissioner in issuing the final assessment pursuant to subdivision 3 shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, on finding that the distributor has made a false and fraudulent return with intent to evade the tax imposed by sections 297.01 to 297.13, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If any such tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay such tax within the time provided for such payment be less than \$10. The commissioner is authorized to extend the time for paying such tax without penalty for good cause shown.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25 18, 1987, or June 25 18 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 July 18, 1987, or August 25 July 18 of each subsequent year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 17. Minnesota Statutes 1986, section 297.07, subdivision 5, is amended to read:

Subd. 5. ~~[RECOVERY BY COMMISSIONER OFFSET.] The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of such a tax, interest, or penalty shall not be a bar to any prosecution under sections 297.01 to 297.13. Upon audit, if a distributor's return reflects an overpayment, the overpayment may only be offset against an additional tax liability for the month immediately preceding or immediately after the month of overpayment.~~

Sec. 18. Minnesota Statutes 1986, section 297.11, subdivision 3, is amended to read:

Subd. 3. ~~[PACKAGES STAMPED, EXCEPTION.] No distributor shall sell a package of cigarettes not stamped in accordance with the provisions of sections 297.01 to 297.13, except when the sale is made by the distributor to another distributor licensed under sections 297.01 to 297.13 or when the sale is made under such circumstances that the tax imposed by sections 297.01 to 297.13 may not legally be levied because of the constitution or laws of the United States.~~

Sec. 19. Minnesota Statutes 1986, section 297.11, subdivision 5, is amended to read:

Subd. 5. ~~[TRANSPORTING UNSTAMPED PACKAGES.] No person shall transport into, or receive, carry, or move from place to place in this state, any packages of cigarettes not stamped in accordance with the provisions of this act except in the course of interstate commerce, unless the cigarettes are moving from a public warehouse to a distributor upon orders from the manufacturer or distributor or from one distributor to another. This subdivision shall not apply to a person carrying for personal use not more than 200 cigarettes when those cigarettes have had the individual packages or seals thereof broken and are intended for personal use by that person and not to be sold or offered for sale.~~

Common carriers transporting cigarettes into this state shall file with the commissioner reports of all such shipments other than those which are delivered to public warehouses of first destination in this state which are licensed under the provisions of chapter 231. Such reports shall be filed monthly on or before the 10th day of each month and shall show with

respect to deliveries made in the preceding month: the date, point of origin, point of delivery, name of consignee, the quantity of cigarettes delivered and such other information as the commissioner may require.

All common carriers transporting cigarettes into Minnesota shall permit examination by the commissioner of their records relating to the shipment of cigarettes.

Any person who fails or refuses to transmit to the commissioner the required reports or whoever refuses to permit the examination of the records by the commissioner shall be guilty of a misdemeanor.

Sec. 20. Minnesota Statutes 1986, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT.] Revenues received from taxes, penalties and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) of this subdivision have been met:

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

(2) the revenue produced by two mills of the tax on cigarettes weighing not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;

(3) the revenue produced by ~~one-half~~ one mill of the tax on cigarettes weighing not more than three pounds a thousand and ~~one mill~~ two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax

on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;

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

Sec. 21. Minnesota Statutes 1986, section 297.23, subdivision 1, is amended to read:

Subdivision 1. On or before the ~~25th~~ 18th day of each calendar month, every consumer who during the preceding calendar month has acquired title to or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by sections 297.01 to 297.13 has not been paid, shall file a return with the commissioner showing the quantity of cigarettes so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 22. Minnesota Statutes 1986, section 297.26, is amended to read:

297.26 [REVENUE DISTRIBUTION.]

All revenues derived from taxes, penalties and interest under sections 297.21 to 297.26 shall be deposited by the commissioner in the ~~general~~ tobacco tax revenue fund and disposed of in the same manner as provided by section 297.13 for revenues received under sections 297.01 to 297.13.

Sec. 23. Minnesota Statutes 1986, section 297.31, subdivision 2, is amended to read:

Subd. 2. (a) "Tobacco products" means cigars; little cigars as ~~defined herein~~; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 297.01, subdivision 2.

(b) "Little cigar" means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding \$12 per thousand, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made wholly or in part of tobacco, and where such roll weighs not more than three pounds per thousand.

Sec. 24. Minnesota Statutes 1986, section 297.31, subdivision 3, is amended to read:

Subd. 3. "Person" means any individual, firm, trade association, company, partnership, joint stock company, ~~joint adventure~~, corporation, trustee, club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of tobacco.

Sec. 25. Minnesota Statutes 1986, section 297.31, subdivision 7, is amended to read:

Subd. 7. "Retailer" means any person engaged in this state in the bus-

iness of selling tobacco products to ultimate consumers, or offering to sell, tobacco at retail.

Sec. 26. Minnesota Statutes 1986, section 297.32, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of 25 35 percent of the wholesale sales price of such tobacco products ~~except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand subject to the discount provided in section 297.35, subdivision 4.~~ Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 27. Minnesota Statutes 1986, section 297.32, subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of 25 35 percent of the cost of such tobacco products; ~~except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand.~~

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

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

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

Sec. 28. Minnesota Statutes 1986, section 297.32, subdivision 8, is amended to read:

Subd. 8. The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by sections 297.32 to 297.39 in the same manner as distributors, if such unit is engaged in the purchase and sale of tobacco products.

Sec. 29. Minnesota Statutes 1986, section 297.33, subdivision 4, is amended to read:

Subd. 4. (a) Except as otherwise provided in ~~clause paragraph~~ (b), each application for a distributor's license shall be accompanied by a fee of \$37.50. The application shall also be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of \$1,000, conditioned upon the true and faithful compliance by the distributor

with all the provisions of sections 297.31 to 297.39 and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Minnesota. This bond shall be in a form to be fixed by the commissioner and approved by the attorney general. Whenever it is the opinion of the commissioner that the bond given by a licensee is inadequate in amount to fully protect the state, the commissioner shall require either an increase in the amount of said bond or additional bond, in such amount as the commissioner deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.31 to 297.39. A separate application for a subjobber's license may be made by a licensed distributor for each place of business, other than that licensed in the distributor's license, to which the distributor sells or distributes tobacco products upon which the tax imposed by this chapter has been imposed to other than the ultimate consumer.

(b) Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$18.75 and the corporate surety bond prescribed by clause (a) of this subdivision. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check may be filed with the commissioner. The check must be made payable to the commissioner and in an amount to be established by the commissioner or the commissioner's designee but not less than twice the average monthly liability of the taxpayer. The department of revenue shall pay no interest on funds encumbered by the check.

Sec. 30. Minnesota Statutes 1986, section 297.33, subdivision 5, is amended to read:

Subd. 5. (a) ~~Except as otherwise provided in clause (b),~~ Each application for a subjobber's license shall be accompanied by a fee of \$10.

(b) Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$5. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. All licenses expire on December 31 of the year they were issued.

Sec. 31. Minnesota Statutes 1986, section 297.35, subdivision 1, is amended to read:

Subdivision 1: On or before the ~~twenty-fifth~~ 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~two~~ 1.5 percent

of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39.

Sec. 32. Minnesota Statutes 1986, section 297.35, subdivision 3, is amended to read:

Subd. 3. If, within 20 30 days after mailing of notice of the proposed assessment, the taxpayer or a legal representative shall file a protest to said proposed assessment and request a hearing thereon, the commissioner shall give notice to that taxpayer or legal representative of the time and place fixed for the hearing, shall hold a hearing on such protest, and shall issue a final assessment to the taxpayer or legal representative for the amount found to be due as a result of the hearing. This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the taxpayer or legal representative, as such. Any tax due and owing after a final assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. Any such assessment made by the commissioner shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 33. Minnesota Statutes 1986, section 297.35, subdivision 5, is amended to read:

Subd. 5. (a) Except as provided in paragraph (b), all taxes shall be due and payable not later than the 25th day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. If any tax required to be paid under the provisions of this section is not paid within the time herein specified, a penalty of five percent of the unpaid tax remaining each month up to a maximum of 25 percent is herein imposed but in no event shall the penalty for failing to pay such tax within the time so provided be less than \$10. The commissioner of revenue is authorized to extend the time for paying such tax without penalty for good cause shown.

Where, under the provisions of subdivisions 2 and 3, the amount of tax due for a given period is assessed without allocating it to any particular month or months, the interest shall commence to run from the date of such assessment.

The commissioner shall have power to reduce or abate the penalty or interest when in the commissioner's opinion the facts warrant such reduction or abatement. The exercise of this power shall be subject to the provisions of chapter 270 if the reduction or abatement exceeds \$500.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25 18, 1987, or June 25 18 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 July 18, 1987, or August 25 July 18 of each subsequent year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability

required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 34. Minnesota Statutes 1986, section 297.35, subdivision 8, is amended to read:

Subd. 8. On or before the ~~twenty-fifth~~ 18th day of each calendar month, every consumer who, during the preceding calendar month, has acquired title to or possession of tobacco products for use or storage in this state, upon which tobacco products the tax imposed by section 297.32 has not been paid, shall file a return with the commissioner showing the quantity of tobacco products so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 35. Minnesota Statutes 1986, section 297.36, is amended to read:

297.36 [REFUNDS, CREDITS.]

Where tobacco products upon which the tax imposed by sections 297.31 to 297.39 has been reported and paid, are shipped or transported by the distributor to consumers, to be consumed without the state, or to retailers or subjobbers without the state, to be sold by those retailers, or subjobbers without the state, or are returned to the manufacturer by the distributor or destroyed by the distributor, refund of such tax or credit may be made to the distributor in accordance with rules prescribed by the commissioner. Any overpayment of the tax imposed under section 297.32 may be made to the taxpayer in accordance with rules prescribed by the commissioner. The commissioner of finance shall cause any such refund of tax to be paid out of the general fund, and so much of said fund as may be necessary is hereby appropriated for that purpose. *Any claims for refund must be filed within three years from the due date of the return for which the refund is claimed.*

Sec. 36. [297.41] [PERSONAL DEBT; LIEN.]

The tax imposed by sections 297.01 to 297.40, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises; irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

Sec. 37. [297.42] [FAILURE TO FILE RETURN.]

If a person required by chapter 297 to file a return fails to do so within the time prescribed, or makes, willfully or otherwise, an incorrect, false, or fraudulent return, the person shall, upon written notice and demand, immediately file the return, or corrected return, and at the same time pay any tax due on the basis of it. If the person fails to file the return or corrected return, the commissioner shall make a return, or corrected return, for the person from the commissioner's own knowledge and from information that the commissioner can obtain through testimony, or otherwise,

and assess a tax on the basis of it. The tax (less any payments previously made on account of the tax for the taxable period covered by such return) must be paid immediately upon written notice and demand. A return or assessment made by the commissioner is prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in an action or proceeding in respect to it.

Sec. 38. [297.43] [PENALTIES.]

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by chapter 297, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. [PENALTY FOR FAILURE TO FILE.] If a person fails to make and file a return within the time required under sections 297.07, 297.23, and 297.35, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

Subd. 3. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Subd. 4. [WILLFUL FAILURE; FRAUD.] If a person willfully fails to file a return or make a payment required by chapter 297, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax, and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 5. [ORDER PAYMENTS CREDITED.] All payments received may,

in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 6. [INTEREST.] *The amount of tax not timely paid, together with any penalty imposed in this section, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.*

Subd. 7. [EXTENSION OF TIME.] *The commissioner may extend the time for filing returns and remittance of tax, deficiencies, and penalties for not more than 60 days. The commissioner may require that a tentative return be filed at the time fixed for filing the regularly required return and that payment of the tax be made with it on the basis of the tentative return.*

When an extension of time for payment has been granted under this section, interest shall be payable at the rate provided in section 270.75 from the date when the payment should have been made, if no extension had been granted, until the tax is paid.

Subd. 8. [CIVIL ACTION.] *The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of the tax, interest, or penalty is not a bar to any prosecution under chapter 297.*

Subd. 9. [NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES.] *If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.*

Sec. 39. [FLOOR STOCKS TAX.]

Subdivision 1. [CIGARETTES.] *A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of cigarettes, on the cigarettes in the person's possession or under the person's control at 12:01 a.m. on June 1, 1987. The tax is imposed at the following rates, subject to the discount in section 297.03:*

(1) on cigarettes weighing not more than three pounds a thousand, 7.5 mills on each cigarette;

(2) on cigarettes weighing more than three pounds a thousand, 15 mills on each cigarette.

Each distributor, by June 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on June 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in section 297.03, subdivision 5, is due and payable by July 20, 1987, and after that date bears interest at the rate of one percent a month.

Subd. 2. [TOBACCO PRODUCTS.] *A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of tobacco products, at the rate of ten percent of the wholesale sales price of each*

tobacco product in the person's possession or under the person's control at 12:01 a.m. on June 1, 1987. Each distributor, by June 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on June 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in section 297.35, subdivision 1, is due and payable by July 20, 1987, and after that date bears interest at the rate of one percent a month.

Subd. 3. [DEPOSIT OF PROCEEDS.] The revenue from the tax imposed under this section shall be deposited by the commissioner in the tobacco tax revenue fund in the state treasury.

Sec. 40. Minnesota Statutes 1986, section 325D.30, is amended to read:

325D.30 [MINNESOTA UNFAIR CIGARETTE SALES ACT; FINDINGS AND POLICY.]

The legislature finds that unfair, dishonest and fraudulent business practices exist in transactions involving the sale of, or offer to sell, cigarettes in the wholesale and retail trades in this state and are demoralizing and disorganizing the said trades.

Offering for sale, or sale of cigarettes below cost in the wholesale and retail trade is declared by the legislature to have the intent or effect of injuring a competitor, destroying or lessening competition, and is deemed an unfair and deceptive business practice and an unfair method of competition.

Such practices affect collection of taxes and license fees imposed on ~~distributors, wholesalers, retailers, and~~ persons engaged in the sale of cigarettes.

It is hereby declared to be the policy of the state of Minnesota and the purposes of sections 325D.30 to 325D.42 to protect the public by prohibiting such sales.

Sec. 41. Minnesota Statutes 1986, section 325D.32, subdivision 4, is amended to read:

Subd. 4. "Wholesaler" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed to sell cigarettes by the state or any municipality, and where at all times a stock of cigarettes is available to retailers for resale, or any cigarette manufacturer or manufacturer's representative who sells to retailers or to other persons for resale, and any person defined as a "distributor" under section 297.01, subdivision 7. The term "wholesaler" shall also include a "subjobber" as defined by section 297.01, subdivision 14. *This subdivision does not prohibit any person from engaging in business as a retailer as defined in subdivision 5.*

Sec. 42. Minnesota Statutes 1986, section 325D.32, subdivision 10, is amended to read:

Subd. 10. (1) (a) "Cost to wholesaler" means the basic cost of the cigarettes, *prior to deducting manufacturer's timely payment and stamping discounts and any other discounts or rebates*, plus the cost of doing business by the wholesaler, as defined in sections 325D.30 to 325D.42.

(2) (b) The cost of doing business by the wholesaler is presumed to be

four ~~percentum~~ percent of the basic cost of said the cigarettes, plus cartage to the retail outlet, if furnished or paid for by the wholesaler, in the absence of proof of a lesser or higher cost; except that the cost of doing business by the wholesaler is two percent of the basic cost of said cigarettes, when such cigarettes are sold to a wholesaler, in the absence of proof of a lesser or a higher cost. Such cartage cost is presumed to be one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

Sec. 43. Minnesota Statutes 1986, section 325D.32, subdivision 11, is amended to read:

Subd. 11. (4) (a) "Cost of the retailer" means the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in sections 325D.30 to 325D.42.

(2) (b) The cost of doing business by the said retailer is presumed to be eight ~~percentum~~ percent of the basic cost of cigarettes in the absence of proof of a lesser or a higher cost.

(3) If any retailer in connection with the purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, in the absence of a lesser or a higher cost of doing business, the sum of the cost of doing business by the retailer and, to the extent that the retailer shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as defined in subdivision 10, clause (2) (c) If a retailer qualifies for the purchase of cigarettes at a manufacturer's price to wholesaler and ultimately sells the cigarettes at retail, the cost of doing business by the retailer with respect to the cigarettes shall be, in the absence of showing of a lesser or higher cost of doing business, the sum of the cost of doing business by the wholesaler, as defined in subdivision 10, paragraph (b), and the cost of doing business by the retailer, as defined in paragraph (b) of this subdivision.

Sec. 44. Minnesota Statutes 1986, section 325D.33, subdivision 1, is amended to read:

Subdivision 1. It shall be unlawful for any wholesaler, ~~subjobber~~ or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler, ~~subjobber~~ or retailer, as the case may be, as defined in sections 325D.30 to 325D.42 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler or ~~subjobber~~ to violate the provisions of the Minnesota unfair cigarette sales act. Any wholesaler, ~~subjobber~~ or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

Sec. 45. Minnesota Statutes 1986, section 325D.33, subdivision 2, is amended to read:

Subd. 2. Evidence of advertisement, offering to sell or sale of cigarettes by any wholesaler, ~~subjobber~~ or retailer at less than cost as defined by sections 325D.30 to 325D.42 shall be prima facie evidence of a violation of sections 325D.30 to 325D.42 in civil cases.

Sec. 46. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 3. [REBATES OR CONCESSIONS.] *It is unlawful for a wholesaler*

to offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind in connection with the sale of cigarettes. For purposes of this chapter, the term "discount" is included in the definition of a rebate.

Sec. 47. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 4. [WHOLESALE TO PRESERVE COPIES OF INVOICES.] *Every person who sells cigarettes to persons other than the ultimate consumer shall prepare for each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts and shall keep legible copies of them for one year from the date of sale.*

Sec. 48. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 5. [COMMISSIONER'S REFUSAL TO LICENSE.] *The commissioner may refuse to grant a cigarette distributor or subjobber license to any person who violates the provisions of sections 325D.30 to 325D.42, or any other law applicable to the sale of cigarettes, or any rule adopted by the commissioner for the enforcement or regulation of the sale of cigarettes.*

Sec. 49. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 6. [VIOLATIONS.] *If the commissioner determines that a distributor is violating any provision of this chapter, the commissioner must give the distributor a written warning explaining the violation and an explanation of what must be done to comply with this chapter. Within ten days of issuance of the warning, the distributor must notify the commissioner that the distributor has complied with the commissioner's recommendation or request that the commissioner set the issue for a hearing pursuant to chapter 14. If a hearing is requested, the hearing shall be scheduled within 20 days of the request and the recommendation of the administrative law judge shall be issued within five working days of the close of the hearing. The commissioner's final determination shall be issued within five working days of the receipt of the administrative law judge's recommendation. If the commissioner's final determination is adverse to the distributor and the distributor does not comply within ten days of receipt of the commissioner's final determination, the commissioner may order the distributor to immediately cease the stamping of cigarettes. As soon as practicable after the order, the commissioner must remove the meter and any unapplied cigarette stamps from the premises of the distributor.*

If within ten days of issuance of the written warning the distributor has not complied with the commissioner's recommendation or requested a hearing, the commissioner may order the distributor to immediately cease the stamping of cigarettes and remove the meter and unapplied stamps from the distributor's premises.

If, within any 12-month period, the commissioner has issued three written warnings to any distributor, even if the distributor has complied within ten days, the commissioner shall notify the distributor of the commissioner's intent to revoke the distributor's license for a continuing course of conduct contrary to this chapter. For purposes of this paragraph, a written warning that was ultimately resolved by removal of the warning by the commissioner is not deemed to be a warning. The commissioner must notify the distributor

of the date and time of a hearing pursuant to chapter 14 at least 20 days before the hearing is held. The hearing must provide an opportunity for the distributor to show cause why the license should not be revoked. If the commissioner revokes a distributor's license, the commissioner shall not issue a new license to that distributor for 180 days.

Sec. 50. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 7. [PENALTIES.] Any retailer purchasing cigarettes for less than the legal price may be assessed a penalty in the full amount of the difference between the actual purchase price and the legal price under this chapter. This penalty may be collected under the authorities given the commissioner in Minnesota Statutes, chapters 270 and 297, and the penalty shall bear interest at the rate prescribed by section 270.75, subdivision 5. All cigarettes purchased for less than the legal price may be confiscated and disposed of at the discretion of the commissioner pursuant to any laws of the state.

Sec. 51. Minnesota Statutes 1986, section 325D.35, is amended to read:

325D.35 [SALES BY A WHOLESALER TO A WHOLESALER.]

When one wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in the selling price to the latter, the cost of doing business to the wholesaler, as defined by section 325D.32, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of the said section. For the purposes of this section, any sale of cigarettes to a wholesaler that will be placed in the inventory to be sold at retail, must include in the selling price the cost of doing business as defined by section 325D.32.

Sec. 52. Minnesota Statutes 1986, section 325D.38, subdivision 1, is amended to read:

Subdivision 1. [COST TO WHOLESALERS AND RETAILERS.] In determining cost to the wholesaler and cost to the retailer the court shall receive and consider as bearing on the bona fides of such cost, evidence that any person complained against under any of the provisions of sections 325D.30 to 325D.42 purchased or sold the cigarettes involved in the complaint before the court, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts, or terms of purchase; and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state or sale.

Sec. 53. Minnesota Statutes 1986, section 325D.40, subdivision 1, is amended to read:

Subdivision 1. Any corporation, partnership, trade association, or any person or persons who would suffer injury from any threatened violation of sections 325D.30 to 325D.42 may maintain an action to enjoin such actual or threatened violation and proof of actual damages need not be alleged or proved in cases of threatened violation. If a violation or threatened violation of the Minnesota unfair cigarette sales act shall be established, the court shall enjoin such violator or threatened violator, and, in addition thereto, the court shall assess in favor of the plaintiff and against defendant the injuries of the suit including reasonable attorneys fees. Where

alleged and proved, the plaintiff, in addition to such injunctive relief and cost of suit including reasonable attorneys fees, shall be entitled to recover from defendant the actual damages sustained.

Sec. 54. [REPEALER.]

(a) *Minnesota Statutes 1986, sections 297.07, subdivision 6; 297.23, subdivision 5; and 297.35, subdivisions 4, 6, and 7, are repealed.*

(b) *Minnesota Statutes 1986, sections 325D.32, subdivision 12, and 325D.41, are repealed.*

Sec. 55. [EFFECTIVE DATE.]

Sections 1 to 5, 7, 8, 10 to 25, 28 to 30, and 32 to 38 are effective July 1, 1987. Sections 6, 9, 26, 27, the discount rate change in 31, and 39 are effective June 1, 1987. Sections 40 to 53, and 54, paragraph (b), are effective the day following final enactment.

ARTICLE 14

SPECIAL TAXES

Section 1. *Minnesota Statutes 1986, section 239.10, is amended to read:*

239.10 [ANNUAL INSPECTION.]

The department shall charge a fee to the owner for the costs of the regular inspection of scales, weights, measures, and weighing or measuring devices. The cost of any other inspection must be paid by the owner if the inspection is performed at the owner's request or if the inspection is made at the request of some other person and the scale, weight, measure, or weighing or measuring device is found to be incorrect. The department may fix the fees and expenses for regular inspections and special services by rule pursuant to section 16A.128, except that no additional fee may be charged for retail petroleum pumps, petroleum vehicle meters, and petroleum bulk meters that dispense petroleum products for which the petroleum inspection fee required by section ~~296.13~~ 4 is collected. Money collected by the department for its regular inspections, special services, fees, and penalties must be paid into the state treasury and credited to the state general fund.

Sec. 2. [239.75] [INSPECTION OF PETROLEUM PRODUCTS.]

Subdivision 1. [INSPECTION TO BE MADE.] The department of public service shall make inspection of petroleum products wherever processed, held, stored, or offered for sale or used, and shall secure samples periodically from importations in their original containers to determine their specifications when tested by the methods of the American Society for Testing Materials. Upon the request of the department of public service, a person holding, storing, offering for sale, or using petroleum products shall permit the department of public service to take for testing free samples, not to exceed 32 ounces each, of the products when necessary for the purposes of this chapter. The department of public service shall test samples of petroleum products received and submitted by any licensed distributor and shall inform the distributor of the results of the tests.

Subd. 2. [WHEN NOT MEETING SPECIFICATIONS.] A record of the inspection shall be made. Any material not meeting the specifications under section 3 shall be sealed in the container from which the sample was secured or placed in separate storage under seal until a method of its disposition has been approved by the department of public service.

Subd. 3. [CALIBRATION OR GAUGE CHARTS.] A person holding petroleum products in storage tanks for sale or for use as special fuel shall maintain a calibration or gauge chart for each tank.

Subd. 4. [ENTRY UPON PREMISES.] The department of public service may enter into or upon the premises of a distributor, bulk purchaser, or dealer of petroleum products to inspect the receptacles in which the products are stored. A distributor, bulk purchaser, or dealer shall keep the receptacles free from impurities. If the receptacles are found to contain impurities, they must be sealed until a method of disposition of the material has been approved by the department of public service.

Sec. 3. [239.76] [SPECIFICATIONS OF PETROLEUM PRODUCTS.]

Subdivision 1. [GASOLINE.] No gasoline shall be sold for use in motor vehicles unless it is free from water, suspended matter, and impurities, and it conforms to the requirements in section 296.01, subdivision 3.

Subd. 2. [FUEL OIL; DIESEL FUEL; KEROSENE.] No fuel oil, diesel fuel, or kerosene shall be sold unless it conforms to section 296.01, subdivision 4, 4a, or 4b.

Subd. 3. [TESTS, HOW MADE.] Tests must be made by the weights and measures division of the department of public service in accordance with the methods outlined in the American Society for Testing Materials specifications numbered D-396, D-439, D-910, D-975, and D-3699.

Subd. 4. [RESULTS OF TEST SUPPLIED BY SHIPPER TO DISTRIBUTOR.] Upon request of a licensed distributor, the shipper shall, at the time of shipment, supply the licensed distributor with the results of tests of the petroleum product shipped to the distributor at destination in Minnesota.

Subd. 5. [AVIATION GASOLINE.] No aviation gasoline shall be received, sold, stored, or withdrawn from storage in this state unless it conforms to the specifications set forth in American Society for Testing Materials specification number D-910.

Subd. 6. [SALES OF CERTAIN PETROLEUM PRODUCTS ON GROSS VOLUME BASIS.] The sale of gasoline, number one and number two diesel oils, and number one and number two fuel oils and kerosene from a supplier's terminal rack through retail on any other basis than gross volume is prohibited.

Subd. 7. [ALCOHOL-BLENDED FUELS; DISCLOSURE.] A manufacturer, hauler, blender, agent, jobber, consignment agent, importer, or distributor who distributes gasoline containing alcohol shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentages by volume and the types, if more than one percent, of alcohols contained in the gasoline; except if the gasoline is distributed to the ultimate consumer, such as a bulk delivery to a farmer, only the types of alcohol must be disclosed. In determining compliance with this subdivision, the weights and measures division of the department of public service shall allow a one percent tolerance above or below the percentage stated on the documentation.

Sec. 4. [239.78] [INSPECTION FEES.]

An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously

been received by a licensed distributor. The department shall adjust the inspection fee to recover the amount appropriated for petroleum product quality inspection expenses and the amount appropriated for the inspection and testing of petroleum product measuring devices as required by chapter 239. The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.

The commissioner of revenue shall credit the distributor for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue is authorized to collect the inspection fees along with any taxes due under chapter 296.

Sec. 5. [239.79] [PETROLEUM PRODUCTS; REQUIREMENTS.]

Subdivision 1. [PRICES POSTED.] A gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.

Subd. 2. [GASOLINE-ALCOHOL BLENDS; IDENTIFICATION.] When gasoline blended with alcohol is sold, offered for sale, or dispensed for use in motor vehicles, the dispenser shall be clearly marked to identify the type of alcohol, if more than one percent by volume, blended with the gasoline. The marking must consist of a white or yellow adhesive decal at least two inches by six inches with clearly printed black lettering at least one-half inch high and one-eighth inch in stroke. The marking shall be conspicuously displayed on both sides of the dispenser and state that the gasoline "CONTAINS ETHANOL" or "CONTAINS METHANOL" or has been "ETHANOL ENRICHED." This subdivision does not prohibit the posting of other alcohol or additive information.

Sec. 6. [239.80] [VIOLATIONS; PENALTIES.]

Subdivision 1. [VIOLATIONS; ACTIONS OF DEPARTMENT.] The department, or any of its employees, shall condemn, seize, or destroy any petroleum products processed, held, stored, offered for sale, or used in violation of section 239.10, 239.76, 239.78, or 239.79. Storage tanks containing the petroleum products, and pumps attached to the storage tanks, shall be marked in a manner to be prescribed by the department indicating a violation of this chapter. This marking shall remain on the tank or pump and prevent sale or use of product contained in it until the petroleum product conforms with sections 239.10, 239.76, 239.78, and 239.79.

Subd. 2. [PENALTY.] Any person who fails to comply with any provision of section 239.10, 239.76, 239.78, or 239.79 shall be guilty of a misdemeanor.

Sec. 7. [270.058] [AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.]

The commissioner may pay to any local government unit, any locally imposed sales taxes that may be assessed against the department of revenue. There is appropriated to the commissioner of revenue from the general fund the amount needed to make the payments.

Sec. 8. Minnesota Statutes 1986, section 270.071, is amended by adding a subdivision to read:

Subd. 8. "Small or medium sized community" means a home rule charter

or statutory city or town in Minnesota with a population of 100,000 or fewer that is not located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties.

Sec. 9. 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 turboprops, 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. 10. 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 \$7,600,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$8,400,000 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 airflight property.~~

Sec. 11. Minnesota Statutes 1986, section 270.10, subdivision 4, is amended to read:

Subd. 4. [ORDERS ASSESSING PERSONAL LIABILITY.] The commissioner may, based upon information available to the commissioner and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, ~~or~~ 297, 297A, 297C, ~~or sections 349.212 and 349.2121~~, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action the commissioner deems necessary to preserve the interests of the state while the matter is pending.

Sec. 12. [271.061] [PAYMENT OF TAX PENDING APPEAL.]

When a taxpayer appeals any liability assessed under tax laws of this

state subject to the jurisdiction of the tax court, other than an appeal subject to section 278.03, to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner shall be paid when it is due unless permission to continue prosecution of the petition without payment is obtained as provided in this section. The petitioner, upon ten days notice to the commissioner, may apply to the court for permission to continue prosecution of the petition without payment, and, if it is made to appear:

- (1) that the proposed review is to be taken in good faith;
- (2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and
- (3) that it would work a substantial hardship upon petitioner to pay the liability.

the court may permit the petitioner to continue prosecution of the petition without payment or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

Failure to make payment of the amount required when due shall operate automatically to dismiss the petition and the proceedings under it unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment.

Sec. 13. Minnesota Statutes 1986, section 287.05, subdivision 1, is amended to read:

Subdivision 1. A tax of 15 cents is imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is or may be secured by any mortgage of real property situated within the state executed, delivered, and recorded or registered; provided, however, that the tax shall be imposed but once upon any mortgage and extension thereof. If the mortgage describes real estate situated outside of this state, the tax shall be imposed upon that proportion of the whole debt secured thereby as the value of the real estate therein described situated in this state bears to the value of the whole of the real estate described therein. The tax imposed by this section shall not apply to a contract for the conveyance of real estate or any interest in real estate recorded or registered on or after January 1, 1984.

Sec. 14. Minnesota Statutes 1986, section 287.10, is amended to read:

287.10 [PREPAYMENT OF TAX; EVIDENCE; NOTICE.]

A mortgage or papers relating to its foreclosure, assignment, or satisfaction, must not be recorded or registered unless the tax has been paid. A document or any record of the mortgage may not be received in evidence in any court, and is not valid notice, unless the tax has been paid. If the tax is paid, an error in computation or ascertainment of the amount does not affect the validity of the mortgage or the record or foreclosure. This section does not apply to a mortgage or a contract for the conveyance of real estate that is exempt from taxation under section 287.04 or 287.05, subdivision 1.

Sec. 15. Minnesota Statutes 1986, section 287.21, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed on each deed, instrument, or

writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred or otherwise conveyed, a tax determined in the following manner. When transfers are made by instruments pursuant to mergers, consolidations, sales or transfers of substantially all of the assets of corporations pursuant to plans of reorganization or there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is \$1,000 or less, the tax shall be \$2.20. When the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$1,000, the tax shall be \$2.20 plus \$1.10 for each \$500 or fractional part of \$500 in excess of \$1,000.

The tax applies against the total consideration, including consideration for any personal property located on the real property conveyed by the deed and transferred as part of the total consideration, but excluding the value of any lien or encumbrance remaining on the property at the time of sale.

Sec. 16. Minnesota Statutes 1986, section 287.22, is amended to read:
287.22 [EXCEPTIONS.]

The tax imposed by section 287.21 shall not apply to:

A. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

B. Any mortgage or any assignment, extension, partial release, or satisfaction thereof.

C. Any will.

D. Any plat.

E. Any lease.

F. Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof or the state of Minnesota or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such unit of government is the grantee or assignee.

G. Deeds for cemetery lots.

H. G. Deeds of distribution by personal representatives.

I. H. Deeds to or from coowners partitioning undivided interests in the same piece of property.

Sec. 17. Minnesota Statutes 1986, section 296.02, is amended by adding a subdivision to read:

Subd. 2a. [GASOLINE TAX IMPOSED FOR RAILROAD USE.] There is imposed an excise tax, at the rate of 17 cents per gallon on gasoline used in producing and generating power for propelling trains in this state. The tax imposed by this subdivision shall be credited to the general fund. The tax shall be computed by using the ratio of revenue ton miles of passengers, mail, express, and freight carried by the railroad within this state to the total number of revenue ton miles carried by the railroad within and without this state, times the total number of gallons of gasoline used both within and without this state during the filing period. The tax is

payable at the times, in the manner, and by the persons specified in sections 296.01 to 296.27.

Sec. 18. Minnesota Statutes 1986, section 296.02, is amended by adding a subdivision to read:

Subd. 2b. [GASOLINE TAX IMPOSED FOR BARGE USE.] There is imposed an excise tax, at the rate of 17 cents per gallon on gasoline used in producing and generating power for propelling barges in this state. The tax imposed by this subdivision shall be credited to the general fund. The tax shall be computed by using the ratio of revenue ton miles of freight carried by the barge within this state to the total number of revenue ton miles carried by the barge within and without this state, times the total number of gallons of gasoline used both within and without this state during the filing period. The tax is payable at the times, in the manner, and by the persons specified in sections 296.01 to 296.27. For the purposes of this subdivision and section 296.025, subdivision 2b, a barge will be considered to be operating within this state if it is operating on a river or other body of water that serves to mark a border of this state and if it picks up or delivers its freight at a point within this state.

Sec. 19. Minnesota Statutes 1986, section 296.025, is amended by adding a subdivision to read:

Subd. 2a. [TAX IMPOSED FOR RAILROAD USE.] There is imposed an excise tax of the same rate per gallon as the gasoline excise tax on special fuel used to propel trains in this state, and not otherwise taxed as gasoline. The tax shall be computed by using the same method as the gasoline excise tax and shall be payable at the times, in the manner, and by the persons specified in this chapter.

Sec. 20. Minnesota Statutes 1986, section 296.025, is amended by adding a subdivision to read:

Subd. 2b. [TAX IMPOSED FOR BARGE USE.] There is imposed an excise tax of the same rate per gallon as the gasoline excise tax on special fuel used to propel barges in this state, and not otherwise taxed as gasoline. The tax shall be computed by using the same method as the gasoline excise tax and shall be payable at the times, in the manner, and by the persons specified in this chapter.

Sec. 21. Minnesota Statutes 1986, section 296.17, subdivision 3, is amended to read:

Subd. 3. [REFUNDS ON GASOLINE AND SPECIAL FUEL USED IN OTHER STATES.] Every person regularly or habitually operating motor vehicles upon the public highways of any other state or states and using in said motor vehicles gasoline or special fuel purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline or special fuel paid to this state on the gasoline or special fuel actually used in the other state or states. No credit or refund shall be allowed under this subdivision for taxes paid to any state which imposes a tax upon gasoline or special fuel purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on gasoline or special fuel purchased or acquired in such other state and used on the highways of this state. Every person claiming a credit or refund under this subdivision shall file, within 30 days after the tax to such other state, or states, is paid, a report in such form as may be prescribed by the commissioner, together with such proof

of the payment of the tax, and of the fact that it was paid on gasoline or special fuel purchased or obtained within this state as the commissioner may require. The claimant may file up to six months from the date the tax was paid to another state but any refund applied for after 30 days from date of payment shall be reduced by five percent for each 30-day period or portion thereof following the initial 30-day period a claim on a form prescribed by the commissioner or take the credit on a subsequent tax return within one year of the last day of the month following the end of the quarter when the overpayment occurred.

Sec. 22. Minnesota Statutes 1986, section 296.17, subdivision 7, is amended to read:

Subd. 7. [DEFINITIONS.] As used in subdivisions 7 to 22:

(a) "motor fuel" means a liquid, regardless of its composition or properties, used to propel a motor vehicle;

(b) "commercial motor vehicle" means a passenger vehicle that has seats for more than ~~nine~~ 20 passengers in addition to the driver, a ~~road tractor, a tractor truck, or a truck having more than two axles, which is propelled by motor fuel, but does not include a motor vehicle while used in a ride-sharing arrangement as defined in section 169.01, subdivision 63 or a power unit that (1) has a gross weight in excess of 26,000 pounds, or (2) has three or more axles regardless of weight, or (3) when used in combination, the weight of the combination exceeds 26,000 pounds gross vehicle weight;~~

(c) "motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a highway in this state;

(d) "operation" means operation of commercial motor vehicles whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated; and

(e) "highway" means the entire width between the boundary lines of every way publicly maintained when part of the highway is open for the public to travel on.

Sec. 23. Minnesota Statutes 1986, section 296.17, subdivision 11, is amended to read:

Subd. 11. [REPORTS.] Every motor carrier subject to the road tax shall, on or before the last day of April, July, October and January, file with the commissioner such reports of operations during the previous three months as the commissioner may require and such other reports from time to time as the commissioner may deem necessary. The commissioner by rule may exempt from the *quarterly* reporting requirements of this section those motor carriers whose mileage is all or substantially all ~~of and those motor carriers whose mileage is minimal~~ within this state, or states with which Minnesota has reciprocity and require in such instances an annual affidavit attesting to the intrastate or substantially intrastate character of their operations, provided that the enforcement of subdivisions 7 to 22 is not adversely affected thereby and that the commissioner is satisfied that an equitable amount of motor fuel is purchased within this state by such carriers report reflecting the operations of the carrier during the previous year along with payment of any taxes due.

Each report shall contain a confession of judgment for the amount of

the tax shown due thereon to the extent not timely paid.

Sec. 24. Minnesota Statutes 1986, section 360.531, subdivision 2, is amended to read:

Subd. 2. [RATE.] The tax shall be at the rate of one percent of value; provided that the minimum tax on an aircraft subject to the provisions of sections 360.511 to 360.67 shall not be less than 25 percent of the tax on said aircraft computed on its base price or \$10 \$50 whichever is the higher.

Sec. 25. [REPEALER.]

(a) *Minnesota Statutes 1986, sections 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.22; and 296.28 are repealed.*

(b) *Minnesota Statutes 1986, section 287.02, is repealed.*

(c) *Minnesota Statutes 1986, sections 290.531 and 297A.391, are repealed.*

Sec. 26. [EFFECTIVE DATES.]

Sections 1 to 7, 11, 12, 17 to 24, and 25, paragraphs (a) and (c), are effective July 1, 1987. Sections 8 to 10 are effective for taxes levied in 1987, payable 1988, and thereafter. Sections 13 to 16 are effective for instruments recorded after May 31, 1987. Section 25, paragraph (b), is effective the day following final enactment.

ARTICLE 15

CHARITABLE GAMBLING

Section 1. Minnesota Statutes 1986, section 349.212, subdivision 1, is amended to read:

Subdivision 1. [RATE.] There is hereby imposed a tax on all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, conducted by organizations licensed by the board at the rate specified in this subdivision. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

On all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, the tax is ten percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out, payable by the organization.

Sec. 2. Minnesota Statutes 1986, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs sold by a licensed distributor to a licensed organization, or to an organization holding an exemption identification number. The rate of the tax is ten percent of the face resale value of all the pull-tabs in each deal less the total prizes which may be paid out on all the pull-tabs in that deal. The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund. The sales tax imposed by chapter 297A on the sale of the pull-tabs by the licensed distributor to an organization is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs by the organization is exempt from

taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs are delivered by the distributor to the licensed or exempt organization, to a common or contract carrier for delivery to the organization, or when received by the organization's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

If a licensed organization or any organization holding an exemption number receives pull-tabs directly from the manufacturer and the manufacturer is not a licensed distributor, the distributor from whom the pull-tabs were purchased is liable for tax when the manufacturer delivers the pull-tabs to the organization, or to a contract or common carrier for delivery to the organization, or when the pull-tabs are received by the organization's authorized representative at the manufacturer's place of business, regardless of the manufacturer's or the distributor's method of accounting or the terms of the sale.

(c) The exemptions contained in section 349.214, subdivision 2, paragraph (b), do not apply to the tax imposed in this subdivision.

Sec. 3. Minnesota Statutes 1986, section 349.212, is amended by adding a subdivision to read:

Subd. 5. [LOCAL GAMBLING TAX.] A statutory or home rule charter city which has one or more licensed organizations operating lawful gambling, and a county which has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent of the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization. A city or county may not use money collected under this subdivision for any purpose other than for the purpose of regulating lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. Any city or county that imposes a tax under this subdivision shall annually by March 15 file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.

Sec. 4. Minnesota Statutes 1986, section 349.2121, subdivision 4, is amended to read:

Subd. 4. [COLLECTION.] The tax imposed by section 349.212, subdivision 4, for each taxable sale is due and payable to the commissioner monthly on or before the 25th day of the month succeeding the month in which the taxable sale was made. The tax must be reported on a form prescribed by the commissioner.

Sec. 5. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 4a. [REFUND.] If any deal of pull-tabs registered with the board

and upon which the tax imposed by section 349.212, subdivision 4, has been paid is returned unplayed to the distributor, the commissioner of revenue shall allow a refund of the tax paid.

In the case of a defective deal registered with the board and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be in a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision shall be made at the time and in the manner prescribed by the commissioner.

Sec. 6. Minnesota Statutes 1986, section 349.2121, subdivision 6, is amended to read:

Subd. 6. [COLLECTIONS; CIVIL PENALTIES.] (1) The provisions of chapter 297A relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the tax, penalties and interest imposed by section 349.212, subdivision 4. The commissioner shall impose civil penalties for violation of this section as provided in ~~chapter 297A~~ section 297A.39, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

(2) *If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate stated in section 270.75 from the time the tax should have been paid until paid.*

Sec. 7. Minnesota Statutes 1986, section 349.2121, subdivision 7, is amended to read:

Subd. 7. [RULES.] The commissioner ~~shall~~ *may* adopt rules, including emergency rules, for the administration and enforcement of this section and section 349.212, subdivision 4.

Sec. 8. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 9. [PERSONAL DEBT; LIEN.] *The tax imposed by section 349.212 and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person shall be personally liable for any deficiency.*

Sec. 9. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 10. [REFUNDS; APPROPRIATION.] A person who has, under this chapter, paid to the commissioner an amount of tax for any period in excess of the amount legally due for that period, may file with the commissioner of revenue a claim for a refund of the excess. The amount necessary to pay the refunds is appropriated from the general fund to the commissioner.

Sec. 10. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 11. [UNTAXED PULL-TABS.] It is a gross misdemeanor for any person to possess pull-tabs for resale in this state that have not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. The executive secretary of the charitable gambling control board or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed pull-tabs.

Sec. 11. [349.2122] [MANUFACTURERS; REPORTS TO THE COMMISSIONER; PENALTY.]

A manufacturer registered with the board who sells pull-tabs to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs sold to licensed distributors. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. Any person violating this section shall be guilty of a misdemeanor.

Sec. 12. [349.2123] [CERTIFIED PHYSICAL INVENTORY.]

The commissioner of revenue may, upon request, require a pull-tab distributor to furnish a certified physical inventory of the pull-tabs in stock. The inventory must contain the information required by the commissioner.

Sec. 13. [349.2124] [SALES TO INDIAN TRIBES.]

A distributor may set aside that part of the distributor's stock necessary for the conduct of business in making sales to the established governing body of any Indian tribe recognized by the United States Department of Interior. A distributor shall, when shipping or delivering any stock to an Indian tribal organization, make a true duplicate invoice showing the complete details of the sale or delivery and shall keep the duplicate.

Sec. 14. [EFFECTIVE DATE.]

Sections 2, paragraphs (a) and (b), and 3 to 13 are effective July 1, 1987. Sections 1 and 2, paragraph (c), are effective January 1, 1987.

ARTICLE 16

BOND ALLOCATION

Section 1. Minnesota Statutes 1986, section 474A.02, subdivision 1, is amended to read:

Subdivision 1. [TERMS DEFINED.] For the purposes of sections ~~474A.01~~ 1 to ~~474A.21~~ 40, the terms defined in this section shall have the following meanings: given them.

Sec. 2. Minnesota Statutes 1986, section 474A.02, subdivision 2, is amended to read:

Subd. 2. [ANNUAL VOLUME CAP] "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of ~~existing federal tax law or a federal volume limitation act~~, may be issued in one year by issuers.

Sec. 3. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 2a. [BONDING AUTHORITY.] "Bonding authority" means all or a portion of the annual volume cap.

Sec. 4. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 2b. [CARRYFORWARD.] "Carryforward" means the ability to issue obligations in a year subsequent to the year in which an allocation of bonding authority was obtained under sections 1 to 40 as provided in section 146(f) of federal tax law.

Sec. 5. Minnesota Statutes 1986, section 474A.02, subdivision 3, is amended to read:

Subd. 3. [CERTIFICATE OF ALLOCATION.] "Certificate of allocation" means a certificate provided to an issuer by the department under section 474A.13, *subdivision 1*.

Sec. 6. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 5a. [COMMISSIONER.] "Commissioner" means the commissioner of energy and economic development.

Sec. 7. Minnesota Statutes 1986, section 474A.02, subdivision 6, is amended to read:

Subd. 6. [DEPARTMENT; DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT.] "Department" or ~~"department of energy and economic development"~~ means the department of energy and economic development or its successor agency or agencies with respect to the duties that the department is to perform under sections 474A.01 to 474A.21.

Sec. 8. Minnesota Statutes 1986, section 474A.02, subdivision 7, is amended to read:

Subd. 7. [ENTITLEMENT ISSUER.] "Entitlement issuer" means an issuer to which an allocation is made under ~~section 474A.04, 474A.08, or 474A.09~~ sections 23, *subdivision 2a; and 41, subdivisions 1, clause (a), and 2.*

Sec. 9. Minnesota Statutes 1986, section 474A.02, subdivision 8, is amended to read:

Subd. 8. [EXISTING FEDERAL TAX LAW.] "~~Existing~~ Federal tax law" means those provisions of the Internal Revenue Code of 1954 1986, ~~as amended through December 31, 1985,~~ that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is ~~exempt from inclusion in~~ excluded from gross income for purposes of federal income taxation.

Sec. 10. Minnesota Statutes 1986, section 474A.02, subdivision 12, is amended to read:

Subd. 12. [ISSUER.] "Issuer" means any entitlement issuer, *state issuer*, or other issuer.

Sec. 11. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 13a. [MANUFACTURING POOL.] "Manufacturing pool" means the amount of the annual volume cap allocated under section 27, that is available for the issuance of small issue bonds to finance manufacturing projects.

Sec. 12. Minnesota Statutes 1986, section 474A.02, subdivision 14, is amended to read:

Subd. 14. [MANUFACTURING PROJECT.] "Manufacturing project" means properties, real or personal, used in connection with a revenue producing enterprise in connection with assembling, fabricating, manufacturing, mixing, or processing any products of agriculture, forestry, mining, or manufacture. Properties used for storing, warehousing, or distributing qualify under this definition (1) if they are used as part of or in connection with an assembly, fabricating, manufacturing, mixing, or processing facility, or (2) if they are used for the storing of agricultural products and are located outside of the metropolitan area, as defined in section 473.121, subdivision 2. Manufacturing project includes properties, real or personal, used in connection with research and development activity to develop or improve products, production processes, or materials. For purposes of this subdivision, "a product of manufacture" includes information and directions which dictate the functions to be performed by data processing equipment, commonly called computer software, regardless of whether they are embodied in or recorded on tangible personal property. A project qualifies as a manufacturing project only if 75 percent of the proceeds of the proposed obligations will be used for construction, acquisition, installation, or addition of properties described in this subdivision any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

Sec. 13. Minnesota Statutes 1986, section 474A.02, subdivision 16, is amended to read:

Subd. 16. [MULTIFAMILY HOUSING PROJECT POOL.] "Multifamily housing project pool" means a development defined in section 462C.02, subdivision 5, for which the applicable housing plan and program approval requirements of chapter 462C have been met the amount of the annual volume cap allocated under section 27, which is available for the issuance of residential rental project bonds.

Sec. 14. Minnesota Statutes 1986, section 474A.02, subdivision 18, is amended to read:

Subd. 18. [NOTICE OF ENTITLEMENT ALLOCATION.] "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section 474A.04, subdivision 5, or 474A.08 474.04, subdivision 2 5.

Sec. 15. Minnesota Statutes 1986, section 474A.02, subdivision 19, is amended to read:

Subd. 19. [OTHER ISSUER.] "Other issuer" means ~~any~~ an entity other than an entitlement issuer or *state issuer* which may issue obligations

subject to an annual volume cap, including ~~but not limited to~~ the University of Minnesota, ~~any a city, any town, any~~ federally recognized American Indian tribe or subdivision thereof located in Minnesota, ~~any~~ housing and redevelopment authority referred to in chapter 462, or ~~any a body~~ authorized to exercise the powers of a housing and redevelopment authority, ~~any a port authority~~ referred to in chapter 458, or ~~any a body~~ authorized to exercise the powers of a port authority, ~~any an economic development authority referred to in chapter 458C, an area or municipal redevelopment agency referred to in chapter 472, any a county, or any other municipal authority or agency established pursuant to under special law, or any an~~ entity issuing on behalf of the foregoing.

Sec. 16. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 20a. [PERMANENTLY ISSUED.] Obligations are "permanently issued" if either (1) the obligations have been issued under terms and conditions such that the proceeds are available for the purpose for which they were issued, or (2) ten percent of the proceeds of the obligations, excluding costs of issuance, have been disbursed for the purpose for which they were issued.

Sec. 17. Minnesota Statutes 1986, section 474A.02, subdivision 21, is amended to read:

Subd. 21. [PRELIMINARY RESOLUTION.] "Preliminary resolution" means a resolution adopted by the governing body or board of the issuer, or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project and must, identify the proposed project, and disclose the proposed amount of the obligations qualified bonds to be issued. Preliminary resolutions for mortgage bonds and student loan bonds need not identify a specific project.

Sec. 18. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 22a. [PUBLIC FACILITIES POOL.] "Public facilities pool" means the amount of the annual volume cap allocated under section 27, which is available for the issuance of public facility bonds or student loan bonds.

Sec. 19. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 23a. [QUALIFIED BONDS.] "Qualified bonds" means the specific type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities; and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

- (c) "mortgage bonds";
- (d) "small issue bonds" issued to finance manufacturing projects;
- (e) "student loan bonds";
- (f) "redevelopment bonds"; and
- (g) "governmental bonds" with a nonqualified amount in excess of \$15,000,000 as set forth in section 141(b)5 of federal tax law.

Sec. 20. Minnesota Statutes 1986, section 474A.02, subdivision 26, is amended to read:

Subd. 26. [STATE ISSUER.] "State issuer" means the state of Minnesota; the *commissioner of iron range resources and rehabilitation board*; or other agency, department, board, or commission of the state, ~~which that~~ is authorized to issue obligations and has statewide jurisdiction.

Sec. 21. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 26a. [UNIFIED POOL.] "Unified pool" means the amount of the annual volume cap allocated under section 29 that is available for the issuance of qualified bonds.

Sec. 22. Minnesota Statutes 1986, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL VOLUME CAP UNDER EXISTING FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, 1987, the ~~department~~ commissioner shall determine the aggregate dollar amount of the annual volume cap under existing federal tax law for the calendar year, and of this amount the ~~department commissioner shall determine make the following amounts allocation:~~

(1) the amount that is allocated to entitlement issuers under section 474A.04 \$74,000,000 to the manufacturing pool;

(2) the amount initially available for allocation through the pool under section 474A.05, which is the annual volume cap determined under this subdivision less the amount determined under clause (1) \$30,000,000 to the multifamily housing pool; and

(3) the amount available for issuance of qualified mortgage bonds under section 474A.07 \$21,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in section 23, subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Sec. 23. Minnesota Statutes 1986, section 474A.03, is amended by adding a subdivision to read:

Subd. 2a. [ENTITLEMENT ISSUER ALLOCATION.] (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

(1) \$50,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 29, subdivision 6;

(2) \$20,000,000 per year to the city of Minneapolis;

(3) \$15,000,000 per year to the city of Saint Paul; and

(4) \$3,000,000 to each of the cities of the first class located outside of the metropolitan area as defined in section 473.121, subdivision 2, or an amount equal to the amount of mortgage bonds or residential rental project bonds that each city permanently issued in the previous calendar year, whichever amount is less. If a city is eligible to receive an entitlement allocation under this clause, the amount of the allocation is deducted from the allocations made under clauses (1), (2), and (3) in proportion to the total amount of allocations made in clauses (1), (2), and (3).

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

Sec. 24. Minnesota Statutes 1986, section 474A.04, is amended by adding a subdivision to read:

Subd. 1a. [ENTITLEMENT RESERVATIONS; CARRYFORWARD; DEDUCTION.] An entitlement issuer may retain any unused portion of its entitlement allocation after the first Monday in September if it has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to its entitlement allocation before the end of the calendar year or within the time permitted under federal tax law. Except as provided in section 41, subdivision 2, paragraph (a), any amount returned by an entitlement issuer before the last Monday in October shall be reallocated through the multifamily housing pool. Any amount returned on or after the last Monday in October shall be reallocated under section 29. Beginning with entitlement allocations received in 1987 under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraphs (2) and (3), there shall be deducted from an entitlement issuer's allocation for the subsequent year an amount equal to the entitlement allocation under which bonds are either not issued or carried forward under federal tax law. Except for the Minnesota housing finance agency, any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued by the end of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the next succeeding calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be divided equally for allocation through the manufacturing pool and the multifamily housing pool.

Sec. 25. Minnesota Statutes 1986, section 474A.04, subdivision 5, is amended to read:

Subd. 5. [NOTICE OF ENTITLEMENT ALLOCATION.] As soon as possible in each calendar year, the ~~department~~ commissioner shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation ~~under this section~~.

Sec. 26. Minnesota Statutes 1986, section 474A.04, subdivision 6, is amended to read:

Subd. 6. [ENTITLEMENT TRANSFERS.] An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to ~~issuance~~ bonding

authority allocated to the original entitlement issuer under this section.

Sec. 27. [474A.061] [ALLOCATION OF MANUFACTURING, MULTIFAMILY HOUSING, AND PUBLIC FACILITIES POOLS.]

Subdivision 1. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August. An entitlement issuer may not apply for an allocation from the multifamily housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

Subd. 2. [ALLOCATION PROCEDURE.] From the beginning of the calendar year until the last Monday in October, the commissioner shall allocate available bonding authority under this section on Monday of each week to applications received on or before the Monday of the preceding week.

(a) If there are two or more applications for residential rental project bonds from the multifamily housing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(b) If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c) If there are two or more applications for public facility bonds from the public facilities pool and there is insufficient bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Monday in September only if the issuer has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained.

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in October, the amount of allocation returned must be reallocated through the pool from which it was originally allocated. If the issuer notifies the department on or after the last Monday in October, the amount of allocation returned must be reallocated through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding authority returned on or after the third Monday in December and before the last Monday in December.

No refund shall be available for allocations returned on or after the last Monday in December.

Subd. 5. [HIGHER EDUCATION COORDINATING BOARD ALLOCATION.] The higher education coordinating board must receive an allocation of bonding authority at the beginning of the calendar year from the public facilities pool of an amount up to \$20,000,000 per year, less any amount carried forward from the previous year for the issuance of student loan bonds. The amount of any allocation received under this subdivision, when added to the allocation received under section 29, subdivision 6, in the previous year, must not exceed \$20,000,000. The higher education coordinating board shall be treated as an entitlement issuer under section 474A.04, subdivision 1a.

Subd. 6. [DEADLINE FOR ISSUANCE OF SMALL ISSUE BONDS.] If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a manufacturing project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Sec. 28. [474A.081] [POOL TRANSFERS.]

Subdivision 1. [AUTHORITY TO TRANSFER BONDING AUTHORITY.] If there is insufficient bonding authority in either the manufacturing pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. [TRANSFER LIMITS.] No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding

50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be \$80,000,000 for the manufacturing pool and \$60,000,000 for the multifamily housing pool.

Subd. 3. [TRANSFER FROM MINNESOTA HOUSING FINANCE AGENCY ALLOCATION.] *If there is insufficient bonding authority to provide allocations for all applications for residential rental projects in any one week from the multifamily housing pool, up to \$15,000,000 per year must be transferred to the multifamily housing pool from the Minnesota housing finance agency's entitlement allocation. This deduction must be made prior to transferring bonding authority to the multifamily housing pool as provided in subdivision 4.*

Subd. 4. [POOL TRANSFERS.] *If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily housing pool or applications for residential rental project bonds may receive bonding authority from the manufacturing pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the manufacturing pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.*

Sec. 29. [474A.091] [ALLOCATION OF UNIFIED POOL.]

Subdivision 1. [UNIFIED POOL AMOUNT.] *On the day after the last Monday in October any bonding authority remaining unallocated from the manufacturing pool, the multifamily housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.*

Subd. 2. [APPLICATION.] *An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.*

Subd. 3. [ALLOCATION PROCEDURE.] *The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in November through and on the last Monday in December. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. Allocations shall be awarded in the following order of priority:*

(1) applications for small issue bonds, with preference given to projects to be located in distressed counties designated under section 297A.257;

- (2) applications for residential rental project bonds;
- (3) applications for public facility bonds;
- (4) applications for redevelopment bonds;
- (5) applications for mortgage bonds; and
- (6) applications for governmental bonds.

Allocations for mortgage bonds from the unified pool may not exceed:

- (a) \$10,000,000 for any one city;
- (b) \$20,000,000 for any number of cities in any one county; or
- (c) 40 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. [MORTGAGE BOND SUNSET.] If federal tax law is not amended to permit the issuance of tax-exempt mortgage bonds after December 31, 1988, all remaining bonding authority available for allocation under this section on December 1, 1988, is allocated to the Minnesota housing finance agency, of which at least 50 percent must be reallocated to cities for the issuance of mortgage bonds. If an issuer that receives an allocation for mortgage bonds under this subdivision fails to notify the department of energy and economic development before the last Monday in December of issuance of obligations pursuant to all or a portion of the allocation, any remaining allocation pursuant to which obligations have not been issued is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in December, the amount of allocation returned must be reallocated through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding

authority returned on or after the third Monday in December and before the last Monday in December.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in December.

Subd. 6. [FINAL ALLOCATION; CARRYFORWARD.] \$20,000,000 or any bonding authority remaining unallocated from the unified pool after the last Monday in December, whichever is less, is allocated to the higher education coordinating board. Any bonding authority remaining after the deduction for the higher education coordinating board allocation is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

Sec. 30. Minnesota Statutes 1986, section 474A.13, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE OF CERTIFICATE OF ALLOCATION.] The department shall issue a certificate of allocation for any allocation granted under ~~section 474A.11~~ sections 27 and 29, except as provided in ~~subdivision 4~~ section 31.

Sec. 31. Minnesota Statutes 1986, section 474A.13, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON THE ISSUANCE OF CERTIFICATES.] No certificate of allocation may be granted under a federal ~~volume~~ limitation act under any of the following circumstances:

(1) ~~tax law~~ for the amount of the allocation requested, when ~~the amount requested~~ added to (i) the aggregate amount of certificates of allocation issued and not expired; (ii) amounts remaining available to be allocated pursuant to section 474A.11; and (iii) entitlement authority allocated pursuant to section 474A.08 and not returned pursuant to section 474A.10, subdivision 3, for reallocation would cause the governmental annual volume cap to be exceeded. If two or more applications for a certificate of allocation are filed with the department on the same day and there is insufficient issuance authority for the applications, certificates shall be issued first for applications made pursuant to subdivision 2 and thereafter for applications made pursuant to subdivision 1; or

(2) the principal amount of the proposed allocation exceeds \$25,000,000 unless the issuer is the Minnesota housing finance agency or the Minnesota higher education coordinating board, or unless the issue is a pooled or joint issue or any issue of a joint powers board, provided that for joint or pooled issues or issues of a joint powers board the aggregate amount of the issue cannot exceed \$100,000,000.

Sec. 32. Minnesota Statutes 1986, section 474A.13, subdivision 5, is amended to read:

Subd. 5. [CERTIFICATES ARE NOT TRANSFERABLE.] Certificates of allocation are not transferable. An issuer that receives an allocation of ~~issuance~~ bonding authority pursuant to sections 474A.01 1 to 474A.21 40 to finance a project within the boundaries of the issuer may allow another issuer to issue obligations pursuant to the ~~issuance authority~~ allocation received only if the boundaries of the other issuer are coterminous with the boundaries of the issuer that received the ~~authority~~ allocation.

Sec. 33. [474A.131] [NOTICE OF ISSUE AND NOTICE OF

CARRYFORWARD.]

Subdivision 1. [NOTICE OF ISSUE.] Each issuer that issues bonds with an allocation received under this chapter shall provide a notice of issue to the department on forms provided by the department stating:

- (1) the date of issuance of the bonds;*
- (2) the title of the issue;*
- (3) the principal amount of the bonds;*
- (4) the type of qualified bonds under federal tax law; and*
- (5) the dollar amount of the bonds issued that were subject to the annual volume cap.*

For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a notice of issue the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority actually issued if a one percent application deposit was made, or equal to two percent of the amount of the bonding authority actually issued if a two percent application deposit was made.

Subd. 2. [CARRYFORWARD NOTICE.] If an issuer intends to carry forward an allocation received under this chapter, it must notify the department before the last Monday of December. If the notice of carryforward is not provided within the time required, one-quarter of the amount of the deposit eligible for refund upon filing of the notice of issue under this section is forfeited.

Sec. 34. Minnesota Statutes 1986, section 474A.14, is amended to read:

474A.14 [NOTICE OF AVAILABLE AUTHORITY.]

The department shall publish in the State Register at least twice monthly, a notice of the amount of ~~issuance~~ *bonding* authority, if any, available for allocation pursuant to sections ~~474A.05, 474A.11, 27 and 474A.12~~ 29.

Sec. 35. Minnesota Statutes 1986, section 474A.15, is amended to read:

474A.15 [STATE HELD HARMLESS.]

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under sections ~~474A.01~~ 1 to ~~474A.21~~ 40.

Sec. 36. Minnesota Statutes 1986, section 474A.16, is amended to read:

474A.16 [EXCLUSIVE METHOD OF ALLOCATION.]

Sections ~~474A.01~~ 1 to ~~474A.21~~ 40 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of a ~~federal volume limitation act and existing federal tax law.~~ An issuer of obligations may elect to obtain an allocation of authority under either existing federal tax law, a federal volume limitation act, or both.

Sec. 37. Minnesota Statutes 1986, section 474A.17, is amended to read:

474A.17 [ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.]

Minnesota Statutes, chapter 14, shall not apply to actions taken by any state agency, or entity, or the governor under sections ~~474A.01~~ 1 to ~~474A.21~~ 40.

Sec. 38. Minnesota Statutes 1986, section 474A.18, is amended to read:

474A.18 [~~PROSPECTIVE OVERRIDE OF FEDERAL VOLUME LIMITATION ACT TAX LAW.~~]

Sections ~~474A.01~~ 1 to ~~474A.21~~ ~~prospectively~~ 40 override and replace the method of allocating the authority to issue obligations among uses and among issuers as provided in a *section 146 of federal volume limitation act tax law* to the extent allowed by a federal ~~volume limitation act tax law~~.

Sec. 39. Minnesota Statutes 1986, section 474A.20, is amended to read:

474A.20 [STATE CERTIFICATION.]

The commissioner ~~of the department~~ is designated as the state official to provide any preissuance or postissuance certification required by a federal ~~volume limitation act tax law~~.

Sec. 40. Minnesota Statutes 1986, section 474A.21, is amended to read:

474A.21 [APPROPRIATION; RECEIPTS.]

Any fees collected by the department under sections ~~474A.01~~ 1 to ~~474A.21~~ 40 must be deposited in the general fund. The amount necessary to refund application deposits is appropriated to the department from the general fund for that purpose.

Sec. 41. [ALLOCATION FOR REMAINDER OF 1987.]

Subdivision 1. [MINNESOTA HOUSING FINANCE AGENCY AND POOL ALLOCATION.] For the purposes of this section, the terms defined in sections 1 to 21 have the meanings given them in sections 1 to 21. The commissioner shall allocate the annual volume cap for the remainder of 1987 on the day following final enactment as follows:

(a) \$60,000,000 is allocated to the Minnesota housing finance agency less any amount that was allocated to the Minnesota housing finance agency from the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. This amount is available only for the issuance of mortgage bonds or residential rental project bonds.

(b) \$80,000,000 is allocated to the manufacturing pool, less the sum of (1) the amount of allocations for small issue bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11, and (2) any amount that was allocated for small issue bonds by the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. Any allocations that were made for small issue bonds under Minnesota Statutes 1986, sections 474A.09 and 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the manufacturing pool.

(c) \$60,000,000 is allocated to the multifamily housing pool, less the amount of allocations for residential rental project bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for residential project bonds

under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the multifamily housing pool.

(d) \$31,190,380 is allocated to the public facilities pool, less the amount of allocations for public facility bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for public facility bonds under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the public facilities pool. Applications from the Minnesota public facilities authority must receive priority for allocations from the public facilities pool in any given week.

If the amount of bonding authority allocated under subdivision 3 when added to the allocation for public facility bonds made from and not returned to the pool under Minnesota Statutes, section 474A.11 exceeds \$31,190,380, the excess must be deducted from the allocation under paragraph (c) and be allocated to the public facilities pool.

Subd. 2. [1987 ENTITLEMENT CITY ALLOCATIONS.] (a) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the manufacturing pool. If there is insufficient bonding authority in the manufacturing pool to provide allocations to all eligible projects on any Monday prior to the last Monday in October 1987, after all eligible bonding authority has been transferred to the manufacturing pool as provided in section 28, additional bonding authority must be transferred to the manufacturing pool for allocation on the subsequent Monday from the entitlement city allocations as provided in this subdivision. Each city must transfer bonding authority to the manufacturing pool from its remaining bonding authority in an amount equal to the percentage of the allocation that the city received under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), in relation to the total amount of allocations made under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), multiplied by the amount necessary to provide allocations to all manufacturing projects on the subsequent Monday. No city is required to transfer more bonding authority under this subdivision than the amount of the city's allocation under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2). For any week that a city transfers bonding authority to the manufacturing pool, that city shall receive a priority for allocations from the manufacturing pool up to the amount of bonding authority transferred by that city.

(b) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (3), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocation returned must be reallocated through the multifamily housing pool.

(c) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (5), may retain those allocations for issuance of mortgage bonds, residential rental project bonds,

or public facility bonds. These allocations must be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the multifamily housing pool.

Subd. 3. [HIGHER EDUCATION COORDINATING BOARD ALLOCATION.] *The higher education coordinating board shall receive an allocation from the public facilities pool of an amount up to \$20,000,000 less the sum of (1) the amount carried forward from 1986, and (2) any amount allocated to it under Minnesota Statutes 1986, section 474A.09. The higher education coordinating board shall be treated as an entitlement issuer under section 24.*

Subd. 4. [APPLICATION OF OTHER LAW.] *The provisions of sections 32, 35, 36, 37, 38, and 40 apply to the allocations made under this section.*

Sec. 42. [ALLOCATION VALIDATION.]

All allocations made under Minnesota Statutes 1986, chapter 474A, are validated and shall be governed by the provisions of sections 1 to 41.

Sec. 43. Minnesota Statutes 1986, section 462C.11, subdivision 2, is amended to read:

Subd. 2. [PROGRAM REQUIREMENTS.] Mortgage credit certificate programs adopted by the city shall comply with all of the provisions of section 25 of the Internal Revenue Code of 1954, ~~as amended through July 18, 1984~~ 1986.

Sec. 44. Minnesota Statutes 1986, section 462C.11, subdivision 3, is amended to read:

Subd. 3. [CORRECTION AMOUNTS.] Correction amounts determined by the secretary of the treasury because of the failure of a mortgage credit certificate program to comply with a federal statute or regulation shall be assessed ~~pursuant to section 462C.09, subdivision 5~~ against the amount of qualified mortgage bonds allocated by chapter 474A to the issuer which adopted the program. If no allocation exists or it is less than the correction amount determined by the secretary of the treasury, then the amount of the correction amount in excess of the allocation shall be assessed against the multifamily housing pool.

Sec. 45. [REPEALER.]

Minnesota Statutes 1986, sections 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19, are repealed.

Laws 1981, chapter 222, section 6; and chapter 223, section 6, subdivision 3, are repealed.

Sec. 46. [EFFECTIVE DATE.]

Sections 1 to 45 are effective the day following final enactment.

ARTICLE 17

COMPLIANCE

Section 1. [270.052] [AGREEMENT WITH INTERNAL REVENUE SERVICE.]

Notwithstanding sections 290.61 and 290A.17, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service, if the Internal Revenue Service agrees to identify taxpayers who have refunds due from the Internal Revenue Service and liabilities owing to the department of revenue. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department of revenue, and the department of revenue may levy against refunds to be paid by the Internal Revenue Service.

Sec. 2. Minnesota Statutes 1986, section 270.066, is amended to read:

270.066 [COMMISSIONER TO REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS.]

Notwithstanding the provisions of any other law, the commissioner of revenue may require that a form required to be filed with the commissioner include the social security number, *federal employer identification number*, or *Minnesota taxpayer identification number* of the taxpayer or applicant.

Sec. 3. Minnesota Statutes 1986, section 270.10, subdivision 1, is amended to read:

Subdivision 1. [IN WRITING; APPROVAL BY ATTORNEY GENERAL.] All orders and decisions of the commissioner of revenue, or any subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. ~~No~~ Any order or decision ~~issued after June 30, 1983,~~ increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 on real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding \$1,000, and ~~no~~ any order or decision increasing or decreasing any other tax by a sum exceeding \$1,000 exclusive of penalties and interest, ~~shall be made without~~ must bear the written signature or facsimile signature of the commissioner, ~~a deputy commissioner, assistant commissioner, division director, or acting division director in each case or the commissioner's delegate.~~ Written notice of every order granting a reduction, abatement, or refundment exceeding \$5,000 of any tax exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine ~~such~~ the order, and if proper and legal, approve ~~the same~~ it in writing. The attorney general may waive the right of appeal ~~therefrom~~ ~~in from the order~~ on behalf of the state or may appeal from the order ~~in~~ on behalf of the state as herein provided; ~~but~~. Written approval of the commissioner or a ~~deputy~~ delegate and written notice to the attorney general, shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (6); and (3) original orders for the refundment of gasoline and special fuel taxes.

Sec. 4. [270.271] [TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.]

Subdivision 1. [DATE OF DELIVERY.] When a document, including a return, claim, or statement, is required to be filed, or a payment is required

to be made to the commissioner within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by United States mail after the period or the date to the place prescribed for filing or payment, then the date of the United States postmark stamped on the cover in which the document or payment is mailed shall be considered the date of delivery or of payment, as the case may be.

Subd. 2. [MAILING REQUIREMENTS.] Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document, or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the department of revenue with which the document is required to be filed or to which payment is required to be made.

Subd. 3. [UNITED STATES POSTAL SERVICE POSTMARK.] Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. [RECEIPT DATE OTHERWISE GOVERNS.] In any case in which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

Sec. 5. [270.651] [ERRONEOUS REFUND.]

An erroneous refund shall be considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If any part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time. If the erroneous refund results from a mistake of the department, no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Sec. 6. Minnesota Statutes 1986, section 270.72, subdivision 1, is amended to read:

Subdivision 1. [TAX CLEARANCE REQUIRED.] The state or a political subdivision of the state may not issue, transfer, or renew a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing

authority unless the applicant taxpayer owes \$500 or more in delinquent taxes. A licensing authority that has received a notice from the commissioner may issue, transfer, or renew the applicant's license only if (a) the commissioner issues a tax clearance certificate and (b) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest.

Sec. 7. Minnesota Statutes 1986, section 270.72, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given.

(a) "Taxes" are limited to withholding tax as provided in section 290.92, sales and use tax as provided in chapter 297A, and motor vehicle excise tax as provided in chapter 297B. Penalties and interest are limited to penalties and interest due on taxes included in this definition all taxes payable to the commissioner including penalties and interest due on the taxes.

(b) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation or, a member of a partnership, or an individual who is liable for the delinquent taxes pursuant to section 270.10, subdivision 4, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license.

Sec. 8. Minnesota Statutes 1986, section 270.77, is amended to read:

270.77 [SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.]

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner.

There must be added to the tax an amount equal to ten 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) \$10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) \$5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax

treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. *The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.*

Sec. 9. Minnesota Statutes 1986, section 270A.07, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION REQUIREMENT.] ~~On or before December 15~~ Any claimant agency, seeking collection of a debt through set-off against a refund due ~~in the succeeding year~~, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as required by section 270A.04, subdivision 3. ~~Subject to the notification deadline specified above~~ *Where the notification is received before July 1*, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the same calendar year ~~subsequent to the year in which notification is made to the commissioner~~. *Where the notification is received on or after July 1*, the notification is effective only to begin set-off for claims against refunds that would be made in the next calendar year.

The claimant agency shall submit to the commissioner the amount of \$3 per certification. The payment must accompany the certification. The claimant agency shall increase the amount of each debt certified by \$3 and this total amount is subject to recapture. If the total debt is not recaptured by the commissioner, the \$3 addition to the debt may be collected by the claimant agency from the debtor and must be considered an obligation of the debtor. The \$3 will not be refunded if the recapture is not accomplished.

Sec. 10. Minnesota Statutes 1986, section 290.53, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY TAX.] If any tax imposed by this chapter is not paid within the time herein specified for the payment thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 290.531, there shall be added ~~thereto a specific penalty equal to ten percent of the amount so remaining unpaid to the amount required to be shown as tax a penalty of three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate~~. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is payable in installments, from the date the installment or installments become due and payable under

the provisions of section 290.45, subdivision 1) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate specified in section 270.75 from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this section shall apply.

Sec. 11. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 1a. [APPLICABILITY TO CORPORATIONS.] In the case of a corporation, the penalty under subdivision 1 does not apply when:

(1) the corporation fulfills the requirements of section 290.42, paragraph (6), relating to a seven-month extension for filing the regularly required return and the filing of a tentative return;

(2) the amount of tax, determined without regard to any prepayment of tax, shown on the tentative return, or the amount of tax paid on or before the regular due date of the return, is at least 90 percent of the amount shown on the corporation's regularly required return;

(3) any balance due shown on the regularly required return is paid on or before the due date of the return, including any extensions of time for filing; and

(4) interest on any balance due is paid at the rate specified in section 270.75 from the regular due date of the return until the tax is paid.

Sec. 12. Minnesota Statutes 1986, section 290.53, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO MAKE AND FILE RETURN.] In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, there shall be added to the tax or subtracted from the refund in lieu of the penalty provided in subdivision 1: ten percent of the amount of tax unpaid not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days with an additional five percent for of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or ten percent of the amount of the refund claimed if the failure is for more than 60 but less than 90 days (determined with regard to any extensions of time for filing), with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In addition to the penalty imposed above, in the case of a failure to file a return of tax imposed by this chapter, other than a tax return of an individual, within 60 days of the date prescribed for filing of the return (determined with regard to any extensions of time for filing), there shall be added to the tax or subtracted from the refund the addition to tax under this subdivision shall not be less than the lesser of (i) \$100 \$200 or (ii) 100 the greater of (a) 25 percent of either the amount of required to be shown as tax which is due or the amount of the refund on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

The amount so added to any tax shall be collected at the same time and

in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For the purposes of this subdivision the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Sec. 13. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2 of this section, the penalties imposed under both subdivisions combined, except for the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Sec. 14. Minnesota Statutes 1986, section 290.53, subdivision 3a, is amended to read:

Subd. 3a. [INTENTIONAL DISREGARD OF LAW OR RULES.] If any part of any underpayment resulting from an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to five ten percent of such additional assessment. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by this chapter. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 15. Minnesota Statutes 1986, section 290.53, subdivision 4, is amended to read:

Subd. 4. [FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS.] In addition to any other penalties prescribed, (a) any person required by this chapter to make a return, who knowingly fails to make it at the time required by law, is guilty of a gross misdemeanor; (b) any person who willfully makes and subscribes any return, statement, or other document knowing it to be false as to any material matter is guilty of a felony; (c) any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter is guilty of a felony; and (d) any person who willfully fails to pay the tax at the time required by law, with the intent to evade or defeat the tax, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 16. Minnesota Statutes 1986, section 290.56, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO REPORT CHANGE OR CORRECTION OF FEDERAL RETURN.] If a taxpayer ~~shall fail~~ fails to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or ~~shall fail~~ fails to file a copy of an amended return ~~within 90 days~~ as required by subdivision 2, the commissioner may, within six years ~~thereafter~~ after the report should have been filed, recompute the tax, including a ~~refundment thereof refund~~, based upon ~~such~~ information as may be available to the commissioner, notwithstanding any period of limitations to the contrary.

If a taxpayer reports the change, correction, or renegotiation, or files the amended return after the 90-day period required by subdivision 2 has expired, the time limit for the commissioner to recompute and reassess the tax due under this chapter, including making a refund, is the time limit provided in subdivision 4 determined from the date the report or amended return was filed with the commissioner.

Sec. 17. Minnesota Statutes 1986, section 290.56, subdivision 4, is amended to read:

Subd. 4. [REPORT MADE OF CHANGE OR CORRECTION OF FEDERAL RETURN.] If a taxpayer is required to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or to file an amended return as required by subdivision 2 and does report ~~such~~ the change or files a copy of ~~such~~ the amended return ~~within 90 days~~, the commissioner may recompute and reassess the tax due under this chapter, including a ~~refundment thereof refund~~ (a) within one year after ~~such~~ the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary or (b) within the period set forth in section 290.49, whichever period is greater. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any other law to the contrary.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 15, is amended to read:

Subd. 15. [PENALTIES; FAILURE TO PAY TAX.] (1) In the case of any failure to withhold a tax on wages, ~~make and file quarterly returns~~ or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, there shall be added to the tax a penalty equal to ~~ten~~ three percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional ~~five~~ three percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding 25 24 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(1a) In the case of a failure to make and file quarterly returns with the commissioner as required by this section, there shall be added to the tax

a penalty equal to three percent of the amount of tax not properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 23 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(1b) In the case of a failure to file a return of tax imposed by this chapter within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under paragraph (1a) of this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

(1c) Where penalties are imposed under paragraphs (1) and (1a) of this subdivision, except for the minimum penalty under paragraph (1b), the combined penalty percentage shall not exceed 38 percent in the aggregate.

(2) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000. The penalty imposed by this paragraph is due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to

withhold a tax on wages, file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully failing to withhold the tax, file the return, or make the payment or deposit, or (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to an employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as an officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate to an employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event the actor is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found

and filed, *or a complaint filed*, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 19. Minnesota Statutes 1986, section 290A.11, subdivision 2, is amended to read:

Subd. 2. [FRAUDULENT CLAIM; PENALTY.] In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate specified in section 270.75.

Any person who knowingly prepares, assists in preparing, or files a false or excessive claim or claims with the intent of defrauding the state of Minnesota, is guilty of an offense and may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, exceeds \$2,500; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, is more than \$300, but not more than \$2,500; or

(3) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000; or both, if the amount of the claim or claims does not exceed \$300.

Notwithstanding the provisions of section 628.26, or any other provisions of the criminal laws of this state, an indictment may be found and filed, *or a complaint filed*, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 20. Minnesota Statutes 1986, section 291.131, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY TAX.] If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to ~~ten~~ three percent of the unpaid tax shall be added to the tax *if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 24 percent in the aggregate.*

Sec. 21. Minnesota Statutes 1986, section 291.131, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO MAKE AND FILE RETURN.] In case of any failure to make and file a return within the time prescribed or an extension thereof, ~~unless it is shown that such failure is due to reasonable cause,~~ a penalty of ~~ten~~ three percent of the amount of tax not paid on or before the date prescribed for payment of the tax shall be added to the tax if the failure is for not more than 30 days with an additional five percent ~~for~~ of the amount of tax remaining unpaid during each additional 30 days or

fraction thereof during which such failure continues, not exceeding 25 23 percent in the aggregate. ~~This penalty shall be in lieu of the penalty provided in subdivision 1.~~

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Sec. 22. Minnesota Statutes 1986, section 291.131, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Sec. 23. Minnesota Statutes 1986, section 291.131, subdivision 4, is amended to read:

Subd. 4. In addition to the penalties hereinbefore described, any person who knowingly fails to file a return at the time required by this chapter shall be guilty of a misdemeanor, unless no taxes are due. Any person who willfully files a false return with intent to evade such taxes shall be guilty of a gross misdemeanor. The term "person" includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 24. Minnesota Statutes 1986, section 296.18, subdivision 7, is amended to read:

Subd. 7. [AVIATION GASOLINE TAX REFUND CLAIMS, CRIMINAL PENALTY.] In addition to the penalty prescribed in subdivision 6, any person who willfully makes a false claim for any refund provided for in subdivision 4 shall be guilty of a felony. The term "person," as used in this subdivision, includes any officer or employee of a corporation or a member or employee of a partnership who, as such officer, member, or employee, is under a duty to perform the act in respect to which the violation occurs.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper courts within six years after the commission of the offense.

Sec. 25. Minnesota Statutes 1986, section 297A.07, is amended to read:

297A.07 [REVOCATION OF PERMITS.]

Whenever any person fails to comply with any provision of sections 297A.01 to 297A.44 or any rule of the commissioner adopted under sections 297A.01 to 297A.44, the commissioner, upon hearing, after giving

the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring the person to show cause why the permit or permits should not be revoked, may for reasonable cause, revoke or suspend any one or more of the permits held by such person. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency. The commissioner shall not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the aforementioned provisions and rules. The commissioner may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by section 297A.28 as is reasonably necessary to insure compliance with the aforementioned provisions and rules.

Notwithstanding the provisions of section 297A.43, the commissioner may disclose information identifying the holder of a revoked permit and the basis for the revocation.

Sec. 26. Minnesota Statutes 1986, section 297A.151, is amended to read:

297A.151 [TAX ON LIQUOR AND BEER; DELINQUENCY.]

Subdivision 1. [POSTING, NOTICE.] Notwithstanding ~~section~~ *sections 290.61 and 297A.43*, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all ~~permit holders~~ *taxpayers* who are required to *withhold or* collect the tax imposed by ~~section~~ *sections 290.92 or 297A.02; subdivision 3*, and who are 30 days or more delinquent in either filing a ~~sales~~ tax return or paying the ~~sales~~ tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the ~~permit holder taxpayer~~ of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a ~~permit holder taxpayer~~ previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Subd. 2. [SALES PROHIBITED.] Beginning the third business day after the list is posted, no wholesaler, manufacturer, or brewer may sell or deliver any product to a ~~permit holder~~ *taxpayer* included on the posted list.

Subd. 3. [PENALTY.] A wholesaler, manufacturer, or brewer of intoxicating liquor *or nonintoxicating malt liquor* who violates subdivision 2 is subject to the penalties provided in section 340A.304.

Sec. 27. Minnesota Statutes 1986, section 297A.26, subdivision 1, is amended to read:

Subdivision 1. The taxes imposed by sections 297A.01 to 297A.44 shall be due and payable to the commissioner monthly on or before the ~~25th~~ *20th* day of the month next succeeding the month in which the taxable event occurred or succeeding such other reporting period as the commissioner may prescribe.

Sec. 28. Minnesota Statutes 1986, section 297A.27, subdivision 1, is amended to read:

Subdivision 1. Except as provided in section 297A.275, on or before the ~~25th~~ 20th day of each month in which taxes imposed by sections 297A.01 to 297A.44 are payable, a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe, verified by a written declaration that it is made under the criminal penalties for willfully making a false return, and in addition shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid. Any person making sales at retail at two or more places of business may file a consolidated return subject to such rules as the commissioner may prescribe.

Sec. 29. Minnesota Statutes 1986, section 297A.275, is amended to read:

297A.275 [ACCELERATED PAYMENT OF JUNE LIABILITY.]

Every vendor having a liability of \$1,500 or more in May ~~1982~~ 1988 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June ~~25~~ 20, ~~1982~~ 1988, or June ~~25~~ 20 of each subsequent year, the vendor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August ~~25~~ 20, ~~1982~~ 1988, or August ~~25~~ 20 of each subsequent year, the vendor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 30. Minnesota Statutes 1986, section 297A.39, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY.] If any tax imposed by sections 297A.01 to 297A.44, or any portion thereof, is not paid within the time herein specified for the payment, or an extension thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 297A.391, there shall be added thereto a ~~specific~~ penalty equal to ~~ten~~ *three* percent of the amount remaining unpaid *if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.*

Sec. 31. Minnesota Statutes 1986, section 297A.39, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO FILE RETURNS.] In case of any failure to make and file a return within the time prescribed by sections 297A.01 to 297A.44 or an extension thereof, there shall be added to the tax ~~in lieu of the ten percent specific penalty provided in subdivision 1~~ *ten three* percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding ~~25~~

23 percent in the aggregate. ~~If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed.~~ The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Sec. 32. Minnesota Statutes 1986, section 297A.39, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Sec. 33. Minnesota Statutes 1986, section 297A.39, subdivision 4, is amended to read:

Subd. 4. [PENALTIES; FAILURE TO FILE OR PAY.] In addition to any other penalties prescribed, any person who willfully fails to make a return or willfully makes a false return or willfully fails to pay over taxes imposed by this chapter collected for or on behalf of the state, or attempts in any manner to evade or defeat the taxes imposed by this chapter is guilty of a gross misdemeanor unless the amount of the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 34. Minnesota Statutes 1986, section 297B.10, is amended to read:
297B.10 [PENALTIES.]

(1) Any person, including persons other than the purchaser, who prepares, completes or submits a false or fraudulent motor vehicle purchaser's certificate with intent to defeat or evade the tax imposed under this chapter or any purchaser who fails to complete or submit a motor vehicle purchaser's certificate with intent to defeat or evade the tax or who attempts to defeat or evade the tax in any manner, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act with respect to which the violation occurs. Notwithstanding the provisions of

section 628.26 or any other provision of the criminal laws of this state, an indictment may be found and filed, *or a complaint filed*, upon any criminal offense specified in this section, in the proper court within six years after the commission of the offense.

(2) Any person who violates any of the provisions of this chapter, unless the violation be of the type referred to in clause (1), is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days, or both.

Sec. 35. Minnesota Statutes 1986, section 297D.02, is amended to read:
297D.02 [ADMINISTRATION.]

The commissioner of revenue shall administer this chapter. Payments required by this chapter must be made to the commissioner on the form provided by the commissioner. *Dealers are not required to give their name, address, social security number, or other identifying information on the form.* The commissioner shall collect all taxes under this chapter.

Sec. 36. Minnesota Statutes 1986, section 297D.07, is amended to read:
297D.07 [MEASUREMENT.]

For the purpose of calculating the tax under section 297D.08, ~~an ounce~~ *a gram* of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession. *The weight of the marijuana or controlled substance includes all material, compound, mixture, or preparation that is added to the marijuana or controlled substance.*

Sec. 37. Minnesota Statutes 1986, section 297D.09, is amended to read:
297D.09 [~~FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX PENALTIES; CRIMINAL PROVISIONS.~~]

Subdivision 1. [PENALTIES.] Any dealer violating this chapter is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 297D.08. *The penalty will be collected as part of the tax.*

Subd. 1a. [CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.] In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. [STATUTE OF LIMITATIONS.] Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, *or a complaint filed*, upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

Sec. 38. Minnesota Statutes 1986, section 297D.10, is amended to read:
297D.10 [STAMP PRICE.]

Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the ~~department commissioner~~. The purchaser shall pay 100 percent of face value for each stamp,

label, or other indicia at the time of the purchase. ~~The department shall make the stamps, labels, or other indicia in denominations in multiples of ten dollars.~~

Sec. 39. Minnesota Statutes 1986, section 297D.12, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENT PROCEDURE.] An assessment for a dealer not possessing *valid* stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax *and applicable penalties* based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax *and penalty*; demand its immediate payment; and, if payment is not immediately made, collect the tax *and penalty* by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. ~~Section 270.70, subdivision 4, paragraph (a), does not apply to this chapter.~~

Sec. 40. Minnesota Statutes 1986, section 297D.13, is amended to read:

297D.13 [CONFIDENTIAL NATURE OF INFORMATION.]

Subdivision 1. [DISCLOSURE PROHIBITED.] Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a report or return required by this chapter, or any information obtained from a dealer; nor can any information contained in such a report or return or obtained from a dealer be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer dealer making the return.

Subd. 2. [PENALTY FOR DISCLOSURE.] Any person violating this section is guilty of a gross misdemeanor.

Subd. 3. [STATISTICS.] This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

Sec. 41. [INSTRUCTIONS TO REVISOR.]

The revisor of statutes shall renumber section 297A.151 of Minnesota Statutes as section 270.73. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

The revisor of statutes shall renumber section 290.53, subdivision 3, of Minnesota Statutes as section 290.53, subdivision 3a; and section 290.53, subdivision 3a, of Minnesota Statutes as section 290.53, subdivision 3. The revisor shall correct any internal references or cross references accordingly.

Sec. 42. [REPEALER.]

(a) Minnesota Statutes 1986, section 270.75, subdivision 8 is repealed.

(b) Minnesota Statutes 1986, section 297A.26, subdivision 3, is repealed.

Sec. 43. [EFFECTIVE DATE.]

Sections 1 to 3, 5 to 7, 15 to 17, 19, 23, 24, 26, 33 to 36, 39, 40,

subdivision 1, and 41, are effective the day after final enactment. Section 4 is effective for returns or payments due after December 31, 1987. Section 8 is effective for returns filed after June 30, 1987. Section 9 is effective for notifications received after June 30, 1987. Sections 10, 13, and 14 are effective for taxable years beginning after December 31, 1986. Section 11 is effective for taxable years beginning after December 31, 1985. Section 12 is effective for taxable years beginning after December 31, 1986, except the language in the first and second paragraphs relating to penalties where the return is filed more than 60 days late is effective as follows: the stricken language in the first paragraph relating to delinquent filed refund returns is effective the day following final enactment, and the amendments to the second paragraph are effective for taxable years beginning after December 31, 1985. Section 18 is effective for returns and payments becoming due after December 31, 1987, except that clause (12) is effective the day after final enactment. Sections 20 to 22 are effective for estates of decedents dying after June 30, 1987. Section 25 is effective for revocations occurring after the day of final enactment. Sections 27 to 32 and 42, paragraph (b), are effective for taxes and returns becoming due after December 31, 1987. Sections 37, 38, 40, subdivision 2, and 42, paragraph (a), are effective July 1, 1987.

ARTICLE 18

BUDGET AND CASH FLOW RESERVE

Section 1. Minnesota Statutes 1986, section 16A.15, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION.] (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget and cash flow reserve account established in subdivision 6 as needed to balance expenditures with revenue. ~~An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing allotments.~~

(b) ~~An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.~~

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

~~(e)~~ (d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

~~(d)~~ (e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Sec. 2. Minnesota Statutes 1986, section 16A.15, subdivision 6, is amended to read:

Subd. 6. [BUDGET AND CASH FLOW RESERVE ACCOUNT.] A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. *The commissioner of finance on July 1, 1987, shall transfer to the budget and cash flow reserve account the amount necessary to bring the total amount, including any existing balance in the account on June 30, 1987, to \$250,000,000. The amounts restricted shall remain in the account until drawn down under subdivision 1.*

Sec. 3. Minnesota Statutes 1986, section 16A.1541, is amended to read:

16A.1541 [ADDITIONAL REVENUES; PRIORITY.]

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money in the following order of priority:

(1) ~~pay the refund of occupation taxes under Laws 1985, First Special Session chapter 14, article 18, section 7;~~

(2) ~~reduce property tax levy recognition percent under section 121.904, subdivision 4c; and~~

(3) ~~increase the school aids payment current year percentage under section 121.904, subdivision 4d the amount necessary to reduce the property tax levy recognition percent under section 121.904, subdivision 4c, to 24 percent;~~

(2) ~~the remainder (i) one-half to the greater Minnesota fund, but not to exceed \$120,000,000 and (ii) one-half to the budget and cash flow reserve account until the total amount in the account equals \$550,000,000.~~

The amounts necessary to meet the requirements of clauses (1); ~~and (2); and (3)~~ are appropriated from the general fund.

Sec. 4. Minnesota Statutes 1986, section 16A.275, is amended to read:

16A.275 [DAILY RECEIPTS DEPOSITED.]

Except as otherwise provided by law, an agency shall deposit receipts totaling \$250 or more in the state treasury daily. The depositing agency shall send a report to the commissioner on the disposition of receipts since the last report. The commissioner shall credit the deposits received during a month to the proper funds not later than the first day of the next month.

Notwithstanding the general rule stated above, the commissioner of revenue is not required to make daily deposits if (1) the volume of tax receipts cannot be processed daily with available resources, or (2) receipts cannot be immediately identified for posting to accounts.

Sec. 5. [REVENUE SHORTFALL; CONTINGENT TAX INCREASE]

(a) *The commissioner of finance shall prepare a forecast of state revenues and expenditures in November, 1988. If the forecast indicates that general fund receipts will be less than originally estimated and*

(1) if the amount of the budget and cash flow reserve account is estimated to be less than \$150,000,000 at the end of the 1988-1989 biennium, then each of the income tax rates applicable to individuals, trusts, and estates under Minnesota Statutes, section 290.06, subdivisions 2c, must be increased by 0.25 of a percentage point and the corporate franchise tax rate applicable to corporations under Minnesota Statutes, section 290.06, subdivision 1, must be increased by 0.4 of a percentage point; or

(2) if the amount of the budget and cash flow reserve account is estimated to be less than \$50,000,000 at the end of the 1988-1989 biennium, each of the income tax rates applicable to individuals, trusts, and estates under Minnesota Statutes, section 290.06, subdivision 2c, must be increased by 0.5 of a percentage point, and the corporate franchise tax rate applicable to corporations under Minnesota Statutes, section 290.06, subdivision 1, must be increased by 0.8 of a percentage point.

The resulting rates apply to taxable years beginning after December 31, 1987. The commissioner of finance shall notify the revisor of statutes of the increased rates and the revisor shall publish the revised rates in the next edition of the Minnesota Statutes.

The commissioner of finance shall notify the commissioner of revenue of the increased rates. The commissioner of revenue shall prepare forms for taxable years beginning after December 31, 1987 based on the contingent tax rates and shall prepare and distribute new withholding tables for payroll periods beginning after December 31, 1988.

(b) For taxable years beginning during calendar year 1988, no penalties or interest may be imposed on underpayments of estimated tax that result from an increase in tax rates imposed under this section.

Sec. 6. [REPEALER.]

Laws 1986, First Special Session chapter 1, article 5, section 8, is repealed.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective July 1, 1987.

ARTICLE 19

MISCELLANEOUS

Section 1. Minnesota Statutes 1986, section 16A.48, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE.] A verified claim may be submitted to the concerned agency head for refund of money in the treasury to which the state is not entitled. The claimant must submit with the claim a complete statement of facts and reasons for the refund. The agency head shall consider and approve or disapprove the claim, attach a statement of reasons, and forward the claim to the commissioner for settlement. *No claim may be approved unless the agency head first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoff or recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoff or recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.*

Sec. 2. [APPROPRIATION; OCCUPATION TAX REFUNDS;

PROCEDURE.]

The provisions of Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, shall be controlling with respect to appropriations for the payment of the occupation tax refunds referenced therein, notwithstanding anything to the contrary in Minnesota Statutes, section 16A.48, subdivision 2. Provided, however, that no occupation tax refund referred to in Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, shall be appropriated or paid unless the commissioner of revenue first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoff or recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoff or recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.

Sec. 3. [BECKER COUNTY LAND CONVEYANCE.]

Notwithstanding Minnesota Statutes, section 92.45, or any other law, the commissioner of revenue shall convey to Duane and Gloria Fuchs, Glyndon, Minnesota, the state's interest in the land in Becker county described as Lot 2, Township 138n, 43 West Dahlgren Beach, which became forfeited for unpaid property taxes in 1984. The attorney general shall prepare appropriate instruments of conveyance with a precise description of all land subject to this section. The price for the land shall be the same as that provided for a redemption under Minnesota Statutes, section 281.02.

Sec. 4. [DAKOTA COUNTY BONDING AUTHORIZATION; REPEALER.]

If a bill styled as House File No. 919 is enacted in the 1987 session of the legislature, and the bill provides bonding authorization for Dakota county, the provisions of the bill that provide that authority are repealed, notwithstanding any other law to the contrary.

Sec. 5. [APPROPRIATION.]

Subdivision 1. There is appropriated from the general fund to the commissioner of revenue the following amounts for administration of this act.

	1987	1988	1989
Revenue	\$58,000	\$269,000	\$303,000

Of these amounts, \$58,000 in fiscal year 1987; \$269,000 in fiscal year 1988; and \$224,000 in fiscal year 1989, are to be used for the taxpayer services program and \$79,000 in fiscal year 1989 is to be used for the revenue operations program, provided that in each of fiscal years 1988 and 1987, up to \$37,500 may be reduced from the amounts otherwise provided to be used for the taxpayer services program and used for development and maintenance of a comprehensive property tax data base in the department of revenue, which may be expended only at the direction of the chair of the tax committee of the House of Representatives and the chair of the committee on taxes and tax laws of the Senate. The

department's complement is increased by four as of July 1, 1987, to be assigned to the taxpayer services program.

Subd. 2. \$3,900,000 is appropriated to the commissioner of revenue from the general fund for the biennium ending June 30, 1989. This money is to be used by the commissioner to provide grants and other assistance to counties for the purpose of developing, upgrading, and maintaining county property tax administrative data collection and processing systems.

Subd. 3. \$30,000 is appropriated to the commissioner of revenue to be used to update and improve the income tax sample used by the department of revenue for research purposes.

Subd. 4. \$100,000 is appropriated to the commissioner of revenue from the general fund for the biennium ending June 30, 1989. This amount is to be used by the commissioner to reimburse the cost for the average expenses incurred in obtaining the senior accreditation of each county assessor and of the department of revenue's senior appraisers and regional representatives.

Sec. 6. [EFFECTIVE DATE.]

Section 1 is effective the day after final enactment and shall govern the disposition of any claim for a tax refund unpaid as of that date."

Delete the title and insert:

"A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the methods of administering, collecting, and enforcing taxes; changing the computation, administration, and payment of aids, credits, and refunds; imposing taxes; limiting taxing powers; transferring governmental powers and duties; allocating bonding authority; making entitlement allocations to the cities of Minneapolis and St. Paul; repealing income tax rules; providing for the conveyance of land in Becker county; making technical corrections and clarifications; imposing and increasing fees, interest, and penalties; appropriating money; amending Minnesota Statutes 1986, sections 10A.31, subdivisions 1 and 2; 16A.15, subdivisions 1 and 6; 16A.1541; 16A.26; 16A.275; 16A.48, subdivision 1; 60A.15, subdivision 1; 60A.199, subdivisions 1, 2, 3, 5, 7, 8, 9, 10, and 11; 60A.209, subdivisions 1 and 3; 60C.06, by adding a subdivision; 61B.02, subdivision 1; 61B.03, subdivisions 8 and 10; 62E.02, subdivision 23; 67A.11, subdivision 3; 69.011, subdivisions 1 and 2; 69.021, subdivisions 1, 2, and 3; 69.54; 69.55; 79.34, subdivision 1, and by adding a subdivision; 88.49, by adding a subdivision; 116C.63, subdivision 4; 121.904, subdivisions 11a and 11b; 124.155, subdivision 2; 124.195, subdivision 2; 124.2131, subdivisions 1, 2, 3, 5, 6, 7, 8, and 11; 124.2139; 124.38, subdivision 8; 124A.02, subdivisions 3a, 8, and 11; 124A.035, subdivision 5; 124A.08, subdivision 5; 134.33, subdivision 1; 134.34, subdivisions 1 and 2; 176.129, subdivision 4a; 176A.08; 239.10; 270.066; 270.071, by adding a subdivision; 270.074, subdivision 3; 270.075, subdivision 1; 270.10, subdivisions 1 and 4; 270.11, subdivisions 1 and 2; 270.12, subdivisions 2 and 3; 270.13; 270.72, subdivisions 1 and 2; 270.77; 270.80, subdivision 2; 270.87; 270A.07, subdivision 1; 271.21, subdivision 2; 272.01, subdivisions 2 and 3; 272.02, subdivisions 1 and 1a; 272.115, subdivisions 2 and 4; 273.061, subdivisions 1, 8, and 9; 273.065; 273.11, subdivision 8, and by adding a subdivision; 273.1102; 273.1103; 273.1104, subdivision 1; 273.12; 273.123, subdivisions 1, 4, 5, and 7; 273.124, subdivisions 7,

8, 11, and 13; 273.13, subdivisions 15a, 22, 23, 24, 25, and 31; 273.1313, subdivisions 1, 2, and 3; 273.1314, subdivisions 9, 10, and by adding subdivisions; 273.133, subdivision 3; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1392; 273.1393; 273.165, subdivision 2; 273.19, subdivisions 1, 3, 4, and by adding a subdivision; 273.33, subdivision 2; 273.37, subdivision 2; 273.38; 273.42, subdivision 2; 274.01, subdivision 1; 274.14; 274.16; 275.07, subdivision 1; 275.125, subdivisions 9, 9b, 15, and by adding a subdivision; 275.50, subdivision 2; 275.51, subdivisions 3h and 3i; 276.04; 276.11; 277.01; 278.05, subdivision 4; 279.01, subdivision 1; 279.06; 281.17; 282.014; 282.02; 282.241; 282.33, subdivision 1; 287.05, subdivision 1; 287.09; 287.10; 287.12; 287.21, subdivision 1; 287.22; 290.01, subdivisions 3, 4, 5, 7, 19, 20, 22, and by adding subdivisions; 290.02; 290.03; 290.032, subdivisions 1 and 2; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 2c, 2d, and by adding subdivisions; 290.067, subdivisions 1, 2, and by adding subdivisions; 290.068, subdivisions 1, 2, 3, 4, 5, and 6; 290.069, subdivisions 2a and 4b; 290.077, subdivision 1; 290.081; 290.091, subdivisions 1, 2, 3, 4, and 5; 290.095, subdivisions 1, 2, 3, 4, 7, 9, and 11; 290.10; 290.12, subdivision 2; 290.131, subdivision 1; 290.132, subdivision 1; 290.133, subdivision 1; 290.134, subdivision 1; 290.135, subdivision 1; 290.136, subdivision 1; 290.138, subdivision 3; 290.14; 290.17; 290.171; 290.20, subdivision 1, and by adding a subdivision; 290.21, subdivisions 3, 4, and 8; 290.23, subdivisions 3 and 5; 290.31, subdivisions 2, 3, 5, and by adding a subdivision; 290.34, subdivision 2; 290.35; 290.36; 290.37, subdivisions 1 and 3; 290.38; 290.39, subdivision 3; 290.41, subdivisions 2 and 3; 290.42; 290.45, subdivisions 1 and 2; 290.46; 290.48, subdivision 10; 290.491; 290.50, subdivision 1; 290.53, subdivisions 1, 2, 3a, 4, and by adding subdivisions; 290.56, subdivisions 2, 3, and 4; 290.92, subdivisions 2a, 4a, 5, 5a, 6, 7, 9, 11, 12, 13, 14, 15, 18, 24, and 25; 290.93, subdivision 10; 290.934, subdivision 2; 290.9725; 290.9726, subdivisions 1, 2, and 4; 290.974; 290A.03, subdivisions 3, 8, 13, 14, and by adding a subdivision; 290A.04, subdivision 2, and by adding subdivisions; 290A.06; 290A.011, subdivision 2; 290A.18; 290A.19; 291.131, subdivisions 1, 2, 4, and by adding a subdivision; 295.01, subdivision 10; 295.32; 295.34, subdivision 1; 295.365; 295.366, by adding a subdivision; 295.39; 295.40; 295.41; 295.43; 296.02, by adding subdivisions; 296.025, by adding subdivisions; 296.17, subdivisions 3, 7, and 11; 296.18, subdivision 7; 297.01, subdivisions 2, 4, 7, 10, and 14; 297.02, subdivisions 1 and 6; 297.03, subdivisions 1, 5, and 6; 297.04, subdivisions 4, 6, and 9; 297.07, subdivisions 1, 3, 4, and 5; 297.11, subdivisions 3 and 5; 297.13, subdivision 1; 297.23, subdivision 1; 297.26; 297.31, subdivisions 2, 3, and 7; 297.32, subdivisions 1, 2, and 8; 297.33, subdivisions 4 and 5; 297.35, subdivisions 1, 3, 5, and 8; 297.36; 297A.01, subdivisions 3, 4, 8, 11, 15, and by adding a subdivision; 297A.07; 297A.14; 297A.151; 297A.18; 297A.211, subdivision 2, and by adding a subdivision; 297A.25, subdivisions 3, 7, 11, 12, and by adding subdivisions; 297A.256; 297A.257, subdivisions 1, 2, 2a, and by adding a subdivision; 297A.26, subdivision 1, and by adding a subdivision; 297A.27, subdivision 1; 297A.275; 297A.39, subdivisions 1, 2, 4, and by adding a subdivision; 297A.43; 297B.03; 297B.031; 297B.10; 297C.02, subdivisions 1 and 2; 297C.03, subdivision 1, and by adding a subdivision; 297C.04; 297C.05, subdivision 2; 297C.06; 297C.09; 297D.02; 297D.07; 297D.09; 297D.10; 297D.12, subdivision 1; 297D.13; 298.01, subdivision 1, and by adding subdivisions; 298.026; 298.027; 298.028, subdivision 1; 298.03, subdivision 1; 298.031, subdivision 2; 298.08; 298.09, subdivision 1; 298.24, subdivision 1; 298.25; 298.28, subdivisions 4, 7, 10, and by adding a subdivision; 299F21, subdivisions 1, 2, and by adding subdivisions; 325D.30; 325D.32, subdivisions 4, 10, and 11; 325D.33, subdivisions 1, 2, and by adding subdivisions; 325D.35; 325D.38, subdivision 1;

325D.40, subdivision 1; 325F665, subdivision 3; 349.212, subdivisions 1, 4, and by adding a subdivision; 349.2121, subdivisions 4, 6, 7, and by adding subdivisions; 360.531, subdivision 2; 360.654; 462C.11, subdivisions 2 and 3; 473.446, subdivision 1; 473F02, subdivisions 4, 12, and 17; 474A.02, subdivisions 1, 2, 3, 6, 7, 8, 12, 14, 16, 18, 19, 21, 26, and by adding subdivisions; 474A.03, subdivision 1, and by adding a subdivision; 474A.04, subdivisions 5, 6, and by adding a subdivision; 474A.13, subdivisions 1, 4, and 5; 474A.14; 474A.15; 474A.16; 474A.17; 474A.18; 474A.20; 474A.21; 475.53, subdivision 4; 475.61, subdivision 3; 477A.012, subdivision 1; 477A.013; Laws 1985, First Special Session chapter 14, article 3, section 18; proposing coding for new law in Minnesota Statutes, chapters 239; 270; 271; 272; 273; 275; 276; 290; 290A; 297; 297A; 297C; 298; 349; and 474A; repealing Minnesota Statutes 1986, sections 13.58; 60A.15, subdivision 2; 61A.49; 62E.11, subdivision 8; 62E.13, subdivision 9; 69.021, subdivision 3a; 124.2131, subdivision 4; 124.2137; 124.2139; 124.38, subdivision 10; 124A.031, subdivision 4; 270.75, subdivision 8; 270.89; 273.112, subdivision 9; 273.115; 273.116; 273.13, subdivisions 26, 27, 28, and 29; 273.1311; 273.1315; 273.135, subdivision 5; 273.1391, subdivision 4; 282.021; 287.02; 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.082; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.17, subdivision 1a; 290.175; 290.18; 290.19; 290.21, subdivisions 5 and 6; 290.26, subdivision 2; 290.361; 290.531; 290.9726, subdivisions 3, 5, and 6; 290A.04, subdivisions 2e and 2g; 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 295.32; 295.33; 295.34; 295.36; 295.365; 295.366; 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.22; 296.28; 297.07, subdivision 6; 297.23, subdivision 5; 297.35, subdivisions 4, 6, and 7; 297A.25, subdivision 13; 297A.254; 297A.26, subdivision 3; 297A.391; 297C.03, subdivisions 2 and 3; 297C.05, subdivision 4; 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; 298.04; 298.28, subdivision 14; 298.40; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; 298.67; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; 299.14; 325D.32, subdivision 12; 325D.41; 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19; Laws 1981, chapters 222, section 6; 223, section 6, subdivision 3; Laws 1985, First Special Session chapter 14, article 14, section 3; Laws 1986, chapter 391, section 3; Laws 1986, First Special Session chapter 1, article 5, section 8."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Gordon O. Voss, Dee Long, Lona A. Minne, Fred C. Norton, Robert E. Vanasek

Senate Conferees: (Signed) Douglas J. Johnson, LeRoy A. Stumpf, Steven G. Novak, John E. Brandl, Lawrence J. Pogemiller

Mr. Johnson, D.J. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 529 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 529 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Diessner	Lessard	Peterson, R.W.	Spear
Berglin	Frederickson, D.J.	Luther	Piper	Stumpf
Brandl	Freeman	Merriam	Pogemiller	Wegscheid
Chmielewski	Hughes	Moe, D.M.	Purfeerst	Willet
Cohen	Johnson, D.J.	Moe, R.D.	Reichgott	
Davis	Kroening	Novak	Samuelson	
DeCramer	Langseth	Pehler	Schmitz	
Dicklich	Lantry	Peterson, D.C.	Solon	

Those who voted in the negative were:

Anderson	Bertram	Gustafson	Larson	Olson
Beckman	Brataas	Johnson, D.E.	Marty	Ramstad
Belanger	Dahl	Jude	McQuaid	Renneke
Benson	Frank	Knaak	Mehrkins	Storm
Berg	Frederick	Knutson	Metzen	Taylor
Bernhagen	Frederickson, D.R.	Laidig	Morse	Vickerman

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

RECESS

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

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Jude moved that the following members be excused for a Conference Committee on H.F. No. 391 from 9:30 to 9:45 a.m. and from 10:30 to 11:45 a.m.

Messrs. Jude, Spear and Ms. Peterson, D.C. The motion prevailed.

APPOINTMENTS

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

S.F. No. 841: Messrs. Novak, Merriam and Willet.

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

MOTIONS AND RESOLUTIONS - CONTINUED

RECONSIDERATION

Ms. Piper moved that the vote whereby H.F. No. 1210 was passed by the Senate on May 18, 1987, be now reconsidered. The motion prevailed.

H.F. No. 1210: A bill for an act relating to human services; regulating the licensure of programs for the care of children or of adults with certain disabilities; providing penalties; replacing the existing licensure law; amending Minnesota Statutes 1986, sections 256D.01, by adding a subdivision; and 256D.37, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1986, sections 245.781; 245.782; 245.783; 245.791; 245.792; 245.801; 245.802; 245.803; 245.804; 245.805; 245.811; 245.812; 245.88; 245.881; 245.882; 245.883; 245.884; and 245.885.

Ms. Piper moved that the amendment made to H.F. No. 1210 by the Committee on Rules and Administration in the report adopted May 15, 1987, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1210 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 830 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 830

A bill for an act relating to commerce; regulating nonrenewals and transfers of franchises; providing civil liability for unfair practices in relation to franchises; amending Minnesota Statutes 1986, sections 80C.14; and 80C.17, subdivision 1.

May 16, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 830, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 830 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 80C.14, is amended to read:

80C.14 [UNFAIR PRACTICES.]

Subdivision 1. [PROHIBITION.] No person, whether by means of a term or condition of a franchise or otherwise, shall engage in any unfair or inequitable practice in contravention of such rules as the commissioner may adopt defining as to franchises the words "unfair and inequitable." For the purpose of rules defining the words "unfair and inequitable", the commissioner may specifically recognize classifications of franchises including but not limited to the classifications of motor vehicle fuel franchises, motor vehicle franchises, hardware franchises, and franchises which require that the franchisee make an initial, unfinanced investment in excess of \$200,000. ~~Any~~ A violation of this section is enjoined by a court of competent jurisdiction.

A temporary injunction may be granted under this section without requiring the posting of any bond or security. A bond or security ~~shall be~~ is required if a temporary restraining order is granted.

Subd. 2. [ACTS CONSTITUTING.] All franchise contracts or agreements, other than those classifications of franchises specifically recognized by the commissioner pursuant to under subdivision 1, and any other device or practice of a franchisor ~~shall~~ must conform to the following provisions subdivisions 3 and 4. It ~~shall be deemed is~~ an unfair and inequitable practice for ~~any~~ a person to: *commit an act specified in subdivisions 3 to 5.*

Subd. 3. [TERMINATION OR CANCELLATION.] ~~(a) terminate or cancel a franchise without first giving written notice setting forth all the reasons for the termination or cancellation to the franchisee at least 60 days in advance of termination or cancellation; except that the notice shall be effective immediately upon receipt where the alleged grounds are: No person may terminate or cancel a franchise unless: (i) that person has given written notice setting forth all the reasons for the termination or cancellation at least 90 days in advance of termination or cancellation, and (ii) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice; except that the notice is effective immediately upon receipt where the alleged grounds for termination or cancellation are:~~

(1) voluntary abandonment of the franchise relationship by the franchisee;

(2) the conviction of the franchisee of an offense directly related to the business conducted pursuant to the franchise; or

(3) failure to cure a default under the franchise agreement which materially impairs the goodwill associated with the franchisor's trade name, trademark, service mark, logotype or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof;

~~(b) No person may terminate or cancel a franchise except for good cause. "Good cause" shall be means failure by the franchisee to substantially to comply with the material and reasonable franchise requirements imposed by the franchise franchisor including, but not limited to:~~

(1) the bankruptcy or insolvency of the franchisee;

(2) assignment for the benefit of creditors or similar disposition of the assets of the franchise business;

(3) voluntary abandonment of the franchise business;

(4) conviction or a plea of guilty or no contest to a charge of violating any law relating to the franchise business; or

(5) any act by or conduct of the franchisee which materially impairs the goodwill associated with the franchisor's trademark, trade name, service mark, logotype or other commercial symbol; or.

~~(c) fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least 90 days in advance thereof and has been given a sufficient opportunity to recover the franchisee's investment unless the failure to renew is for good cause as defined in clause (b).~~

Subd. 4. [FAILURE TO RENEW.] Unless the failure to renew a franchise is for good cause as defined in subdivision 3, paragraph (b), and the franchisee has failed to correct reasons for termination as required by subdivision 3, no person may fail to renew a franchise unless (1) the franchisee has been given written notice of the intention not to renew at least 180 days in advance of the expiration of the franchise; and (2) the franchisee has been given an opportunity to operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern, as determined and measured from the date of the failure to renew. No franchisor may refuse to renew a franchise if the refusal is for the purpose of converting the franchisee's business premises to an operation that will be owned by the franchisor for its own account.

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

Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to commerce; regulating terminations, cancellations, failures to renew, and transfers of franchises; amending Minnesota Statutes 1986, section 80C.14."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) James C. Pehler, William P. Luther, David J. Frederickson

House Conferees: (Signed) Dave Gruenes, Randy C. Kelly, Terry Dempsey

Mr. Pehler moved that the foregoing recommendations and Conference Committee Report on S.F. No. 830 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 830 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

Conference Committee.

The roll was called, and there were yeas 38 and nays 19, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Jude	Moe, R.D.	Samuelson
Beckman	Dicklich	Kroening	Morse	Spear
Berglin	Diessner	Laidig	Novak	Stumpf
Bertram	Frank	Langseth	Pehler	Vickerman
Brandl	Frederickson, D.J.	Lantry	Peterson, D.C.	Waldorf
Chmielewski	Frederickson, D.R.	Marty	Piper	Willet
Dahl	Hughes	Metzen	Pogemiller	
Davis	Johnson, D.J.	Moe, D.M.	Purfeerst	

Those who voted in the negative were:

Anderson	Brataas	Larson	Olson	Renneke
Belanger	Cohen	McQuaid	Peterson, R.W.	Storm
Benson	Johnson, D.E.	Mehrkens	Ramstad	Wegscheid
Bernhagen	Knutson	Merriam	Reichgott	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 80 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 80

A bill for an act relating to insurance; providing flexibility in the amount of coverages other than for the dwelling under a homeowner's policy; proposing coding for new law in Minnesota Statutes, chapter 65A.

May 17, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 80, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 80 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [65A.295] [HOMEOWNER'S INSURANCE COVERAGE.]

(a) Every insurer writing homeowner's insurance in this state shall make available at least one form of homeowner's policy for each level of peril coverage offered by the insurer in which the insured has the option to specify the dollar amount of coverage provided for structures other than the dwelling and for personal property. The premium must be reduced to reflect the reduced risk of lesser coverage.

(b) A written notice must be provided to all applicants for homeowner's insurance at the time of application informing them of the options provided in paragraph (a).

(c) Coverage for structures other than the dwelling is the coverage

provided under "Coverage B, Other Structures" in the standard homeowner's policy. Coverage for personal property is the coverage provided under "Coverage C, Personal Property" in the standard homeowner's package policy.

(d) "Level of peril" refers to basic, broad, and all risk levels of coverage.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1988."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Gene Waldorf, Carl W. Kroening, Cal Larson

House Conferees: (Signed) Peter McLaughlin, Joseph Quinn, Bob Milbert

Mr. Waldorf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 80 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 80 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Berglin moved that S.F. No. 593 be taken from the table. The motion prevailed.

S.F. No. 593: A bill for an act relating to human services; clarifying statutes relating to the preadmission screening program; amending Minnesota Statutes 1986, section 256B.091, subdivisions 2, 3, 4, 6, and 8.

CONCURRENCE AND REPASSAGE

Ms. Berglin moved that the Senate concur in the amendments by the House to S.F. No. 593 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 593: A bill for an act relating to human services; clarifying statutes relating to the preadmission screening program; clarifying chemical dependency consolidated fund administration procedures; amending Min-

nesota Statutes 1986, sections 246.51; 246.511; 254B.01, subdivision 5; 254B.02, subdivisions 1, 2, 3, and 5; 254B.03, subdivisions 1, 2, 3, 4, and 5; 254B.04; 254B.05; 254B.06, subdivision 1; 254B.08; 254B.09, subdivisions 3, 5, and 7; and 256B.091, subdivisions 2, 3, 4, 6, and 8; repealing Minnesota Statutes 1986, section 256.968.

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

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knutson	Morse	Spear
Anderson	Davis	Kroening	Novak	Siorm
Beckman	DeCramer	Laidig	Olson	Stumpf
Belanger	Dicklich	Langseth	Pehler	Taylor
Benson	Diessner	Lantry	Peterson, D.C.	Vickerman
Berglin	Frank	Larson	Peterson, R.W.	Waldorf
Bernhagen	Frederickson, D.J.	Marty	Piper	Wegscheid
Bertram	Frederickson, D.R.	McQuaid	Purfeerst	Willet
Brandl	Gustafson	Mehrrens	Ramstad	
Brataas	Hughes	Merriam	Reichgott	
Chmielewski	Jude	Metzen	Renneke	
Cohen	Knaak	Moe, R.D.	Samuelson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Frederickson, D.J. moved that H.F. No. 777 be taken from the table. The motion prevailed.

H.F. No. 777: A bill for an act relating to motor fuels; trade practices; extending the expiration of the ethanol development fund to the year 2000; prohibiting "no ethanol" signs; appropriating money for promoting ethanol; amending Minnesota Statutes 1986, sections 41A.09, subdivisions 3 and 5; and 325E.09, subdivision 4.

SUSPENSION OF RULES

Mr. Frederickson, D.J. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 777 and that the rules of the Senate be so far suspended as to give H.F. No. 777 its second and third reading and place it on its final passage.

CALL OF THE SENATE

Mr. Frederickson D.J. imposed a call of the Senate for the balance of the proceedings on H.F. No. 777. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the motion of Mr. Frederickson D.J.

The roll was called, and there were yeas 56 and nays 5, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Belanger	Knaak	Knutson	Ramstad	Storm
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The motion prevailed.

H.F. No. 777 was read the second time.

Mr. Ramstad moved to amend H.F. No. 777 as follows:

Pages 2 and 3, delete section 3

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after the first semicolon

Page 1, line 5, delete "sections" and insert "section"

Page 1, line 6, delete "; and 325E.09, subdivision 4"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 36 and nays 25, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knaak	Moe, D.M.	Samuelson
Belanger	Diessner	Knutson	Morse	Spear
Benson	Frank	Laidig	Novak	Storm
Berg	Frederickson, D.R.	Lantry	Olson	Stumpf
Bernhagen	Freeman	Larson	Pehler	
Bertram	Gustafson	McQuaid	Peterson, R.W.	
Brandl	Hughes	Mehrkens	Ramstad	
Brataas	Jude	Merriam	Reichgott	

Those who voted in the negative were:

Anderson	DeCramer	Luther	Piper	Taylor
Beckman	Frederickson, D.J.	Marty	Pogemiller	Vickerman
Berglin	Johnson, D.E.	Metzen	Purfeerst	Waldorf
Chmielewski	Johnson, D.J.	Moe, R.D.	Renneke	Wegscheid
Davis	Langseth	Peterson, D.C.	Solon	Willet

The motion prevailed. So the amendment was adopted.

H.F. No. 777 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 59 and nays 4, as follows:

Those who voted in the affirmative were:

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

Messrs. Dicklich, Hughes, Ramstad and Storm voted in the negative.

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

Mr. Frederickson, D.J. moved that S.F. No. 729, No. 19 on Special Orders, be stricken and laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate reverted to the Order of Business of Messages From the House. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 243, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 243 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 243

A bill for an act relating to the organization and operation of state government; appropriating money for human services, corrections, health, economic security, and other purposes with certain conditions; amending Minnesota Statutes 1986, sections 15A.081, subdivision 1; 86.33, subdivisions 2 and 3; 136C.06; 144.55, subdivision 6; 144.68; 144.69; 144A.05; 144A.071, subdivision 3; 144A.27; 144A.33, subdivision 3; 171.29, subdivision 2; 245.713, subdivision 2; 246.50, subdivisions 3, 4a, 5, 7, and by adding a subdivision; 246.51; 246.511; 251.011, subdivision 6; 252.275, subdivisions 1, 2, 4, and 7; 256.01, subdivisions 2 and 4; 256.045, subdivision 3; 256.73, by adding a subdivision; 256.736, subdivisions 3, 4, 6, and by adding subdivisions; 256.74, subdivision 1; 256.969, subdivision 2; 256.98; 256B.02, subdivision 8, and by adding a subdivision; 256B.03, subdivision 1; 256B.04, subdivisions 14 and 15; 256B.06, subdivision 1, and by adding a subdivision; 256B.064, subdivision 1a; 256B.15; 256B.17, subdivisions 4 and 5; 256B.19, subdivision 1; 256B.35, subdivisions 1 and 2; 256B.421, subdivision 1; 256B.431, subdivisions 2b, 2e, 3a, 4, and by adding subdivisions; 256B.433; 256B.47, subdivision 1, and by adding

subdivisions; 256B.48, subdivisions 1 and 6; 256B.50, subdivision 2; 256B.69, subdivisions 6, 11, and by adding subdivisions; 256C.26; 256D.01, subdivision 1a; 256D.02, subdivisions 5 and 8; 256D.03, subdivisions 3, 4, and by adding a subdivision; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 6, and by adding a subdivision; 256D.06, subdivisions 1, 1b, 2, 3, and 6; 256D.08, subdivision 1; 256D.101; 256D.15; 256D.22; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.06, by adding a subdivision; 256E.07, by adding a subdivision; 256E.12, subdivision 3; 257.35; 257.351, subdivision 15, and by adding subdivisions; 257.354, subdivision 4, and by adding a subdivision; 268.0111, subdivision 8; 268.0122, subdivisions 2 and 3; 268.36; 268.37, subdivision 3; 268.673, subdivision 5, and by adding a subdivision; 268.6751; 268.676; 268.677, subdivision 1; 268.678, subdivisions 1 and 4; 268.681, subdivision 2, and by adding a subdivision; 268.85, subdivision 2; 268.86, subdivisions 1, 2, and 4; 268.871, subdivisions 1, 2, and by adding a subdivision; 268.88; 268.89, subdivision 2; 268.91, subdivisions 1, 2, 3, 4, 5, 6, 7, and by adding subdivisions; 268.911, subdivision 1; 393.07, subdivision 10; 517.08, subdivision 1a; 524.3-1201; proposing coding for new law in Minnesota Statutes, chapters 62D; 144; 144A; 245; 246; 256; 256B; 256D; 256E; 257; and 268; repealing Minnesota Statutes 1986, sections 116J.035, subdivision 3; 116L.04, subdivision 3; 136.63, subdivision 1b; 144.66; 144.67; 178.03, subdivision 5; 245.69, subdivision 1a; 245.713, subdivisions 1 and 3; 245.73; 245.74; 245.76; 256.966, subdivision 2; 256B.05, subdivision 4; 256B.07; 256D.051, subdivisions 4, 5, 11, and 12; 256E.12; 267.01; 267.02; 267.03; 267.04; 267.05; 267.06; and 268.0111, subdivision 3.

May 17, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 243, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 243 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN SERVICES, CORRECTIONS, HEALTH; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1987," "1988," and "1989," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1987, June 30, 1988, or June 30, 1989, respectively.

SUMMARY BY FUND

	1987	1988	1989	TOTAL
General	\$1,919,400	\$1,083,715,000	\$1,132,831,800	\$2,218,466,200
Special Revenue		\$3,642,100	\$3,661,100	\$7,303,200
Public Health Fund		\$7,403,000	\$7,344,200	\$14,747,200
Metropolitan Landfill		\$140,100	\$140,100	\$280,200
Trunk Highway		\$536,000	\$535,400	\$1,071,400
Total	\$1,919,400	\$1,095,436,200	\$1,144,512,600	\$2,241,868,200

APPROPRIATIONS
Available for the Year
Ending June 30,
1988 1989

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Appropriation by Fund

General Fund	918,949,700	969,235,400
Public Health Fund	3,982,600	3,924,900

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Federal money received in excess of the estimates shown in the 1987 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

Positions and administrative money may be transferred within the department of human services as the commissioner considers necessary, with the advance approval of the commissioner of finance.

Estimates of federal money that will be earned by the various accounts of the department of human services and deposited in the general fund are detailed on the worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance. If federal money anticipated is less than that shown on the official worksheets, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 76th legislature in addition to an estimate of similar

federal money anticipated for the 1989-1991 biennium.

The commissioner may use up to \$180,000 from the account authorized by Minnesota Statutes, section 256.01, subdivision 2, clause (15), to maximize collections of federal Title IV-E money through automation of the administrative functions associated with the licensing of foster care and family day care homes.

The information system project appropriations must be deposited in the special systems account according to Minnesota Statutes, section 256.014, and, except for development costs under the child support enforcement project, are not available until September 1, 1987. Money appropriated for computer projects may be transferred from one project to another as the commissioner considers necessary. The commissioner shall report quarterly to the chair of the senate finance committee and the chair of the house of representatives appropriations committee detailing the progress made, the nature and amount of expenditures made, and future development plans. On January 1 of each year the commissioner must also report to the legislature under Minnesota Statutes, section 256.014, subdivision 3, on the steps taken to integrate these projects with the information systems architecture of the state. Any unexpended balance in the appropriation for these projects remaining in the first year does not cancel but is available in the second year.

Subd. 2. Human Services Management	7,594,300	7,604,400
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The first year appropriation for equalization aid must be allocated to the same counties and in the same proportion as the distribution of equalization aid for fiscal year 1986.

Subd. 3. Policy and Program Support Services	4,113,000	4,263,000
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Subd. 4. Community Social Services	77,563,600	79,906,100
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The commissioner may use money from available social service appropriations to pay appropriate administrative and training costs associated with child foster care programs to maximize federal reimbursement under title IV-E of the social security act, United State Code, title 42, sections 670 to 676. State money may be used for this purpose only if the money is replaced by other federal or state money so that there is no reduction or delay in payments for any of the programs involved. Notwith-

standing any other law, transfers must be disregarded when applying the formula for allocation of state social service money and must not cause a reduction in the total amount of money available to grantees.

Of this appropriation, \$48,799,000 the first year and \$50,599,000 the second year are for community social services subsidies.

For purposes of the 1989-1991 biennial budget, the base level for community social services is \$49,699,000.

\$447,400 each year of the county allocation for Title XX community social services is for migrant day care.

\$82,637 of the second year appropriation in Laws 1985, chapter 9, article 1, section 2, subdivision 4, for Title XX community social services is transferred from the county allocation to the migrant day care allocation.

Of the amount appropriated to the day care sliding fee program, \$121,700 is allocated each year of the biennium to the migrant day care program.

\$125,000 each year of the appropriation for child care must be used for grants for new or expanding child care resource and referral programs under Minnesota Statutes, section 268.911, subdivision 3. No more than 20 percent of the money may be expended for programs in the seven-county metropolitan area.

\$125,000 each year of the appropriation for child care must be used for grants for the development of child care services under Minnesota Statutes, section 245.84, subdivision 1.

Any unexpended balance remaining in the first year appropriation for the subsidized adoption program does not cancel but is available for the second year.

By January 15, 1988, the commissioner of human services shall report to the chairs of the health and human services committee in the senate and the house of representatives on information systems needed to support improved accountability from the general fund and monitoring for county social service expenditures. The report must include at least the following: the identification of minimum data elements required for federal compliance purposes; an inventory and description of current social services data collection activities; an assess-

ment of specific data elements needed to monitor major state social services policy goals; an analysis of any difficulties imposed by data collection by target population; and opportunities for improving the reliability and accuracy of data submitted by counties. The commissioner shall also recommend future technical improvements and identify any needed strategies for transition from current reporting mechanisms to systems with better reliability, timeliness, and county participation.

Notwithstanding the criteria in Minnesota Rules, part 9525.0960, subpart 3, for the biennium ending June 30, 1989, the commissioner shall use semi-independent living services funding for new persons first to reduce the number of inappropriate nursing home placements and then to provide alternative community services to those recipients in intermediate care facilities for the mentally retarded or waived services who are no longer eligible for those services. This provision supersedes any inconsistent provision of Minnesota Statutes, section 252.275, or any other law.

The commissioner shall review social services programs offered and proposed to be offered to senior citizens including but not limited to the foster grandparent, retired senior volunteer, and senior companion programs. The commissioner shall prepare a report as follows: (1) outlining the purposes, funding, target populations, and counties served by each program; (2) identifying areas of overlap among the programs; and (3) examining alternatives that would allow flexibility in design and delivery of programs for senior citizens. The commissioner shall present the report to the legislature by January 1, 1988.

Subd. 5. Mental Health

17,892,500

17,783,500

The \$50,000 appropriated for the study of Alzheimer's disease in Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6c is available until expended. St. Paul Ramsey Medical Center is responsible for reimbursing Minnesota physicians and pathologists for their services and other expenses related to the removal, transportation, and storage of decedents' brains.

\$25,000 of the appropriation for mental health program administration must be used to fund the study and report to the legislature on issues

related to involuntary outpatient commitment.

Subd. 6. Income Maintenance

General Fund	596,364,300	652,852,700
Public Health Fund	3,982,600	3,924,900

Money appropriated for income maintenance programs must not be transferred for other purposes except as allowed in this subdivision, subdivision 1, section 14, or as otherwise authorized by law.

\$2,500,000 is available for each year of the biennium for case management services to caretakers in priority groups receiving aid to families with dependent children. The unencumbered balance remaining at the end of the first year does not cancel but is available for the second year of the biennium.

The public health fund appropriation is for the Children's Health Plan and is available until expended. The staff complement of the department of human services reflects an increase of 7 positions to administer the program.

Of this amount, \$25,000 is for training welfare fraud prosecutors, \$25,000 is for training welfare fraud investigators, and \$80,000 is for staff and equipment for the fraud training and control function.

The staff complement of the department of human services reflects an increase of one position to carry out duties formerly assigned to the coordinator of full productivity and opportunity.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aid to Families with Dependent Children, General Assistance, Work Readiness, Minnesota Supplemental Aid

\$135,268,400	\$142,897,400
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\$1,900,000 is appropriated for fiscal year 1987 to fund the deficiency in the work readiness account.

Money appropriated in the first year for employment and training services for AFDC recipients does not cancel but is available for the second year of the biennium.

If the appropriation for AFDC, general assistance, work readiness, and Minnesota supplemental aid is insufficient for either year, the appropriation for the other year is available by

direction of the governor after consulting with the legislative advisory commission.

During the biennium ending June 30, 1989, the commissioner of human services shall provide supplementary grants not to exceed \$816,800 a year for aid to families with dependent children and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; replacement of essential household furnishings and essential major appliances; and employment-related transportation and educational expenses. Of this amount, \$616,800 is for employment-related transportation and educational expenses.

When federal money is available to match state money, any part of the appropriation for day care sliding fee services provided to persons or families who are receiving AFDC may be transferred to the special needs account of the AFDC program. Federal money received during the biennium for child care services under this rider is appropriated to the commissioner of human services for day care sliding fee services, except as provided in Minnesota Statutes, section 268.91, subdivision 2.

If a county's mortgage and deed tax receipts under Minnesota Statutes 1986, section 287.12, exceed the state share of AFDC grants for the county, the excess amount must be offset against state payments to the county for the state share of the income maintenance programs. Any excess remaining after offsetting all state payments for income maintenance programs must be paid to the commissioner of human services and credited to the AFDC account.

The commissioner of human services shall set the standard of assistance for general assistance and work readiness assistance units consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at \$203.

For the AFDC entrepreneurship program appropriation, any unencumbered balance remaining in the first year does not cancel and is available for the second year.

(b) Medical Assistance and General Assistance Medical Care

\$417,678,400

\$464,670,700

If the appropriation for medical assistance and general assistance medical care is insufficient for either year, the appropriation for the other year is available by direction of the governor after consulting with the legislative advisory commission.

Federal money received during the biennium for administration of the home and community-based services waiver for persons with mental retardation is appropriated to the commissioner of human services for administration of the home and community-based services program and must be deposited in that activity's account.

For medical assistance services rendered on or after July 1, 1987, payments to medical assistance vendors for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and X-ray services shall be based on payments in effect on June 30, 1987, reduced by five percent. This percentage reduction does not apply to prenatal care and delivery services.

The medical assistance appropriation includes \$300,000 the second year for the increased costs of exceptions to the moratorium on licensure and certification of long-term care beds. The commissioner of health may license or certify beds through the exception review process, provided the projected total annual increased state medical assistance costs of all licenses or certifications granted during the biennium under any exception to the moratorium do not exceed \$300,000.

The commissioner of human services shall contract for a study that includes quality assurance evaluations and medical record audits of prepaid health plans under contract to the commissioner to provide medical assistance services. Federal money received during the biennium to fund this project is appropriated to the commissioner. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

\$6,100,000 of the amount remaining in the medical assistance and general assistance medical care account at the end of fiscal year 1987 does not cancel but is available for fiscal

year 1988.

\$7,100,000 of the appropriation in Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 5, does not cancel and is available during the first year to pay medical assistance costs of acute care hospital outlier charges incurred prior to July 1, 1987.

The maximum pharmacy dispensing fee under medical assistance and general assistance medical care is \$4.

The commissioner shall study and develop recommendations regarding implementing an alternative payment mechanism for reimbursing hospitals for inpatient mental health services.

Notwithstanding the allocation provisions of Minnesota Statutes, section 254B.02, and until such time as the federal waiver required to be applied for by Minnesota Statutes, section 254B.08 is obtained, the department shall withhold sufficient funds from the consolidated chemical dependency treatment fund, established under Minnesota Statutes, chapter 254B, to pay the state share of chemical dependency treatment services provided after January 1, 1988, through the medical assistance program.

(c) Preadmission Screening and Alternative Care Grants

\$11,914,000	\$17,580,000
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Up to \$3,500,000 of any balance remaining at the end of fiscal year 1987 in the appropriation for preadmission screening and alternative care grants does not cancel but is available for fiscal year 1988.

(d) Other Income Maintenance Activities

\$31,503,500	\$27,704,600
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This appropriation includes \$100,000 each year to contract for the provision of training and technical assistance to counties to: (1) facilitate the transfer of general assistance recipients to federal disability programs by identifying recipients who are potentially eligible for benefits and helping them with the application and appeals process; and (2) facilitate the transfer of general assistance medical care recipients to the medical assistance program by identifying recipients who are potentially eligible for medical assistance benefits and helping them establish eligibility.

Subd. 7. Long-Term Care Management	4,735,000	4,847,600
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Subd. 8. Chemical Dependency, Hearing Impaired, and Protection Services	6,256,500	6,411,300
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\$100,000 of the money appropriated each year for services to deaf persons is for grants for specialized mental health services for deaf and multiple-handicapped deaf persons at St. Paul-Ramsey Medical Center.

The commissioner of finance shall transfer money as necessary to implement the chemical dependency consolidated fund program.

The entire sum of the money made available to the state as a result of Public Law Number 99-570, title 4, subtitle A, section 4002, of the federal Alcohol and Drug Abuse Amendments of 1986, must be deposited in the chemical dependency fund.

The commissioner shall prepare a report to the chairs of the human services division of house appropriations and the health and human services subcommittee of senate finance containing details concerning the provision of chemical dependency services by regional treatment centers, including utilization rates, staffing levels, costs incurred, and rates charged. The commissioner shall deliver the report before February 1, 1988.

Subd. 9. Reimbursement and Facilities Administration	204,430,500	195,566,800
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The amounts that may be spent from this appropriation for each activity are as follows:

(a) Regional Treatment Centers

Approved Complement

June 30, 1988	June 30, 1989
5,049	4,895

- | | | |
|-----------------------------|---------------|---------------|
| (1) Salaries | \$158,702,600 | \$155,621,000 |
| (2) Current Expense | \$15,273,000 | \$15,269,000 |
| (3) Repairs and Betterments | \$2,875,000 | \$1,875,000 |
| (4) Special Equipment | \$1,114,000 | |

The commissioner of human services shall consolidate both program and support functions at each of the regional centers and state nursing homes to ensure efficient and effective

space utilization which is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions among the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition in accordance with Minnesota Statutes, section 16B.24.

Provided there is no conflict with any collective bargaining agreement, any state hospital or state nursing home reduction in the human services technician classifications and other nonprofessional, nonsupervisory direct care positions must only be accomplished through attrition, transfers, and retirement and must not be accomplished through layoff, unless the position reduction is due to the relocation of residents to a different state facility and the employee declines to accept a transfer to a comparable position in another state facility.

This appropriation includes \$3,000,000 to be retained in a separate interest-bearing account established in accordance with Minnesota Statutes, section 246.18, subdivision 3, for use by the commissioner of human services in contingency situations related to chemical dependency programs operated by the regional centers or state nursing homes. Up to \$250,000 must be provided to each regional treatment center in advance, at the request of the chief executive officer, for remodeling or other expenses identified by the chief executive officer as necessary to allow the facility to compete with other chemical dependency providers. The remaining money must be used to enable state institutions to continue to provide at least the current level of chemical dependency services for the biennium.

Effective January 1, 1988, 329 staff positions related to the provision of chemical dependency services in the regional treatment centers and funded by general fund appropriations are transferred to each regional treatment center's chemical dependency account established under Minnesota Statutes, section 246.18, subdivision 3.

The commissioner may continue to operate and may expand the state-operated, community-based program pilot projects established under Laws 1985, chapter 9, article 1, subdivision 6(a)(1), within the limits of available

appropriations. State-operated, community-based service positions must not be counted for position reduction purposes. These positions remain part of the authorized complement.

Any unexpended balance remaining in the regional treatment center fuel and utilities appropriations for fiscal year 1987 is reappropriated for the biennium ending June 30, 1989, to be used as follows: \$175,000 to repair a boiler at Oak Terrace Nursing Home; up to \$400,000 to the regional treatment centers for furniture replacement; \$180,000 for the purpose of conducting reimbursement projects to increase collections and better manage client programs in the regional treatment centers; and up to \$450,000 for department computer charges incurred in fiscal year 1987.

Any state hospital employee position identified as being vacant by the state hospital and the commissioner of human services may only be declared so after review of the chair of the house human services division of appropriations and the chair of the senate health and human services subcommittee of finance.

Four of the mental health enrichment positions are for the dual disabilities program at St. Peter regional treatment center.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

(b) Nursing Homes

Approved Complement - 616.5 605.5

(1) Salaries

\$17,501,100 \$17,144,700

This appropriation includes \$300,000 the first year of the biennium for the program for chronically chemically dependent people at Ah Gwah Ching state nursing home. The commissioner of human services shall augment the program with federal money and any additional money provided through shared service agreements under Minnesota Statutes, section 246.57, after the amount of the state appropriation has been recovered and deposited in the medical assistance account.

(2) Current Expense

\$2,250,000 \$2,267,000

(3) Repairs and Betterments

\$382,000 \$232,000

For the biennium ending June 30, 1989, the

commissioner may reallocate repair and betterment funds among projects as the commissioner determines necessary.

Wages for project labor may be paid from repair and replacement money if the employee is to be engaged in a construction or repair project of a short-term and nonrecurring nature.

(4) Special Equipment

\$ 74,000

(c) Other Reimbursement and Facilities

Administration Activities

\$6,258,800

\$3,158,100

For the child support enforcement activity, during the biennium ending June 30, 1989, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner of human services for the purposes of the child support enforcement activity.

Any balance remaining in the appropriation for the administrative process pilot program at the end of the first year does not cancel but is available for the second year.

Sec. 3. OFFICE OF FULL PRODUCTIVITY AND OPPORTUNITY

153,200

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Sec. 4. COMMISSIONER OF JOBS AND TRAINING

Subdivision 1. Total Appropriation

34,899,000

33,128,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subd. 2. Employment and Training

\$12,697,000

\$11,213,000

Of this appropriation, \$9,000,000 each year is for Minnesota employment and economic development wage subsidies. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium. To the extent permissible under federal and state law, the commissioner shall use money available from the federal government and the private sector to fund the program.

Notwithstanding Minnesota Statutes, section 268.677, subdivision 2, the commissioner may spend up to one percent of the appropriation for wage subsidy for each fiscal year for the department's administrative costs and may allocate five percent of the appropriation for

wage subsidy for each fiscal year to local service units for administrative costs.

Of the money appropriated for the summer youth employment program for fiscal year 1988, \$750,000 is immediately available. If that amount is insufficient for the costs incurred, an additional amount may be transferred with the advance approval of the commissioner of finance. Any unexpended balance of the immediately available money is available for the year in which it is appropriated. Contracts for the calendar year 1987 program must be written for the entire period of the calendar year 1987 program.

The commissioner of jobs and training shall develop, in consultation with the commissioners of education, human services, and natural resources, a coordinated plan for enhanced youth education, employment, and service opportunities. This plan shall consider the current programming of the Minnesota conservation corps, the Minnesota youth program, the summer youth employment and training program, community and secondary vocational education, and other appropriate programs in designing a coordinated cost-effective model which would enlarge opportunities for youth. The plan should also recommend a model for coordinated funding. The commissioners shall report to the appropriate committees of the legislature by January 1, 1988.

The commissioner may spend up to one percent of the appropriation for employment programs for each fiscal year for the department's administrative costs and for program operators' administrative costs.

In the event the federal work incentive program is ended before June 30, 1989, any remaining funds appropriated from the general fund to the department of human services to operate the work incentive program shall transfer to a federal program enacted to replace the work incentive program. If no replacement program is enacted, any remaining funds shall transfer to the Minnesota employment and economic development wage subsidy program in the department of jobs and training. This transfer is in addition to funds appropriated to the wage subsidy program for the biennium.

The staff complement of the department of jobs and training reflects an increase of two positions to carry out duties formerly assigned to the coordinator of full productivity and opportunity.

Subd. 3. Rehabilitation Services

\$20,281,000 \$20,395,000

Any unexpended balance remaining in the first year does not cancel and is available for the second year.

Subd. 4. Community Services

\$1,921,000 \$1,520,000

Of this appropriation, \$200,000 the first year and \$200,000 the second year are to provide for the local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities. The department of jobs and training shall report on the surplus commodities program to the state legislature by January 15 of each year.

Notwithstanding any law to the contrary, for the biennium ending June 30, 1989, the commissioner of jobs and training shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. None of the transferred money may be used by the commissioner of jobs and training for administrative costs, except that up to two percent of the funds used to supplement the federal funding for Project Head Start may be used for administrative costs.

Twenty-five percent of the money transferred by the commissioner of jobs and training from the low-income home energy assistance block grant to the community services block grant shall be used to supplement the federal funding of Project Head Start for children from low-income families. Notwithstanding any law to the contrary, these transferred funds shall be allocated through the existing Project Head Start formula to existing Project Head Start grantees for the purpose of expanding services to additional low-income families. The transferred funds shall be expended according to the federal regulations governing Project Head Start, including Code of Federal Regulations, title 45, sections 1302 through 1305. Each local Project Head Start shall expend the supplemental funds during the year of their receipt or the year following their receipt.

The commissioner of jobs and training shall prepare an annual report to the legislature describing the uses and impacts of the Project Head Start supplemental funding. The first annual report shall be delivered to the appro-

priate committees of the legislature on January 1 following the first full school year for which supplemental funding is available.

For the biennium ending June 30, 1989, the commissioner of jobs and training shall shift to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred funds during the year of the transfer or the year following the transfer. None of the transferred money may be used by the commissioner of jobs and training for administrative costs.

To the extent allowed by federal regulations, the commissioner of jobs and training shall ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.

For the biennium ending June 30, 1989, no more than 1.11 percent of funds received under the total low-income home energy assistance program may be used by the commissioner for departmental administrative costs.

Discretionary money from the community services block grant (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplementary funding is required. Any remaining funds shall be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

In the event that the federal office of community services does not recognize the Olmsted and Freeborn county community action agencies as eligible entities for full funding, the commissioner shall provide full funding for those agencies from discretionary funds resulting from block grant transfers to the community services block grant. The balance of these funds may be used by the commissioner for discretionary purposes consistent with federal community services block grant guidelines stated in Public Law Number 97-35. The commissioner shall by January 1, 1988, report to the legislature on the use of these funds.

The commissioner shall by January 1, 1988, provide to the chairs of the health and human services divisions of the house appropriations

committee and the senate finance committee a written plan describing how the department's division of community services will issue one contract for human service programs, with the community action agencies, the Indian reservations, and the Minnesota migrant council, including but not limited to, the community services block grant program, the low-income home weatherization program, the low-income energy assistance program, the USDA Surplus Commodities Program, and all other programs for which the division has contractual responsibility.

Sec. 5. COMMISSIONER OF CORRECTIONS

Subdivision 1. Appropriation by Fund

General Fund	97,655,600	98,730,400
Special Revenue Fund	126,500	126,500

The amounts that may be spent from the appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

For the biennium ending June 30, 1989, the commissioner of corrections may, with the approval of the commissioner of finance and upon notification of the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee, transfer funds to or from salaries.

Any unencumbered balances within this section remaining in the first year shall not cancel but are available for the second year of the biennium.

Subd. 2. Management Services	3,714,900	3,928,000
Subd. 3. Community Services	23,383,700	24,633,400

Of this appropriation, \$13,329,000 the first year and \$14,829,000 the second year are for community corrections act subsidies.

\$50,000 from the general fund is to provide a state match for county funds used by the Hennepin county department of community services to establish a juvenile residential facility as defined in Minnesota Rules, part 2935.0100, subpart 13, in Hennepin county. The facility

shall be used exclusively as a residential placement for American Indian juveniles who are referred for placement by the juvenile court or the commissioner of corrections. Money appropriated under this section may be used to acquire a facility, provide equipment and furnishings for the facility, employ staff, and make modifications necessary to meet the licensing standards of the commissioner under Minnesota Rules, chapter 2935.

Notwithstanding any other law to the contrary, the commissioner of finance shall deposit in the special revenue account receipts from the provision of juvenile probation services to Lincoln, Lyon, and Faribault counties. These receipts are appropriated to fund battered women grants for the biennium ending June 30, 1989.

There is appropriated for fiscal year 1987, \$19,400 from the general fund for probation and supervised release.

This appropriation includes \$76,000 for a grant under Minnesota Statutes, section 241.022, to the West Central Juvenile Center in Moorhead.

Any unencumbered balance remaining in the county probation reimbursement account at the end of the first year does not cancel but is available for the second year of the biennium. Any surplus remaining in the account at the end of the biennium cancels to the general fund.

Subd. 4. Correctional Institutions	70,557,000	70,169,000
(a) Salaries		
\$52,610,400	\$52,438,400	
(b) Current Expense		
\$12,252,000	\$12,254,000	
(c) Repairs and Betterments		
\$1,368,000	\$1,164,000	
For the biennium ending June 30, 1989, the commissioner may reallocate repair and betterment funds among projects as the commissioner determines necessary.		
(d) Special Equipment		
\$342,000	\$334,000	
(e) Institution Support		
\$3,984,600	\$3,978,600	

The commissioner may enter into agreements with the appropriate Alaskan officials, or officials of any state, political subdivision, or the

United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

Any unencumbered balances in special equipment, repairs and replacement, food provisions, and central office health care, remaining in the first year do not cancel and are available for the second year.

Wages for project labor may be paid from repair and replacement money if the employee is to be engaged in a construction or repair project of a short-term and nonrecurring nature.

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, the commissioner may sell surplus property at Lino Lakes Correctional Facility to Anoka county and the proceeds from a sale are appropriated to the commissioner to expand living quarters at the facility after review by the chair of the house human services division of appropriations and the chair of the senate health and human services subcommittee of finance.

Sec. 6. SENTENCING GUIDELINES COMMISSION

	198,000	201,100
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Sec. 7. CORRECTIONS OMBUDSMAN

	331,000	331,000
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Sec. 8. COMMISSIONER OF HEALTH

Subdivision 1. Appropriation by Fund

General Fund	31,528,500	31,205,900
Public Health Fund	3,420,400	3,419,300
Trunk Highway Fund	536,000	535,400
Metropolitan Landfill Contingency Fund	140,100	140,100

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of health as the commissioner considers necessary, with the advance approval of the commissioner of finance.

Subd. 2. Preventive and Protective Health Services

General Fund	8,032,000	7,494,000
Public Health Fund	1,727,200	1,726,800

Metropolitan Landfill Contingency Fund	140,100	140,100
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Of this general fund appropriation \$50,000 in 1988 is to pay the St. Paul Ramsey Medical Center for autopsies for the purposes of Laws 1985, First Special Session chapter 9, article 2, sections 14, 15, and 91, except that payments may be made to physicians and pathologists statewide for their services and expenses related to the removal, transportation and storage of decedents' brains. The number of autopsies that may be performed is limited only by the amount of the appropriation. The appropriation is available until expended.

Of this appropriation, \$140,100 each year is appropriated from the metropolitan landfill contingency fund for monitoring well water supplies in the metropolitan area.

The appropriation for preventive and protective health services reflects an increase of \$54,000 the first year and \$53,000 the second year for swimming pool surveillance and monitoring. The increase is not available until the department has established a fee system that will allow the increased costs to be fully recovered.

Subd. 3. Health Delivery Systems

General Fund	20,437,000	20,591,400
Public Health Fund	1,693,200	1,692,500
Trunk Highway Fund	536,000	535,400

Of this appropriation, \$11,828,000 from the general fund each year is for the community health services subsidy.

For the purposes of the community health services subsidy, the commissioner of finance may authorize the transfer of money to the community health services activity from the other programs in this section.

The state appropriation to supplement the federal Women, Infants and Children (WIC) program in each year is to be spent consistent with federal requirements. Any balance remaining in the first year does not cancel but is available for the second year.

Of this appropriation, \$536,000 the first year and \$535,400 the second year are appropriated from the trunk highway fund for emergency medical services activities.

If the appropriation for community health services or services to children with handicaps

is insufficient for either year, the appropriation for the other year is available by direction of the governor after consulting with the legislative advisory commission.

Notwithstanding any law to the contrary, appropriations from the general fund for services to children with handicaps for fiscal years 1987, 1988, and 1989 are available until expended and may be used in the maternal and child health activity for grants, staff and supplies consistent with section 8, page 37 of the governor's 1987-1989 biennial budget document. All receipts generated by the services to children with handicaps program are to be deposited as dedicated receipts and appropriated to the commissioner of health for use in the maternal and child health program.

Subd. 4. Health Support Services

General Fund	3,059,500	3,120,500
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Sec. 9. HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

The \$2,000,000 appropriated to the Hazardous Substance Injury Compensation Board in Laws 1985, First Special Session, chapter 8, section 18 is available until expended.

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total for this section	3,515,600	3,534,600
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The appropriations in this section are from the special revenue fund.

Subd. 2. Board of Chiropractic Examiners

174,200	162,200
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Subd. 3. Board of Dentistry

317,100	317,400
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Subd. 4. Board of Medical Examiners

1,323,100	1,353,000
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The board of medical examiners shall establish fees for individuals licensed or registered by it at a level which nearly equals the board's appropriation, general support costs, indirect costs, and attorney general costs. The fees must be set in accordance with the procedure established by Minnesota Statutes, section 16A.128, subdivision 2a, in effect on August 1, 1984.

Subd. 5. Board of Nursing

867,100	867,700
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The board of nursing may supplement its appropriation by receipts from the board of podiatry for services provided to the board of podiatry.

Subd. 6. Board of Examiners for Nursing Home Administrators	131,900	132,000
Subd. 7. Board of Optometry	46,900	47,000
Subd. 8. Board of Pharmacy	405,300	405,500
Subd. 9. Board of Podiatry	9,600	9,600
Subd. 10. Board of Psychology	160,300	160,100
Subd. 11. Board of Veterinary Medicine	80,100	80,100
Subd. 12. Revenue		

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Subd. 13. Attorney General Services

Notwithstanding any law to the contrary, in the event the office of the attorney general does not provide legal and investigative services to the health-related licensing boards in either fiscal year 1988 or fiscal year 1989 in an amount at least equal to the services provided in fiscal year 1986, the boards are authorized to contract with the office of the attorney general for such services in amounts not to exceed fee revenues for the year affected.

Sec. 11. BUDGET BOOK FORMAT

Notwithstanding Minnesota Statutes, section 16A.11, the commissioner of finance shall consult with and seek the recommendations of the chair of the house appropriations committee and the chair of the senate finance committee and their respective division chairs prior to adopting a format for the 1989-1991 biennial budget document. The commissioner of finance shall not adopt a format for the 1989-1991 biennial budget document until the commissioner has received the positive recommendations of the chair of the house appropriations committee and the chair of the senate finance committee.

Sec. 12. FEDERAL RECEIPTS

For the biennium ending June 30, 1989, federal receipts as shown in the biennial budget document or in working papers of the two

appropriations committees to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner of human services must be accredited to and become a part of the appropriations provided for in section 2.

Sec. 13. PROVISIONS

For the biennium ending June 30, 1989, money appropriated to the commissioner of corrections and the commissioner of human services in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States department of labor, bureau of labor statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1988 and fiscal year 1989 must be based on the June 1987, and June 1988, producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 14. TRANSFERS OF MONEY

Subdivision 1. Governor's Approval Required

For the biennium ending June 30, 1989, the commissioners of human services, corrections, jobs and training, and health shall not transfer money to or from the object of expenditure "personal services" to or from the object of expenditure "claims and grants," as shown on the official worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance, except for services for the blind, basic client rehabilitation services, and rehabilitation services for workers' compensation recipients, and for those transfers that have the written approval of the governor after consulting with the legislative advisory commission.

Subd. 2. Transfers of Unencumbered

Appropriations

For the biennium ending June 30, 1989, the commissioners of human services, corrections, and health by direction of the governor after consulting with the legislative advisory commission may transfer unencumbered appropriation balances and positions among all programs.

Sec. 15. APPROVED COMPLEMENT

For the biennium ending June 30, 1989, the approved complements indicated in this act are full-time equivalent positions and apply only to positions paid for with money appropriated by this act.

Additional employees over the approved complement may be employed on the basis of public necessity or emergency with the written approval of the governor, but the governor shall not approve the consulting with the legislative advisory commission.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1989, the commissioners of human services, corrections, and health by direction of the governor after consulting with the legislative advisory commission may transfer unencumbered appropriation balances and positions among all programs.

Sec. 16. APPROVED COMPLEMENT

For the biennium ending June 30, 1989, the approved complements indicated in this act are full-time equivalent positions and apply only to positions paid for with money appropriated by this act.

Additional employees over the approved complement may be employed on the basis of public necessity or emergency with the written approval of the governor, but the governor shall not approve the additional personnel until he has consulted with the legislative advisory commission. Requests for increases in the approved complement must be forwarded to the house committee on appropriations and Senate committee on finance at least 30 days before the legislative advisory commission meeting.

Sec. 17. MASTER LEASE

If an amount is appropriated in this act to pur-

chase equipment, and the equipment is instead acquired using a master lease, the commissioner of finance shall reduce the allotment for equipment by the amount of the savings after written consultation with the chairs of the house appropriations committee and the senate finance committee. Any unencumbered balance allotted for this equipment remaining in the first year does not cancel and is available for the second year.

ARTICLE 2

Section 1. Minnesota Statutes 1986, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

	Salary Range Effective July 1, 1983
Commissioner of education;	\$57,500-\$70,000
Commissioner of finance;	
Commissioner of transportation;	
Commissioner of human services;	
Executive director, state board of investment;	
Commissioner of administration;	\$50,000-\$60,000
Commissioner of agriculture;	
Commissioner of commerce;	
Commissioner of corrections;	
Commissioner of jobs and training;	
Commissioner of employee relations;	
Commissioner of energy and economic development;	
Commissioner of health;	
Commissioner of labor and industry;	
Commissioner of natural resources;	
Commissioner of revenue;	
Commissioner of public safety;	
Chair, waste management board;	
Chief administrative law judge; office of administrative hearings;	
Director, pollution control agency;	

Director, state planning agency;

Executive director, housing finance agency;

Executive director, public employees retirement association;

Executive director, teacher's retirement association;

Executive director, state retirement system;

Chair, metropolitan council;

Chair, regional transit board;

~~Coordinator of full productivity and opportunity;~~

Commissioner of human rights; \$40,000-\$52,500

Director, department of public service;

Commissioner of veterans' affairs;

Director, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board.

Sec. 2. [62D.211] [RENEWAL FEE.]

Each health maintenance organization subject to sections 62D.01 to 62D.29 shall submit to the commissioner of health each year before April 1 a certificate of authority renewal fee in the amount of \$10,000 each plus 20 cents per person enrolled in the health maintenance organization on December 31 of the preceding year. The commissioner may adjust the renewal fee in rule under the provisions of chapter 14.

Sec. 3. [REPORT.]

The commissioner shall report to the legislature before January 15, 1988, assessing the effect of the renewal fee structure upon health maintenance organizations and making any necessary recommendations for changes in this method of computing certificate of authority renewal fees.

Sec. 4. Minnesota Statutes 1986, section 86.33, subdivision 2, is amended to read:

Subd. 2. [PROJECT COORDINATION.] The commissioner of natural resources shall ~~consult with the full productivity and opportunity coordinator~~ and develop a plan that establishes: a priority for unemployed youths who are economically, socially, physically, or educationally disadvantaged; the ways in which participants will be assisted in gaining ongoing employment or training upon completing the projects; the ways in which exclusive bargaining representatives are to be consulted in regard to the positions and job duties of persons employed in projects; and how the projects are coordinated with other publicly authorized or subsidized programs.

The commissioner shall submit the plan to the full productivity and opportunity coordinator in each even-numbered year, according to standards established by the coordinator for use in developing a biennial state-wide employment and training plan.

Sec. 5. Minnesota Statutes 1986, section 86.33, subdivision 3, is amended to read:

Subd. 3. ~~[REPORTING; CORPS MEMBER STATUS; FEES.] The commissioner of natural resources shall cooperate with the full productivity and opportunity coordinator in developing and implementing any evaluation and reporting systems for employment and training programs. All camp staff except camp directors in the young adult program are corps members. Corps members are not eligible for unemployment compensation or other benefits except workers' compensation, and they are not employees of the state of Minnesota within the meaning of section 43A.02, subdivision 21. The commissioner may charge a fee for any service performed by the corps.~~

Sec. 6. Minnesota Statutes 1986, section 136C.06, is amended to read:
136C.06 [SOLE STATE AGENCY.]

The state board of vocational technical education is the sole state agency to receive and disburse federal funds authorized by the Vocational Education Act of 1963, as amended in the education amendments of 1976, Public Law Number 94-482, and Code of Federal Regulations, title 34, part 400. The state board shall develop and submit the state plan for vocational technical education. The state board shall develop the state plan according to terms of agreement with the state board of education. ~~Before developing and submitting the state plan, the state board shall consult with the full productivity and opportunity coordinator. The state board shall submit the state plan to the full productivity and opportunity coordinator for use in developing a biennial statewide employment and training plan.~~

Sec. 7. Minnesota Statutes 1986, section 144.122, is amended to read:
144.122 [LICENSE AND PERMIT FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

(b) *The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with subdivision 1 or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be*

approximately equal to the costs of providing the services.

Sec. 8. Minnesota Statutes 1986, section 144.123, subdivision 2, is amended to read:

Subd. 2. The commissioner of health shall promulgate rules, in accordance with chapter 14, which shall specify the amount of the handling fee prescribed in subdivision 1. The fee shall approximate the costs to the department of handling specimens including reporting, postage, specimen kit preparation, and overhead costs. The fee prescribed in subdivision 1 shall be ~~\$1.50~~ \$5 per specimen until the commissioner promulgates rules pursuant to this subdivision.

Sec. 9. [144.671] [CANCER SURVEILLANCE SYSTEM; PURPOSE.]

The commissioner of health shall establish a statewide population-based cancer surveillance system. The purpose of this system is to:

(1) monitor incidence trends of cancer to detect potential public health problems, predict risks, and assist in investigating cancer clusters;

(2) more accurately target intervention resources for communities and patients and their families;

(3) inform health professionals and citizens about risks, early detection, and treatment of cancers known to be elevated in their communities; and

(4) promote high quality research to provide better information for cancer control and to address public concerns and questions about cancer.

Sec. 10. [144.672] [DUTIES OF COMMISSIONER; RULES.]

Subdivision 1. [RULE AUTHORITY.] The commissioner of health shall collect cancer incidence information, analyze the information, and conduct special studies designed to determine the potential public health significance of an increase in cancer incidence.

The commissioner shall adopt rules to administer the system, collect information, and distribute data. The rules must include, but not be limited to, the following:

(1) the type of data to be reported;

(2) standards for reporting specific types of data;

(3) payments allowed to hospitals, pathologists, and registry systems to defray their costs in providing information to the system;

(4) criteria relating to contracts made with outside entities to conduct studies using data collected by the system. The criteria may include requirements for a written protocol outlining the purpose and public benefit of the study, the description, methods, and projected results of the study, peer review by other scientists, the methods and facilities to protect the privacy of the data, and the qualifications of the researcher proposing to undertake the study;

(5) specification of fees to be charged under section 13.03, subdivision 3, for all out-of-pocket expenses for data summaries or specific analyses of data requested by public and private agencies, organizations, and individuals, and which are not otherwise included in the commissioner's annual summary reports. Fees collected are appropriated to the commissioner to offset the cost of providing the data; and

(6) establishment of a committee to assist the commissioner in the review of system activities.

Subd. 2. [BIENNIAL REPORT REQUIRED.] The commissioner of health shall prepare and transmit to the governor and to members of the legislature a biennial report on the incidence of cancer in Minnesota and a compilation of summaries and reports from special studies and investigations performed to determine the potential public health significance of an increase in cancer incidence, together with any findings and recommendations. The first report shall be delivered by February 1989, with subsequent reports due in February of each of the following odd-numbered years.

Sec. 11. Minnesota Statutes 1986, section 144.68, is amended to read:

144.68 [RECORDS AND REPORTS REQUIRED.]

Subdivision 1. [PERSON PRACTICING HEALING ARTS.] Every person licensed to practice the healing arts in any form, upon request of the state commissioner of health, shall prepare and forward to the commissioner, in the manner and at such times as the commissioner designates, a detailed record of each case of ~~malignant disease~~ cancer treated or seen by the person professionally.

Subd. 2. [HOSPITALS AND SIMILAR INSTITUTIONS.] Every hospital, ~~sanatorium, nursing home~~ medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings, upon request of the state commissioner of health, shall prepare and forward to the commissioner, in the manner and at the times designated by the commissioner, a detailed record of each case of ~~malignant disease having been therein~~ cancer.

Subd. 3. [INFORMATION REPORTING WITHOUT LIABILITY.] The furnishing of the information required under subdivisions 1 and 2 shall not subject the person, hospital, ~~sanatorium, nursing home~~ medical clinic, medical laboratory, or other ~~place~~ institution furnishing the information, to any action for damages or other relief.

Sec. 12. Minnesota Statutes 1986, section 144.69, is amended to read:

144.69 [INFORMATION NOT AVAILABLE TO THE PUBLIC CLASSIFICATION OF DATA ON INDIVIDUALS.]

No such report, or part thereof, nor any copy of the same or part thereof, shall be open to the public, nor shall any of the contents thereof be disclosed, in any manner, by any official or clerk or other employee or person having access thereto, but all such information Notwithstanding any law to the contrary, including section 13.05, subdivision 9, data collected on individuals by the cancer surveillance system, including the names and personal identifiers of persons required in section 144.68 to report, shall be confidential private and may only be used for the purposes set forth in sections 144.66 to 144.671, 144.672, 144.68, and 144.69. And any such disclosure other than is provided for in sections 144.66 to 144.671, 144.672, 144.68, and 144.69, is hereby declared to be a misdemeanor and punishable as such. No Except as provided by rule, and as part of an epidemiologic investigation, an officer or employee of the board shall commissioner of health may interview any patient patients named in any such report, nor a relative or relatives of any such patient, unless only after the consent of the attending physician and or surgeon is first obtained.

Sec. 13. Minnesota Statutes 1986, section 144A.33, subdivision 3, is

amended to read:

Subd. 3. [FUNDING OF ADVISORY COUNCIL EDUCATION.] A license application or renewal fee for nursing homes and boarding care homes under section 144.53 or 144A.07 must be increased by ~~\$1.73~~ \$2.75 per bed to fund the development and education of resident and family advisory councils.

Sec. 14. Minnesota Statutes 1986, section 144A.33, subdivision 4, is amended to read:

Subd. 4. [SPECIAL ACCOUNT.] All money collected by the commissioner of health under subdivision 3 must be deposited in the state treasury and credited to a special account called the nursing home advisory council fund. *Money credited to the fund is appropriated to the Minnesota board on aging for the purposes of this section.*

Sec. 15. Minnesota Statutes 1986, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a \$30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a ~~\$150~~ \$200 fee before the person's drivers license is reinstated to be credited as follows:

(1) ~~50~~ 25 percent shall be credited to the trunk highway fund;

(2) ~~25~~ 50 percent shall be credited to a separate account to be known as the county probation reimbursement account. Money in this account is appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5; and

(3) 25 percent shall be credited to a separate account to be known as the alcohol impaired driver education account. Money in the account is appropriated to the commissioner of education for grants to develop alcohol impaired driver education programs in elementary, secondary, and post-secondary schools. The state board of education shall establish guidelines for the distribution of the grants. The commissioner of education shall report to the legislature by January 15, 1988, on the expenditure of grant funds under this clause.

Sec. 16. [245.461] [POLICY AND CITATION.]

Subdivision 1. [CITATION.] Sections 245.461 to 245.486 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 245.461 to 245.486 and on additional resources needed to further implement those sections.

Sec. 17. [245.462] [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. [CASE MANAGEMENT ACTIVITIES.] "Case management activities" means activities that are part of the community support services program as defined in subdivision 6 and are designed to help people with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management activities include obtaining a diagnostic assessment, developing an individual community support plan, 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 activities as part of a community support services program. A case manager must be qualified at the mental health practitioner level, skilled in the process of identifying and assessing a wide range of client needs, and knowledgeable 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 designed to help people with serious and persistent mental illness to function and remain in the community. A community support services program includes case management activities provided to persons with serious and persistent mental illness, client outreach, medication management, assistance in independent living skills, development of employability and supportive work opportunities, crisis assistance, psychosocial rehabilitation, help in applying for government benefits, 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 a 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 general service 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 or individual community support 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 COMMUNITY SUPPORT PLAN.] "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment. The plan identifies specific services needed by a person with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

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, reviewed by the commissioner, and described in section 18.

Subd. 16. [MENTAL HEALTH FUNDS.] "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

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; or

(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 post-master's experience in the treatment of 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 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 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 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 treatment services and management activities that are provided to persons with mental illness and are described in sections 245.468 to 245.476.

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 245.461 to 245.486, 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 or residential treatment 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 the 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 funded by sections 245.461 to 245.486.

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. 18. [245.463] [PLANNING FOR A MENTAL HEALTH SYSTEM.]

Subdivision 1. [PLANNING EFFORT.] Starting on the effective date of sections 245.461 to 245.486 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 245.479, 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 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. 19. [245.464] [COORDINATION OF MENTAL HEALTH SYSTEM.]

Subdivision 1. [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 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health service proposals developed by county boards as specified in section 18 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 245.461 to 245.486.

Subd. 2. [PRIORITIES.] By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are 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 all persons with serious and persistent mental illness and all persons with acute mental illness;*
- (3) the provision of specialized services regionally available to meet the special needs of all persons with serious and persistent mental illness and*

all 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. 20. [245.465] [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal 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 245.466 to 245.474;

(2) provide for case management services to persons with serious and persistent mental illness in accordance with section 245.475;

(3) provide for screening of persons specified in section 245.476 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 245.461 to 245.486.

Sec. 21. [245.466] [LOCAL SERVICE DELIVERY SYSTEM.]

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board in each county is responsible for using all available resources 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 and activities 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 treatment 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 245.461 to 245.486 during the period July 1, 1987 to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and local mental health services proposal approved by the commissioner under section 245.478.

Subd. 2. [MENTAL HEALTH SERVICES.] The mental health service system developed by each county board must include the following treatment services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with sections 245.471 and 245.475;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474; and

(8) screening in accordance with section 245.476.

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 245.461 to 245.486 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 245.461 to 245.486, 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 service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or 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 existing 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 245.461 to 245.486 regarding local mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

Sec. 22. [245.467] [QUALITY OF SERVICES.]

Subdivision 1. [CRITERIA.] Mental health services required by this chapter 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 this chapter;*
- (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, acute care hospital inpatient 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 treatment, 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. 23. [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. 24. [245.469] [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] By July 1, 1988, county boards must provide or contract for enough emergency services within the county 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 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 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. 25. [245.470] [OUTPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county 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 necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that all service providers of outpatient services:

(1) meet the professional qualifications contained in sections 245.461 to 245.486;

(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 245.469; and
- (5) establish fee schedules approved by the county board that are based on a client's ability to pay.

Sec. 26. [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. [CASE MANAGEMENT ACTIVITIES.] (a) By January 1, 1989, case management activities must be developed as part of the community support program available to all persons with serious and persistent mental illness residing in the county. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must at a minimum qualify as a mental health practitioner.

(b) All providers of case management activities must develop an individual community support plan. The individual community support 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 the implementation of the community support plan.*

The individual community support plan must incorporate the individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support 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 community support plan based on a diagnostic assessment and for implementing and monitoring the deliv-

ery of services according to the individual community support plan. To the extent possible, the person with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual community support plan.

Subd. 3. [DAY TREATMENT ACTIVITIES PROVIDED.] (a) By July 1, 1989, day treatment activities must be developed as a part of the community support program available to persons with serious and persistent mental illness residing in the county. Day treatment services must be available to persons with serious and persistent mental illness residing in the county as part of the community support program of each 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 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 county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.

Subd. 4. [BENEFITS ASSISTANCE.] By July 1, 1988, help in applying for federal benefits, including supplemental security income, medical assistance, and Medicare, must be offered as a part of the community support program available to individuals with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits. The county board must offer help in applying for federal benefits to all persons with serious and persistent mental illness.

Sec. 27. [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 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. 28. [245.473] [ACUTE CARE HOSPITAL INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF ACUTE CARE HOSPITAL 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 the medical 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 commissioners of health and human services.

Sec. 29. [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 the medical 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 staff ratios to the legislature 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. 30. [245.475] [COUNTY RESPONSIBILITY TO PROVIDE COMMUNITY SUPPORT SERVICES.]

Subdivision 1. [CLIENT ELIGIBILITY.] The county board shall provide case management and other appropriate community support services to

all persons with serious and persistent mental illness. Case management services provided to people with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under section 256B.02, subdivision 8.

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, acute care hospital inpatient, or regional treatment center services under section 245.476.*

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 245.467, subdivision 2, to determine the applicant's eligibility as a person with serious and persistent mental illness for community support services. The county board shall notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.*

Subd. 4. [COMMUNITY SUPPORT SERVICES.] *Upon a determination of eligibility for community support services, the case manager shall develop an individual community support plan as specified in section 245.471, subdivision 2, paragraph (b), arrange and authorize payment for appropriate community support 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.*

Sec. 31. [245.476] [SCREENING FOR INPATIENT 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, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. 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 within ten days before or within five days after admission 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 community support plan is developed. 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 any 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.

Sec. 32. [245.477] [APPEALS.]

Any person who applies for mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of application and each time the community service plan is reviewed. Any person whose application for mental health services under sections 245.468 to 245.476 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. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 33. [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. Subsequent proposals must be on the same two-year cycle as community social service plans required by section 256E.09. 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 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 245.468 to 245.476, 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 245.468 to 245.476;

(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 treatment services or management activities 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;
(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 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 245.468 to 245.476;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the treatment services or management activities 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.

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 245.461 to 245.486;

(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 amounts 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 245.461 to 245.486.

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 245.461 to 245.486. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.

Subd. 7. [PARTIAL OR CONDITIONAL APPROVAL.] If the local mental health proposal is in substantial, but not in full compliance with sections

245.461 to 245.486 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 mental health and community social service act funds 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. 34. [MAINTENANCE OF EFFORT.] Counties must continue to spend for mental health services an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the total for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 35. [COUNTY OF FINANCIAL RESPONSIBILITY.] For purposes of section 245.476, 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. 36. [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 245.461 to 245.486 and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than 15 days after the end of each quarter.

Subd. 2. [PROGRAM REPORTS.] The commissioner shall develop a unified format for a semiannual program report that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and section 256E.10. The county board shall submit a completed program report in the required format no later than 75 days

after each six-month period.

Subd. 3. [PROVIDER REPORTS.] *The commissioner may develop a format and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486. 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 mental health fund 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 to complete the statewide report required in section 245.461.*

Sec. 37. [245.483] [TERMINATION OR RETURN OF AN ALLOCATION.]

Subdivision 1. [FUNDS NOT PROPERLY USED.] *If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds 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. 2. [USE OF RETURNED FUNDS.] *The commissioner may reallocate the funds returned.*

Subd. 3. [DELAYED PAYMENTS.] *If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.*

Subd. 4. [STATE ASSUMPTION OF RESPONSIBILITY.] *If the commissioner determines that services required by sections 245.461 to 245.486 will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486. 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*

245.461 to 245.486 can be assured.

Sec. 38. [245.484] [RULES.]

The commissioner shall adopt permanent rules as necessary to carry out this act.

Sec. 39. [245.485] [NO RIGHT OF ACTION.]

Sections 245.461 to 245.484 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. 40. [245.486] [LIMITED APPROPRIATIONS.]

Nothing in sections 245.461 to 245.485 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 41. 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 must 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 that 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. 42. [245.721] [MENTAL ILLNESS INFORMATION MANAGEMENT SYSTEM.]

By January 1, 1990, the commissioner of human services shall establish an information management system for collecting data about individuals who suffer from severe and persistent mental illness and who receive publicly funded services for mental illness.

Sec. 43. [245.775] [EQUALIZATION AID.]

Subdivision 1. [TERMS DEFINED.] As used in subdivisions 1 to 6, the terms defined in this section have the meanings given them.

(a) [RECIPIENT RATE.] *"Recipient rate" means the number of individual income maintenance program recipients per 10,000 people in a county during the calendar year ending immediately before the fiscal year for which equalization aid is paid.*

(b) [PER CAPITA INCOME.] *"Per capita income" means the estimate of income per person in a county most recently published by the United States Bureau of the Census on October 1 of the fiscal year for which equalization aid is paid.*

(c) [PER CAPITA TAXABLE VALUE.] *"Per capita taxable value" means the adjusted assessed value of taxable property within a county reported by the department of revenue for the calendar year ending immediately before the fiscal year, divided by the population of the county. The adjusted assessed value of taxable property in counties receiving taconite production tax revenue shall be increased by an amount equal to the taconite regular production tax revenue divided by the county's mill rate.*

(d) [COUNTY INCOME MAINTENANCE EXPENDITURES.] *"County income maintenance expenditures" means the income maintenance program expenditures, including administrative costs, of a county for income maintenance programs, minus federal, state, and other revenue received for income maintenance programs during the calendar year ending immediately before the fiscal year for which equalization aid is paid.*

(e) [PER CAPITA COUNTY INCOME MAINTENANCE EXPENDITURES.] *"Per capita county income maintenance expenditures" means county income maintenance expenditures divided by the population of the county.*

(f) [INCOME MAINTENANCE PROGRAMS.] *"Income maintenance programs" include, for equalization aid purposes, aid to families with dependent children, general assistance, general assistance medical care,*

work readiness, and medical assistance.

(g) [POPULATION.] *"Population" means the estimate of population in a county most recently issued by the state demographer's office on October 1 of the fiscal year for which equalization aid is paid.*

Subd. 2. [COUNTY ELIGIBILITY.] *The commissioner of human services shall establish a county's eligibility for equalization aid using the following formula:*

(a) *A statewide standard deviation from the mean shall be calculated for each of the following factors: recipient rate, per capita income, per capita taxable value, and per capita income maintenance expenditures.*

(b) *A standard score shall be calculated for each factor; the standard score is the factor minus the state mean for that factor divided by the statewide standard deviation from the mean for that factor.*

(c) *The standard score for per capita income and per capita taxable value shall be multiplied by negative one.*

(d) *The county's average score of the standard scores of the four factors shall be computed.*

Every county with an average score equal to one or higher shall be eligible for equalization aid.

Subd. 3. [AMOUNT OF EQUALIZATION AID.] *The commissioner shall establish a distress indicator for each county eligible for equalization aid by multiplying the county's average standard score by its population. Equalization aid shall be allocated to all eligible counties in proportion to each eligible county's distress indicator.*

Subd. 4. [PHASE-IN.] *Notwithstanding the provisions of subdivisions 2 and 3, the commissioner of human services shall make minimum equalization aid payments to counties during fiscal years 1989 and 1990 as follows:*

(a) *A base amount equal to the average amount of equalization aid received for fiscal years 1981 to 1987 shall be calculated for every county.*

(b) *If the appropriation for equalization aid during fiscal year 1989 or 1990 is less than the average of all equalization aid appropriations for fiscal years 1981 to 1987, the base amount for each county shall be reduced by that proportion for that fiscal year.*

(c) *In fiscal year 1989, each county shall receive 100 percent of its base amount within the limit of available appropriations. In fiscal year 1990, each county shall receive 90 percent of its base amount within the limit of available appropriations.*

Subd. 5. [LIMIT.] *No county shall receive equalization aid for any fiscal year amounting to more than 75 percent of county income maintenance expenditures.*

Subd. 6. [PAYMENT.] *The commissioner of human services shall make preliminary payments for equalization aid for a fiscal year by December 15th of the fiscal year. The commissioner shall adjust each county's equalization aid in accordance with the allocation formula established in subdivision 3 and make final payments by June 30 of the fiscal year.*

Sec. 44. Minnesota Statutes 1986, section 246.18, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in ~~subdivision subdivisions 2 and 4~~, every officer and employee of the several institutions under the jurisdiction of the commissioner of human services who has money belonging to an institution shall pay the money to the accounting officer thereof. Every accounting officer, at the close of each month or oftener, shall forward to the commissioner of human services a statement of the amount and sources of all money received. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, who shall deliver to the state treasurer a draft upon the accounting officer for the same specifying the funds to which it is to be credited. Upon payment of such draft, the amount shall be so credited.

Sec. 45. Minnesota Statutes 1986, section 246.18, is amended by adding a subdivision to read:

Subd. 4. [COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.] *Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers and state nursing homes must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.*

Sec. 46. Minnesota Statutes 1986, section 246.50, subdivision 3, is amended to read:

Subd. 3. [REGIONAL TREATMENT CENTER.] *“State hospital” “Regional treatment center” means a state facility for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established.*

Sec. 47. Minnesota Statutes 1986, section 246.50, is amended by adding a subdivision to read:

Subd. 3a. [STATE NURSING HOME.] *“State nursing home” means Ah-gwah-Ching and Oak Terrace facilities.*

Sec. 48. Minnesota Statutes 1986, section 246.50, subdivision 4a, is amended to read:

Subd. 4a. [RESIDENT.] *“Resident” means any mentally retarded person receiving care or treatment at a ~~state hospital~~ regional treatment center, whether the person entered such hospital voluntarily or under commitment, and any person residing at or receiving care in a state nursing home.*

Sec. 49. Minnesota Statutes 1986, section 246.50, subdivision 5, is amended to read:

Subd. 5. [COST OF CARE.] *“Cost of care” means the commissioner’s determination of the anticipated average per capita cost of all maintenance, treatment and expense, including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements to state ~~hospitals~~ facilities, and indirect costs related to the operation other than that paid from the Minnesota state building fund, at all of the state ~~hospitals~~ facilities during the current year for which billing is being made. The commissioner shall determine the anticipated average per capita cost. The commissioner*

may establish one all inclusive rate or separate rates for each patient or resident disability group, and may establish separate charges for each ~~hospital~~ facility. "Cost of care" for outpatient or day-care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.

For purposes of this subdivision "resident patient" means a person who occupies a bed while housed in a ~~hospital~~ state facility for observation, care, diagnosis, or treatment.

For purposes of this subdivision "outpatient" or "day-care" patient or resident means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state ~~hospital~~ facility or through state ~~hospital~~ personnel but does not occupy a ~~hospital~~ bed overnight.

For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the Social Security Act "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency.

Sec. 50. Minnesota Statutes 1986, section 246.50, subdivision 7, is amended to read:

Subd. 7. [PATIENT'S OR RESIDENT'S COUNTY.] "Patient's or resident's county" means the county of the patient's or resident's legal settlement for poor relief purposes at the time of commitment or voluntary admission to a state ~~hospital~~ facility, or if the patient or resident has no such legal settlement in this state, it means the county of commitment, except that where a patient or resident with no such legal settlement is committed while serving a sentence at a penal institution, it means the county from which the patient or resident was sentenced.

Sec. 51. Minnesota Statutes 1986, section 246.51, is amended to read:

246.51 [PAYMENT FOR CARE AND TREATMENT; DETERMINATION.]

Subdivision 1. [PROCEDURES.] The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient or resident is able to pay. If the patient or resident is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient ~~or~~, resident, and relatives ~~or both~~ shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient, resident, or relatives, ~~both~~, liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a regional treatment center after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, except for chemical dependency receipts, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Subd. 2. [RULES.] The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determi-

nation of patient liability and relative, guardian or conservator responsibility for care provided at state ~~hospitals~~ facilities. These rules shall have the force and effect of law.

Sec. 52. Minnesota Statutes 1986, section 246.511, is amended to read:
246.511 [RELATIVE RESPONSIBILITY.]

In no case, shall a patient's or resident's relatives, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ten percent of the cost of care, unless they reside outside the state. Parents of children in state ~~hospitals~~ facilities shall have their responsibility to pay determined according to section 252.27, subdivision 2. The commissioner may accept voluntary payments in excess of ten percent. The commissioner may require full payment of the full per capita cost of care in state ~~hospitals~~ facilities for patients or residents whose parent, parents, spouse, guardian, or conservator do not reside in Minnesota.

Sec. 53. [246.531] [SUBROGATION OF INSURANCE SETTLEMENTS.]

Subdivision 1. [SUBROGATION TO PATIENT'S RIGHTS.] The department of human services shall be subrogated, to the extent of the cost of care for services given, to the rights a patient or resident who receives treatment or care at a state facility may have under private health care coverage. The right of subrogation does not attach to benefits paid or provided under private health care coverage before the carrier issuing the health care coverage receives written notice of the exercise of subrogation rights.

Subd. 2. [CIVIL ACTION.] To recover under this section, the department of human services, with counsel of the attorney general, may institute or join in a civil action against the carrier issuing the private health care coverage.

Sec. 54. Minnesota Statutes 1986, section 246.57, is amended by adding a subdivision to read:

Subd. 4. [LAUNDRY EQUIPMENT.] The commissioner of human services may provide for the replacement of laundry equipment by including a charge for depreciation as part of the service costs charged by a regional treatment center operating a laundry service. Receipts for laundry services attributable to depreciation of laundry equipment must be deposited in a laundry equipment depreciation account within the general fund. All money deposited in the account is appropriated to the commissioner of human services for the replacement of laundry equipment. Any balance remaining in the account at the end of a fiscal year does not cancel and is available until expended.

Sec. 55. Minnesota Statutes 1986, section 251.011, subdivision 6, is amended to read:

Subd. 6. [RULES.] The commissioner of human services may promulgate rules for the operation of, and for the admission of residents in, and to establish charges for care in the state nursing homes at Ah-Gwah-Ching and Oak Terrace. Charges for care in the state nursing homes shall be established under sections 246.50 to 246.55. For the purposes of collecting from the federal government for the care of those residents in the state nursing homes eligible for medical care under the Social Security Act, "cost of care" shall be determined as set forth in the rules and regulations of the department of health and human services or its successor agency.

Sec. 56. Minnesota Statutes 1986, section 252.275, subdivision 1, is amended to read:

Subdivision 1. [PROGRAM.] The commissioner of human services shall establish a statewide program to assist counties in reducing the utilization of intermediate care services in state hospitals and in community residential facilities, *including nursing homes*, for persons with mental retardation or related conditions. The commissioner shall make grants to county boards to establish, operate, or contract for the provision of semi-independent living services licensed by the commissioner pursuant to sections 245.781 to 245.812 and 252.28.

Sec. 57. Minnesota Statutes 1986, section 252.275, subdivision 2, is amended to read:

Subd. 2. [APPLICATION; CRITERIA.] To apply for a grant, a county board shall submit an application and budget for use of grant money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets *or portions thereof* are approved by the commissioner.

Sec. 58. Minnesota Statutes 1986, section 252.275, subdivision 4, is amended to read:

Subd. 4. [FORMULA.] *From the appropriations made available for this program*, the commissioner shall allocate grants under this section to finance up to 95 percent; ~~but not less than 80 percent~~, of each county's ~~cost~~ *approved budget* for semi-independent living services for ~~mentally retarded~~ persons with mental retardation or related conditions. *The commissioner shall not approve budgeted costs for services for any person which exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year. Nothing in this subdivision prevents a county from using other funds to pay for additional costs of semi-independent living services.*

As of July 1, 1987, the commissioner shall allocate funds and reimburse county costs for persons approved for funding. The commissioner shall proportionally allocate funds to counties based on the approved budgeted costs for persons approved for funding. The commissioner shall adjust county grants based on actual approved expenditures and shall reallocate funds to the extent necessary. The commissioner may set aside up to two percent of the appropriations to fund county demonstration projects that improve the efficiency and effectiveness of semi-independent living services.

Sec. 59. Minnesota Statutes 1986, section 252.275, subdivision 7, is amended to read:

Subd. 7. [REPORTS.] The commissioner shall require collection of data and periodic reports necessary to demonstrate the effectiveness of semi-independent living services in helping persons with mental retardation or related conditions achieve self-sufficiency and independence. ~~The commissioner shall report to the legislature no later than January 15, 1984, on the effectiveness of the program, its effect on reducing the number of persons with mental retardation or related conditions in state hospitals and in intermediate care facilities, and the commissioner's recommendations regarding making this program an integral part of the social services programs administered by the counties.~~

Sec. 60. Minnesota Statutes 1986, section 256.01, subdivision 4, is amended to read:

Subd. 4. [DUTIES AS STATE AGENCY.] The state agency shall:

(1) supervise the administration of assistance to dependent children under Laws 1937, chapter 438, by the county agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(2) may subpoena witnesses and administer oaths, make rules, and take such action as may be necessary, or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules made by the state agency shall be binding on the counties and shall be complied with by the respective county agencies;

(3) establish adequate standards for personnel employed by the counties and the state agency in the administration of Laws 1937, chapter 438, and make the necessary rules to maintain such standards;

(4) prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(5) cooperate with the federal government and its public welfare agencies in any reasonable manner as may be necessary to qualify for federal aid for aid to dependent children and in conformity with the provisions of Laws 1937, chapter 438, including the making of such reports and such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verification of such reports; and

(6) may cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving aid to dependent children moves or contemplates moving into or out of the state, in order that such child may continue to receive supervised aid from the state moved from until the child shall have resided for one year in the state moved to; and

(7) on or before October 1 in each even-numbered year make a biennial report to the governor concerning the activities of the agency;

(8) ~~prepare a plan and submit it to the full productivity and opportunity coordinator in each even-numbered year, according to standards established by the coordinator, for use in developing a biennial statewide employment and training plan design, develop, and administer an intake, referral, and inventory system that provides localized, single-point intake with a direct access to a statewide data base to match client needs with employment opportunities and public and private services. The system must include information on all available public and private programs for employment and training services and income maintenance and support services as defined in section 268.0111. The state agency shall cooperate with the department of jobs and training, counties and other local service units, service providers, and clients in the development and operation of the system. The system is not subject to sections 16B.40 to 16B.45; and~~

(9) enter into agreements with other departments of the state as necessary to meet all requirements of the federal government.

Sec. 61. Minnesota Statutes 1986, section 256.045, subdivision 3, is

amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] ~~In counties in which the commissioner of human services has not appointed a local welfare referee, (a) Any person applying for, receiving or having received any of the forms of public assistance described in subdivision 2 public assistance or a program of social services granted by a local agency under sections 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient or relative shows good cause why the request was not submitted within the 30 day time limit.~~

(b) All prepaid health plans under contract to the commissioner pursuant to chapter 256B or 256D must provide for a complaint system according to section 62D.11. The prepaid health plan must notify the ombudsman within three working days of any formal complaint made under section 62D.11 by persons enrolled in a prepaid health plan under chapter 256B or 256D. At the time a complaint is made, the prepaid health plan must notify the recipient of the name and telephone number of the ombudsman. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan shall issue a written resolution within 30 days of filing with the prepaid health plan. The ombudsman may waive the requirement that the complaint system procedures be exhausted prior to an appeal if the ombudsman determines that the complaint must be resolved expeditiously in order to provide care in an urgent situation.

(c) A local agency or party aggrieved by a ruling of a local welfare referee may appeal the ruling to the state agency by filing a notice of appeal with the state agency within 30 days after receiving the ruling of the local welfare referee. A state welfare human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. In appeals from rulings of local welfare referees, the hearing may be limited, upon stipulation of the parties, to a review of the record of the local welfare referee. The commissioner need not grant a hearing if the sole issue raised by an appellant is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner.

(d) In a notice of appeal from a ruling of a prepaid health plan, a recipient may request an expedited hearing. The ombudsman, after discussing with the recipient his or her condition and in consultation with a health practitioner who practices in the specialty area of the recipient's primary diagnosis, shall investigate and determine whether an expedited appeal is warranted. In making the determination, the ombudsman shall evaluate whether the medical condition of the recipient, if not expeditiously diagnosed and treated, could cause physical or mental disability, substantial deterioration of physical or mental health, continuation of severe pain, or death. The ombudsman may order a second medical opinion from the prepaid health plan or order a second medical opinion from a non-prepaid health plan provider at prepaid health plan expense. If the ombuds-

man determines that an expedited appeal is warranted, the state welfare referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case. In urgent or emergency situations in which a prepaid health plan provider has prescribed treatment, and the prepaid health plan has denied authorization for that treatment, the referee may order the health plan to authorize treatment pending the outcome of the appeal.

Sec. 62. Minnesota Statutes 1986, section 256.737, subdivision 1, is amended to read:

Subdivision 1. [PILOT PROGRAMS.] In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of human services may continue the pilot community work experience demonstration programs that were approved by January 1, 1984. No new pilot community work experience demonstration programs may be established under this subdivision. The commissioner shall: (a) assist counties in the design, implementation, and evaluation of these demonstration programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until the termination of the demonstration programs; and (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law. The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1985. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

~~Projects end As the commissioner phases in case management and other employment and training services under section 256.736, and no later than June 30, 1987 1989, and a report the commissioner may phase out projects under this section. shall be made to the legislature by February 15, 1987, on the feasibility of permanent implementation and on the cost effectiveness of each of the demonstration programs.~~

Sec. 63. [256.936] [CHILDREN'S HEALTH PLAN.]

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

(a) "Eligible persons" means pregnant women and children under six years old who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. Eligibility for pregnant women shall continue for 60 days postpartum to allow for follow-up visits.

(b) "Covered services" means prenatal care services and children's health

services.

(c) "Prenatal care services" means the outpatient services provided to pregnant women which are medically necessary for the pregnancy. Physician or certified nurse-midwife services for delivery are included but inpatient hospital services are not included.

(d) "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, nursing home or intermediate care facilities services, and mental health and chemical dependency services.

(e) "Eligible providers" means those health care providers who provide prenatal care services and children's health services to medical assistance clients under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance. A provider of prenatal care services shall assess whether the pregnant woman is at risk of delivering a low birth weight baby or has a health condition which may increase the probability of a problem birth.

(f) "Commissioner" means the commissioner of human services.

Subd. 2. [FUND ADMINISTRATION.] The children's health plan is established to promote access to appropriate health care for pregnant women and to assure healthy babies and healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide prenatal care and children's health services for eligible persons. Payment for these services shall be made to all eligible providers. The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program. A toll-free telephone number must be used to provide information about the plan and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Subd. 3. [APPLICATION PROCEDURES.] Applications and other information must be available in provider offices, local human services agencies, community health offices, and Women, Infants and Children (WIC) program sites. These sites may accept applications, collect the enrollment fee, and forward the forms and fees to the commissioner. Otherwise, applicants may apply directly to the commissioner. The commissioner may use individuals' social security numbers as identifiers for purposes of administering the plan and conduct data matches to verify income. Applicants shall submit evidence of family income, earned and unearned, that will be used to verify income eligibility. Notwithstanding any other law to the contrary, benefits under this section are secondary to any plan of insurance or benefit program under which an eligible person may have coverage. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Subd. 4. [ENROLLMENT FEE.] An enrollment fee of \$35 is required from eligible persons for prenatal care services and an annual enrollment

fee of \$25 is required from eligible persons for children's health services. The fees may be paid together at the time of enrollment or as two payment installments. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

Sec. 64. Minnesota Statutes 1986, section 256.969, subdivision 2, is amended to read:

Subd. 2. [RATES FOR INPATIENT HOSPITALS.] ~~Rates paid to inpatient hospitals shall be based on a rate per admission until the commissioner can begin to reimburse hospitals for services under the medical assistance and general assistance medical care programs based upon a diagnostic classification system appropriate to the service populations.~~ On July 1, 1984, the commissioner shall begin to utilize to the extent possible existing classification systems, including medicare. The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee. ~~Effective August 1, 1985,~~ The computation of the base year cost per admission and the computation of the relative values of the diagnostic categories must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs and days beyond that point. Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates, ~~unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration.~~ The commissioner may reconstitute the diagnostic categories to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. ~~Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense 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.

Sec. 65. Minnesota Statutes 1986, section 256.969, subdivision 3, is amended to read:

Subd. 3. [SPECIAL CONSIDERATIONS.] (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:

(a) (1) minimal medical assistance and general assistance medical care utilization;

(b) (2) unusual length of stay experience; and

(c) (3) disproportionate numbers of low income patients served.

(b) *To the extent of available appropriations, the commissioner shall provide supplemental grants directly to a hospital described in section 87, paragraph (a), that receives medical assistance payments through a county-managed health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 87, subdivision 4.*

Sec. 66. [256.974] [OFFICE OF OMBUDSMAN FOR OLDER MINNESOTANS; LOCAL PROGRAMS.]

The ombudsman for older Minnesotans serves in the classified service under section 256.01, subdivision 7, in an office within the Minnesota board on aging that incorporates the long-term care ombudsman program required by the Older Americans Act, Public Law 98-456, United States Code, title 42, section 3027(a)(12), and established within the Minnesota board on aging. The Minnesota board on aging may make grants to local programs or area agencies on aging for the provision of ombudsman services to clients in county or multicounty areas. Individuals providing local ombudsman services must be qualified to perform the duties required by section 256.9742.

Sec. 67. [256.9741] [DEFINITIONS.]

Subdivision 1. *"Long-term care facility" means a nursing home licensed under sections 144A.02 to 144A.10 or boarding care home licensed under sections 144.50 to 144.56.*

Subd. 2. *"Acute care facility" means a facility licensed as a hospital under sections 144.50 to 144.56.*

Subd. 3. *"Client" means an individual who requests, or on whose behalf a request is made for, ombudsman services and is (a) a resident of a long-term care facility or (b) a patient in an acute care facility who is eligible for Medicare and requests assistance relating to admission or discharge from an acute care facility.*

Subd. 4. *"Area agency on aging" means an agency responsible for coordinating a comprehensive aging services system within a planning and service area that has been designated an area agency on aging by the Minnesota board on aging.*

Subd. 5. *"Office" means the office of ombudsman established within the Minnesota board on aging or local ombudsman programs.*

Sec. 68. [256.9742] [DUTIES AND POWERS OF THE OFFICE.]***Subdivision 1. [DUTIES.] The ombudsman shall:***

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, or government agency that may adversely affect the health, safety, welfare, or rights of any client;

(2) mediate or advocate on behalf of clients;

(3) monitor the development and implementation of federal, state, or local laws, regulations, and policies affecting the rights and benefits of clients;

(4) comment on and recommend to the legislature and public and private agencies regarding laws, regulations, and policies affecting clients;

(5) inform public agencies about the problems of clients;

(6) provide for training of volunteers and promote the development of citizen participation in the work of the office;

(7) conduct public forums to obtain information about and publicize issues affecting clients;

(8) provide public education regarding the health, safety, welfare, and rights of clients; and

(9) collect and analyze data relating to complaints and conditions in long-term care facilities.

Subd. 2. [IMMUNITY FROM LIABILITY.] *A person designated as an ombudsman under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman, and do not constitute willful or reckless misconduct.*

Subd. 3. [POSTING.] *Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. The posting is subject to approval by the ombudsman.*

Subd. 4. [ACCESS TO LONG-TERM CARE AND ACUTE CARE FACILITIES AND CLIENTS.] *The ombudsman may:*

(1) enter any long-term care facility without notice at any time;

(2) enter any acute care facility without notice during normal business hours;

(3) communicate privately and without restriction with any client in accordance with section 144.651; and

(4) inspect records of a long-term care facility or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651.

Subd. 5. [ACCESS TO STATE RECORDS.] *The ombudsman has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman shall first obtain the individual's consent.*

Each state agency responsible for licensing, regulating, and enforcing

state and federal laws and regulations concerning long-term care and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities and acute care facilities.

Sec. 69. [256.9743] [REPORTING.]

By February 1, 1989, the board on aging shall recommend methods for expanding and funding local ombudsman programs to serve clients receiving in-home services or care in acute care facilities.

Sec. 70. [256.9744] [OFFICE DATA.]

Subdivision 1. [CLASSIFICATION.] Except as provided in this section, data maintained by the office under sections 256.974 to 256.9744 are private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained in accordance with the requirements of Public Law 98-459, United States Code, title 42, section 3027(a)(12)(D).

Subd. 2. [RELEASE.] Data maintained by the office that does not relate to the identity of a complainant or a resident of a long-term facility may be released at the discretion of the ombudsman responsible for maintaining the data. Data relating to the identity of a complainant or a resident of a long-term facility may be released only with the consent of the complainant or resident or by court order.

Sec. 71. [256.9745] [IN-HOME SERVICES ADVISORY TASK FORCE.]

The Minnesota board on aging shall appoint an advisory task force to make recommendations for expanding ombudsman services to recipients of in-home services. The task force shall include clients or representatives of clients, providers of in-home services, representatives of the Minnesota department of health, department of human services, counties, area agencies on aging, and members of the public at large. Compensation, terms, and removal of members shall be as provided in section 15.059. The Minnesota board on aging shall issue a report of the recommendations of the task force by February 1, 1989.

**Sec. 72. Minnesota Statutes 1986, section 256.98, is amended to read:
256.98 [WRONGFULLY OBTAINING ASSISTANCE; THEFT.]**

Subdivision 1. [WRONGFULLY OBTAINING ASSISTANCE.] A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the local agency with intent to defeat the purposes of sections 256.12, 256.72 to ~~256.872~~ 256.871, and chapter 256B, or all of these sections is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (1), (2) and (5).

Subd. 2. [JOINT TRIALS.] When two or more defendants are jointly charged with the same offense under subdivision 1, or are jointly charged with different offenses under subdivision 1 arising from the same course of conduct, they shall be tried jointly; however, if it appears to the court that a defendant or the state is substantially prejudiced by the joinder for

trial, the court may order an election or separate trial of counts, grant a severance of defendants, or provide other relief.

Subd. 3. [AMOUNT OF ASSISTANCE INCORRECTLY PAID.] The amount of the assistance incorrectly paid ~~shall be under this section~~ is the difference between the amount of assistance actually received on the basis of misrepresented or concealed facts and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts specific concealment or misrepresentation not occurred. Unless required by law, rule, or regulation, earned income disregards shall not be applied to earnings not reported by the recipient.

Subd. 4. [RECOVERY OF ASSISTANCE.] The amount of ~~any~~ assistance determined to have been incorrectly paid ~~shall be~~ is recoverable from the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both in proportion to the contribution of each. ~~Any amounts recovered shall be paid to the appropriate units of government in the same manner as provided in section 256.863.~~

Subd. 5. [CRIMINAL OR CIVIL ACTION.] To prosecute or to recover assistance wrongfully obtained under this section, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general, may institute a criminal or civil action or both.

Subd. 6. [RULE SUPERSEDED.] Rule 17.03, subdivision 2, of the Minnesota Rules of Criminal Procedures that relates to joint trials is superseded by this section to the extent that it conflicts with this section.

Subd. 7. [DIVISION OF RECOVERED AMOUNTS.] If the state is responsible for the recovery, the amounts recovered shall be paid to the appropriate units of government as provided under section 256.863. If the recovery is directly attributable to a county, the county may retain one-half of the nonfederal share of any recovery from a recipient or the recipient's estate. This subdivision does not apply to recoveries from medical providers or to recoveries involving the department of human services, surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division.

Sec. 73. 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 resources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a ~~proposed~~ list of elective surgeries that require a second medical opinion prior to reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list ~~is and the criteria and standards are~~ not subject to the requirements of sections 14.01 to 14.70 14.69. 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. *A second medical opinion is required before reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before reimbursement and the criteria and standards for deciding whether an elective surgery should require a second surgical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. 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.* "Emergency services" means those medical 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 *lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public.* Actual acquisition cost includes quantity and other special discounts except time and cash discounts. *The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multi-source drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs.* Establishment of ~~this fee~~ *the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for prescriptions dis-*

pensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. 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. *"Preventive services" include services related to pregnancy, including services for those conditions which may complicate a pregnancy and which may be available to a pregnant woman determined to be at risk of poor pregnancy outcome. Preventive services available to a woman at risk of poor pregnancy outcome may differ in an amount, duration, or scope from those available to other individuals eligible for medical assistance;*

(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. *For purposes of obtaining Medicare part B, expenditures may be made even if federal funding is not available;*

(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 med-

ical 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~~ assistant 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~~ assistants 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. *The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before medical assistance reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision whether prior authorization is required for a health service or a second medical opinion is required for an elective surgery is not subject to administrative appeal.*

Sec. 74. Minnesota Statutes 1986, section 256B.02, is amended by adding a subdivision to read:

Subd. 12. [PREPAID HEALTH PLAN.] "Prepaid health plan" means a vendor who receives a capitation payment and assumes financial risk for the provision of medical assistance services under a contract with the commissioner.

Sec. 75. Minnesota Statutes 1986, section 256B.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL LIMIT.] All payments for medical assistance hereunder must be made to the vendor. *The maximum payment for new vendors enrolled in the medical assistance program after the base year*

shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

Sec. 76. [256B.031] [PREPAID HEALTH PLANS.]

Subdivision 1. [CONTRACTS.] The commissioner may contract with health insurers licensed and operating under chapters 60A and 62A, non-profit health service plans licensed and operating under chapter 62C, health maintenance organizations licensed and operating under chapter 62D, and vendors of medical care and organizations participating in prepaid programs under section 256D.03, subdivision 4, clause (b), to provide medical services to medical assistance recipients. Notwithstanding any other law, health insurers may enter into contracts with the commissioner under this section. As a condition of the contract, health insurers and health service plan corporations must agree to comply with the requirements of section 62D.04, subdivision 1, clauses (a), (b), (c), (d), and (f), and provide a complaint procedure that satisfies the requirements of section 62D.11. Nothing in this section permits health insurers not licensed as health maintenance organizations under chapter 62D to offer a prepaid health plan as defined in section 256B.02, subdivision 12, to persons other than those receiving medical assistance or general assistance medical care under this section. Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16B.19, subdivisions 5 and 6. Contracts must specify the services that are included in the per capita rate. Contracts must specify those services that are to be eligible for risk sharing between the prepaid health plan and the state. Contracts must also state that payment must be made within 60 days after the month of coverage.

Subd. 2. [SERVICES.] State contracts for these services must assure recipients of at least the comprehensive health services defined in section 256B.02, subdivision 8, except services defined in section 256B.02, subdivision 8, paragraphs (2), (5), (16), and (17), and except services defined as chemical dependency services and mental health services.

Contracts under this section must include provision for assessing pregnant women to determine their risk of poor pregnancy outcome. Contracts must also include provision for treatment of women found to be at risk of poor pregnancy outcome.

Subd. 3. [INFORMATION REQUIRED.] Prepaid health plans under contract must provide information to the commissioner according to the contract specifications. The information must include, at a minimum, the number of people receiving services, the number of encounters, the types of services received, evidence of an operating quality assurance program, and information about the use of and actual recoveries of available third-party resources. A plan under contract to provide services in a county must provide the county agency with the most current listing of the health care providers whose services are covered by the plan.

Subd. 4. [PREPAID HEALTH PLAN RATES.] For payments made during calendar year 1988, the monthly maximum allowable rate established by the commissioner of human services for payment to prepaid health plans must not exceed 90 percent of the projected average monthly per capita fee-for-service medical assistance costs for state fiscal year 1988 for recipients of aid to families with dependent children. The base year for projecting the average monthly per capita fee-for-service medical assistance costs is state fiscal year 1986. A maximum allowable per capita rate

must be established collectively for Anoka, Carver, Dakota, Hennepin, Ramsey, St. Louis, Scott, and Washington counties. A separate maximum allowable per capita rate must be established collectively for all other counties. The maximum allowable per capita rate may be adjusted to reflect utilization differences among eligible classes of recipients. For payments made during calendar year 1989, the maximum allowable rate must be calculated in the same way as 1988 rates, except the base year is state fiscal year 1987. For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates. Rates established for prepaid health plans must be based on the services that the prepaid health plan provides under contract with the commissioner.

Subd. 5. [FREE CHOICE LIMITED.] (a) The commissioner may require recipients of aid to families with dependent children, except those recipients who are refugees and whose health services are reimbursed 100 percent by the federal government for the first 31 months after entry into the United States, to enroll in a prepaid health plan and receive services from or through the prepaid health plan. Enrollment in a prepaid health plan is mandatory only when recipients have a choice of at least two prepaid health plans.

(b) Recipients who become eligible on or after December 1, 1987, must choose a health plan within 30 days of the date eligibility is determined. At the time of application, the local agency shall ask the recipient whether the recipient has a primary health care provider. If the recipient has not chosen a health plan within 30 days but has provided the local agency with the name of a primary health care provider, the local agency shall determine whether the provider participates in a prepaid health plan available to the recipient and, if so, the local agency shall select that plan on the recipient's behalf. If the recipient has not provided the name of a primary health care provider who participates in an available prepaid health plan, commissioner shall randomly assign the recipient to a health plan.

(c) Recipients who are eligible on November 30, 1987, must choose a prepaid health plan by January 15, 1988. If possible, the local agency shall ask whether the recipient has a primary health care provider and the procedures under paragraph (b) shall apply. If a recipient does not choose a prepaid health plan by this date, the commissioner shall randomly assign the recipient to a health plan.

(d) Each recipient must be enrolled in the health plan for a minimum of six months following the effective date of enrollment, except that the recipient may change health plans once within the first 60 days after initial enrollment. The commissioner shall request a waiver from the federal Health Care Financing Administration to extend the minimum period to 12 months.

(e) Women who are receiving medical assistance due to pregnancy and later become eligible for aid to families with dependent children are not required to choose a prepaid health plan until 60 days postpartum. An infant born as a result of that pregnancy must be enrolled in a prepaid health plan at the same time as the mother.

(f) If third-party coverage is available to a recipient through enrollment in a prepaid health plan through employment, through coverage by the former spouse, or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551, the obligee or recipient shall participate in the prepaid health plan in which the obligee

has enrolled provided that the commissioner has contracted with the plan.

Subd. 6. [OMBUDSMAN.] *The commissioner shall designate an ombudsman to advocate for persons required to enroll in prepaid health plans under this section. The ombudsman shall advocate for recipients enrolled in prepaid health plans through complaint and appeal procedures and ensure that necessary medical services are provided either by the prepaid health plan directly or by referral to appropriate social services. At the time of enrollment in a prepaid health plan, the local agency shall inform recipients about the ombudsman program and their right to a resolution of a complaint by the prepaid health plan if they experience a problem with the plan or its providers.*

Subd. 7. [SERVICES PENDING APPEAL.] *If the recipient appeals in writing to the state agency on or before the tenth day after the decision of the prepaid health plan to reduce, suspend or terminate services which the recipient had been receiving, and the treating physician or another plan physician orders the services to be continued at the previous level, the prepaid health plan must continue to provide services at a level equal to the level ordered by the plan's physician until the state agency renders its decision.*

Subd. 8. [CASE MANAGEMENT.] *The commissioner shall prepare a report to the legislature by January 1988, that describes the issues involved in successfully implementing a case management system in counties where the commissioner has fewer than two prepaid health plans under contract to provide health care services to eligible classes of recipients. In the report the commissioner shall address which health care providers could be case managers, the responsibilities of the case manager, the assumption of risk by the case manager, the services to be provided either directly or by referral, reimbursement concerns, federal waivers that may be required, and other issues that may affect the quality and cost of care under such a system.*

Subd. 9. [PREPAYMENT COORDINATOR.] *The local agency shall designate a prepayment coordinator to assist the state agency in implementing this section, section 256B.69, and section 256D.03, subdivision 4. Assistance must include educating recipients about available health care options, enrolling recipients under subdivision 5, providing necessary eligibility and enrollment information to health plans and the state agency, and coordinating complaints and appeals with the ombudsman established in subdivision 6.*

Subd. 10. [IMPACT ON PUBLIC OR TEACHING HOSPITALS AND COMMUNITY CLINICS.] *(a) 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, provided the terms of participation in the program are competitive with the terms of other participants.*

(b) Prepaid health plans serving counties with a nonprofit community clinic or community health services agency must contract with the clinic or agency to provide services to clients who choose to receive services from the clinic or agency, if the clinic or agency agrees to payment rates that are competitive with rates paid to other health plan providers for the

same or similar services.

Sec. 77. Minnesota Statutes 1986, section 256B.04, subdivision 14, is amended to read:

Subd. 14. [COMPETITIVE BIDDING.] The commissioner shall utilize volume purchase through competitive bidding under the provisions of chapter 16, to provide the following items:

(1) eyeglasses;

(2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;

(3) hearing aids and supplies; and

(4) durable medical equipment, including but not limited to:

(a) hospital beds;

(b) commodes;

(c) glide-about chairs;

(d) patient lift apparatus;

(e) wheelchairs and accessories;

(f) oxygen administration equipment;

(g) respiratory therapy equipment;

(h) electronic diagnostic, therapeutic and life support systems; ~~and~~

(5) wheelchair transportation services; *and*

(6) *drugs.*

Sec. 78. 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.

Sec. 79. Minnesota Statutes 1986, section 256B.06, subdivision 1, is amended to read:

Subdivision 1. Medical assistance may be paid for any person:

(1) who is a child eligible for or receiving adoption assistance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676 under Minnesota Statutes, section 259.40 or 259.431; or

(2) who is a child eligible for or receiving foster care maintenance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676; or

(3) who is eligible for or receiving public assistance under the aid to families with dependent children program, the Minnesota supplemental aid program, *except for those persons eligible for Minnesota supplemental aid because the local agency waived excess assets under section 256D.37, subdivision 2*; or

(4) who is a pregnant woman, as certified in writing by a physician or nurse midwife, and who (a) meets the other eligibility criteria of this section, and (b) would be categorically eligible for assistance under the aid to families with dependent children program if the child had been born and was living with the woman. *For purposes of this section, a woman is considered pregnant for 60 days postpartum*; or

(5) who is a pregnant woman, as certified in writing by a physician or nurse midwife, who meets the other eligibility criteria of this section and whose unborn child would be eligible as a needy child under clause (9) (8) if born and living with the woman. *For purposes of this section, a woman is considered pregnant for 60 days postpartum*; or

(6) who meets the categorical eligibility requirements of the supplemental security income program and the other eligibility requirements of this section; or

(7) who, except for the amount of income or ~~resources~~ *assets*, would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children, and who meets the other eligibility requirements of this section. *However, in the case of families and children who meet the categorical eligibility requirements for aid to families with dependent children, the methodology for calculating assets shall be as specified in section 256.73, subdivision 2, and the methodology for calculating deductions from earnings for child care and work expenses shall be as specified in section 256.74, subdivision 1*; or

(8) who is under 21 years of age and in need of medical care that neither the person nor the person's relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(9) who is an infant less than one year of age born on or after October

1, 1984, whose mother was eligible at the time of birth and who remains in the mother's household. Eligibility under this clause is concurrent with the mother's and does not depend on the father's income except as the income affects the mother's eligibility; or

(10) who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; and

(11) who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the rules of the state agency; and

(12) who alone, or together with the person's spouse, does not own real property other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant or recipient as a primary place of residence, together with the contiguous land upon which it is situated. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by the spouse, minor child, or disabled child of any age; ~~or the applicant/recipient is expected to return to the home as a principal residence within six calendar months of entry to the long-term care facility. Certification of expected return to the homestead shall be documented in writing by the attending physician. The homestead is also excluded for the first six calendar months of the person's stay in the long-term care facility. The homestead must be reduced to an amount within limits or excluded on another basis if the person remains in the long-term care facility for a period longer than six months.~~ Real estate not used as a home may not be retained unless it produces net income applicable to the family's needs ~~or the family is making a continuing effort to sell it at a fair and reasonable price or unless the commissioner determines that sale of the real estate would cause undue hardship or unless the equity in the real estate when combined with the equity in the homestead totals \$15,000 or less the property is not salable, the equity is \$6,000 or less and the income produced by the property is at least six percent of the equity, or the excess real property is exempted for a period of nine months if there is a good faith effort to sell the property and a legally binding agreement is signed to repay the amount of assistance issued during that nine months;~~ and

(13) who individually does not own more than \$3,000 in cash or liquid assets, or if a member of a household with two family members (husband and wife, or parent and child), does not own more than \$6,000 in cash or liquid assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. Cash and liquid assets may include a prepaid funeral contract and insurance policies with cash surrender value. The value of the following shall not be included:

(a) the homestead, and (b) household goods and furniture in use in the home, (c) wearing apparel, (d) personal property used as a regular abode by the applicant or recipient, (e) a lot in a burial plot for each member of the household, (f) personal jewelry acquired more than 24 months imme-

diately prior to the period of medical assistance eligibility and personal jewelry acquired within 24 months immediately prior to the period of medical assistance eligibility and not purchased with assets of the applicant or recipient, (g) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income, (h) for a period of six months, insurance settlements to repair or replace damaged, destroyed, or stolen property, (i) one motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit, and (j) other items which may be required by federal law or statute. To be excluded, the vehicle must have a market value of less than \$4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the cash or liquid asset limit; and

(14) who has or anticipates receiving an annual or a semiannual income not in excess of 115 percent of the income standards by family size used in the aid to families with dependent children program, or who has income in excess of these maxima and in the month of application, or during the three months prior to the month of application, incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the rules of the state agency except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. Notwithstanding any laws or rules to the contrary, in computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Number 94-566, section 503. In excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred, Public Law Number 99-272 and Public Law Number 99-509; and

(15) who has continuing monthly expenses for medical care that are more than the amount of the person's excess income, computed on a monthly basis, in which case eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred; and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, income over and above that required for justified needs, determined pursuant to a schedule of contributions established by the commissioner of human services, is to be applied to the cost of institutional care or who is a pregnant woman who meets the requirements of clauses (1) to (8) except that her anticipated income is in excess of the income standards by family size used in the aid to families with dependent children program, but is equal to or less than 133-1/3 percent of that income standard. Eligibility for a pregnant woman with respect to this clause shall be without regard to the asset standards specified in clauses (12) and (13). For persons who reside in licensed nursing homes, regional treatment centers, or medical institutions, the income over and above that required in section 256B.35 for personal needs allowance is to be applied to the cost of institutional care. In addition, income may be retained by an institutionalized person (a) to support dependents in the amount that, together with the income of the spouse and child under age 18, would provide net income equal to the medical assistance

standard for the family size of the dependents excluding the person residing in the facility; or (b) for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility, if the person has expenses of maintaining a residence in the community, and if a physician certifies that the person is expected to reside in the long-term care facility on a short-term basis. For purposes of this section, persons are determined to be residing in licensed nursing homes, regional treatment centers, or medical institutions if the persons are expected to remain for a period expected to last longer than three months. The commissioner of human services may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care; and

(16) who has applied or agrees to apply all proceeds received or receivable by the person or the person's spouse from ~~automobile accident coverage and private health care coverage~~ to any third person liable for the costs of medical care for the person, the spouse, and children. The state agency ~~may~~ shall require from any applicant or recipient of medical assistance the assignment of any rights ~~accruing under private health care coverage to medical support and third party payments~~. Persons must cooperate with the state in establishing paternity and obtaining third party payments. By signing an application for medical assistance, a person assigns to the department of human services all rights the person may have to medical support or payments for medical expenses from any other person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment takes effect upon the determination that the applicant is eligible for medical assistance and up to three months prior to the date of application if the applicant is determined eligible for and receives medical assistance benefits. The application must contain a statement explaining this assignment. Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to receipt notification of the assignment by the person or organization providing the benefits; and

(17) eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

Sec. 80. Minnesota Statutes 1986, section 256B.06, is amended by adding a subdivision to read:

Subd. 4. [CITIZENSHIP REQUIREMENTS.] Eligibility for medical assistance is limited to citizens of the United States and aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of law. Payment shall also be made for care and services that are furnished to an alien who otherwise meets the eligibility requirements of this section if such care and services are necessary for the treatment of an emergency medical condition. For purposes of this subdivision, the term "emergency medical condition" means a medical condition, including labor and delivery, that if not immediately treated could cause a person physical or mental disability, continuation of severe pain, or death.

Sec. 81. Minnesota Statutes 1986, section 256B.064, subdivision 1a, is

amended to read:

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

Sec. 82. Minnesota Statutes 1986, section 256B.15, is amended to read:

If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the person ~~and the surviving spouse, if married survivor of a married couple, either or both of whom received medical assistance,~~ and only when there is no surviving child who is under 21 or is blind or totally disabled, the total amount paid for medical assistance rendered for the person ~~and spouse,~~ after age 65, without interest, shall be filed as a claim against the estate of the person ~~or the estate of the surviving spouse~~ in the court having jurisdiction to probate the estate. ~~A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly-owned property at any time during the marriage.~~ The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Counties may retain one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort.

Sec. 83. Minnesota Statutes 1986, section 256B.17, subdivision 4, is amended to read:

Subd. 4. [PERIOD OF INELIGIBILITY.] For any uncompensated transfer, the ~~period number~~ of months of ineligibility shall be calculated by dividing the uncompensated transferred amount by the statewide average monthly ~~skilled nursing facility per diem per person payment made by the medical assistance program to skilled nursing facilities~~ for the previous calendar year to determine the number of months of ineligibility. The individual shall remain ineligible until this fixed ineligibility period has expired. The period of ineligibility may exceed 24 months, and a reapplication for benefits after 24 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired.

Sec. 84. Minnesota Statutes 1986, section 256B.17, subdivision 5, is amended to read:

Subd. 5. [EXCLUDED RESOURCES.] Except for the limitations contained in subdivision 6, a resource which is transferred while otherwise excluded under ~~sections section 256B.06 and 256B.07~~ shall not be considered an available resource for purposes of medical assistance eligibility. This exception shall not apply to applicants for or recipients of general assistance medical care benefits under chapter 256D.

Sec. 85. Minnesota Statutes 1986, section 256B.19, subdivision 1, is amended to read:

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

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

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

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment *ordered without consulting the prepaid health plan* that does not include diagnostic evaluation, recommendation, ~~or and~~ referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 86. Minnesota Statutes 1986, section 256B.35, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, welfare allowances for clothing and personal needs for individuals receiving medical assistance while residing in any skilled nursing home ~~or~~, intermediate care facility, *or medical institution* including recipients of supplemental security income, in this state shall not be less than \$40 per month from all sources.

Provided that this personal needs allowance may be paid as part of the Minnesota supplemental aid program, notwithstanding the provisions of section 256D.37, subdivision 2, and payments to the recipients from Min-

nesota supplemental aid funds may be made once each three months beginning in October, 1977 covering liabilities that accrued during the preceding three months.

Sec. 87. Minnesota Statutes 1986, section 256B.35, subdivision 2, is amended to read:

Subd. 2. Neither the skilled nursing home, the intermediate care facility, *the medical institution*, nor the department of human services shall withhold or deduct any amount of this allowance for any purpose contrary to this section.

Sec. 88. Minnesota Statutes 1986, section 256B.421, subdivision 1, is amended to read:

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

Sec. 89. 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. *For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be estab-*

lished utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. 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 of each proprietary nursing home as an operating cost of that nursing home. 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 real estate tax liability, 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. 90. Minnesota Statutes 1986, section 256B.433, is amended to read:

256B.433 [ANCILLARY SERVICES.]

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

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

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

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

(b) Nursing homes that are related by ownership, control, affiliation, or employment status to the vendor of therapy services shall report, in a format specified by the commissioner, the revenues received during the reporting year for therapy services provided to residents of the nursing home. For rate years beginning on or after July 1, 1988, the commissioner shall offset the revenues received during the reporting year for therapy services provided to residents of the nursing home to the total payment rate of the nursing home by dividing the amount of offset by the nursing home's actual resident days. Except as specified in paragraphs (d) and (f), the amount of offset shall be the revenue in excess of 108 percent of the cost removed from the cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. In establishing a new base period for the purpose of setting operating cost payment rate limits and rates, the commissioner shall not include the revenues offset in accordance with this section.

(c) For rate years beginning on or after July 1, 1987, nursing homes shall limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to 108 percent of the annualized cost removed from the reporting year cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. If the arrangement for therapy services is changed so that a nursing home is subject to this paragraph instead of paragraph (b), the cost that is used to determine rent must be adjusted to exclude the annualized costs for therapy services that are not provided in the rate year. The maximum charges to the vendors shall be based on the commissioner's determination of annualized cost and may be subsequently adjusted upon resolution of appeals.

(d) The commissioner shall require reporting of all revenues relating to the provision of therapy services and shall establish a therapy cost, as determined by section 256B.47, to revenue ratio for the reporting year ending in 1986. For subsequent reporting years, the ratio may increase five percentage points in total until a new base year is established under paragraph (e). Increases in excess of five percentage points may be allowed if adequate justification is provided to and accepted by the commissioner. Unless an exception is allowed by the commissioner, the amount of offset in paragraph (b) is the greater of the amount determined in paragraph (b) or the amount of offset that is imputed based on one minus the lesser of (1) the actual reporting year ratio or (2) the base reporting year ratio increased by five percentage points, multiplied by the revenues.

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

(f) If the arrangement for therapy services is changed so that a nursing home is subject to the provisions of paragraph (b) instead of paragraph (c), an average cost to revenue ratio based on the ratios of nursing homes

that are subject to the provisions of paragraph (b) shall be imputed for paragraph (d).

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

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

Sec. 91. Minnesota Statutes 1986, section 256B.47, subdivision 1, is amended to read:

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

Sec. 92. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

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

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

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

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

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

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

Sec. 93. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

Subd. 4. [ALLOCATION OF COSTS; HOSPITAL-ATTACHED FACILITIES.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing therapy services to residents of a hospital-attached nursing home, when the services are billed separately from the nursing home's payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report based on the Medicare step-down as prepared in accordance with instructions provided by the commissioner.

Sec. 94. Minnesota Statutes 1986, section 256B.48, subdivision 1, is amended to read:

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

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates

at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

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

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

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

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

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

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

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

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

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

The prohibitions set forth in clause (b) shall not apply to a retirement

home with more than 325 beds including at least 150 licensed nursing home beds and which:

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

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

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

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

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

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

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

Sec. 95. Minnesota Statutes 1986, section 256B.69, subdivision 6, is amended to read:

Subd. 6. [SERVICE DELIVERY.] (a) Each demonstration provider shall be responsible for the health care coordination for eligible individuals. Demonstration providers:

(a) (1) shall authorize and arrange for the provision of all needed health services including but not limited to the full range of services listed in section 256B.02, subdivision 8, in order to ensure appropriate health care is delivered to enrollees;

(b) (2) shall accept the prospective, per capita payment from the commissioner in return for the provision of comprehensive and coordinated health care services for eligible individuals enrolled in the program;

(e) (3) may contract with other health care and social service practitioners to provide services to enrollees; and

(d) (4) shall institute recipient grievance procedures according to the method established by the project, utilizing applicable requirements of chapter 62D. Disputes not resolved through this process shall be appealable to the commissioner as provided in subdivision 11.

(b) Demonstration providers must comply with the standards for claims settlement under section 72A.20, subdivision 12a, paragraphs (d), (e), (g), and (h), when contracting with other health care and social service practitioners to provide services to enrollees. A demonstration provider must pay a clean claim, as defined in Code of Federal Regulations, title 42, section 447.45(d), within 30 business days of the date of acceptance of the claim.

Sec. 96. Minnesota Statutes 1986, section 256B.69, subdivision 11, is amended to read:

Subd. 11. [APPEALS.] A recipient may appeal to the commissioner a demonstration provider's delay or refusal to provide services. The commissioner shall appoint a panel of health practitioners, including social service practitioners, as necessary to determine the necessity of services provided or refused to a recipient. The deliberations and decisions of the panel replace the administrative review process otherwise available under this chapter 256. The panel shall follow the time requirements and other provisions of the Code of Federal Regulations, title 42, sections 431.200 to 431.246. The time requirements shall be expedited based on request by the individual who is appealing for emergency services. If a service is determined to be necessary and is included among the benefits for which a recipient is enrolled, the service must be provided by the demonstration provider as specified in subdivision 5. The panel's decision is a final agency action ~~that may be appealed under the contested case provisions of chapter 14.~~

Sec. 97. Minnesota Statutes 1986, section 256B.69, is amended by adding a subdivision to read:

Subd. 12. [JUDICIAL REVIEW.] A party aggrieved by an order of the panel may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the panel issued the order and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail. Service by mail is complete upon mailing. No filing fee shall be required by the court administrator in appeals taken under this subdivision. The commissioner may elect to become a party to the proceedings in the district court. Any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the panel, by serving a written demand on the commissioner within 30 days after service of the notice of appeal.

Sec. 98. Minnesota Statutes 1986, section 256B.69, is amended by adding a subdivision to read:

Subd. 13. [HEARING.] A party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of

the hearing at least ten days before the date of the hearing. The court may consider the matter in or out of chambers and shall take no new or additional evidence unless it determines that the evidence is necessary for a more equitable disposition of the appeal.

Sec. 99. Minnesota Statutes 1986, section 256B.69, is amended by adding a subdivision to read:

Subd. 14. [APPEAL.] A party aggrieved by the order of the district court may appeal the order as in other civil cases. No costs or disbursements shall be taxed against a party nor shall any filing fee or bond be required of a party.

Sec. 100. Minnesota Statutes 1986, section 256B.69, is amended by adding a subdivision to read:

Subd. 15. [PAYMENTS PENDING APPEAL.] If the panel or district court orders services paid or provided in any proceeding under this section, it must be paid or provided pending appeal to the district court, court of appeals, or supreme court.

Sec. 101. Minnesota Statutes 1986, section 256B.69, is amended by adding a subdivision to read:

Subd. 16. [PROJECT EXTENSION.] Minnesota Rules, parts 9550.1450; 9500.1451; 9500.1452; 9500.1453; 9500.1454; 9500.1455; 9500.1456; 9500.1457; 9500.1458; 9500.1459; 9500.1460; 9500.1461; 9500.1462; 9500.1463; and 9500.1464 are extended until December 31, 1990.

Sec. 102. Minnesota Statutes 1986, section 256C.26, is amended to read:

256C.26 [EMPLOYMENT SERVICES.]

The commissioner of jobs and training shall ~~include in the biennial plan submitted to the full productivity and opportunity coordinator a method develop a plan~~ to deal with the underemployment of hearing impaired persons. The plan shall provide for training regarding the nature of hearing handicaps for department staff who consult with prospective employers or who provide job placement services.

Sec. 103. Minnesota Statutes 1986, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] Persons eligible for benefits under sections 256D.01 to 256D.21 and persons not eligible for federal health care benefits whose nonexempt property, as determined according to medical assistance standards, has an equity value no greater than \$1,000 and whose income is not in excess of the medical assistance standards shall be eligible for general assistance medical care. Persons with excess income and resources may qualify for benefits under this subdivision by spending down. Treatment of income and resources in calculation of the spenddown shall be the same as in the medical assistance program pursuant to chapter 256B. General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) who is a resident of Minnesota; whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B; and whose equity

in resources is not in excess of \$1,000 per assistance unit. Exempt real and liquid assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B.

Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

Sec. 104. Minnesota Statutes 1986, section 256D.03, is amended by adding a subdivision to read:

Subd. 3a. [CLAIMS; ASSIGNMENT OF BENEFITS.] Claims must be filed pursuant to section 256D.16. General assistance medical care applicants and recipients must apply or agree to apply third party health and accident benefits to the costs of medical care. They must cooperate with the state in establishing paternity and obtaining third party payments. By signing an application for general assistance, a person assigns to the department of human services all rights to medical support or payments for medical expenses from another person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. The application shall contain a statement explaining the assignment. Any rights or amounts assigned shall be applied against the cost of medical care paid for under this chapter. An assignment is effective on the date general assistance medical care eligibility takes effect. The assignment shall not affect benefits paid or provided under automobile accident coverage and private health care coverage until the person or organization providing the benefits has received notice of the assignment.

Sec. 105. 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 that 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~~ 256B.031, subdivision 4.

(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.

For the period July 1, 1987, to June 30, 1988, 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 five 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.

For the period July 1, 1988, to June 30, 1989, 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 not be reduced. 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.

(f) *The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.*

Sec. 106. Minnesota Statutes 1986, section 256D.05, is amended by adding a subdivision to read:

Subd. 5. [TRANSFERS OF PROPERTY.] The equity value of real and personal property transferred without reasonable compensation within 12 months preceding the date of application for general assistance must be included in determining the resources of an assistance unit in the same manner as in the aid to families with dependent children program under chapter 256.

Sec. 107. Minnesota Statutes 1986, section 256D.22, is amended to read:

256D.22 [REIMBURSEMENT OF COUNTIES BY STATE RELATING TO PUBLIC ASSISTANCE.]

To the extent of appropriations available therefor, the department of human services shall reimburse counties Subdivision 1. [DISTRIBUTION FORMULA.] Beginning July 1, 1988, and to the extent of appropriations available, the commissioner of human services shall reimburse counties' administrative costs in the following manner:

(a) 50 percent of the available appropriation shall be distributed to counties as reimbursement for up to 50 percent of all salary expenses, approved by the commissioner, incurred and paid by the counties, for which

no payment or reimbursement is made by the United States or any subdivision thereof, in administering, and salary administrative costs in providing services in connection with, all public assistance programs.

(b) 25 percent of the available appropriation shall be distributed to counties based on each county's proportionate share of the state's aid to families with dependent children and medical assistance caseloads; provided, however, that each county's share shall be reduced by a direct percentage equal to the sum of that county's percentage of overdue aid to families with dependent children eligibility reviews added to that county's percentage of overdue quarterly asset reviews for medical assistance eligibility, as calculated for the quarter immediately preceding each quarter in which this payment is made. Any money accruing as a result of these reductions shall be rolled over and distributed as provided for in this paragraph during the next quarterly payment.

(c) 25 percent of the available appropriation shall be distributed to counties based on each county's proportionate share of the state's total number of children served under the community social services act as calculated for the quarter immediately preceding each quarter in which this payment is made; provided, however, that a county's share shall be reduced by a direct percentage equal to the county's percentage increase in child out-of-home placement days above the number of child out-of-home placement days for the quarter immediately preceding the quarter in which this payment is calculated. Any money accruing as a result of reductions in county shares shall be rolled over and distributed as provided in this paragraph during the next quarterly payment.

Subd. 2. [EXCEPTIONS.] No aid under this section shall be paid for salary costs of (a) single-county welfare directors; or (b) fiscal support personnel to the extent involved in the processing of public assistance claims and payments, or their supporting clerical staff; or (c) persons who are not regularly assigned employees of local agencies.

Subd. 3. [CLAIMS.] Claims for reimbursement for expenditures made by the county shall be presented to the department by the respective counties at least four times per year in such manner as the commissioner shall prescribe.

Subd. 4. [DEFINITIONS.] For the purposes of this section, (a) the term "salary" shall include regular compensation not in excess of that paid similarly situated state employees, the employer's cost of health benefits and contributions to the appropriate retirement system, but shall not include travel or other reimbursable expenses. ~~The commissioner shall, pursuant to the administrative procedure act, prior to making any payments, promulgate rules to implement this section;~~ (b) the term "child out-of-home placement days" includes those days when a child is a resident in a regular treatment center, residential treatment facility, juvenile group home, foster home, or temporary emergency shelter home; and (c) the term "child" means a person under 21 years of age.

Sec. 108. Minnesota Statutes 1986, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. (a) For all individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in

subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.

(b) When a recipient is *an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690*, a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the clothing and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed \$800. ~~The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and Minnesota supplemental aid may not be used to pay a negotiated rate for adults with mental illness in a facility licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter.~~ The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until ~~June 30, 1987~~ *an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:*

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and ~~only provides care to persons aged 65 or older does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or parts 9553.0010 to 9553.0080.~~ Beginning July 1, 1987, ~~these the facilities under clause (1)~~ are subject to applicable supplemental aid limits, and ~~mental retardation facilities~~ must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the ~~urban~~ consumer price index (CPI-U) for ~~Minneapolis-St. Paul~~ (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two ~~Octobers~~ *Septembers*, new series index (1967-100) or 2.5 percent, whichever is less. In computing the amount of supplemental aid under this section, the local agency shall deduct from the gross amount of the individual's

determined needs all income, subject to the criteria for income disregards in effect December 31, 1973, for the appropriate categorical aid program, except that the earned income disregard for disabled persons who are not residents of long-term care facilities ~~shall must~~ be the same as the earned income disregard available to disabled persons in the supplemental security income program and all actual work expenses ~~shall must~~ be deducted when determining the amount of income for the individual. From ~~and after~~ the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Sec. 109. 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~~ 1989.

Sec. 110. Minnesota Statutes 1986, section 257.35, is amended to read:
257.35 [CITATION.]

Sections 257.35 to 257.357 and sections 257.3571 to 257.3579 may be cited as the "Minnesota Indian family preservation act."

Sec. 111. Minnesota Statutes 1986, section 257.351, is amended by adding a subdivision to read:

Subd. 3a. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Sec. 112. Minnesota Statutes 1986, section 257.351, is amended by adding a subdivision to read:

Subd. 4a. [FAMILY-BASED SERVICES.] "Family-based services" means intensive family-centered services to families primarily in their own home and for a limited time.

Sec. 113. Minnesota Statutes 1986, section 257.351, is amended by adding a subdivision to read:

Subd. 8a. [INDIAN ORGANIZATION.] "Indian organization" means an organization providing child welfare services that is legally incorporated as a nonprofit organization, is registered with the secretary of state, and is governed by a board of directors having at least a majority of Indian directors.

Sec. 114. Minnesota Statutes 1986, section 257.351, is amended by adding a subdivision to read:

Subd. 11a. [PERMANENCY PLANNING.] "Permanency planning" means the systematic process of carrying out, within a short time, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish lifetime relationships.

Sec. 115. Minnesota Statutes 1986, section 257.351, is amended by adding a subdivision to read:

Subd. 11b. [PLACEMENT PREVENTION AND FAMILY REUNIFICATION SERVICES.] "Placement prevention and family reunification services" means services designed to help children remain with their families or to reunite children with their parents.

Sec. 116. Minnesota Statutes 1986, section 257.351, subdivision 15, is amended to read:

Subd. 15. [TRIBAL COURT.] "Tribal court" means a court with federally recognized jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings. Except as provided in section 257.354, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian tribe.

Sec. 117. Minnesota Statutes 1986, section 257.354, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF TRIBAL COURT PLACEMENT ORDERS.] To the extent that any child subject to sections 257.35 to 257.357 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders placement through a local social service agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Determination of county of financial responsibility for the placement shall be determined by the local social service agency and shall be subject to review by the commissioner in accordance with sections 14.01 to 14.69 section 256E.08. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256D.18, subdivision 4.

Sec. 118. Minnesota Statutes 1986, section 257.354, is amended by adding a subdivision to read:

Subd. 5. The commissioner is hereby authorized to enter into agreements with Indian tribes pursuant to United States Code, title 25, section 1919, respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and an Indian tribe.

Sec. 119. [257.3571] [INDIAN CHILD WELFARE GRANTS.]

Subdivision 1. [PRIMARY SUPPORT GRANTS.] The commissioner shall establish direct grants to Indian tribes and Indian organizations to provide primary support for Indian child welfare programs to implement the Indian family preservation act.

Subd. 2. [SPECIAL FOCUS GRANTS.] The commissioner shall establish direct grants to local social service agencies, tribes, Indian organi-

zations, and other organizations for placement prevention and family reunification services for Indian children.

Subd. 3. [REQUEST FOR PROPOSALS.] The commissioner shall request proposals for primary support for Indian child welfare programs and special focus programs under subdivisions 1 and 2, and specify the information and criteria required.

Sec. 120. [257.3572] [GRANT APPLICATIONS.]

A tribe or Indian organization may apply for primary support grants under section 108, subdivision 1. A local social service agency, tribe, Indian organization, or other social service organization may apply for special focus grants under section 257.3571, subdivision 2. Application may be made alone or in combination with other tribes or Indian organizations.

Sec. 121. [257.3573] [ELIGIBLE SERVICES.]

Subdivision 1. [TYPES OF SERVICES.] (a) Eligible Indian child welfare services provided under primary support grants include:

- (1) placement prevention and reunification services;*
- (2) family-based services;*
- (3) individual and family counseling;*
- (4) access to professional individual, group, and family counseling;*
- (5) crisis intervention and crisis counseling;*
- (6) development of foster and adoptive placement resources, including recruitment, licensing, and support;*
- (7) court advocacy;*
- (8) training and consultation to county and private social service agencies regarding the Indian child welfare act and the Minnesota Indian family preservation act;*
- (9) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services, including but not limited to 24-hour caretaker and homemaker services, day care, emergency shelter care up to 30 days in 12 months, access to emergency financial assistance, and arrangements to provide temporary respite care to a family for up to 72 hours consecutively or 30 days in 12 months.*
- (10) transportation services to the child and parents to prevent placement or reunite the family; and*
- (11) other activities and services approved by the commissioner that further the goals of the Indian child welfare act and the Indian family preservation act, including but not limited to recruitment of Indian staff for local social service agencies and licensed child placing agencies. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.*

(b) Eligible services provided under special focus grants include;

- (1) permanency planning activities that meet the special needs of Indian families;*
- (2) teenage pregnancy;*

- (3) *independent living skills;*
- (4) *family and community involvement strategies to combat child abuse and chronic neglect of children;*
- (5) *coordinated child welfare and mental health services to Indian families;*
- (6) *innovative approaches to assist Indian youth to establish better self-image, decrease isolation, and decrease the suicide rate;*
- (7) *expanding or improving services by packaging and disseminating information on successful approaches or by implementing models in Indian communities relating to the development or enhancement of social structures that increase family self-reliance and links with existing community resources;*
- (8) *family retrieval services to help adopted individuals reestablish legal affiliation with the Indian tribe; and*
- (9) *other activities and services approved by the commissioner that further the goals of the Indian child welfare act and the Indian family preservation act. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.*

(c) *The commissioner shall give preference to programs that use Indian staff, contract with Indian organizations or tribes, or whose application is a joint effort between the Indian and non-Indian community to achieve the goals of the Indian child welfare act and the Minnesota Indian family preservation act. Programs must have input and support from the Indian community.*

Subd. 2. [INAPPROPRIATE EXPENDITURES.] *Indian child welfare grant money must not be used for:*

- (1) *child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;*
- (2) *foster care maintenance or difficulty of care payments;*
- (3) *residential facility payments;*
- (4) *adoption assistance payments;*
- (5) *public assistance payments for aid to families with dependent children, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145.911 to 145.922; or*
- (6) *administrative costs for income maintenance staff.*

Sec. 122. [257.3574] [CONTINUED LEGAL RESPONSIBILITY OF LOCAL SOCIAL SERVICE AGENCIES.]

The legal responsibility of local social service agencies to provide Indian child welfare services continues, and existing services must not be reduced because of the availability of these funds.

Sec. 123. [257.3575] [PAYMENTS; REQUIRED REPORTS.]

Subdivision 1. [PAYMENTS.] *The commissioner shall make grant payments to each approved program in four quarterly installments a year. The commissioner may certify an advance payment for the first quarter of the state fiscal year. Later payments must be made upon receipt by the state of a quarterly report on finances and program activities.*

Subd. 2. [QUARTERLY REPORT.] Each quarter, an approved program receiving an Indian child welfare grant shall submit a report to the commissioner that includes:

(1) a detailed accounting of grant money expended during the preceding quarter, specifying expenditures by line item and year to date; and

(2) a description of Indian child welfare activities conducted during the preceding quarter, including the number of clients served and the type of services provided.

The quarterly reports must be submitted no later than 15 days after the end of each quarter of the state fiscal year.

Subd. 3. [FINAL REPORT.] A final evaluation report must be submitted by each approved program. It must include client outcomes, cost and effectiveness in meeting the goals of the Indian family preservation act and permanency planning goals.

Sec. 124. [257.3576] [MONITORING AND EVALUATION.]

The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of Indian child welfare services funded through these grants.

Sec. 125. [257.3577] [GRANT FORMULA.]

Subdivision 1. [PRIMARY SUPPORT GRANTS.] (a) The amount available for grants established under section 108, subdivision 1, to tribes and Indian organization grants is four-fifths of the total annual appropriation for Indian child welfare grants.

(b) The commissioner shall award tribes at least 70 percent of the amount set in paragraph (a) for primary support grants. Each tribe shall be awarded a base amount of five percent of the total amount set in this paragraph. In addition, each tribe shall be allocated a proportion of the balance of the amount set in this paragraph, less the total base amounts for all reservations. This proportion must equal the ratio of the tribe's on-reservation population to the state's total on-reservation population. Population data must be based on the most recent federal census data according to the state demographer's office.

(c) The commissioner shall award Indian organizations up to 30 percent of the amount set in paragraph (a) for primary support grants. A maximum of four multiservice Indian organizations may be awarded grants under this paragraph. "Multiservice Indian organizations" means Indian organizations recognized by the Indian community as providing a broad continuum of social, educational, or cultural services, including Indian child welfare services designed to meet the unique needs of the Indian communities in Minneapolis, St. Paul, and Duluth. Grants may be awarded to programs that submit acceptable proposals, comply with the goals and the application process of the program, and have budgets that reflect appropriate and efficient use of funds.

Subd. 2. [SPECIAL FOCUS GRANTS.] The amount available for grants established under section 257.3571, subdivision 2 for local social service agencies, tribes, Indian organizations, and other social services organizations is one-fifth of the total annual appropriation for Indian child welfare grants. The maximum award under this subdivision is \$100,000 a year for programs approved by the commissioner.

Sec. 126. [257.3578] [UNDISTRIBUTED FUNDS.]

Undistributed funds must be reallocated by the department of human services to any other grant categories established under section 257.3571, subdivision 1 or 2 for the goals of this grant process. Undistributed funds are available until expended.

Sec. 127. [257.3579] [AMERICAN INDIAN ADVISORY TASK FORCE.]

Subdivision 1. [CREATION OF TASK FORCE.] The commissioner shall appoint an American Indian advisory task force to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 257.3571, subdivisions 1 and 2. The task force shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The task force shall expire on June 30, 1991. The terms, compensation, and removal of American Indian advisory task force members shall be as provided in section 15.059.

Sec. 128. Minnesota Statutes 1986, section 268.0111, subdivision 8, is amended to read:

Subd. 8. [SERVICE PROVIDER.] "Service provider" means a public, private, or nonprofit agency that is capable of providing or administering one or more of the employment and training services or income maintenance and support services or administering one or more of the programs for which the full productivity and opportunity coordinator has responsibility under this section.

Sec. 129. Minnesota Statutes 1986, section 268.0122, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] The commissioner of jobs and training shall:

(1) administer and supervise all forms of unemployment insurance provided for under federal and state laws that are vested in the commissioner;

(2) administer and supervise all employment and training services assigned to the department of jobs and training under federal or state law;

(3) review and comment on local service unit plans and community investment program plans and, with the concurrence of the coordinator, approve or disapprove the plans;

(4) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

(5) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(6) establish administrative standards and payment conditions for providers of employment and training services;

(7) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner; and

(8) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services.

Sec. 130. Minnesota Statutes 1986, section 268.0122, subdivision 3, is amended to read:

Subd. 3. [DUTIES AS A STATE AGENCY.] The commissioner shall:

- (1) administer the unemployment insurance laws and related programs;
- (2) administer the aspects of aid to families with dependent children, general assistance, work readiness, and food stamps that relate to employment and training services, subject to the limitations of federal regulations;
- (3) administer wage subsidies and recommend to the coordinator the use of the discretionary portion of wage subsidy appropriations;
- (4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;
- (5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;
- (6) enter into agreements with other departments of the state and local units of government as necessary;
- (7) certify competent service providers and, with the concurrence of the coordinator, decertify service providers that fail to comply with performance criteria according to standards established by the coordinator commissioner;
- (8) provide consistent, integrated employment and training services across the state;
- (9) establish the standards for all employment and training services administered under this chapter;
- (10) develop standards for the contents and structure of the county plans;
- (11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;
- (12) prepare a plan and submit it to the coordinator in each even-numbered year, according to standards established by the coordinator, for use in developing a statewide employment and training plan;
- (13) (12) identify underserved populations, unmet service needs, and funding requirements;
- (14) (13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; and
- (15) (14) submit to the governor, the coordinator, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semiannual report that:
 - (a) reports, by client classification, an unduplicated count of the kinds

and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients;

(c) identifies the number of cooperative agreements in place, the number of individuals being served, and the kinds of service provided them;

(d) evaluates the performance of services, such as wage subsidies, community investments, work readiness, and grant diversions; and

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment insurance fund and general assistance, work readiness, and aid to families with dependent children caseloads and program expenditures.

Sec. 131. Minnesota Statutes 1986, section 268.36, is amended to read:
268.36 [REPORT TO THE COORDINATOR AND THE LEGISLATURE.]

The commissioner, after consultation with the local service units and providers of employment and training services, shall evaluate the effectiveness of youth employment programs, taking into account the extent of all programs which are providing summer employment opportunities for youth, and shall report to the coordinator and the legislature no later than January 15 of each even-numbered year with an evaluation of this and other programs and any recommendations for improvements.

Sec. 132. Minnesota Statutes 1986, section 268.37, subdivision 3, is amended to read:

Subd. 3. The commissioner shall promulgate emergency rules as necessary to administer the grants program and shall promulgate permanent rules by July 1, 1980. The rules shall describe: (a) procedures for the administration of grants, (b) data to be reported by grant recipients, and (c) other matters the commissioner finds necessary for the proper administration of the grant program including compliance with relevant federal regulations. ~~Weatherization assistance shall be given to households where the total income does not exceed 125 percent of the poverty level as updated by the federal office of management and budget poverty guidelines. The commissioner must require that a rental unit weatherized under this section be rented to a household meeting the income limits of the program for 24 of the 36 months after weatherization is complete. In applying this restriction to multiunit buildings weatherized under this section, the commissioner shall require that occupancy continue to reflect the proportion of eligible households in the building at the time of weatherization. The commissioner shall report by February 1, 1988, to the chair of the health and human services divisions of the house appropriations and senate finance committees all steps taken to implement the requirement restricting rental of weatherized units to eligible households.~~

Sec. 133. Minnesota Statutes 1986, section 268.53, subdivision 1, is amended to read:

Subdivision 1. [IN GENERAL.] A community action agency is a political subdivision of the state, a combination of political subdivisions, a public agency, or a private nonprofit agency which has the authority under its applicable charter or laws to receive funds under section 268.52 to support community action programs as described in section 268.54 and which was

designated as an eligible entity under the Community Services Block Grant Act, Public Law Number 97-35, section 673(1), 95 Stat. 357, 512 (1981), as amended by, Act of October 30, 1984, Public Law Number 98-558, section 202, 98 Stat. 2878, 2884 (1984). 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.

Sec. 134. Minnesota Statutes 1986, section 268.673, is amended by adding a subdivision to read:

Subd. 4a. [CONTRACTS WITH SERVICE PROVIDERS.] The commissioner shall contract directly with a certified local service provider to deliver wage subsidies if (1) each county served by the provider agrees to the contract and knows the amount of wage subsidy money allocated to the county under section 268.6751, and (2) the provider agrees to meet regularly with each county being served.

Sec. 135. Minnesota Statutes 1986, section 268.673, subdivision 5, is amended to read:

Subd. 5. [REPORT.] Each ~~eligible local service unit~~ entity delivering wage subsidies shall report to the commissioner and the coordinator on a quarterly basis:

(1) the number of persons ~~employed~~ placed in private sector jobs, in temporary public sector jobs, or in other services;

(2) the outcome for each participant placed in a private sector job, in a temporary public sector job, or in another service;

(3) the number and type of employers employing persons under the program;

(3) (4) the amount of money spent in each eligible local service unit for wages for each type of employment and each type of other expense;

(4) (5) the ~~number~~ age, educational experience, family status, gender, priority group status, race, and work experience of ~~persons who have completed participation~~ each person in the program and their current employment, educational, or training status;

(6) the amount of wages received by persons while in the program and 60 days after completing the program;

(7) for each classification of persons described in clause (5), the outcome of the wage subsidy placement, including length of time employed; nature of employment, whether private sector, temporary public sector, or other service; and the hourly wages; and

(5) (8) any other information requested by the commissioner ~~or the coordinator~~. Each report must include cumulative information, as well as information for each quarter.

Data collected on individuals under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, except that summary data may be provided under section 13.05, subdivision 7.

Sec. 136. Minnesota Statutes 1986, section 268.6751 is amended to read:

Subdivision 1. [WAGE SUBSIDIES.] Wage subsidy money must be allo-

cated to eligible local service units in the following manner:

(a) The commissioner shall allocate 70 87.5 percent of the funds available for allocation to eligible local service units for wage subsidy programs as follows: the proportion of the wage subsidy money available to each eligible local service unit must be based on the number of unemployed persons in the eligible local service unit for the most recent six-month period and the number of work readiness assistance cases and aid to families with dependent children cases in the eligible local service unit for the most recent six-month period.

(b) ~~Thirty~~ Five percent of the money available for wage subsidy programs must be allocated at the ~~direction and~~ discretion of the ~~coordinator~~ commissioner.

(c) *Seven and one-half percent of the money available for wage subsidy programs must be allocated at the discretion of the commissioner to provide jobs for residents of federally recognized Indian reservations. The commissioner shall distribute the discretionary portion of wage subsidy appropriations at the request of the coordinator. For the biennium ending June 30, 1987, up to 25 percent of the discretionary portion of the wage subsidy appropriation may be used to support the office of full productivity and opportunity and the development of an intake, referral, and inventory system. In allocating the remaining discretionary portion of the wage subsidy appropriation, the coordinator shall give priority to eligible local service units that have:*

(1) high numbers of farmers who can demonstrate severe household financial need;

(2) demonstrated success in placing public assistance applicants in private sector jobs;

(3) demonstrated need beyond the allocation distributed under paragraph (a);

(4) maximized use of money through coordination with other programs and state, local, and federal agencies, and through the use of matching money from private and nonprofit sources;

(5) demonstrated need to provide special assistance in order to serve unemployed persons who incur unusual costs such as necessary relocation expenses; or

(6) areas with high unemployment rates.

(d) By December 31 of each fiscal year, providers and local service units receiving wage subsidy money shall report to the commissioner on the use of allocated funds. The commissioner shall reallocate uncommitted funds for each fiscal year according to the formula in paragraph (a).

Subd. 2. [EMERGENCY WAGE SUBSIDIES.] (a) The ~~coordinator~~ commissioner shall monitor local and statewide unemployment rates. Upon determining that an economic emergency exists in one or more local service units, the ~~coordinator~~ commissioner may implement an emergency wage subsidy program and recommend to the governor to pursue ways to increase the wage subsidy money available to local service units in the affected area or areas from sources other than the appropriation allocated under subdivision 1.

(b) When the unemployment rate for the state of Minnesota equals or

exceeds nine percent, the ~~coordinator~~ commissioner shall implement a statewide emergency wage subsidy program and shall recommend to the governor to pursue ways to increase money available for wage subsidies.

Sec. 137. Minnesota Statutes 1986, section 268.676, is amended to read:

268.676 [ALLOCATION WITHIN ELIGIBLE LOCAL SERVICE UNITS; PRIORITIES AMONG APPLICANTS; EMPLOYERS.]

Subdivision 1. [AMONG JOB APPLICANTS.] ~~Allocation~~ *At least 80 percent of funds allocated among eligible job applicants within an eligible local service unit shall give priority statewide must be allocated to:*

- (1) applicants living in households with no other income source;
- (2) applicants whose incomes and resources are less than the standards for eligibility for general assistance *or work readiness*;
- (3) applicants who are eligible for aid to families with dependent children; and
- (4) applicants who live in a farm household who demonstrate severe household financial need.

Subd. 2. [AMONG EMPLOYERS.] *Allocation of funds among eligible employers within an eligible local service unit shall give priority to funding private sector jobs to the extent that eligible businesses apply for funds. If possible, no more than 25 percent of the statewide funds available for wages may be allocated for temporary jobs with eligible government and nonprofit agencies, or for temporary community investment program jobs with eligible government agencies during the biennium. This subdivision does not apply to jobs for residents of federally recognized Indian reservations.*

Sec. 138. Minnesota Statutes 1986, section 268.677, subdivision 1, is amended to read:

Subdivision 1. *To the extent allowable under federal and state law, wage subsidy money must be pooled and used in combination with money from other employment and training services or income maintenance and support services. At least 75 percent of the money appropriated for wage subsidies must be used to pay wages for eligible job applicants. For each eligible job applicant employed, the maximum state contribution from any combination of public assistance grant diversion and employment and training services governed under this chapter, including wage subsidies, is \$4 per hour for wages and \$1 per hour for fringe benefits. In addition, The use of wage subsidies are is limited as follows:*

(a) *For each eligible job applicant placed in private or nonprofit employment, the state may subsidize wages for a maximum of 1,040 hours over a period of 26 weeks. Employers are encouraged to use money from other sources to provide increased wages to applicants they employ.*

(b) *For each eligible job applicant participating in a job training program and placed in private sector employment, the state may subsidize wages for a maximum of 1,040 hours over a period of 52 weeks.*

(c) *For each eligible job applicant placed in a community investment program job, the state may provide wage subsidies for a maximum of 780 hours over a maximum of 26 weeks. For an individual placed in a community investment program job, the county share of the wage subsidy shall be 25 percent. Counties may use money from sources other than public assistance*

and wage subsidies, including private grants, contributions from nonprofit corporations and other units of government, and other state money, to increase the wages or hours of persons employed in community investment programs.

(d) Notwithstanding the limitations of paragraphs (a) and (b), money may be used to provide a state contribution for wages and fringe benefits in private sector jobs for eligible applicants who had previously held temporary jobs with eligible government and nonprofit agencies or who had previously held community investment program jobs for which a state contribution had been made, and who are among the priority groups established in section 268.676, subdivision 1. The use of money under this paragraph shall be for a maximum of 1,040 hours over a maximum period of 26 weeks per job applicant.

Sec. 139. Minnesota Statutes, section 268.678, subdivision 1, is amended to read:

Subdivision 1. [GENERAL POWERS.] Eligible local service units have the powers and duties given in this section and any additional duties given by ~~the coordinator or~~ the commissioner.

Sec. 140. Minnesota Statutes 1986, section 268.678, subdivision 4, is amended to read:

Subd. 4. [CONTRACTS.] Each eligible local service unit *that has not agreed to a contract under section 122*, may enter into contracts with certified service providers to deliver wage subsidies.

Sec. 141. Minnesota Statutes 1986, section 268.681, subdivision 2, is amended to read:

Subd. 2. [PRIORITIES.] (a) In allocating funds among eligible businesses, the eligible local service unit or its contractor shall give priority to:

- (1) *businesses engaged in manufacturing;*
- (2) *nonretail businesses that are small businesses as defined in section 645.445; and*
- (3) *businesses that export products outside the state.*

(b) *In addition to paragraph (a), an eligible local service unit must give priority to businesses which best satisfy the following criteria that:*

- (a) (1) have a high potential for growth and long-term job creation;
- (b) (2) are labor intensive;
- (c) ~~meet the definition of a small business as defined in section 645.445;~~
- (d) (3) make high use of local and Minnesota resources;
- (e) (4) are under ownership of women and minorities;
- (f) (5) make high use of new technology;
- (g) (6) produce energy conserving materials or services or are involved in development of renewable sources of energy; and
- (h) (7) have their primary place of business in Minnesota.

Sec. 142. Minnesota Statutes 1986, section 268.681, subdivision 3, is amended to read:

Subd. 3. [PAYBACK.] A business receiving wage subsidies shall repay 70 percent of the amount initially received for each eligible job applicant employed, if the employee does not continue in the employment of the business beyond the six-month subsidized period. If the employee continues in the employment of the business for one year or longer after the six-month subsidized period, the business need not repay any of the funds received for that employee's wages. If the employee continues in the employment of the business for a period of less than one year after the expiration of the six-month subsidized period, the business shall receive a proportional reduction in the amount it must repay. If an employer dismisses an employee for good cause and works in good faith with the eligible local service unit or its contractor to employ and train another person referred by the eligible local service unit or its contractor, the payback formula shall apply as if the original person had continued in employment.

A repayment schedule shall be negotiated and agreed to by the eligible local service unit and the business prior to the disbursement of the funds and is subject to renegotiation. The eligible local service unit shall forward 25 percent of the payments received under this subdivision to the commissioner on a monthly basis and shall retain the remaining 75 percent for local program expenditures. Notwithstanding section 268.677, subdivision 2, the local service unit may use up to 20 percent of its share of the funds returned under this subdivision for any administrative costs associated with the collection of the funds under this subdivision. At least 80 percent of the local service unit's share of the funds returned under this subdivision must be used as provided in section 268.677. The commissioner shall deposit these payments forwarded to the commissioner under this subdivision in the Minnesota wage subsidy account created by subdivision 4.

Sec. 143. Minnesota Statutes 1986, section 268.871, subdivision 1, is amended to read:

Subdivision 1. [RESPONSIBILITY AND CERTIFICATION.] Unless prohibited by federal law or otherwise determined by state law or the coordinator, a local service unit is responsible for the delivery of employment and training services. After February 1, 1986, employment and training services must be delivered by public, nonprofit, or private service providers that are certified to provide the services.

Sec. 144. Minnesota Statutes 1986, section 268.88, is amended to read:

268.88 [LOCAL SERVICE UNIT PLANS.]

(a) Local service units shall prepare and submit to the commissioner by October 15 of each year an annual plan for the subsequent calendar year. The commissioner shall notify each local service unit by December 1 of each year if its plan has been approved or disapproved. The plan must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

(2) the establishment of public assistance caseload reduction goals and the strategies that will be used to achieve these goals;

(3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;

(4) the amount proposed to be allocated to each employment and training

service;

(5) the proposed types of employment and training services the local service unit plans to utilize;

(6) a report on the use of wage subsidies, grant diversions, community investment programs, sliding fee day care, and other services administered under this chapter;

(7) an annual update of the community investment program plan according to standards established by the commissioner; and

(8) a performance review of service providers delivering employment and training services.

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the ~~coordinator~~ commissioner shall resolve their dispute.

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the ~~coordinator~~ commissioner until an acceptable amended plan has been submitted.

(d) For 1985, local service unit plans must be submitted by November 1, 1985 and must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

(2) the establishment of public assistance caseload reduction goals and the strategies that will be used to achieve these goals;

(3) the amount proposed to be allocated to each employment and training service;

(4) the proposed employment and training services and service providers the local service unit plans to utilize; and

(5) a statement of intent regarding the establishment of either a community investment program or an employment experience program.

~~If the local service unit provides a statement of intent for the establishment of a community investment program under clause (5), the local service unit must submit a preliminary community investment program plan by February 1, 1986.~~

Sec. 145. Minnesota Statutes 1986, section 268.89, subdivision 2, is amended to read:

Subd. 2. [BIENNIAL PLAN.] The commissioner shall recommend to the governor the priorities, performance standards, and special projects that are consistent with the coordinator's biennial plan.

Sec. 146. Minnesota Statutes 1986, section 268.91, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF COMMISSIONER.] The commissioner shall develop standards for county boards to provide child care services to enable eligible families to participate in employment or training programs. The commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The commissioner shall require counties to collect and report data that the commissioner deems necessary to evaluate the effectiveness of the program in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children. ~~The commissioner shall report to the full productivity and opportunity coordinator in each even-numbered year on the effectiveness of the program.~~

Sec. 147. Minnesota Statutes 1986, section 287.05, subdivision 1, is amended to read:

Subdivision 1. A tax of 45 23 cents is imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is or may be secured by any mortgage of real property situated within the state executed, delivered, and recorded or registered; provided, however, that the tax shall be imposed but once upon any mortgage and extension thereof. If the mortgage describes real estate situated outside of this state, the tax shall be imposed upon that proportion of the whole debt secured thereby as the value of the real estate therein described situated in this state bears to the value of the whole of the real estate described therein. The tax imposed by this section shall not apply to a contract for the conveyance of real estate or any interest in real estate recorded or registered on or after January 1, 1984.

Sec. 148. Minnesota Statutes 1986, section 287.12, is amended to read:

287.12 [TAXES, HOW APPORTIONED.]

All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month. The treasurer shall report to the county welfare agency on or before the tenth day of each month 95 97 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to 97 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month.

Sec. 149. Minnesota Statutes 1986, section 287.21, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred or otherwise conveyed, a tax determined in the following manner. When transfers are made by instruments pursuant to mergers, consolidations, sales or transfers of substantially all of the assets of corporations pursuant to plans of reorganization or there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is ~~\$1,000~~ \$500 or less,

the tax shall be ~~\$2.20~~ \$1.65. When the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds ~~\$1,000~~ \$500, the tax shall be ~~\$2.20~~ \$1.65 plus ~~\$1.10~~ \$1.65 for each ~~additional~~ \$500 or ~~fractional part of~~ \$500 in excess of ~~\$1,000~~ fraction of that amount.

The tax applies against the total consideration, including the fair market value of any personal property transferred as part of the total consideration.

Sec. 150. Minnesota Statutes 1986, section 393.07, subdivision 10, is amended to read:

Subd. 10. [FEDERAL FOOD STAMP PROGRAM.] (a) The county welfare board shall establish and administer the food stamp program pursuant to rules of the commissioner of human services and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate. The commissioner shall report on the monitoring activities on a county-by-county basis in a report presented to the legislature by July 1 each year. This monitoring activity shall be separate from the management evaluation survey sample required under federal regulations.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) The county welfare board shall participate in a food stamp quality control system subject to the supervision of the commissioner of human services and pursuant to federal regulations.

~~Any A person who commits any of the following acts is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (1), (2), and (5) has violated section 256.98 and is subject to both the criminal and civil penalties provided under that section:~~

(1) Obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or intentional concealment of a material fact, food stamps to which the person is not entitled or in an amount greater than that to which *that person is entitled*; or

(2) Presents or causes to be presented, coupons for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) Willfully uses or transfers food stamp coupons or authorization to purchase cards in any manner contrary to existing state or federal law.

The amount of food stamps incorrectly issued shall be the difference between the amount of food stamps actually received and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts. The amount of any food stamps determined to have been incorrectly issued, used, transferred or presented shall, unless otherwise determined by the county welfare board in order to prevent undue hardship, be recoverable from the recipient, or user, or the recipient's or user's estate by the county as a debt due the county.

Sec. 151. Minnesota Statutes 1986, section 524.3-1201, is amended to read:

524.3-1201 [COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.]

(a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent, *or a county agency with a claim authorized by section 256B.15*, upon being presented a certified death certificate of the decedent and an affidavit, in duplicate, made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, wherever located, less liens and encumbrances, does not exceed \$5,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

(c) *The claiming successor or county agency shall disburse the proceeds collected under this section to any person with a superior claim under section 524.3-805.*

Sec. 152. Minnesota Statutes 1986, section 525.56, subdivision 3, is amended to read:

Subd. 3. The court may appoint a guardian of the person if it determines that all the powers and duties listed in this subdivision are needed to provide for the needs of the incapacitated person. The court may appoint a conservator of the person if it determines that a conservator is needed to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this subdivision. The duties and powers of a guardian or those which the court may grant to a conservator of the person include, but are not limited to:

(1) The power to have custody of the ward or conservatee and the power

to establish a place of abode within or without the state, except as otherwise provided in this clause. The ward or conservatee or any person interested in the ward's or conservatee's welfare may petition the court to prevent or to initiate a change in abode. A ward or conservatee may not be admitted to any state institution by the guardian or conservator except (1) after a hearing pursuant to section 253A.07; (2) *for outpatient services*; or (3) *for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year*.

(2) The duty to provide for the ward's or conservatee's care, comfort and maintenance needs, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education and rehabilitation. The guardian or conservator has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian or conservator should meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal, but the guardian or conservator shall have no personal or monetary liability.

(3) The duty to take reasonable care of the ward's or conservatee's clothing, furniture, vehicles and other personal effects, and, if other property requires protection, the power to seek appointment of a guardian or conservator of the estate. The guardian or conservator must give notice in the manner required and to those persons specified in section 525.55 prior to the disposition of the ward's or conservatee's clothing, furniture, vehicles or other personal effects. The notice must inform the person of the right to object to the disposition of the property within ten days and to petition the court for a review of the guardian's or conservator's proposed actions. Notice of the objection must be served by mail or personal service on the guardian or conservator and the ward or conservatee unless the ward or conservatee be the objector. The guardian or conservator served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing.

(4) (a) The power to give any necessary consent to enable the ward or conservatee to receive necessary medical or other professional care, counsel, treatment or service, except that no guardian or conservator may give consent for psychosurgery, electroshock, sterilization or experimental treatment of any kind unless the procedure is first approved by order of the court as provided in this clause. The guardian or conservator shall not consent to any medical care for the ward or conservatee which violates the known conscientious, religious, or moral belief of the ward or conservatee.

(b) A guardian or conservator who believes a procedure described in clause (4)(a) requiring prior court approval to be necessary for the proper care of the ward or conservatee shall petition the court for an order. The court shall fix the time and place for the hearing and shall give notice to the ward or conservatee and to the other persons specified in section 525.55, subdivision 1. The notice shall comply with the requirements of, and be served in the manner provided in section 525.55, subdivision 2. The court shall appoint an attorney to represent the ward or conservatee who is not represented by counsel. In every case the court shall determine if the procedure is in the best interests of the ward or conservatee. In making its determination the court shall consider a written medical report which specifically considers the medical risks of the procedure and whether alternative, less restrictive methods of treatment could be used to protect the

best interests of the ward or conservatee.

(c) In the case of a petition for sterilization of a mentally retarded ward or conservatee, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of mental retardation, and a social worker who is familiar with the ward's or conservatee's social history and adjustment to examine or evaluate the ward or conservatee and to provide written reports to the court. The reports shall indicate whether sterilization is necessary and whether it is in the best interests of the ward or conservatee. The medical report shall specifically consider the medical risks of sterilization and whether alternative methods of contraception could be used to protect the best interests of the ward or conservatee.

(5) The power to approve or withhold approval of any contract, except for necessities, which the ward or conservatee may make or wish to make.

(6) The duty and power to exercise supervisory authority over the ward or conservatee in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services.

Sec. 153. Laws 1986, chapter 394, section 24, is amended to read:

Sec. 24. [EFFECTIVE DATE:] Section 10, subdivision 6, and section 15 are effective the day following final enactment. Sections 1 to 9; 10, subdivisions 1 to 5, 7, and 8; 11 to 14; and 16 to 23 are effective ~~July~~ January 1, ~~1987~~ 1988.

Sec. 154. [TRAINING OF WELFARE FRAUD PROSECUTORS.]

The commissioner of human services shall, to the extent an appropriation is provided for this purpose, contract with the county attorney's council or other public or private entity experienced in providing training for prosecutors to conduct quarterly workshops and seminars focusing on current aid to families with dependent children program issues, other income maintenance program changes, recovery issues, alternative sentencing methods, use of technical aids for interviews and interrogations, and other matters affecting prosecution of welfare fraud cases.

Sec. 155. [TRAINING OF WELFARE FRAUD INVESTIGATORS.]

The commissioner of human services shall, to the extent an appropriation is provided for this purpose, establish a pilot project for further education and training of welfare fraud investigators. The commissioner may enter into contractual agreements with other state, federal, or county agencies as part of cooperative projects employing experienced investigators to provide on-the-job training to county investigators.

Sec. 156. [STAFFING.]

A position is established in the assistance payments division, department of human services, to undertake the training initiatives required of the department. This position may also be utilized to assist in fraud control initiatives which the department may undertake.

Sec. 157. [OIL OVERCHARGE FUNDS.]

Subdivision 1. [ALLOCATION OF FUNDS.] All money received by the governor, the commissioner of finance or any other state agency, before or after the effective date of this section, as a result of the settlement of the parties and order of the United States District Court for the District of Kansas in the case of In Re Department of Energy Stripper Well Exemp-

tion Litigation, 578 F.Supp. 586 (D. Kan. 1983) and all other money received after the effective date of this section by any of those entities or agencies, resulting from overcharges by oil companies in violation of federal law, is allocated in the following manner:

(1) Not less than one-half of the oil overcharge funds made available to the state must be used to fund the low-income energy conservation programs administered by the commissioner of jobs and training; and

(2) The remaining oil overcharge money received by the state may be used for any purpose authorized by law or court order pursuant to the plans prepared by the advisory task force and the legislative advisory commission under subdivision 2.

Subd. 2. [PLAN DEVELOPMENT; RECOMMENDATIONS.] An advisory task force shall be established and shall consist of 15 members. The task force shall include representatives of government, schools and hospitals, non-profit organizations, community groups and individuals interested in low-income weatherization and energy conservation programs and individuals who work with energy-related research. Five members of the task force shall be appointed by the governor, five members shall be appointed by the senate committee on rules and administration, and five members shall be appointed by the speaker of the house of representatives.

The task force shall prepare and recommend to the legislative advisory commission an energy conservation plan that allocates the funds as described in subdivision 1, paragraph (2). The plan must be delivered to the commission within 60 days after all members of the task force have been appointed. The plan must take into consideration programs and activities that will reduce the consumption of fossil fuels within the state, including energy conservation related research.

Within 30 days of receipt of the task force's plan, the commission shall submit a final plan to the governor for the allocation of the funds in subdivision 1, paragraph (2). The commission may amend the task force's plan. The governor shall submit the plan to the United States Department of Energy for its approval. If the plan or any part of it is rejected by the Department of Energy, the plan or rejected part of it must be revised and resubmitted as provided in this section for preparation and submission of the original plan. Funds under subdivision 1, paragraph (2), may be expended only in accordance with a plan or part of it approved by the Department of Energy.

Subd. 3. [AUTHORITY.] Money received by the state as a result of litigation or settlements of the alleged violations of federal petroleum pricing regulations may not be spent unless specifically appropriated by law.

Sec. 158. [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.

Sec. 159. [MENTAL HEALTH STUDY.]

The commissioner of human services shall study the following issues related to the care and treatment of people with mental illness:

(1) the role of involuntary outpatient treatment in providing a continuum of services to people with mental illness, including the following:

(a) people for whom and conditions under which involuntary outpatient treatment may be appropriate, and

(b) scope of services and payment mechanisms available for involuntary outpatient treatment;

(2) the relationship among procedures and purposes of inpatient commitment, outpatient commitment, and private guardianship;

(3) the appropriate use of involuntary medication in the treatment of mental illness;

(4) the role of family members and other interested persons in formulating and monitoring treatment decisions; and

(5) the appropriate role for commitment and other treatment options in protecting the safety and liberty interests of family members and other members of society.

By January 1, 1988, the commissioner shall develop and present to the legislature recommendations regarding involuntary outpatient treatment.

Sec. 160. [VETERAN'S NURSING CARE STUDY.]

The commissioner of human services, with the assistance of the commissioner of veterans affairs, shall study the possibility of using the resources of the regional treatment centers system to provide care for veterans. The commissioner shall develop recommendations based on the study and report the recommendations to the legislature by January 1, 1988.

The study must include an assessment of need for the care, the costs of the care, and the impact of providing the care on treatment center residents. If the commissioner recommends conversion of a specific site, the study must analyze the impact of conversion on residents, employees, and communities affected by the recommendation.

Sec. 161. [INPATIENT HOSPITAL RATES STUDY.]

The commissioner shall study and develop recommendations regarding alternative payment mechanisms for reimbursing hospitals for inpatient psychiatric care.

Sec. 162. [NEGOTIATED RATE FACILITY STUDY.]

The commissioner of human services in cooperation with the director of the state planning agency shall study and evaluate the existing system for paying negotiated rate facilities for services provided to residents through the supplemental aid program and report to the legislature by February 1, 1988, on the results of the study and evaluation, including any recommendations for legislative changes in the rate setting system.

Sec. 163. [STUDY OF ELDERLY PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

Subdivision 1. [STUDY; REPORT.] The commissioner of the department

of human services shall study the needs of elderly citizens with mental retardation or related conditions. The study shall include existing programs providing services to this population, including funding and location of services, and the extent to which the services meet the needs of this population.

The study shall be completed in one year. The commissioner shall report to the legislature in 1988 on findings and recommendations, including methods of resolving problems through interagency cooperation.

Subd. 2. [ADVICE TO THE COMMISSIONER.] *In performing the duties of subdivision 1, the commissioner shall seek the advice of the advisory task force established under section 252.31.*

Sec. 164. [REPEALER.]

Subdivision 1. Minnesota Statutes 1986, sections 116J.035, subdivision 3; 116L.04, subdivision 3; 136.63, subdivision 1b; 144.66; 144.67; 178.03, subdivision 5; 245.69, subdivision 1a; 245.76; 256.966, subdivision 2; 256B.05, subdivision 4; 256B.07; 256D.051, subdivisions 11 and 12; 267.01; 267.02; 267.03; 267.04; 267.05; 267.06; and 268.0111, subdivision 3, are repealed. The provision in Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 5, paragraph (b), relating to a phase out of the rateable reductions in the general assistance medical care program is repealed effective the day following final enactment. Minnesota Statutes 1986, 256D.051, subdivisions 4 and 5, are repealed effective January 1, 1988. Minnesota Statutes 1986, sections 245.713, subdivisions 1 and 3; and 245.74, are repealed effective July 1, 1988.

Sec. 165. [EFFECTIVE DATE.]

Sections 9 to 12, 61, 62, 81, 88, 90 to 94, are effective the day following final enactment. Sections 30, 31, and 42, are effective July 1, 1988.

ARTICLE 3

Section 1. Minnesota Statutes 1986, section 144.219, is amended to read:

144.219 [AMENDMENT OF VITAL RECORDS.]

Upon the order of a court of this state, upon the request of a court of another state, or upon the filing of ~~an acknowledgment of paternity a declaration of parentage under section 257.34~~ with the state registrar or the appropriate court ~~which is not disputed by the mother named on the original birth certificate within a reasonable time after being informed of the filing,~~ a new birth certificate shall be registered consistent with the findings of the court or with the ~~acknowledgment of paternity declaration of parentage.~~

Sec. 2. Minnesota Statutes 1986, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner.

(2) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married

to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(3) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(4) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(5) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(6) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(7) Administer and supervise any additional welfare activities and services as are vested by law in the department.

(8) The commissioner is designated as guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by local agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and pro-

cedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed ~~two~~ four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan including estimated project costs and the proposed order establishing the waiver shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs and shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for that program. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$400,000. When the balance in the account exceeds \$400,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

Sec. 3. Minnesota Statutes 1986, section 256.73, is amended by adding a subdivision to read:

Subd. 7. [VERIFICATION PROCEDURES.] The commissioner shall form

an advisory committee of local agency representatives, state officials, and recipients to recommend and implement ways to reduce verification procedures at the local level. The goal of this effort is to treat clients with dignity and expect client honesty. Verification procedures should be reduced to a minimum at the time of application and increased only as needed.

Sec. 4. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 1a. [DEFINITIONS.] As used in this section and section 22, the following words have the meanings given them:

(a) "AFDC" means aid to families with dependent children.

(b) "AFDC-UP" means that group of AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.

(c) "Caretaker" means a parent or eligible adult who is part of the assistance unit that has applied for or is receiving AFDC.

(d) "Employment and training services" means programs, activities, and services related to job training and job placement, including job service programs, job training partnership act programs, wage subsidies, remedial and secondary education programs, post-secondary education programs excluding education leading to a post-baccalaureate degree, vocational education programs, work incentive programs, work readiness programs, employment search, community work experience programs, displaced homemaker programs, self-employment programs, grant diversion, employment experience programs, youth employment programs, community investment programs, supported work programs, refugee employment and training programs, and counseling and support activities necessary to stabilize the caretaker or the family.

(e) "Employment and training service provider" means an administrative entity certified by the commissioner of jobs and training to deliver employment and training services under section 268.0122, subdivision 3.

(f) "Minor parent" means a caretaker relative who is the parent of the dependent child or children in the assistance unit and who is under the age of 18.

(g) "Priority groups" or "priority caretakers" means recipients of AFDC or AFDC-UP designated as priorities for employment and training services under subdivision 2a.

(h) "Support services" means programs, activities, and services intended to stabilize families and individuals or provide assistance for family needs related to employment or participation in employment and training services, including child care, transportation, housing assistance, personal and family counseling, crisis intervention services, peer support groups, chemical dependency counseling and treatment, money management assistance, and parenting skill courses.

Sec. 5. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 1b. [WORK INCENTIVE SUBSIDIZED HOUSING PROGRAM.] Within the limit of available appropriations, employed recipients of aid to families with dependent children who meet eligibility requirements established by the commissioner of human services are eligible for a state

housing subsidy as an incentive to seek and retain employment. The commissioner of human services shall adopt rules for the work incentive subsidized housing program using eligibility criteria, subsidy amounts, and an administrative system developed jointly by the commissioner of human services and the commissioner of jobs and training. The rules must:

(1) target recipients who are or are likely to become long-term recipients or who experience substantial barriers to employment;

(2) establish a fixed or sliding scale subsidy amount that will create a significant work incentive yet enable the program to serve the greatest possible number of recipients;

(3) limit the subsidy to persons who become employed while receiving assistance; and

(4) provide for continued subsidy payments for up to one year after termination of assistance to ease the transition from assistance to self-sufficiency.

The program must be coordinated with existing work and training programs and must be designed to maximize savings in the aid to families with dependent children program. The subsidy must be provided as in-kind assistance, and it is not available if it would be considered countable income under state and federal requirements.

Sec. 6. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 2a. [PRIORITY GROUPS.] (a) Priority for participation in employment and training services under this section must be given to caretakers who:

(1) are under the age of 21;

(2) have not received a high school diploma or general equivalency diploma; or

(3) have received 24 months or more of AFDC over the last 36 months.

(b) Highest priority for participation in employment and training services under this section must be given to caretakers with two or more of the characteristics listed in paragraph (a).

Sec. 7. Minnesota Statutes 1986, section 256.736, subdivision 3, is amended to read:

Subd. 3. [OPERATION OF PROGRAMS REGISTRATION.] To determine who shall be designated as an appropriate individual for certification for employment and training services, the commissioner of jobs and training shall provide, by rule, standards for county boards consistent with the standards promulgated by the secretary of health and human services. County boards shall certify appropriate individuals for employment and training services, shall notify the commissioner of human services, and shall require that every individual certified, as a condition of receiving aid to families with dependent children, register for employment services, training, and employment, unless such individual is: (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child is:

(1) a child who is under age 16, a child age 16 or 17 who is attending

elementary or secondary school or a secondary level vocational or technical school full time, or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19;

(2) a ~~person~~ caretaker who is ill, incapacitated or ~~of advanced age~~ age 55 or older;

(3) a ~~person so remote from~~ caretaker for whom participation in an employment and training service ~~and where transportation is not reasonably available that effective participation is precluded would require a round trip commuting time by available transportation of more than two hours;~~

(4) a ~~person~~ caretaker whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a ~~parent~~ caretaker or other caretaker relative of a child under the age of six who personally provides full-time care for the child;

(6) a ~~parent or other~~ caretaker if another adult relative in the assistance unit is registered and has not, without good cause, failed or refused to participate or accept employment;

(7) a pregnant woman in the last trimester of pregnancy; or

(8) a parent who is not the principal earner if the parent who is the principal earner is not exempt under clauses (1) to (7).

Any individual ~~referred to in clauses (3) and (5) to (8) must be advised of the option to register for any available employment services, and training services, and employment if the individual so desires, and must be informed of the any available child care and other support services available if the individual decides to register.~~

(b) If, after planning with a recipient a decision is made that the recipient must register for employment services, training, and employment, the county board shall notify the recipient in writing of the need to register for participation in an employment and training service and that the recipient To the extent permissible by federal law, applicants for benefits under the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on the effective date of this section shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Sec. 8. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 3a. [PARTICIPATION.] Caretakers in priority groups must participate in employment and training services under this section to the extent permissible under federal law. However, no assistance unit may be sanctioned for a caretaker's failure to participate in employment and training services under this section if failure results from inadequate funding for employment and training services.

Sec. 9. Minnesota Statutes 1986, section 256.736, subdivision 4, is amended to read:

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of

human services shall:

(1) Arrange for or provide any ~~relative caretaker~~ or child required to ~~register for~~ participate in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) Pay ten percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;

(3) Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulations; and

(4) Provide that when it has been certified by the ~~commissioner of jobs and training, certification to be binding upon the commissioner of human services county board~~, that a ~~relative or child certified under caretaker or child required to participate in~~ an employment and training program to the commissioner of jobs and training has been found by the commissioner, after a hearing conducted in the manner prescribed by section 268.10, subdivision 3, with the right of review in accordance with the provisions of section 268.10, subdivision 8, employment and training service provider to have refused without good cause to participate in appropriate employment and training services or to have refused without good cause to accept a bona fide offer of public or other employment, the county board shall provide that:

(a) If the ~~relative caretaker~~ makes the refusal, the ~~relative's caretaker's~~ needs shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the ~~relative caretaker~~ if a protective payee cannot reasonably be found.

(b) Aid with respect to a dependent child will be denied if a child who makes the refusal is the only child receiving aid in the family.

(c) If there is more than one child receiving aid in the family, aid for the child who makes the refusal will be denied and the child's needs will not be taken into account in making the grant determination.

(d) If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails or refuses without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87, if the family is subject to requirements of the work incentive program.

Sec. 10. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 4a. [NOTICE AND RIGHT OF APPEAL.] If the employment and training service provider determines that the caretaker has failed or refused, without good cause, to cooperate or accept employment, the employment and training service provider shall issue to the caretaker a written notice of its determination of non-cooperation or refusal to accept employment. The notice must include a detailed explanation of the reason for the deter-

mination and must specify the consequences for failure or refusal to cooperate or accept employment, the actions which the employment and training service provider believes are necessary for the caretaker to comply with the employment and training program, and the right to request, within ten days of receipt of the notice, a conciliation conference. If the dispute between the employment and training service provider and the caretaker is not resolved in the conciliation conference or a request for a conciliation conference is not made within the required time, then the employment and training service provider shall notify the county board of a caretaker's failure without good cause to cooperate or accept employment. Any determination, action, or inaction on the part of the county board relating to a caretaker's participation under section 256.736 is subject to the notice and hearing procedures in section 256.045, and Code of Federal Regulations, title 45, section 205.10.

Sec. 11. Minnesota Statutes 1986, section 256.736, subdivision 6, is amended to read:

Subd. 6. [PROTECTION FROM GARNISHMENT.] Earnings of a ~~recipient~~ caretaker while participating in full or part-time employment or training shall be protected from garnishment. This protection shall extend for a period of six months from the date of termination of a ~~recipient's~~ caretaker's grant of assistance.

Sec. 12. Minnesota Statutes 1986, section 256.736, subdivision 7, is amended to read:

Subd. 7. [RULEMAKING.] The commissioner of human services, in cooperation with the commissioner of jobs and training, may ~~make~~ adopt permanent and emergency rules necessary to qualify for any federal funds available under this section and to carry out this section.

Sec. 13. Minnesota Statutes 1986, section 256.736, subdivision 8, is amended to read:

Subd. 8. [SPECIAL NEEDS.] The commissioner of human services shall amend the state plan for aid to families with dependent children to provide, as special needs payments, money for the costs of child care, transportation, tuition, and items associated with education or seeking employment to the extent allowed under federal regulations and state appropriations. The commissioner of human services, with the assistance of the commissioner of education, shall establish a procedure whereby a governmental entity that pays for child care may contract with a county agency authorized to administer AFDC under sections 393.01, subdivision 7, and 393.07, subdivision 2, to make the child care payments on their behalf to AFDC recipients who are eligible for employment special needs funds. The governmental entity shall reimburse the county agency for the nonfederal share of the payments and administrative costs necessary to carry out the contract. The commissioners of human services and education shall provide information and technical assistance to governmental entities about the availability of special needs payments for child care. Governmental entities that receive state aid for child care through the community social services act, the sliding fee child care program, or other programs, shall request special needs payments for child care provided to AFDC recipients who are potentially eligible for special needs assistance under criteria established by the commissioner of human services.

Sec. 14. Minnesota Statutes 1986, section 256.736, is amended by add-

ing a subdivision to read:

Subd. 10. [COUNTY DUTIES.] To the extent of available state appropriations, county boards shall:

(1) refer all priority caretakers required to register under subdivision 3 to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider caretakers who fall into the priority groups;

(3) provide all caretakers with an orientation which (a) gives information on available employment and training services and support services, and (b) encourages clients to view AFDC as a temporary program providing grants and services to clients who set goals and develop strategies for supporting their families without AFDC assistance;

(4) work with the employment and training service provider to encourage voluntary participation by caretakers in the priority groups;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage nonpriority caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using the employment special needs fund to caretakers who participate in employment and training programs, with priority for services to caretakers in priority groups;

(11) ensure that orientation, employment search, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13; and

(12) explain in its local service unit plan under Minnesota Statutes, section 268.88 how it will ensure that priority caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services.

A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

Sec. 15. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 11. [CASE MANAGEMENT SERVICES.] (a) For clients described in subdivision 2a, the case manager shall:

(1) Assess the education, skills, and ability of the caretaker to secure

and retain a job which, when added to child support, will support the caretaker's family. The case manager must work with the caretaker in completing this task;

(2) Set goals and develop a timetable for completing education and employment goals. The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker must be to complete literacy training or a general education diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general education diploma is eligible for child care under section 268.91;

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided.

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2; and

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents who are not living with friends or relatives to live in a group home or foster care setting. If minor parents are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess the minor parent's need for training in parenting and independent living skills and shall refer appropriate minor parents to available counseling programs designed to teach needed skills;

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Sec. 16. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 12. [CASE MANAGERS.] (a) Counties may directly employ case managers if certified as an employment and training service provider under section 268.0122, or may contract for case management services with a certified employment and training service provider. Uncertified counties and contracting agencies may provide case management services only if they demonstrate the ability to coordinate employment, training, education, and support services. The commissioner of jobs and training shall determine whether or not an uncertified county or agency has demonstrated such ability.

(b) Counties that employ case managers must ensure that the case managers have the skills and knowledge necessary to perform the variety of tasks described in subdivision 11. Counties that contract with another agency for case management services must specify in the contract the skills and knowledge needed by the case managers. At a minimum, case managers must:

(1) have a thorough knowledge of training, education, and employment opportunities;

(2) have training or experience in understanding the needs of AFDC clients and their families; and

(3) be able to formulate creative individualized contracts.

Sec. 17. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 13. [STATE SHARE.] (a) The state must pay 75 percent of costs incurred by counties under subdivision 11, except that after July 1, 1988, the commissioner shall adjust the state share to reflect county performance. Factors which the commissioner may consider in adjusting the state share must include, but are not limited to, the following:

(1) percentage of priority caretakers leaving the AFDC program after one year, two years, and three years;

(2) percentage of minor parents who finish high school; and

(3) percentage of priority caretakers who are in training or education and are successfully working toward their contracted goals.

The commissioner may raise or lower the state share of costs by a maximum of ten percent.

(b) If the state appropriation is not sufficient to fund the cost of case management services for all caretakers identified in subdivision 2a, the commissioner must define a statewide subgroup of caretakers which includes all caretakers in subdivision 2a, clause (1) and as many caretakers as possible from subdivision 2a, clauses (2) and (3).

Sec. 18. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 14. [EMPLOYMENT SEARCH.] (a) The commissioner of human services shall establish an employment search program under United States Code, title 42, section 602(a)(35). The principal wage earner in an AFDC-UP assistance unit must participate in the employment search program within four months of being determined eligible for AFDC-UP unless:

- (1) the caretaker is already participating in another approved employment and training service;
- (2) the caretaker's employability plan specifies other activities; or
- (3) the caretaker is unable to secure employment due to inability to communicate in the English language.

The employment and training service provider shall refer caretakers unable to communicate in the English language to English as a second language courses.

(b) The employment search program must provide the following services:

(1) an initial period of up to four weeks of job search activities for not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county board if the caretaker fails to cooperate with the employment search requirement; and

(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks.

(c) The employment search program may provide services to non-AFDC-UP caretakers.

Sec. 19. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 15. [REPORTING.] The commissioner of human services, in cooperation with the commissioner of jobs and training shall develop reporting requirements for local agencies and employment and training service providers. Reporting requirements must, to the extent possible, use existing client tracking systems and must be within the limits of funds available. The requirements must include summary information necessary for state agencies and the legislature to evaluate the effectiveness of the services.

Sec. 20. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 16. [ALLOCATION AND USE OF MONEY.] (a) State money appropriated for employment and training services under this section must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average monthly number of caretakers receiving AFDC in the county who are under age 22 and the average monthly number of AFDC cases open in the county for 24 or more consecutive months and residing in the county for the 12-month period ending March 31 of the previous fiscal year.

(2) Twenty percent of the state money must be allocated based on the average monthly number of nonpriority caretakers receiving AFDC in the county for the period ending March 31 of the previous fiscal year. Funds may be used to develop employability plans for nonpriority caretakers if resources allow.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending March 31 of the previous fiscal year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for priority group members in each county.

(b) No more than 15 percent of the money allocated under paragraph (a) may be used for administrative activities.

(c) Except as provided in paragraph (d), at least 70 percent of the money allocated to counties must be used for case management services and employment and training services for caretakers in the priority groups. Up to 30 percent of the money may be used for employment search activities and employment and training services for nonpriority caretakers.

(d) A county whose proportion of the statewide average monthly AFDC-UP caseload exceeds its proportion of the statewide AFDC caseload may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for employment search activities and employment and training services for nonpriority caretakers.

(e) Counties and the department of jobs and training shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of jobs and training that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services for the reimbursement and appropriate the reimbursed money to the county or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

Sec. 21. Minnesota Statutes 1986, section 256.736, is amended by adding a subdivision to read:

Subd. 17. [PHASE-IN.] *The commissioner shall implement this section on a statewide basis as quickly as possible. The commissioner may phase in changes under the section in any reasonable manner that ensures a unified, statewide coordinated program by no later than December 31, 1988.*

Sec. 22. [256.7365] [SPECIAL PROJECTS TO ADDRESS DEPENDENCE ON AFDC.]

Subdivision 1. [ESTABLISHMENT AND PURPOSE.] *The commissioner shall establish a grant program for projects to serve AFDC caretakers who have received AFDC for at least 36 months, AFDC caretakers with substantial barriers to employment, or individuals at risk of long-term dependency on AFDC. The projects shall assist individuals to escape or avoid long-term dependency on AFDC.*

Subd. 2. [DEFINITIONS.] *For the purpose of this section, the following terms have the meanings given them.*

(a) "Substantial barriers to employment" means disabilities, chemical dependency, having children with disabilities, lack of a high school degree, lack of a marketable occupational skill, three or more children, or lack of regular work experience in the previous five years.

(b) "Case management" means case management as defined in subdivision 11.

Subd. 3. [APPLICATION.] *Counties, employment and training service*

providers, cities, local and state agencies, federally recognized Indian reservations, educational institutions, job training agencies, community-based organizations, displaced homemaker programs, supported work programs, and other nonprofit agencies may apply for grants under this section.

Subd. 4. [SELECTION.] A committee consisting of the commissioner of human services, the commissioner of jobs and training, and the director of the state board of vocational technical education, or their designees, shall review the project proposals and select projects to receive grants under this section. The first set of projects must be selected by March 1, 1988. At least two projects must be selected that are operated by or in cooperation with tribes or organizations representing ethnic minorities, except that the committee may reject any project proposal that does not meet the design requirements established in subdivision 5.

Subd. 5. [PROJECT DESIGN.] Projects selected under this section must:

- (1) use existing resources whenever possible;
- (2) serve one of the three groups listed in subdivision 1;
- (3) meet financial and administrative standards established by the commissioner;
- (4) participate in reporting and evaluation requirements as specified by the commissioner; and
- (5) provide matching funds, including in-kind matches, but not including income maintenance grants, medical assistance, food stamps, or state job training funds. Preference shall be given to projects which include multi-agency participation or coordination.

Subd. 6. [ALLOWABLE EXPENDITURES.] (a) Projects may use money received under this section for education, employment, social services, child care, transportation, support services, rehabilitation services, relocation assistance, job development, work experience, on-the-job training, case management, medical services, and other appropriate services.

(b) Projects may use up to 15 percent of the money received under this section for administrative expenses. Administrative expenses do not include expenses for activities in paragraph (a).

(c) The commissioner may establish limits on the use of money for particular purposes or services.

Subd. 7. [DEMONSTRATION AND EVALUATION.] For the biennium ending June 30, 1989, projects are demonstration projects to test the effectiveness of differing approaches to serving populations with acute needs. The commissioner of human services shall submit to the governor and the legislature a progress report by February 1, 1989, and shall submit subsequent program evaluation reports as part of the biennial plan.

Subd. 8. [CONTINUED FUNDING.] Projects that received grants for the biennium ending June 30, 1989, and achieve effective results must be given priority for grants in succeeding cycles.

Subd. 9. [CARRYOVER AUTHORITY.] Money appropriated in one fiscal year may be carried forward into the next year to ensure continuity of services and funding for follow-up services.

Sec. 23. Minnesota Statutes 1986, section 256.74, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an assistance unit must be budgeted in the normal retrospective cycle. The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other income, after application of the applicable disregards, by the standard of need for the assistance unit. An amount remaining after this calculation is income in the first month of eligibility. If the total monthly income including the lump sum income is larger than the standard of need for a single month the first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. In making its determination the county agency shall disregard the following from family income:

(1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time student, and not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment as well as all the earned income derived from the job training and partnership act (JTPA) for a dependent child for six calendar months per year, together with unearned income derived from the job training and partnership act;

(2) all educational grants and loans awarded pursuant to a federal law when public assistance was considered in making the award and the award was made on the basis of financial need; and that part of any other educational grant or loan which is used for educational purposes, such as tuition, fees, equipment, transportation and child care expenses necessary for school attendance;

(3) the first \$75 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) an amount equal to the actual expenditures but not to exceed \$160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded;

(5) thirty dollars plus one-third of the remainder of each individual's earned income not already disregarded for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has:

(a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; or

(b) refused without good cause to accept an offer of suitable employment;
or

(c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or

(d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services.

Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment.

The disregard of \$30 and one-third of the remainder of earned income described in clause (5) shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of clauses (5)(a) to (5)(d) shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under clause (d), the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(6) the first \$50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit; and

(7) ~~that portion of an insurance settlements settlement earmarked and used to pay medical bills, to compensate a member of an assistance unit for partial or permanent loss of function or a body part expenses, funeral and burial costs, or to repair or replace insured property.~~

The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days ~~of after the end of the month in which the collection of such periodic support payments occurred~~ and shall be disregarded in determining the amount of assistance.

Sec. 24. [256.745] [SERVICE DELIVERY IMPROVEMENT PILOT PROJECT.]

Subdivision 1. [STEP] "STEP" means the strive toward excellence program administered by the department of administration.

Subd. 2. [PILOT PROJECT ESTABLISHED; GOALS.] The service delivery improvement project, consisting of six pilot projects selected under subdivision 4, is established to use STEP productivity improvement tech-

nology to achieve the following goals: redesign of employment and training and income maintenance delivery systems as required under Laws 1985, First Special Session chapter 14, article 9; and improvement of the quality and cost effectiveness of employment and training and income maintenance services provided to clients.

Subd. 3. [COMMITTEE.] The commissioner shall establish and select a committee to administer the service delivery improvement project. The committee consists of the commissioner, the commissioner of jobs and training, the commissioner of human services, one member of the senate, one member of the house of representatives, one public member representing the private sector, and other public members considered necessary by the commissioner. The commissioner may reimburse the public members for actual expenses in the same manner and amount as authorized by the commissioner's plan under section 43A.18, subdivision 2.

Subd. 4. [DUTIES.] The committee shall solicit from local service units or consortia of local service units proposals to conduct innovative pilot projects to redesign the employment and training and income maintenance delivery system. By December 1, 1987, the committee shall evaluate the proposals and select six pilot projects to receive training and technical assistance as provided in subdivision 6.

Subd. 5. [EVALUATION.] The committee shall evaluate each proposal based upon the extent to which the proposed pilot project uses STEP productivity improvement technology, addresses the goals set forth under subdivision 2, and involves members of the private sector in joint financing of delivery system innovations.

Subd. 6. [TRAINING AND TECHNICAL ASSISTANCE.] The commissioner shall contract with the department of administration to provide staff training, technical assistance, and detailed periodic reports of the day-to-day operation of a pilot project to affected local service units.

Subd. 7. [COOPERATION OF AGENCIES.] The commissioner of human services and the commissioner of jobs and training shall cooperate fully with local service units undertaking pilot projects under this section. If requested by a local service unit which has had a pilot project selected under subdivision 4, the commissioner shall reduce, to the extent possible, reporting and other requirements which may be applicable under state law to that pilot project.

Sec. 25. [256.979] [CHILD SUPPORT INCENTIVES.]

Subdivision 1. [INCENTIVE AWARD ACCOUNT.] The state share of AFDC child support collections received by the commissioner of human services during fiscal year 1988 in excess of a threshold of \$14,273,000 and during fiscal year 1989 in excess of a threshold of \$15,628,000 must be deposited in an incentive award account for nonpublic assistance collections. Money in the incentive award account is appropriated to the commissioner of human services for distribution to counties under this section. This subdivision does not apply to an increase in child support collections that may result from changes in federal law pertaining to the treatment of the first \$50 of periodic support payments collected by the child support enforcement office.

Subd. 2. [RATIO DETERMINATION.] Using information reported to the commissioner of human services under Title IV-D of the Social Security Act by county agencies responsible for child support enforcement, the

commissioner shall determine the cost-benefit ratio for each county on a quarterly basis. The commissioner shall determine the ratio by dividing each county's nonpublic assistance collections by the county child support agency costs. For purposes of this section, collections made on behalf of another county agency in Minnesota shall be identified and counted only by the county agency making the collection.

Subd. 3. [PERCENTAGE DETERMINATION.] The commissioner shall use the following table to determine the percentage for each county that corresponds to the ratio determined in subdivision 2. The commissioner shall multiply each county agency's quarterly nonpublic assistance collections by the applicable percentage to determine the county agency's nonpublic assistance dollar amount for purposes of this subdivision.

Ratio*	Percent
.1 or less	3.0
.2	3.5
.4	4.0
.6	4.5
.8	5.0
1.0	5.5
1.2	6.0
1.4	6.5
1.6	7.0
1.8	7.5
2.0	8.0
2.2	8.5
2.4	9.0
2.6	9.5
2.8 or more	10.0

*A county ratio that falls between two listed ratios must be rounded up to the next listed ratio.

Subd. 4. [DISTRIBUTION FORMULA.] (a) The commissioner shall determine each county child support enforcement agency's share of the state's quarterly incentive award for nonpublic assistance collections according to the formula in paragraph (b). County agencies that do not submit the required report to the commissioner within 30 days after the end of the quarter shall not receive an incentive award under this section and are excluded for purposes of the formula in this subdivision. Within 45 days after the end of the quarter, the commissioner shall inform each county agency of the determinations and pay the determined amount to the county agency. Incentive payments under this section must begin with the quarter ending September 30, 1988.

(b) To determine the county agency's quarterly incentive award, the commissioner shall:

(1) add all county agency quarterly nonpublic assistance dollar amounts as determined in subdivision 3;

(2) divide the state's quarterly nonpublic assistance incentive award by the total obtained in clause (1); and

(3) multiply the quotient obtained in clause (2) by each county agency's quarterly nonpublic assistance dollar amount as determined under subdivision 3.

Sec. 26. Minnesota Statutes 1986, section 256B.37, is amended by adding a subdivision to read:

Subd. 3. [PRIVATE BENEFITS TO BE USED FIRST.] Private accident and health care coverage for medical services is primary coverage and must be exhausted before medical assistance is paid. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. Supplemental payment may be made by medical assistance, but the combined total amount paid must not exceed the amount payable under medical assistance in the absence of other coverage. Medical assistance must not make supplemental payment for covered services rendered by a vendor who participates or contracts with a health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.

Sec. 27. Minnesota Statutes 1986, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. [STANDARDS.] (1) A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. To achieve these aims, the commissioner shall establish minimum standards of assistance for general assistance. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

For a recipient who is a member of a one-person assistance unit, the standard shall not be less than the combined total of the minimum standards of assistance for shelter and basic needs in effect on February 1, 1983. The standards of assistance shall not be lower for a recipient sharing a residence with another person unless that person is a responsible relative. The standards of assistance for recipients who are members of an assistance unit composed of more than one person must be equal to the aid to families with dependent children standard of assistance for a family of similar size and composition.

The standards shall be lowered for recipients who share a residence with a person who is a responsible relative of one or more members of the assistance unit if the responsible relative also receives general assistance or aid to families with dependent children. The standards must also be lowered for recipients who share a residence with a responsible relative if the relative is not receiving general assistance or aid to families with dependent children because the relative has been sanctioned or disqualified. If the responsible relative is receiving general assistance or aid to families with dependent children, or would be receiving them but for sanction or disqualification, then the standard applicable to the general assistance recipient's assistance unit must equal the amount that would be attributable to the members of the assistance unit if the members were included as additional recipients in the responsible relative's general assistance or aid to families with dependent children grant. When determining the amount attributable to members of an assistance unit that must receive a reduced standard, the amount attributed to adults must be the amount attributed to another child added to the responsible relative's assistance unit. When an assistance unit is subject to a reduced standard, the reduced standard must not exceed the standard that applies to an assistance unit that does not share a residence with a responsible relative.

For recipients, except recipients who are eligible under section 256D.05, subdivision 1, paragraph (a), clauses (1), (7), (8), (9), and (14), who share a residence with a responsible relative who is not receiving general assistance or aid to families with dependent children but who receives other income, the standards shall be lowered, subject to these limitations:

(a) The general assistance grant to the one-person assistance unit shall be in an amount such that total household income is equal to the aid to families with dependent children standard for a household of like size and composition, except that the grant shall not exceed that paid to a general assistance recipient living independently.

(b) Benefits received by a responsible relative under the supplemental security income program, the social security retirement program if the relative was receiving benefits under the social security disability program at the time of becoming eligible for the social security retirement program or if the relative is a person described in section 256D.05, subdivision 1, paragraph (a), clause (1), (7), or (9), the social security disability program, a workers' compensation program, the Minnesota supplemental aid program, or on the basis of the relative's disability, must not be included in the household income calculation.

(2) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from his or her children and spouse and who does not live with his or her parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard shall also be increased by the same percentage.

(3) For an assistance unit consisting of an adult who is childless and unmarried or living apart from his or her children and spouse, but who lives with his or her parent or parents, the general assistance standard of assistance shall be equal to the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, provided that the standard shall not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, shall not be counted in the determination of eligibility or benefit level for the assistance unit. An adult child shall be ineligible for general assistance if the available resources or the countable income of the adult child and the parent or parents with whom he or she lives are such that a family consisting of the adult child's parent or parents, the parent or parents' other family members and the adult child as the only or additional minor child would be financially ineligible for general assistance.

(4) For an assistance unit consisting of a married couple who are childless or who live apart from any child or children of whom either of the married couple is a parent or legal custodian, the standards of assistance shall be equal to the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, then the standard of assistance

for the other shall be equal to the second adult standard of the aid to families with dependent children program, except that, when one member of the couple is not included in the general assistance grant because he or she is not categorically eligible for general assistance under section 256D.05, subdivision 1; and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program.

(5) For an assistance unit consisting of all members of a family, the standards of assistance shall be the same as the standards of assistance applicable to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members shall be equal to the standards of assistance applicable to an assistance unit composed of the entire family, less the standards of assistance applicable to a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. Notwithstanding the foregoing, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit shall be equal to the special child standard of the aid to families with dependent children program. A child shall not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program; supplemental security income; retirement, survivors, and disability income; other assistance programs; or child support and maintenance payments. The income of a child who is excluded from the assistance unit shall not be counted in the determination of eligibility or benefit level for the assistance unit.

Sec. 28. Minnesota Statutes 1986, section 256D.02, subdivision 5, is amended to read:

Subd. 5. "Family" means two or more individuals who are related by blood, marriage or adoption, who are living in a place of residence maintained by one or more of them as a home, and at least one of whom is a child who is not married to another of such individuals and is in the care of or dependent upon another of such individuals the following persons who live together: a minor child or a group of minor children related to each other as siblings, half siblings, or stepsiblings, together with their natural or adoptive parents, their stepparents, or their legal custodians, and any other minor children of whom an adult member of the family is a legal custodian.

Sec. 29. Minnesota Statutes 1986, section 256D.02, subdivision 8, is amended to read:

Subd. 8. "Income" means any form of income, including remuneration for services performed as an employee and net earnings from self-employment, reduced by the amount attributable to employment expenses as defined by the commissioner. The amount attributable to employment expenses shall include amounts paid or withheld for federal and state personal income

taxes and federal social security taxes.

"Income" includes any payments received as an annuity, retirement, or disability benefit, including veteran's or workers' compensation; old age, survivors, and disability insurance; railroad retirement benefits; unemployment benefits; and benefits under any federally aided categorical assistance program, supplementary security income, or other assistance program; rents, dividends, interest and royalties; and support and maintenance payments. Such payments may not be considered as available to meet the needs of any person other than the person for whose benefit they are received, unless that person is ~~under a legal duty to support another~~ a family member or a spouse and the income is not excluded under section 256D.01, subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, must be included as income.

Sec. 30. Minnesota Statutes 1986, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, state aid shall be paid to local agencies for 75 percent of all general assistance grants up to the standards of section 256D.01, subdivision 1a, and according to procedures established by the commissioner, *except that, after December 31, 1987, state aid is reduced to 65 percent of all general assistance grants if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.05, subdivision 1, paragraph (a), clause (15).*

After December 31, 1986, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or, (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, but for whom the aid would further the purposes established in the general assistance program in accordance with rules promulgated by the commissioner pursuant to the administrative procedure act.

Sec. 31. Minnesota Statutes 1986, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a permanent or temporary illness, injury, or incapacity which is medically certified and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(6) a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;

(7) a person not described in clause (1) or (3) who is diagnosed by a licensed physician or licensed consulting psychologist as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(8) a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, or who has been terminated from either program and has an appeal from that termination pending;

(9) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(10) a person completing a secondary education program;

(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause-;

(12) a person who has substantial barriers to employment, including but not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;

(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner; or

(14) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate or learning disabled;

(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 32. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause, and (2) at the time the person is referred to literacy training; or

(16) a child under the age of 18 who is not living with a parent, step-parent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency.

(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:

(1) a person who has borderline mental retardation; and

(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a), because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.

In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.

Sec. 32. [256D.0505] [LITERACY TRAINING FOR RECIPIENTS.]

Subdivision 1. [OCCUPATIONAL AND VOCATIONAL PROGRAMS.] The local agency must work with local educational institutions and job training programs in the identification, development, and utilization of occupational and vocational literacy programs for general assistance recipients. Occupational and vocational literacy programs are programs which provide literacy training to adults who lack formal education or job skills. The programs emphasize particular language and reading skills needed for successful job performance.

Subd. 2. [ASSESSMENT AND ASSIGNMENT.] The local agency must:

(1) assess existing reading level, learning disabilities, reading potential,

and vocational or occupational interests of people eligible under section 256D.05, subdivision 1, paragraph (a), clause (15);

(2) assign suitable recipients to openings in occupational and vocational literacy programs;

(3) if no openings are available in accessible occupational or vocational literacy programs, assign suitable recipients to openings in other accessible literacy training programs; and

(4) reassign to another accessible literacy program any recipient who does not complete an assigned program and who wishes to try another program.

Subd. 3. [SERVICES PROVIDED.] The local agency must provide child care and transportation to enable people to participate in literacy training under this section.

Subd. 4. [PAYMENT OF GENERAL ASSISTANCE.] The local agency must provide assistance under section 256D.05, subdivision 1, paragraph (a), clause (15) to people who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals;

(2) despite participation for a period of six months or more, fail to progress in assigned literacy programs;

(3) are not assigned to literacy training because there is no program available or accessible to them; or

(4) have failed for good cause to complete an assigned literacy program.

Subd. 5. [REASSESSMENT AND LITERACY REFERRAL.] (a) When a person is no longer functionally illiterate under rules adopted by the commissioner or is terminated for failure to comply with literacy training requirements, the local agency must assess the person's eligibility for general assistance under the remaining provisions of section 256D.05, subdivision 1, paragraph (a). The local agency must refer to the work readiness program under section 256D.051 all people not eligible for general assistance.

(b) The local agency may also refer for voluntary work readiness services all recipients who reach a level of literacy that may allow successful participation in job training, provided that the job training does not interfere with a recipient's participation in literacy training. However, referral under this clause does not affect general assistance eligibility.

Subd. 6. [RIGHT TO NOTICE AND HEARING.] The local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101.

Subd. 7. [COSTS.] The state shall reimburse local agencies for the costs of providing transportation under this section. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training. A recipient who is unable to obtain affordable child care is not required to participate in literacy training.

Counties must identify literacy programs and services available through educational institutions and are required to provide additional services within the limits of available appropriations.

Sec. 33. Minnesota Statutes 1986, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [WORK REGISTRATION.] A person ~~or~~, family, or married couple whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to ~~subdivisions~~ subdivision 3, 4, and 5. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration.

Sec. 34. Minnesota Statutes 1986, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [LOCAL AGENCY DUTIES.] (a) The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

(1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment;

(2) referral to available employment assistance programs including the Minnesota employment and economic development program;

(3) a job search program; and

(4) other activities designed by the local agency to prepare the registrant for permanent employment.

In order to allow time for job search, the local agency shall not require an individual to participate in the work readiness program for more than 32 hours a week. The local agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b) and shall provide a work readiness program to recipients referred under section 32, subdivision 5, paragraph (b).

Sec. 35. Minnesota Statutes 1986, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [LOCAL AGENCY OPTIONS.] The local agency may, at its option, provide up to ~~\$100 per~~ \$200 for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. ~~The local agency may provide an additional \$100 for direct expenses of registrants remaining in the work readiness program for more than two months.~~ After paying direct expenses as needed by individual registrants, the local agency may use any remaining money to provide additional services as needed by any registrant including education, orientation, placement, other work experience, on-the-job training, and other appropriate activities.

Sec. 36. Minnesota Statutes 1986, section 256D.051, is amended by adding a subdivision to read:

Subd. 6a. [COUNTY MATCH AND USE OF FUNDS.] Each county shall provide a 25 percent match for direct participation expenses and administrative costs of providing work readiness services. Funds may be used for the following direct participation expenses: transportation, clothes, tools, and other necessary work-related expenses. Funds may be used for administrative costs incurred providing the following services: employability assessments and employability development plans, employment search assistance, education, orientation, placement, on-the-job training, and other appropriate activities.

Sec. 37. Minnesota Statutes 1986, section 256D.051, subdivision 8, is amended to read:

Subd. 8. [INELIGIBILITY VOLUNTARY QUIT.] A person who is otherwise eligible to receive work readiness assistance under subdivision 1 must be terminated from work readiness assistance on quitting work without good cause, being fired for misconduct, or refusing to accept an offer of suitable employment. A person is not eligible for work readiness payments or services if, without good cause, the person refuses a legitimate offer of suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be disqualified for two months according to rules adopted by the commissioner.

Sec. 38. Minnesota Statutes 1986, section 256D.06, subdivision 1, is amended to read:

Subdivision 1. General assistance shall be granted in such an amount that when added to the nonexempt income actually available to the individual, married couple, or family, the total amount equals the applicable standard of assistance established by the commissioner for general assistance. In determining eligibility for and the amount of assistance the local agency shall disregard the first \$50 of earned income per month.

Sec. 39. Minnesota Statutes 1986, section 256D.06, subdivision 1b, is amended to read:

Subd. 1b. [EARNED INCOME SAVINGS ACCOUNT.] In addition to the \$50 disregard required under subdivision 1, the local agency shall disregard an additional earned income up to a maximum of \$150 per month for persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. A maximum of \$1,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of \$1,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the individual in the month of receipt and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the \$1,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the

conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Sec. 40. Minnesota Statutes 1986, section 256D.06, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of subdivision 1, a grant of general assistance shall be made to an eligible individual, *married couple*, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application hereunder. If a recipient relates facts to the local agency which may be sufficient to constitute an emergency situation, the local agency shall advise the recipient of the procedure for applying for assistance pursuant to this subdivision.

Sec. 41. Minnesota Statutes 1986, section 256D.08, subdivision 1, is amended to read:

Subdivision 1. In determining eligibility of a family, *married couple*, or individual there shall be excluded the following resources:

(1) Real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to families with dependent children; and

(2) Other property which has been determined, in accordance with and subject to limitations contained in rules promulgated by the commissioner, to be essential to the family or individual as a means of self-support or self-care or which is producing income that is being used for the support of the individual or family. The commissioner shall further provide by rule the conditions for those situations in which property not excluded under this subdivision may be retained by the family or individual where there is a reasonable probability that in the foreseeable future the property will be used for the self-support of the individual or family; and

(3) Payments, made pursuant to litigation and subsequent appropriation by the United States Congress, of funds to compensate members of Indian tribes for the taking of tribal land by the federal government.

Sec. 42. Minnesota Statutes 1986, section 256D.101, is amended to read:

256D.101 [FAILURE TO COMPLY WITH WORK REQUIREMENTS; NOTICE.]

Subdivision 1. [DISQUALIFICATION.] If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination. The notification shall be in writing; and shall state the facts that support the local agency's determination; *For the first two times in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall specify the particular actions that must be taken by the registrant to achieve compliance; shall state that the recipient must take the specified actions by a date certain, which must be at least 15 ten days following the date the notification is mailed or delivered to the registrant; shall explain the ramifications of the registrant's failure to take the required actions by the specified date; and shall advise the registrant that the registrant may request and have a conference with*

the local agency to discuss the notification. *A registrant who fails without good cause to comply with requirements of the program more than two times in a six-month period must be notified of termination.*

Subd. 2. [NOTICE OF GRANT REDUCTION, SUSPENSION, OR TERMINATION.] ~~No~~ The notice of grant reduction, suspension, or termination on the ground that a registrant has failed to comply with section 256D.051 shall be ~~given mailed or hand delivered by the local agency until the notification required by subdivision 1 has been given, the time for compliance stated in the notification has lapsed, and the local agency has, subsequent~~ concurrently with the notification required by subdivision 1. Prior to giving the notification, ~~assessed~~ the local agency must assess the registrant's eligibility for general assistance under section 256D.05 to the extent possible using information contained in the case file, and ~~determined~~ determine that the registrant is not eligible under that section. The determination that the registrant is not eligible shall be stated in the notice of grant reduction, suspension, or termination.

Subd. 3. [BENEFITS AFTER NOTIFICATION.] *Assistance payments otherwise due to the registrant under section 256D.051 shall not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant reduction, suspension, or termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal.*

Sec. 43. Minnesota Statutes 1986, section 256D.15, is amended to read:
256D.15 [RELATIVE'S RESPONSIBILITY.]

The financial responsibility of a relative for an applicant for or recipient of general assistance *or work readiness* shall not extend beyond the relationship of a spouse or a parent of an adult child who resides with the parent, or the parent of a minor child regardless of where the minor child resides, *or a family member who resides with the applicant or recipient.*

Sec. 44. Minnesota Statutes 1986, section 257.33, is amended to read:
257.33 [DUTIES OF COMMISSIONER OF HUMAN SERVICES.]

Subdivision 1. [SERVICES TO PREGNANT WOMEN.] It shall be the duty of the commissioner of human services to offer appropriate social services to any pregnant woman who is in need of social services under criteria prescribed by rule of the commissioner. The commissioner shall also offer appropriate social services to the woman and her child after the birth of the child.

Subd. 2. [MINOR PARENTS AND THEIR CHILDREN.] (a) Every birth to a minor shall be reported by the hospital where the birth occurs, within three working days after the birth. The hospital shall make the report to the ~~commissioner on a form provided by the department of human services~~ county social services agency in the county in which the minor mother resides and shall notify the minor that the report has been made. *The county*

social services agency shall contact any minor mother who does not have a case manager who resides in the county and determine whether she has a plan for herself and her child. The plan must consider:

- (1) the age of the minor parent;*
- (2) the involvement of the minor's parents or of other adults who provide active, ongoing guidance, support, and supervision;*
- (3) the involvement of the father of the minor's child, including steps being taken to establish paternity, if appropriate;*
- (4) a decision of the minor to keep and raise her child or place the child for adoption;*
- (5) completion of high school or GED;*
- (6) current economic support of the minor parent and child and plans for economic self-sufficiency;*
- (7) parenting skills of the minor parent;*
- (8) living arrangement of the minor parent and child;*
- (9) child care and transportation needed for education, training, or employment;*
- (10) ongoing health care; and*
- (11) other services as needed to address personal or family problems or to facilitate the personal growth and development and economic self-sufficiency of the minor parent and child.*

(b) If the minor parent does not have a plan for herself and child, the county social services agency shall work with her to develop a plan and shall provide case management services as needed to assure the resources and services are available to meet the plan requirements.

(c) If the minor parent refuses to plan for herself and her child or fails, without good cause, to follow through on an agreed upon plan, the county social services agency may file a petition under section 260.131 seeking an order for protective supervision under section 260.191, subdivision 1, clause (a), on the grounds that the minor parent's child is dependent due to the state of immaturity of the minor parent. A contract with a minor parent under section 256.736, subdivision 11(a)(4) is an "agreed upon plan" for purposes of this section.

Sec. 45. Minnesota Statutes 1986, section 257.34, subdivision 1, is amended to read:

Subdivision 1. [ACKNOWLEDGMENT BY PARENTS.] The mother and father of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public, declare and acknowledge under oath that they are the biological parents of the child. The declaration may provide that any such child born to the mother at any time before or up to ten months after the date of execution of the declaration is the biological child of the signatories. Execution of the declaration shall:

- (a) have the same consequences as an acknowledgment by the signatories of parentage of the child for the purposes of sections 62A.041 and 62C.14, subdivision 5a;

(b) be conclusive evidence that the signatories are parents of the child for the purposes of sections 176.111 and ~~197.09 to 197.11~~ 197.75 and 197.752;

(c) ~~have create a presumption that the same consequences as an acknowledgment by signatory is the biological father of paternity~~ of the child for the purposes of sections ~~257.57 and 257.66~~ 257.51 to 257.74;

(d) when timely filed with the division of vital statistics of the Minnesota department of health as provided in section 259.261, qualify as an affidavit stating the intention of the signatories to retain parental rights as provided in section 259.261 if it contains the information required by section 259.261 or rules promulgated thereunder;

(e) have the same consequences as a writing declaring paternity of the child for the purposes of section 524.2-109; and

(f) be conclusive evidence that the signatories are parents of the child for the purposes of chapter 573.

Sec. 46. Minnesota Statutes 1986, section 257.57, subdivision 2, is amended to read:

Subd. 2. ~~An action to determine the existence or nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) or (e) may be brought at any time by The child, the mother or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:~~

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) or (e), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision; or

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (e) only if the action is brought within three years after the date of the execution of the declaration.

Sec. 47. Minnesota Statutes 1986, section 257.60, is amended to read:

257.60 [PARTIES.]

The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. ~~If the child is a minor and the case involves a compromise under section 257.64, subdivision 4 or a lump sum payment under section 257.66, subdivision 4, the child and the commissioner of human services shall each be made a party before the court approves a compromise or orders a lump sum payment.~~ The natural biological mother, each man presumed to be the father under section 257.55, and each man alleged to be the natural biological father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. *The public agency responsible for support*

enforcement is joined as a party in each case in which rights are assigned under section 256.74, subdivision 5. A person who may bring an action under section 257.57 may be made a party to the action. The court may align the parties. The child shall be made a party whenever:

(1) the child is a minor and the case involves a compromise under section 257.64, subdivision 1, or a lump sum payment under section 257.66, subdivision 4, in which case the commissioner of human services shall also be made a party; or

(2) the child is a minor and the action is to declare the nonexistence of the father and child relationship; or

(3) an action to declare the existence of the father and child relationship is brought by a man presumed to be the father under section 257.55, or a man who alleges to be the father, and the mother of the child denies the existence of the father and child relationship.

Sec. 48. Minnesota Statutes 1986, section 257.62, is amended by adding a subdivision to read:

Subd. 6. [TESTS, EVIDENCE ADMISSIBLE.] In any hearing brought under subdivision 5, a certified report of the facts and results of a laboratory analysis or examination of blood or genetic tests, that is performed in a laboratory accredited to meet the Standards for Parentage Testing of the American Association of Blood Banks and is prepared and attested by a qualified expert appointed by the court, shall be admissible in evidence without proof of the seal, signature, or official character of the person whose name is signed to it, unless a demand is made by a party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court.

Sec. 49. Minnesota Statutes 1986, section 257.63, subdivision 2, is amended to read:

Subd. 2. Upon refusal of a witness, including a party, to testify under oath or produce evidence, the court may order the party to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the grounds that the No testimony or evidence might tend to incriminate the party, the court may grant the party immunity from all criminal liability on account of the testimony or evidence the party is required to produce. An other information compelled under the order granting immunity bars prosecution of, or any information directly or indirectly derived from such testimony or other information, may be used against the witness for any offense shown, in whole or in part, by testimony or evidence which the party is required to produce any criminal case, except for perjury committed in the testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is subject to the sanctions within the jurisdiction of the court.

Sec. 50. Minnesota Statutes 1986, section 268.0122, subdivision 3, is amended to read:

Subd. 3. [DUTIES AS A STATE AGENCY.] The commissioner shall:

- (1) administer the unemployment insurance laws and related programs;*
- (2) administer the aspects of aid to families with dependent children, general assistance, work readiness, and food stamps that relate to employ-*

ment and training services, subject to the limitations of federal regulations contract under section 268.86, subdivision 2;

(3) administer wage subsidies and ~~recommend to the coordinator the use of the discretionary portion of wage subsidy appropriations the discretionary employment and training fund;~~

(4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;

(5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(6) enter into agreements with other departments of the state and local units of government as necessary;

(7) certify ~~competent employment and training service providers, with the concurrence of the coordinator,~~ and decertify service providers that fail to comply with performance criteria according to standards established by the ~~coordinator commissioner;~~

(8) provide consistent, integrated employment and training services across the state;

(9) establish the standards for all employment and training services administered under this chapter;

(10) develop standards for the contents and structure of the ~~county local service unit plans;~~

(11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(12) ~~prepare a plan and submit it to the coordinator in each even-numbered year, according to standards established by the coordinator, for use in developing a statewide employment and training plan;~~

(13) (12) identify underserved populations, unmet service needs, and funding requirements;

(14) (13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; and

(15) (14) submit to the governor, the coordinator, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semiannual report that:

(a) reports, by client classification, an unduplicated count of the kinds and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients;

(c) identifies the number of cooperative agreements in place, the number of individuals being served, and the kinds of service provided them;

(d) evaluates the performance of services, such as wage subsidies, community investments, work readiness, and grant diversions; and

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment insurance fund and

general assistance, work readiness, and aid to families with dependent children caseloads and program expenditures.

Sec. 51. Minnesota Statutes 1986, section 268.85, subdivision 2, is amended to read:

Subd. 2. [ORDER OF PRIORITY.] (a) The priority for services to be provided is:

(1) permanent, unsubsidized, full-time private or nonprofit sector employment and, where possible, in conjunction with targeted jobs tax credits as defined at United States Code, title 26, section 44B, as amended by Public Law Number 98-369, *with highest priority to employment with paid medical benefits;*

(2) permanent, subsidized, full-time private sector employment;

(3) permanent, subsidized, full-time nonprofit sector employment;

(4) training;

(5) relocation, *except that relocation is considered only when a client can find affordable housing near the new location;* and

(6) part-time, subsidized, nonprofit, or public employment with continued employment assistance.

(b) Individuals receiving any of the priority services in paragraph (a) must be provided with child care, transportation, or other support services as necessary and in relation to their eligibility and the availability of funds.

(c) In delivering employment and training services, local service units shall distribute their available resources in a manner that provides greater incentives to clients in permanent private or nonprofit sector employment than in public sector jobs.

Sec. 52. Minnesota Statutes 1986, section 268.86, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT DISCRETIONARY PROGRAMS.] The commissioner ~~shall~~ *may* develop and administer discretionary employment and training services programs to assist appropriate recipients of public assistance and underemployed and underemployed persons eligible to receive wage subsidies to become economically independent. The services must have as their objective the improvement of clients' opportunities for economic independence through permanent employment. The services must provide sufficient employment and training options to allow local service units to effectively meet the support services, educational, and training needs of their public assistance and wage subsidy clients programs may include on-the-job training, wage subsidies, classroom training, relocation expenses, temporary cash assistance for persons in training, and support services.

Sec. 53. Minnesota Statutes 1986, section 268.86, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATION INTERAGENCY AGREEMENTS.] Under agreements necessary to comply with federal regulations, By October 1, 1987, the commissioner, on behalf of and the commissioner of human services, shall administer enter into a written contract for the design, delivery, and administration of employment and training services for applicants for or recipients of food stamps or aid to families with dependent

children and food stamps. The commissioner shall administer employment and training services for general assistance and work readiness recipients in consultation with the commissioner of human services, including AFDC employment and training programs, grant diversion, and supported work. The contract must be approved by the coordinator and must address:

- (1) specific roles and responsibilities of each department;
- (2) assignment and supervision of staff for interagency activities including any necessary interagency employee mobility agreements under the administrative procedures of the department of employee relations;
- (3) mechanisms for determining the conditions under which individuals participate in services, their rights and responsibilities while participating, and the standards by which the services must be administered;
- (4) procedures for providing technical assistance to local service units and employment and training service providers;
- (5) access to appropriate staff for ongoing development and interpretation of policy, rules, and program standards;
- (6) procedures for reimbursing appropriate agencies for administrative expenses; and
- (7) procedures for accessing available federal funds.

Sec. 54. Minnesota Statutes 1986, section 268.86, subdivision 4, is amended to read:

Subd. 4. [EMPLOYABILITY PLANS.] The commissioner shall require that a public assistance recipient's employment status is appraised within 30 days and that a written employability plan is prepared for appropriate public assistance recipients in consultation with the recipients. The plan must take into account the level of skill and education of the recipient, as measured against the existing market, the length of time the recipient has been absent from the work force, and the recipient's financial responsibility to a family, if any. The plan must be designed to help the recipient obtain suitable employment, or training and work skills necessary to secure suitable employment, and may include an arrangement with another service provider or agency for specialized employment, education, training, or support services. A copy of the plan must be given to the recipient at the time it is prepared; an additional copy must be given to the local agency for its files.

Sec. 55. Minnesota Statutes 1986, section 268.871, subdivision 1, is amended to read:

Subdivision 1. [RESPONSIBILITY AND CERTIFICATION.] Unless prohibited by federal law or otherwise determined by state law or the coordinator, a local service unit is responsible for the delivery of employment and training services. After February 1, 1986 1988, employment and training services must be delivered by public, nonprofit, or private service providers that are certified to provide the services employment and training service providers.

Sec. 56. Minnesota Statutes 1986, section 268.871, subdivision 2, is amended to read:

Subd. 2. [CONTRACTING PREFERENCE.] In contracting, a local service unit must give preference, whenever possible, to existing certified

employment and training service providers including the job service, opportunities industrialization centers, displaced homemaker providers, work incentive providers, Minnesota employment and economic development act providers, post-secondary educational institutions, and job training partnership act programs that can effectively coordinate federal, state, and local employment and training services; that can maximize use of available federal and other nonstate funds; and that have demonstrated the ability to serve public assistance clients as well as other unemployed people.

Sec. 57. Minnesota Statutes 1986, section 268.871, is amended by adding a subdivision to read:

Subd. 5. [REPORTS.] Each employment and training service provider under contract with a local service unit to deliver employment and training services must submit an annual report by March 1 to the local service unit. The report must specify:

- (1) the types of services provided;*
- (2) the number of priority and nonpriority AFDC recipients served, the number of work readiness assistance recipients served, and the number of other clients served;*
- (3) how resources will be prioritized to serve priority and nonpriority public assistance recipients and other clients; and*
- (4) the manner in which state employment and training funds and programs are being coordinated with federal and local employment and training funds and programs.*

Sec. 58. Minnesota Statutes 1986, section 268.88, is amended to read:
268.88 [LOCAL SERVICE UNIT PLANS.]

(a) Local service units shall prepare and submit to the commissioner by ~~October~~ April 15 of each year an annual plan for the subsequent calendar year. The commissioner shall notify each local service unit by ~~December~~ May 1 of each year if its plan has been approved or disapproved. The plan must include:

- (1) a statement of objectives for the employment and training services the local service unit administers;
- (2) the establishment of public assistance caseload reduction goals and the strategies and programs that will be used to achieve these goals;
- (3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;
- (4) the amount proposed to be allocated to each employment and training service;
- (5) the proposed types of employment and training services the local service unit plans to utilize;
- (6) a description of how the local service unit will use funds provided under section 256.736 to meet the requirements of that section. The description must include what services will be provided, number of clients served, per service expenditures, and projected outcomes;
- (6) (7) a report on the use of wage subsidies, grant diversions, community investment programs, sliding fee day care, and other services administered under this chapter;

(7) (8) an annual update of the community investment program plan according to standards established by the commissioner; and

(8) (9) a performance review of the *employment and training service providers delivering employment and training services for the local service unit; and*

(10) *a copy of any contract between the local service unit and an employment and training service provider including expected outcomes and service levels for public assistance clients.*

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the coordinator shall resolve their dispute.

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the coordinator until an acceptable amended plan has been submitted.

(d) For ~~1985~~ 1987, local service unit plans must be submitted by ~~November 1, 1985 and must include: October 1, 1987.~~ *The plan must include the implementation plan for aid to families with dependent children employment and training services as required under section 90.*

(1) *a statement of objectives for the employment and training services the local service unit administers;*

(2) *the establishment of public assistance caseload reduction goals and the strategies that will be used to achieve these goals;*

(3) *the amount proposed to be allocated to each employment and training service;*

(4) *the proposed employment and training services and service providers the local service unit plans to utilize; and*

(5) *a statement of intent regarding the establishment of either a community investment program or an employment experience program.*

If the local service unit provides a statement of intent for the establishment of a community investment program under clause (5), the local service unit must submit a preliminary community investment program plan by February 1, 1986.

Sec. 59. Minnesota Statutes 1986, section 268.91, subdivision 1, is amended to read:

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

(a) "Child care services" means *child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, play groups, head start, and parent cooperatives, and in-home child care as defined in the Minnesota plan for social services to families and children or in the child's home.*

(b) "Child" means a person 14 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.

(c) "Commissioner" means the commissioner of jobs and training human services.

(d) "Child care" means the care of a child by someone other than a parent or legal guardian in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

(e) "County board" means the board of county commissioners in each county.

(f) "Education program" means remedial or basic education or English as a second language instruction, high school education, a program leading to a general equivalency diploma, and post-secondary education excluding post-baccalaureate programs.

(g) "Employment program" means employment of recipients financially eligible for the child care sliding fee program, vocational assessment, and job readiness and job search activities.

(h) "Human services board" means a board established under section 402.02, Laws 1974, chapter 293, or Laws 1976, chapter 340.

(i) "Provider" means the child care license holder or the legal nonlicensed caregiver who operates a family day care home, a group family day care home, a day care center, a nursery school, or a day nursery, or who functions in the child's home.

(j) "Post-secondary educational systems" means the University of Minnesota board of regents, the state university board, the state board for community colleges, and the state board of vocational technical education.

(k) "AFDC priority groups" means the recipients defined in section 256.736, subdivision 2a.

(l) "AFDC" means aid to families with dependent children.

Sec. 60. Minnesota Statutes 1986, section 268.91, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF COMMISSIONER.] The commissioner shall develop standards for county and human services boards, and post-secondary educational systems, to provide child care services to enable eligible families to participate in employment or, training, or education programs. The commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The commissioner shall require counties to collect and report data that the commissioner deems necessary to evaluate the effectiveness of the program in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children. The commissioner shall report to the full productivity and opportunity coordinator in each even-numbered year on the effectiveness of the program. The commissioner shall maximize the use of federal money under the AFDC employment special needs program in section 256.736, subdivision 8, for recipients of aid to families with dependent children who are in education, training, job search, or other activities allowed under that program. Money appropriated under this section must be coordinated

with the AFDC employment special needs program to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under the AFDC employment special needs program. The counties shall use the federal money to expand services to AFDC recipients under this section.

Sec. 61. Minnesota Statutes 1986, section 268.91, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION.] (a) By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and post-secondary educational systems of ~~the their allocation and the procedures used for the sliding fee program. Allocations must be made by July 1 of each odd-numbered year.~~ If the appropriation is insufficient to meet the needs in all counties, the amount must be prorated among the counties.

(b) ~~For the purposes of this section~~ Except for set-aside money allocated under subdivisions 3a, 3b, 3c, and 3d, the commissioner shall allocate money appropriated between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area so that no more than 55 percent of the total appropriation goes to either area after excluding allocations for statewide administrative costs. The commissioner shall allocate 50 percent of the money among counties on the basis of the number of families below the poverty level, as determined from the most recent special census, and 50 percent on the basis of caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner of human services.

(c) Once each quarter, the commissioner shall review the use of child care fund allocations by county. In accordance with the formula found in paragraph (b), the commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full portion. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 62. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 3a. [SET-ASIDE MONEY.] (a) State money must be set aside by the commissioner for child care services for:

- (1) AFDC priority groups;
- (2) recipients of AFDC attending post-secondary education programs, excluding post-baccalaureate programs; and
- (3) students attending post-secondary education programs, excluding post-baccalaureate programs, who meet sliding fee program eligibility standards.

(b) The set-aside amount must be determined by the commissioner and must not exceed 52 percent of the total funds appropriated. Of the set-aside amount, 44 percent must be allocated for persons described in paragraph (a), clause (1); 40 percent must be allocated for persons described in paragraph (a), clause (2); and 16 percent must be allocated for persons described in paragraph (a), clause (3).

Sec. 63. Minnesota Statutes 1986, section 268.91, is amended by adding

a subdivision to read:

Subd. 3b. [SET-ASIDE MONEY FOR AFDC PRIORITY GROUPS.] (a) Set-aside money for AFDC priority groups must be allocated among the counties based on the average monthly number of caretakers receiving AFDC under the age of 22 and the average monthly number of AFDC cases open 24 or more consecutive months. For each fiscal year the average monthly caseload shall be based on the 12-month period ending March 31 of the previous fiscal year. The commissioner may reallocate quarterly unexpended or unencumbered set-aside money to counties that expend their full allocation. The county shall use the set-aside money for AFDC priority groups.

(b) The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for aid to families with dependent children priority groups. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall, as resources permit, be guaranteed set-aside money for child care assistance from the county of their residence.

(c) Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

(d) If the commissioner finds, on or after January 1 of a fiscal year, that set-aside money for AFDC priority groups is not being fully utilized, the commissioner may permit counties to use set-aside money for other eligible applicants, as long as priority for use of the money will continue to be given to the AFDC priority groups.

(e) A county may claim federal reimbursement under the AFDC special needs program for money spent for persons listed in subdivision 3a, clause (1). The commissioner shall allocate any federal earnings to the county. The county shall use the money to expand services to AFDC recipients under the child care sliding fee program.

Sec. 64. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 3c. [SET-ASIDE MONEY FOR AFDC POST-SECONDARY STUDENTS.] (a) For the fiscal year ending June 30, 1988, set-aside money for persons listed in subdivision 3a, clause (2), shall be allocated to the counties based on caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner. For succeeding fiscal years, the commissioner shall, in cooperation with the director of the higher education coordinating board, develop a formula for allocation of the funds to counties based on the number of AFDC caretakers in each county who are enrolled at post-secondary institutions.

(b) Money allocated in paragraph (a) must be used for child care expenses of AFDC recipients attending post-secondary educational programs, excluding post-baccalaureate programs, and making satisfactory progress towards completion of the program.

(c) Once each quarter the commissioner shall review the use of child care fund allocations under this subdivision by county. The commissioner

may reallocate unexpended or unencumbered money among those counties that have expended their full portion for the purposes of this subdivision.

(d) A county may claim federal reimbursement under the AFDC special needs program for money spent for persons listed in subdivision 3a, clause (2). The commissioner shall allocate any federal earnings to the county. The county shall use the money to expand services to AFDC recipients under the child care sliding fee program.

(e) Recipients of AFDC who have completed their post-secondary education and had received child care funds during that education shall be assured, to the extent of available resources, of sliding fee money for employment programs after graduation if they meet sliding fee program eligibility standards.

Sec. 65. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 3d. [SET-ASIDE MONEY FOR POST-SECONDARY STUDENTS.] *(a) Each post-secondary educational system shall be allocated a portion of the set-aside money for persons listed in subdivision 3a, clause (3), based on the number of students with dependent children enrolled in each system in the preceding fiscal year. The post-secondary educational systems shall allocate their money among institutions under their authority based on the number of students with dependent children enrolled in each institution in the last fiscal year. For the purposes of this subdivision, "students with dependent children" means the sum of all Minnesota residents enrolled in public post-secondary institutions who report dependents on their applications to the state scholarship and grant program. The commissioner shall transfer the allocation for each post-secondary institution to the county board of the county in which the institution is located, to be held in an account for students found eligible for child care sliding fee assistance and attending the institution.*

(b) Post-secondary educational institutions shall take applications for the child care sliding fee program from students and determine eligibility based on this section and rules promulgated by the commissioner. If a person is eligible for the child care sliding fee program, the post-secondary institution shall notify the county. The county shall process the person's application and make vendor payments to the person's child care provider from the institution's account. Set-aside money must be used to subsidize child care expenses for eligible students making satisfactory progress toward completion of a program. The post-secondary institution must provide the county with quarterly reports on students' progress. The post-secondary educational institution shall not approve applications for sliding fee assistance in excess of the set-aside money allocated to it under paragraph (a).

(c) The post-secondary educational systems may reallocate unexpended or unencumbered money among institutions under their authority. If by May 15 of any year set-aside money is unexpended or unencumbered, the commissioner may reallocate the money among post-secondary educational systems, or reallocate it to the counties. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

(d) Ten percent of the amount allocated for persons described in subdivision 3a, paragraph (a), clause (3), shall be held by the commissioner for students attending a Minnesota nonprofit post-secondary education

program. A nonprofit education program may take applications for the child care sliding fee program and determine eligibility based on this section and rules promulgated by the commissioner. If a person is eligible for the child care sliding fee program, the post-secondary institution shall notify the county in which the institution is located. The county shall process the person's application and, upon approval of the commissioner, make vendor payments to the person's child care provider. The commissioner shall reimburse counties out of the money held by the commissioner under this paragraph.

Sec. 66. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 3e. [USE OF MONEY.] Money for persons listed in subdivision 3a, clauses (2) and (3), shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. The county may plan for and provided child care assistance to persons listed in subdivision 3a, clauses (2) and (3), from the regular sliding fee fund to supplement the set-aside funds. Students provided child care assistance for one academic year shall be provided child care assistance in the following academic year, providing they remain financially eligible.

Sec. 67. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 3f. [REPORTING AND PAYMENTS.] (a) Counties and post-secondary educational systems shall submit on forms prescribed by the commissioner a quarterly financial and program activity report which is due 20 calendar days after the end of each quarter. The financial and program activity report must include:

(1) a detailed accounting of the expenditures and revenues for the program during the preceding quarter by funding source and by eligibility group;

(2) a description of activities and concomitant expenditures that are federally reimbursable under the AFDC employment special needs program;

(3) a description of activities and concomitant expenditures of set-aside money;

(4) information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in subdivision 3b, paragraph (d); subdivision 3c, paragraph (c); and subdivision 3d, paragraph (c); and

(5) other data the commissioner considers necessary to account for the program or to evaluate its effectiveness in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children.

(b) The commissioner shall make payments to each county in quarterly installments. The commissioner may certify an advance for the first quarter of the fiscal year. Later payments must be based on actual expenditures as reported in the quarterly financial and program activity report.

(c) The commissioner may withhold, reduce, or terminate the allocation of any county or post-secondary educational system that does not meet

the reporting or other requirements of this program. The commissioner shall reallocate to other counties or post-secondary educational systems money so reduced or terminated.

Sec. 68. Minnesota Statutes 1986, section 268.91, subdivision 4, is amended to read:

Subd. 4. [FINANCIAL ELIGIBILITY.] (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

- (1) receive aid to families with dependent children;
- (2) have household income below the eligibility levels for aid to families with dependent children; or
- (3) have household income within a range established by the commissioner.

(b) Child care services for the families receiving aid to families with dependent children must be made available as in-kind services, to cover any difference between the actual cost and the amount disregarded under the aid to families with dependent children program. *Child care services to families whose incomes are below the threshold of eligibility for aid to families with dependent children, but that are not receiving aid to families with dependent children, must be made available without cost to the families.*

(c) Child care services to families with incomes in the commissioner's established range must be made available on a sliding fee basis. The lower limit of the sliding fee range must be the eligibility limit for aid to families with dependent children. The upper limit of the range must be neither less than 70 percent nor more than 90 percent of the state median income for a family of four, adjusted for family size.

(d) If a disproportionate amount of the available money is provided to any one of the groups described in subdivision 4, paragraph (a), the county board shall document to the commissioner the reason the group received a disproportionate share. *If a county projects that its child care allocation is insufficient to meet the needs of all eligible groups, it may prioritize among the groups to be served. Counties shall assure that a person receiving child care assistance from the sliding fee program prior to July 1, 1987, continues to receive assistance, providing the person meets all other eligibility criteria. Set-aside money must be prioritized by the state, and counties do not have discretion over the use of this money.*

Sec. 69. Minnesota Statutes 1986, section 268.91, subdivision 5, is amended to read:

Subd. 5. [EMPLOYMENT OR TRAINING ELIGIBILITY.] (a) Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive the equivalent of one month of child care. Employed persons who work at least ten hours a week and receive at least a minimum wage for all hours worked are eligible for child care assistance.

(b) ~~Persons eligible under this section for child care assistance for education or training must receive assistance for the length of the program or 24 months, whichever is shorter. An education or training program with demonstrated effectiveness may be approved by the commissioner of education and accredited by the appropriate agency as an eligible program including high school or an equivalent program, an English competency program, technical or vocational training, or a four-year or associate degree~~

~~program~~ participating in employment programs, training programs, or education programs are eligible for assistance from the child care sliding fee program, if they are financially eligible under the sliding fee scale set by the commissioner in subdivision 7. Counties shall assure that a person receiving child care assistance from the sliding fee program while attending a post-secondary institution prior to July 1, 1987, continues to receive assistance from the regular sliding fee program, or the set-asides in subdivisions 3c or 3d, providing the person meets all other eligibility criteria.

Sec. 70. Minnesota Statutes 1986, section 268.91, subdivision 6, is amended to read:

Subd. 6. [COUNTY CONTRIBUTION.] (a) In addition to payments from parents, the program must be funded by county contributions. ~~Except for set-aside money, counties shall contribute five from county tax sources a minimum of 15 percent of the cost of the program in the program's first year and 15 percent in the second and subsequent years. The commissioner may require by rule that a county pay the commissioner the portion of sliding fee allocations paid by the state for which the county is responsible. The county shall advance its portion of sliding fee costs, based upon allocations made by the commissioner for that county for expenditures in the succeeding month. A~~ The commissioner shall recover from the county as necessary to bring county expenditures into compliance with this subdivision.

(b) The commissioner shall recover from counties any state or federal money found to be ineligible. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

(c) To receive money through this program, each county shall certify to the commissioner that the county has not reduced allocations from other federal, state, and county sources, which, in the absence of child care sliding fee or wage subsidy money, would have been available for child care services.

Sec. 71. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 6a. [POST-SECONDARY RESPONSIBILITY.] To receive money through this program, each post-secondary educational system shall certify to the commissioner that the system has not reduced allocations from other federal and state sources, which, in the absence of child care sliding fee money, would have been available for child care services.

Sec. 72. Minnesota Statutes 1986, section 268.91, subdivision 11, is amended to read:

Subd. 11. [ADMINISTRATIVE EXPENSES.] A county must not use more than seven percent of its allocation for its administrative expenses under this section, ~~except a county may not use any of its allocation of the set-aside funds under subdivisions 3b and 3c for administrative expenses. A county may use up to four percent of the funds transferred to it under subdivision 3d for administrative expenses.~~

Sec. 73. Minnesota Statutes 1986, section 268.91, is amended by adding a subdivision to read:

Subd. 12. [FAIR HEARING PROCESS.] (a) Applicants and recipients have the option to request the county to conduct a conciliation conference to attempt to resolve complaints arising from any of the following actions:

- (1) a determination of ineligibility for child care assistance;
- (2) unauthorized termination of child care assistance;
- (3) determination of the factors considered in setting the family fee; and
- (4) income redetermination resulting in change of a family fee.

(b) The county shall notify the applicant or the recipient, in writing, of any adverse action. The determination described in paragraph (a), clauses (1) and (3), must include written notice of the applicant's or recipient's right to the election described in paragraph (c), where and how to request the election, the time limit within which to make the request, and the reasons for the determination. Notice of the proposed actions described in paragraph (a), clauses (2) and (4), must be mailed to the applicant or recipient at least 15 calendar days before the effective date of the action. The notice must clearly state what action the county proposes to take, the effective date of the proposed action, the reasons for the proposed action, the necessary corrective measures, the option to request either a conciliation conference or an administrative hearing, where and how to make the request, the time limits within which a request must be made, and the consequence of the action.

(c) An applicant or recipient who receives a determination or notice of proposed action under paragraph (b) must mail or deliver either a written notice of request for a conciliation conference to the administering agency or a written notice of request for the hearing specified under paragraph (e) to the administering agency on or before the effective date of the proposed action or the date specified in the notice, or the action will be final.

(d) The county shall provide a conciliation conference within 30 days of receipt of a written request.

The county shall give the applicant or recipient ten calendar days' notice of the conference date. The applicant or recipient and the county's representative have the right to appear, to bring witnesses, and to submit documentation. The written request and the resolution, if any, of the conference shall be maintained as part of the official record. The county's representative shall issue a written resolution only if mutual agreement is reached between the county's representative and the applicant or recipient. The resolution must be signed by both parties and issued the same day as the conciliation conference is held. Participating in a conciliation conference or signing a resolution does not constitute a waiver of the right to an administrative hearing.

An applicant or recipient may, within 15 calendar days of the conference, mail or deliver a written request to the administering agency for an administrative hearing. Unless an appeal is requested, a determination, proposed action, or resolution, of a conciliation conference will be final after the 15-day period has passed.

(e) A fair hearing shall be conducted in the manner prescribed by section 268.10, subdivision 3. A right to review will be provided in accordance with section 268.10, subdivision 5. The proposed action will not take effect until the appeal is decided by the administrative hearing process.

Sec. 74. Minnesota Statutes 1986, section 268.911, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] The commissioner of human services may make grants to public or private nonprofit agencies for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs and child care services according to the provisions of this section and may make grants to county boards to carry out the purposes of section 245.84.

Sec. 75. Minnesota Statutes 1986, section 510.07, is amended to read:
510.07 [SALE OR REMOVAL PERMITTED; NOTICE.]

The owner may sell and convey the homestead without subjecting it, or the proceeds of such sale for the period of one year after sale, to any judgment or debt from which it was exempt in the owner's hands, *except that the proceeds of the sale are not exempt from a judgment or debt for a court ordered child support or maintenance obligation in arrears.* The owner may remove therefrom without affecting such exemption, if the owner does not thereby abandon the same as the place of abode. If the owner shall cease to occupy such homestead for more than six consecutive months the owner shall be deemed to have abandoned the same unless, within such period, the owner shall file with the county recorder of the county in which it is situated a notice, executed, witnessed, and acknowledged as in the case of a deed, describing the premises and claiming the same as the owner's homestead. In no case shall the exemption continue more than five years after such filing, unless during some part of the term the premises shall have been occupied as the actual dwelling place of the debtor or the debtor's family.

Sec. 76. Minnesota Statutes 1986, section 518.131, subdivision 7, is amended to read:

Subd. 7. The court shall be guided by the factors set forth in sections ~~518.17~~ 518.551 (concerning child support), 518.552 (concerning maintenance) and 518.17 to 518.175 (concerning custody and visitation) in making temporary orders and restraining orders.

Sec. 77. Minnesota Statutes 1986, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Unless the obligee has *comparable or better* group dependent health insurance coverage available at a more reasonable cost, the court shall order the obligor to name the minor child as beneficiary on any health and dental insurance plan that is available to the obligor on a group basis or through an employer or union.

If the court finds that dependent health or dental insurance is not available to the obligor on a group basis or through an employer or union, or that the group insurer is not accessible to the obligee, the court may require the obligor to obtain dependent health or dental insurance, or to be liable for reasonable and necessary medical or dental expenses of the child.

If the court finds that the dependent health or dental insurance required to be obtained by the obligor does not pay all the reasonable and necessary medical or dental expenses of the child, or that the dependent health or dental insurance available to the obligee does not pay all the reasonable and necessary medical or dental expenses of the child, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child

not covered by the required health or dental plan.

Sec. 78. Minnesota Statutes 1986, section 518.24, is amended to read:
518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

In all cases when maintenance or support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the maintenance or support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. ~~If The obligor has is presumed to have an income from a source sufficient to pay the maintenance or support and the obligor fails to pay the same, the court shall order the obligor to pay it. A person or party who~~ If the obligor disobeys the order may be punished by the court as for, it is prima facie evidence of contempt.

Sec. 79. Minnesota Statutes 1986, section 518.551, subdivision 1, is amended to read:

Subdivision 1. [PAYMENT TO PUBLIC AGENCY.]

The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, *or has applied for child support and maintenance collection services.* Amounts received by the public agency responsible for child support enforcement greater than the amount granted to the obligee shall be remitted to the obligee.

Sec. 80. Minnesota Statutes 1986, section 518.551, is amended by adding a subdivision to read:

Subd. 10. [ADMINISTRATIVE PROCESS CHILD SUPPORT PILOT PROJECT.] *A pilot project is established to obtain, modify, and enforce child and medical support orders and maintenance through administrative process, to evaluate the efficiency of the administrative process. The pilot project shall begin when the procedures have been established and end on June 30, 1989.*

During the pilot project, all proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance required to be conducted in Dakota county in which Dakota county human services is a party or represents a party to the action must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

- (1) adjudication of paternity;*
- (2) motions to set aside a paternity adjudication or declaration of parentage;*
- (3) evidentiary hearing on contempt motions; and*
- (4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.*

An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and

signature of a county or district judge.

For the purpose of this pilot project, all powers, duties, and responsibilities conferred on judges of the county or district court to obtain and enforce child and medical support obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

During fiscal year 1988, the chief administrative law judge, the commissioner of human services, the director of Dakota county human services, the Dakota county attorney, and the clerk of the Dakota county court shall jointly establish procedures for the implementation of this pilot project.

Nonattorney employees of Dakota county human services, acting at the direction of the county attorney, may prepare, sign, serve, and file motions for obtaining, modifying, or enforcing child and medical support orders and maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

For the purpose of this pilot project, the hearings shall be conducted under the conference contested case rules adopted by the chief administrative law judge. Any discovery required in a proceeding shall be conducted under the rules of family court and the rules of civil procedure. Orders issued by an administrative law judge shall be enforceable by the contempt powers of the county or district courts.

The administrative law judge shall make a report to the chief administrative law judge or the chief administrative law judge's designee, stating findings of fact and conclusions and recommendations concerning the proposed action, in accordance with sections 14.48 to 14.56. The chief administrative law judge or a designee shall render the final decision and order in accordance with sections 14.61 and 14.62. The decision and order of the chief administrative law judge or a designee shall be a final agency decision for purposes of sections 14.63 to 14.69.

Sec. 81. Minnesota Statutes 1986, section 518.57, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Upon a decree of dissolution, legal separation or annulment, the court may make a further order which is just and proper concerning the maintenance of the minor children as provided by section ~~518.47~~ 518.551, and for the maintenance of any child of the parties as defined in section 518.54, as support money, and may make the same a lien or charge upon the property of the parties to the proceeding, or either of them, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 82. Minnesota Statutes 1986, section 518.611, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, is determined and ordered by a court of this state, ~~that court shall order the withholding of the amount of child support or maintenance as determined by court order; must be withheld from the income, regardless of source, of the person obligated to pay the support or maintenance. When an order for withholding has not previously been secured, the obligee may or the public agency responsible~~

~~for child support enforcement shall move the court, and the court shall grant the order Every order for maintenance or support must include the obligor's social security number and the name and address of the obligor's employer or other payor of funds.~~

Sec. 83. Minnesota Statutes 1986, section 518.611, subdivision 2, is amended to read:

Subd. 2. [NOTICE CONDITIONS OF INCOME WITHHOLDING.] ~~Each order for withholding shall provide for a conspicuous notice to the obligor that:~~

(a) Withholding shall result ~~if whenever~~ the obligor fails to make the maintenance or support payments, and ~~that no withholding shall be made until~~ the following conditions are met:

(1) ~~The obligee or the public authority determines that the obligor is at least 30 days in arrears;~~

(2) ~~The obligee or the public authority serves written notice of its determination of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order for withholding on the payor of funds;~~

(3) ~~Within the 15-day period, the obligor fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard. Within 45 days from the date of the notice of income withholding, the court shall hold the hearing on the motion to deny withholding and notify the parties of its decision; and~~

(4) ~~The obligee or the public authority serves a copy of the notice of income withholding and, a copy of the court's withholding order, and the provisions of this section on the payor of funds; and~~

(5) ~~The obligee serves on the public authority a copy of the notice of income withholding, a copy of the court's withholding order, an application and the fee to use the public authority's collection services.~~

(b) ~~To pay the arrearage specified in the notice of income withholding, the employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.~~

(c) ~~The obligor may, at any time, waive the written notice required by this subdivision.~~

(d) ~~The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.~~

(e) ~~Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision.~~

Sec. 84. Minnesota Statutes 1986, section 518.611, subdivision 3, is amended to read:

Subd. 3. [WITHHOLDING HEARING.] ~~Within 45 days from the date of the notice given under subdivision 2, the court shall hold the hearing on the motion under subdivision 2 and notify the parties of its decision. At the hearing to deny withholding, if the court finds that there was no~~

mistake of fact, the court shall order income withholding to begin no later than the first pay period that occurs after 14 days following the date of the hearing. If the court finds that an arrearage of at least 30 days existed as of the date of the notice of income withholding, but finds a mistake in the amount of arrearage, the court shall order income withholding, but it shall correct the amount of arrearage to be withheld under subdivision 2, paragraph (b).

Sec. 85. Minnesota Statutes 1986, section 518.611, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2, paragraph (b) and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld.

Sec. 86. Minnesota Statutes 1986, section 518.611, subdivision 6, is amended to read:

Subd. 6. [PRIORITY.] An order for withholding under this section or execution or garnishment upon a judgment for child support arrearages or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b)(2). If there is more than one withholding order on a single employee, the employer shall put them into effect, giving priority first to amounts currently due and not in arrears and then to other amounts, in the sequence in which the withholding orders were received up to the maximum allowed in the Consumer Credit Protection Act. *Notwithstanding any law to the contrary, funds from income sources included in section 518.54, subdivision 6, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearages.*

Sec. 87. Minnesota Statutes 1986, section 518.611, subdivision 8, is amended to read:

Subd. 8. [EMPLOYER OR PAYOR AND OBLIGOR NOTICE.] *When an individual is hired for employment, the employer shall request that the individual disclose whether or not the individual has court-ordered child support obligations that are required by law to be withheld from income and the terms of the court order, if any. The individual shall disclose this*

information at the time of hiring. When an individual discloses that the individual owes child support that is required to be withheld, the employer shall begin withholding according to the terms of the order and under this section. When a withholding order is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor and the obligor's employer or the payor of funds shall notify the public agency responsible for child support enforcement of the termination within ~~30~~ ten days of the termination date. The notice shall include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known. Information disclosed under this section shall not be divulged except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

Sec. 88. Minnesota Statutes 1986, section 518.611, is amended by adding a subdivision to read:

Subd. 11. [CONTRACT FOR SERVICE.] To carry out the provisions of this section, the public authority responsible for child support enforcement may contract for services, including the use of electronic funds transfer.

Sec. 89. [518.613] [AUTOMATIC WITHHOLDING.]

Subdivision 1. [GENERAL.] Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance is initially determined and ordered or modified by the court in a county in which this section applies, the amount of child support or maintenance ordered by the court must be withheld from the income, regardless of source, of the person obligated to pay the support. For purposes of this section, "modified" does not mean a cost-of-living adjustment without any other modification of the support order.

Subd. 2. [ORDER; COLLECTION SERVICES.] Every order for child support must include the obligor's social security number and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for support or maintenance, the court shall mail a copy of the court's order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and to the public agency responsible for child support enforcement. An obligee who is not a recipient of public assistance shall apply for the collection services of the public authority when an order for support is entered.

Subd. 3. [WITHHOLDING.] The employer or other payor shall withhold and forward the child support or maintenance ordered in the manner and within the time limits provided in section 518.611. Amounts received from employers or other payors under this section by the public agency responsible for child support enforcement that are in excess of public assistance received by the obligee must be remitted to the obligee. The public agency must remit payments to the obligee at least once monthly on a standard payment date set by the agency. A county in which this section applies may contract for services to carry out the provisions of this section.

Subd. 4. [APPLICATION.] On and after August 1, 1987, and prior to August 1, 1989, this section applies in a county selected under section 93 and in a county that chooses to have this section apply by resolution of a majority vote of its county board.

Sec. 90. Minnesota Statutes 1986, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost-of-living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any. A modification which decreases support or maintenance may be made retroactive only upon a showing that any failure to pay in accord with the terms of the original order was not willful with respect to any period during which the support obligor has pending a motion for modification but only from the date that notice of the motion has been given to the obligee and to the court or other entity which issued each support order. A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Sec. 91. [1987 COUNTY IMPLEMENTATION PLANS.]

By October 1, 1987, each county shall prepare an implementation plan for AFDC employment and training services and submit it to the commissioner of jobs and training as part of its local service unit plan under section 268.88. The implementation plan must include a timetable for phasing in AFDC employment and training services, any barriers to implementing AFDC employment and training services, and a proposed design for the AFDC employment and training delivery system.

Sec. 92. [FEDERAL AUTHORITY.]

Subdivision 1. [LEGISLATIVE WAIVERS.] The commissioner of human services shall seek from the Congress of the United States or the United States Department of Health and Human Services a change in or waiver of existing requirements of the aid to families with dependent children (AFDC) program to the extent necessary to allow the commissioner to:

(1) require that minor parents of children six weeks of age and older who have not completed a high school education either attend high school or work toward a general education diploma as long as necessary child care and transportation services are available to them;

(2) require that minor parents not living with relatives live in a group or foster home or, when the case manager determines the need for such services, participate in a program that teaches skills in parenting and independent living, provided that the described living or counseling opportunities are available to the minor parent;

(3) require that all caretakers coming onto the program attend orientation and develop a plan to obtain self-sufficiency, to the extent that programs and services are available.

(4) require that, as a condition of receiving AFDC, priority caretakers of children younger than six months participate for not more than four hours a week in activities related to personal and family development, including parenting education, personal and vocational counseling, chemical dependency treatment, domestic abuse counseling, or remedial education, and then only if child care assistance is provided or if the activity includes the child as a participant, and if transportation needs are met;

(5) require that, as a condition of receiving AFDC, caretakers of children aged three and over register for and participate in employment and training services and seek employment as long as necessary child care and transportation are available to them;

(6) replace the sanctions under section 256.736, subdivision 4, clause (4), paragraphs (a) and (d), with the following graduated sanctions:

(a) upon first caretaker refusal, 50 percent of the grant provided to the family shall be made in the form of protective or vendor payments;

(b) upon second caretaker refusal, the entire grant provided to the family shall be made in the form of protective or vendor payments; and

(c) upon third caretaker refusal, the caretaker's needs shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of protective or vendor payments;

(7) exclude all expenses related to education when determining income for food stamp purposes;

(8) disregard more earned income of a recipient than allowed under United States Code, title 42, section 602(a)(8)(B)(ii), to provide an incentive to work and prevent recipients from experiencing a sudden loss of income after four months of employment;

(9) exclude from consideration in computing the income of an AFDC caretaker parent under the age of 18 any income of the parents of the caretaker parent, without regard to the residence of the caretaker parent, to make it possible for a minor parent to receive financial assistance while remaining in a supportive home environment;

(10) determine the maximum value of an automobile which can be excluded as an asset under United States Code, title 42, section 602(a)(7)(B)(i), because of the need of AFDC recipients for reliable transportation in order to participate in work and training and become self-sufficient;

(11) disregard in computing income the cost of child care beyond that currently allowed under United States Code, title 42, section 602(a)(8)(A)(iii), because of the need of AFDC recipients for quality reliable child care in order to participate in work and training and become self-sufficient;

(12) permit a principal earner in a family receiving AFDC-UP to work more than 100 hours per month without being disqualified from the program, in order to recognize the financial reality of AFDC-UP families and to help the families achieve financial security before leaving the program;

(13) simplify eligibility determination processes, budgeting procedures,

and excessive paperwork requirements without becoming subject to federal sanctions, in order to enhance self-esteem among clients and free workers to help families achieve self-sufficiency; and

(14) disregard quality control review requirements that are not directly related to actual grant miscalculation or client right violations, in order to move the AFDC program away from a system driven by audits, error rates, and sanctions.

In constructing and negotiating modifications under this section, the commissioner shall not agree to terms or conditions that infringe on recipients' entitlement to benefits or impede federal financial participation under United States Code, title 42, subchapter IV, part A. The commissioner shall not accept a block grant or lump sum amount of federal money for AFDC in Minnesota unless the sum is adjusted to protect the state against an increase in the number of recipients during a period of recession.

Subd. 2. [IMPLEMENTATION.] The commissioner shall not implement any program changes authorized by this section unless sufficient appropriations are available to cover any increased costs to the state. The commissioner shall promulgate emergency rules as necessary to implement any waiver. Rules promulgated under authority of this section supersede any conflicting laws or rules until July 1, 1988.

Sec. 93. [DEMONSTRATION.]

On or before July 1, 1987, the commissioner of human services shall designate five counties in which child support or maintenance shall be withheld from the obligor's income pursuant to section 518.613. The total population of the counties designated must equal at least 25 percent of the population of the state. The designated counties must include at least one county in which is located a city of the first class, and at least two counties that are not metropolitan counties, as defined in section 473.121, subdivision 4. The group of counties designated must be representative of urban, suburban, and rural demographic areas.

Sec. 94. [REPORT TO THE LEGISLATURE.]

The commissioner of human services shall collect data on costs and collections and report to the chairs of the health and human services committees in the house of representatives and the senate on or before January 2, 1989, on the progress and experience of the county agencies in implementing the automatic income withholding provisions of this act, including a recommendation on whether the program should be discontinued or implemented statewide.

Sec. 95. [DEMONSTRATION PROJECT; PERSONS WITHOUT A VERIFIED RESIDENCE ADDRESS.]

(a) The commissioner shall establish a one-county demonstration project to determine the effectiveness of establishing special procedures for providing assistance to applicants or recipients of general assistance, work readiness, or emergency general assistance, who do not have a verified residence address. For purposes of the demonstration project, the requirements in this section supersede section 256D.09, subdivision 4, and other conflicting laws and rules.

(b) For applicants or recipients of general assistance, emergency general assistance, and work readiness assistance who do not have a verified residence address, the local agency may provide assistance using one or

more of the following methods:

(1) The local agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs.

(2) The local agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; or, if actual need is greater than the standards of assistance established pursuant to section 256D.01, subdivision 1a, issue assistance based on actual need. Nothing in this clause prevents the local agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance.

(3) The local agency may determine eligibility and provide assistance on a weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.

(c) An individual may verify a residence address by providing a driver's license; a state identification card; postmarked mail addressed to and received by the individual at the address; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.

(d) If the local agency elects to provide assistance on a weekly basis, the agency shall not provide assistance for a period during which no need is claimed by the individual. The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The ten-day advance notice required under sections 256D.051, subdivision 13, and 256D.10 does not apply to weekly assistance issued under this paragraph.

Sec. 96. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute in chapter 257 the term "biological" when referring to a parent, mother, or father for the term "natural."

Sec. 97. [APPLICATION.]

Section 83 is effective August 1, 1987, and applies to child support orders entered before, on, or after that date.

Sec. 98. [REPEALER.]

Minnesota Statutes 1986, sections 257.34, subdivision 2; and section 268.86, subdivisions 1, 3, 4, and 5, are repealed. Section 95 is repealed effective June 30, 1989.

Sec. 99. [EFFECTIVE DATE; APPLICATION.]

Sections 13 and 90 are effective the day following final enactment.

ARTICLE 4

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 recommended for approval by the interagency board for quality assurance under section 4;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or 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 (2) the nursing home beds are not certified for participation in the medical assistance program;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home under common ownership with or control of a hospital to the hospital when a hospital-attached nursing home is moved simultaneously to the hospital. As a condition of receiving a license or certification under this clause, the facility must 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. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. When a separate nursing home and a hospital-attached nursing home under common ownership or control are simultaneously relocated to a hospital building, a combined cost report must be submitted for the cost reporting year ending September 30, 1987, and the freestanding nursing home limits apply. Relocation of nursing home beds under this clause is subject to the limitations in section 4, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds; or

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not

seek medical assistance certification for the new beds.

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.] At the intervals specified in rules, the interagency board shall publish in the State Register a request for proposals for nursing home projects to be licensed or certified under section 3, clause (j). The notice must describe the information that must accompany a request and state that proposals must be submitted to the interagency board within 90 days of the date of publication. 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;

(7) the proposed timetable for commencing construction and completing the project; and

(8) other information required by rule of the commissioner of health.

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 recommend that the commissioner of health 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 submitting recommendations to the commissioner of health on project requests. The board shall submit recommendations within 150 days of the date of the publication of the notice, based on a comparison and ranking of proposals using the criteria in subdivision 4. The commissioner of health shall approve or disapprove a project within 30 days after receiving the board's recommendations. 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 12 months after approval by the commissioner of health unless the facility has commenced construction as defined in section 144A.071, subdivision 3, paragraph (b). The board's report to the legislature, as required under section 144A.31, must include the projects approved, the criteria used to recommend 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 evaluate 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) other factors developed in rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.

(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, and similar provisions contained in fire and life safety codes and licensure and certification rules;

(2) the extent to which the project improves conditions that affect the

comfort or 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; narrow corridors; or other provisions contained in the licensure and certification rules.

Subd. 5. [REPLACEMENT RESTRICTIONS.] (a) 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.

(b) Facilities located in a metropolitan statistical area other than the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same census tract or a contiguous census tract.

(c) Facilities located in the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same or contiguous health planning area as adopted in March 1982 by the metropolitan council.

(d) Facilities located outside a metropolitan statistical area may relocate to a site within the same city or township, or within a contiguous township.

(e) A facility relocated to a different site under paragraphs (b), (c), or (d) 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 commissioner of health shall adopt emergency or permanent 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).

(h) *For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing home that meets the criteria for the special dietary needs of its residents as specified in section 144A.071, subdivision 3, clause (c), and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing home's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.*

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under section 256B.431, subdivision 2h.

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 the latter of the date of previous sale or 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 commissioner 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 Minnesota Rules, parts 9549.0010 to 9549.0080, 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 estab-

lished 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 replacement 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. [SPECIAL PROJECTS.]

Notwithstanding contrary provisions of section 256.01, subdivision 2, clause (15), for the biennium ending June 30, 1989, the maximum balance in the special projects account is increased from \$400,000 to \$1,000,000, and money in the account may be used by the commissioner for projects to accelerate the resolution of long-term care rate appeals.

Sec. 15. [EFFECTIVE DATES.]

Sections 1 and 2 are effective July 1, 1989. Sections 3 to 13 are effective July 1, 1987.

ARTICLE 5

Section 1. Minnesota Statutes 1986, section 245.782, subdivision 5, is amended to read:

Subd. 5. "Day care facility" means any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and habilitation services for adults, day treatment programs, adult day care centers, and day services.

Sec. 2. Minnesota Statutes 1986, section 252.21, is amended to read:

252.21 [COUNTY BOARDS MAY MAKE GRANTS FOR DEVELOPMENTAL ACHIEVEMENT CENTER SERVICES FOR PERSONS CHILDREN WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

In order to assist county boards in carrying out responsibilities for the provision of daytime developmental achievement center services for eligible persons children, the county board or boards are hereby authorized to make grants, within the limits of the money appropriated, to developmental achievement centers for services to persons children with mental retardation or related conditions. In order to fulfill its responsibilities to persons children with mental retardation or related conditions as required by section sections 120.17 and 256E.08, subdivision 1, a county board may, beginning January 1, 1983, contract with developmental achievement centers or other providers.

Sec. 3. Minnesota Statutes 1986, section 252.22, is amended to read:

252.22 [APPLICANTS FOR ASSISTANCE; TAX LEVY.]

Any city, town, or governmental entity, nonprofit corporation, or any combination thereof, may apply to the county board for assistance in establishing and operating a developmental achievement center and program for persons children with mental retardation or related conditions. Application for such assistance shall be on forms supplied by the board. Each applicant shall annually submit to the board its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the board.

Any city, town, or county is authorized, at the discretion of its governing body, to make grants from special tax revenues or from its general revenue fund to any nonprofit organization, governmental or corporate, within or outside its jurisdiction, that has established a developmental achievement

center for ~~persons~~ *children* with mental retardation or related conditions. Nothing contained herein shall in any way preclude the use of funds available for this purpose under any existing statute or charter provision relating to cities, towns and counties.

Sec. 4. Minnesota Statutes 1986, section 252.23, is amended to read:

252.23 [ELIGIBILITY REQUIREMENTS.]

A developmental achievement center shall satisfy all of the following requirements to be eligible for assistance under sections 252.21 to 252.26:

(1) provide daytime activities for any or all of the following classes of ~~persons~~: *developmental services to children* with mental retardation or related conditions who can benefit from the program of services; ~~including those school age children who have been excused or excluded from school;~~

~~Children and adults with mental retardation or related conditions who are unable to attend school because of their chronological age and are unable to independently engage in ordinary community activities; and~~

(2) Provide counseling services to parents or guardians of persons with ~~mental retardation or related conditions who may register at the center;~~

(3) ~~comply with all rules duly promulgated~~ *adopted* by the commissioner of human services.

Sec. 5. Minnesota Statutes 1986, section 252.24, subdivision 1, is amended to read:

Subdivision 1. [SELECTION OF DEVELOPMENTAL ACHIEVEMENT CENTERS.] The county board shall administer developmental achievement services; ~~including training and habilitation services provided by licensed developmental achievement centers to residents of intermediate care facilities for the mentally retarded.~~ The county board shall ensure that transportation is provided for ~~persons~~ *children* who fulfill the eligibility requirements of section 252.23, clause (1), utilizing the most efficient and reasonable means available. The county board may contract for developmental achievement services and transportation from a center which is licensed under the provisions of sections 245.781 to 245.813, 252.28, and 257.175, and in the board's opinion, best provides daytime developmental achievement services for ~~persons~~ *children* with mental retardation or related conditions within the appropriation and ~~medical assistance~~ resources made available for this purpose. Daytime developmental achievement services administered by the county board shall comply with standards established by the commissioner pursuant to subdivision 2 and applicable federal regulations.

Sec. 6. Minnesota Statutes 1986, section 252.24, subdivision 4, is amended to read:

Subd. 4. [FEES.] The county board may, with the approval of the commissioner, establish a schedule of fees for daytime developmental achievement services as provided in section 256E.08, subdivision 6. No ~~person~~ *child, or family of a child*, with mental retardation or a related condition shall be denied daytime developmental achievement services because of an inability to pay such a fee.

Sec. 7. Minnesota Statutes 1986, section 252.25, is amended to read:

252.25 [BOARD OF DIRECTORS.]

Every city, town, ~~or~~ governmental entity, nonprofit corporation, or combination thereof, establishing a developmental achievement center for ~~persons~~ children with mental retardation or related conditions shall, before it comes under the terms of sections 252.21 to 252.26, appoint a board of directors for the center program. When any city or town singly establishes such a center, such board shall be appointed by the chief executive officer of the city or the chair of the governing board of the town. When any combination of cities, towns, or nonprofit corporations, establishes such a center, the chief executive officers of the cities or nonprofit corporations and the chair of the governing bodies of the towns shall appoint the board of directors. If a nonprofit corporation singly establishes such a center, its chief executive officer shall appoint the board of directors of the center. Membership on a board of directors while not mandatory, should be representative of local health, education and welfare departments, medical societies, mental health centers, associations concerned with mental retardation and related conditions, civic groups and the general public. Nothing in sections 252.21 to 252.26 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to such board of directors, *or public schools from administering programs under their present administrative structure.*

Sec. 8. [252.40] [SERVICE PRINCIPLES AND RATE-SETTING PROCEDURES FOR DAY TRAINING AND HABILITATION SERVICES FOR ADULTS WITH MENTAL RETARDATION AND RELATED CONDITIONS.]

Sections 8 to 15 apply to day training and habilitation services for adults with mental retardation and related conditions when the services are authorized to be funded by a county and provided under a contract between a county board and a vendor as defined in section 9. Nothing in sections 8 to 15 absolves intermediate care facilities for persons with mental retardation or related conditions of the responsibility for providing active treatment and habilitation under federal regulations with which those facilities must comply to be certified by the Minnesota department of health.

Sec. 9. [252.41] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 8 to 15.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of the department of human services.

Subd. 3. [DAY TRAINING AND HABILITATION SERVICES FOR ADULTS WITH MENTAL RETARDATION, RELATED CONDITIONS.]
"Day training and habilitation services for adults with mental retardation and related conditions" means services that:

(1) include supervision, training, assistance, and supported employment, work-related activities, or other community-integrated activities designed and implemented in accordance with the individual service and individual habilitation plans required under Minnesota Rules, parts 9525.0015 to 9525.0165, to help an adult reach and maintain the highest possible level of independence, productivity, and integration into the community;

(2) are provided under contract with the county where the services are delivered by a vendor licensed under sections 245.781 to 245.812 and 252.28, subdivision 2, to provide day training and habilitation services;

and

(3) are regularly provided to one or more adults with mental retardation or related conditions in a place other than the adult's own home or residence.

Day training and habilitation services reimbursable under this section do not include special education and related services as defined in the Education of the Handicapped Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17), or vocational services funded under section 110 of the Rehabilitation Act of 1973, United States Code, title 29, section 720, as amended.

Subd. 4. [INDEPENDENCE.] "Independence" means the extent to which persons with mental retardation or related conditions exert control and choice over their own lives.

Subd. 5. [INTEGRATION.] "Integration" means that persons with mental retardation and related conditions:

(1) use the same community resources that are used by and available to individuals who are not disabled;

(2) participate in the same community activities in which nondisabled individuals participate; and

(3) regularly interact and have contact with nondisabled individuals.

Subd. 6. [PRODUCTIVITY.] "Productivity" means that persons with mental retardation or a related condition:

(1) engage in income-producing work designed to improve their income level, employment status, or job advancement; or

(2) engage in activities that contribute to a business, household, or community.

Subd. 7. [REGIONAL CENTER.] "Regional center" means any one of the eight state-operated facilities under the direct administrative authority of the commissioner that serve persons with mental retardation and related conditions. The following facilities are regional centers: Anoka-Metro Regional Treatment Center; Brainerd Regional Human Services Center; Cambridge Regional Treatment Center; Faribault Regional Center; Fergus Falls Regional Treatment Center; Moose Lake Regional Treatment Center; St. Peter Regional Treatment Center; and Willmar Regional Treatment Center.

Subd. 8. [SUPPORTED EMPLOYMENT.] "Supported employment" means employment of a person with a disability so severe that the person needs ongoing training and support to get and keep a job in which:

(1) the person engages in paid work at a work site where individuals without disabilities who do not require public subsidies also may be employed;

(2) public funds are necessary to provide ongoing training and support services throughout the period of the person's employment; and

(3) the person has the opportunity for social interaction with individuals who do not have disabilities and who are not paid caregivers.

Subd. 9. [VENDOR.] "Vendor" means a nonprofit legal entity that:

(1) is licensed under sections 245.781 to 245.812 and 252.28, subdivision 2, to provide day training and habilitation services to adults with mental retardation and related conditions; and

(2) does not have a financial interest in the legal entity that provides residential services to the same person or persons to whom it provides day training and habilitation services. This clause does not apply to regional centers or vendors licensed prior to April 15, 1983.

Sec. 10. [252.42] [SERVICE PRINCIPLES.]

The design and delivery of services eligible for reimbursement under the rates established in section 14 should reflect the following principles:

(1) Services must suit a person's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the person's individual service and individual habilitation plans under Minnesota Rules, parts 9525.0015 to 9525.0165.

(2) A person with mental retardation or a related condition whose individual service and individual habilitation plans authorize employment or employment-related activities shall be given the opportunity to participate in employment and employment-related activities in which nondisabled persons participate.

(3) A person with mental retardation or a related condition participating in work shall be paid wages commensurate with the rate for comparable work and productivity except as regional centers are governed by section 246.151.

(4) A person with mental retardation or a related condition shall receive services which include services offered in settings used by the general public and designed to increase the person's active participation in ordinary community activities.

(5) A person with mental retardation or a related condition shall participate in the patterns, conditions, and rhythms of everyday living and working that are consistent with the norms of the mainstream of society.

Sec. 11. [252.43] [COMMISSIONER'S DUTIES.]

The commissioner shall supervise county boards' provision of day training and habilitation services to adults with mental retardation and related conditions. The commissioner shall:

(1) determine the need for day training and habilitation services under section 252.28;

(2) approve payment rates established by a county under section 14, subdivision 1;

(3) adopt rules for the administration and provision of day training and habilitation services under sections 8 to 15 and sections 245.781 to 245.812 and 252.28, subdivision 2;

(4) enter into interagency agreements necessary to ensure effective coordination and provision of day training and habilitation services;

(5) monitor and evaluate the costs and effectiveness of day training and habilitation services; and

(6) provide information and technical help to county boards and vendors in their administration and provision of day training and habilitation services.

Sec. 12. [252.44] [COUNTY BOARD RESPONSIBILITIES.]

(a) *When the need for day training and habilitation services in a county has been determined under section 252.28, the board of commissioners for that county shall:*

(1) *authorize the delivery of services according to the individual service and habilitation plans required as part of the county's provision of case management services under Minnesota Rules, parts 9525.0015 to 9525.0165. For calendar years for which section 252.46, subdivisions 2 to 10, apply, the county board shall not authorize a change in service days from the number of days authorized for the previous calendar year unless there is documentation for the change in the individual service plan. An increase in service days must also be supported by documentation that the goals and objectives assigned to the vendor cannot be met more economically and effectively by other available community services and that without the additional days of service the individual service plan could not be implemented in a manner consistent with the service principles in section 252.42;*

(2) *contract with licensed vendors, as specified in paragraph (b), under sections 256E.01 to 256E.12 and 256B.092 and rules adopted under those sections;*

(3) *ensure that transportation is provided or arranged by the vendor in the most efficient and reasonable way possible;*

(4) *set payment rates under section 14;*

(5) *monitor and evaluate the cost and effectiveness of the services; and*

(6) *reimburse vendors for the provision of authorized services according to the rates, procedures, and regulations governing reimbursement.*

(b) *With all vendors except regional centers, the contract must include the approved payment rates, the projected budget for the contract period, and any actual expenditures of previous and current contract periods. With all vendors, including regional centers, the contract must also include the amount, availability, and components of day training and habilitation services to be provided, the performance standards governing service provision and evaluation, and the time period in which the contract is effective.*

Sec. 13. [252.45] [VENDOR'S DUTIES.]

A vendor's responsibility under clauses (1), (2), and (3) extends only to the provision of services that are reimbursable under state and federal law. A vendor under contract with a county board to provide day training and habilitation services shall:

(1) *provide the amount and type of services authorized in the individual service plan and specified in the individual habilitation plan under Minnesota Rules, parts 9525.0015 to 9525.0165;*

(2) *design the services to achieve the outcomes assigned to the vendor in the individual service plan and specified in the individual habilitation plan;*

(3) *provide or arrange for transportation of persons receiving services to and from service sites;*

(4) *enter into agreements with community-based intermediate care facilities for persons with mental retardation and related conditions to ensure compliance with applicable federal regulations; and*

(5) *comply with state and federal law.*

Sec. 14. [252.46] [PAYMENT RATES.]

Subdivision 1. [RATES ESTABLISHED THROUGH 1988.] Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board before January 1, 1989, are governed by subdivisions 2 to 10.

"Payment rate" as used in subdivisions 2 to 10 refers to three kinds of payment rates: a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site; a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

Subd. 2. [1987 AND 1988 MINIMUM.] Unless a variance is granted under subdivision 6, the minimum payment rates set by a county board for each vendor for 1987 and 1988 must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, 1986, and January 1, 1987, respectively.

Subd. 3. [1987 AND 1988 MAXIMUM.] Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for 1987 and 1988 must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, 1986, and December 1, 1987, respectively, increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year.

Subd. 4. [NEW VENDORS.] Payment rates established by a county before January 1, 1989, for a new vendor for which there were no previous rates must not exceed 125 percent of the average payment rates in the regional development commission district under sections 462.381 to 462.396 in which the new vendor is located.

Subd. 5. [SUBMITTING RECOMMENDED RATES.] The county board shall submit recommended payment rates to the commissioner on forms supplied by the commissioner by November 1, 1987, and at least 60 days before revised payment rates or payment rates for new vendors are to be effective. The forms must require the county board's written verification of the individual documentation required under section 12, clause (a). If the number of days of service provided by a licensed vendor are projected to increase, the county board must recommend payment rates based on the projected increased days of attendance and resulting lower per unit fixed costs. If a vendor provides services at more than one licensed site, the county board may recommend the same payment rates for each site based on the average rate for all sites. The county board may also recommend differing payment rates for each licensed site if it would result in a total annual payment to the vendor that is equal to or less than the total annual payment that would result if the average rates had been used for all sites. For purposes of this subdivision, the average payment rate for all service sites used by a vendor must be computed by adding the amounts that result when the payment rates for each licensed site are multiplied by the projected annual number of service units to be provided at that site and dividing the sum of those amounts by the total units of service to be

provided by the vendor at all sites.

Subd. 6. [VARIANCES.] A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. The county board shall review all vendors' payment rates that are 20 percent lower than the average rates for the regional development commission district to which the county belongs. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. This review must occur prior to November 1, 1987. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates to change the number of direct service staff or the level of qualifications of the staff.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes demonstrate compliance with minimum licensing standards governing minimum staffing ratios and staff qualifications.

(4) The vendor documents that the change in staff numbers or qualifications cannot be achieved by reallocating current staff or by reallocating financial resources to provide or purchase the necessary services.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes. Allowable costs are limited to salaries, related fringe benefits, and payroll taxes.

(7) The county board's recommended payment rates do not exceed 125 percent of the average payment rates in the regional development commission district in which the vendor is located.

Subd. 7. [TIME REQUIREMENTS AND APPEALS PROCESS FOR VARIANCES.] The commissioner shall notify in writing county boards requesting variances within 60 days of receiving the variance request from the county board. The notification shall give reasons for denial of the variance, if it is denied.

Subd. 8. [COMMISSIONER'S NOTICE TO BOARDS, VENDORS.] The commissioner shall notify the county boards and vendors of:

(1) the average regional payment rates and 125 percent of the average regional payments rates for each of the regional development commission districts designated in sections 462.381 to 462.396; and

(2) the projected inflation rate for the year in which the rates will be effective equal to the most recent projected change in the urban consumer price index, all items, published by the United States Department of Labor,

for the upcoming calendar year over the current calendar year.

Subd. 9. [APPROVAL OR DENIAL OF RATES.] *The commissioner shall approve the county board's recommended payment rates when the rates and verification justifying the projected service units comply with subdivisions 2 to 10. The commissioner shall notify the county board in writing of the approved payment rates within 60 days of receipt of the rate recommendations. If the rates are not approved, or if rates different from those originally recommended are approved, the commissioner shall within 60 days of receiving the rate recommendation notify the county board in writing of the reasons for denying or substituting a different rate for the recommended rates. Approved payment rates remain effective until the commissioner approves different rates in accordance with subdivisions 2 and 3.*

Subd. 10. [VENDOR'S REPORT; AUDIT.] *The vendor shall report to the commissioner and the county board on forms prescribed by the commissioner at times specified by the commissioner. The reports shall include programmatic and fiscal information. Fiscal information shall be provided in accordance with an annual audit that complies with the requirements of Minnesota Rules, parts 9550.0010 to 9550.0092. The audit must be done in accordance with generally accepted auditing standards to result in statements that include a balance sheet, income statement, changes in financial position, and the certified public accountant's opinion.*

Subd. 11. [IMPROPER TRANSACTIONS.] *Transactions that have the effect of circumventing subdivisions 1 to 10 must not be considered by the commissioner for the purpose of payment rate approval under the principle that the substance of the transaction prevails over the form.*

Subd. 12. [RATES ESTABLISHED AFTER 1988.] *Payment rates established by a county board on or after January 1, 1989, must be determined under permanent rules adopted by the commissioner. No county shall pay a rate that is less than the minimum rate determined by the commissioner.*

In developing procedures for setting minimum payment rates and procedures for establishing payment rates, the commissioner shall consider the following factors:

- (1) a vendor's payment rate and historical cost in the previous year;*
- (2) current economic trends and conditions;*
- (3) costs that a vendor must incur to operate efficiently, effectively and economically and still provide training and habilitation services that comply with quality standards required by state and federal regulations;*
- (4) increased liability insurance costs;*
- (5) costs incurred for the development and continuation of supported employment services;*
- (6) cost variations in providing services to people with different needs;*
- (7) the adequacy of reimbursement rates that are more than 15 percent below the statewide average; and*
- (8) other appropriate factors.*

The commissioner may develop procedures to establish differing hourly rates that take into account variations in the number of clients per staff hour, to assess the need for day training and habilitation services, and to

control the utilization of services.

In developing procedures for setting transportation rates, the commissioner may consider allowing the county board to set those rates or may consider developing a uniform standard.

Medical assistance rates for home and community-based services provided under section 256B.501 by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 8 to 15.

Sec. 15. [252.47] [RULES.]

To implement sections 8 to 15, the commissioner shall adopt permanent rules under sections 14.01 to 14.38. The commissioner shall establish an advisory task force to advise and make recommendations to the commissioner during the rulemaking process. The advisory task force must include legislators, vendors, residential service providers, counties, consumers, department personnel, and others as determined by the commissioner.

Sec. 16. 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 resources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish in the State Register a proposed list of elective surgeries that require a second medical opinion prior to reimbursement. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal;

(2) Skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 256B.50, subdivision 1 and 252.41, subdivision 3, 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, eyeglasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over-the-counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities;

payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and 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) 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. 17. Minnesota Statutes 1986, section 256B.501, subdivision 1, is amended to read:

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

(a) "Commissioner" means the commissioner of human services.

(b) "Facility" means a facility licensed as a mental retardation residential facility under section 252.28, licensed as a supervised living facility under chapter 144, and certified as an intermediate care facility for persons with mental retardation or related conditions.

(c) "Waivered service" means home or community-based service authorized under United States Code, title 42, section 1396n(c), as amended through December 31, 1982, and defined in the Minnesota state plan for the provision of medical assistance services. Waivered services include, at a minimum, case management, family training and support, developmental training homes, supervised living arrangements, semi-independent living services, respite care, and training and habilitation services.

(d) "Training and habilitation services" are those health and social services needed to ensure optimal functioning of persons with mental retardation or related conditions. Training and habilitation services shall be provided to a client away from the residence unless medically contraindicated by an organization which does not have a direct or indirect financial interest in the organization which provides the person's residential services. This requirement shall not apply to any developmental achievement center which has applied for licensure prior to April 15, 1983.

Sec. 18. Minnesota Statutes 1986, section 256B.501, subdivision 2, is amended to read:

Subd. 2. [AUTHORITY.] The commissioner shall establish procedures and rules for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions which qualify as vendors providers of medical assistance; and waived services;

and for provision of training and habilitation services. Approved rates shall be established on the basis of methods and standards that the commissioner finds adequate to provide for the costs that must be incurred for the quality care of residents in efficiently and economically operated facilities and services. The procedures shall specify the costs that are allowable for payment through medical assistance. The commissioner may use experts from outside the department in the establishment of the procedures.

Sec. 19. Minnesota Statutes 1986, section 256B.501, subdivision 8, is amended to read:

Subd. 8. [PAYMENT FOR PERSONS WITH SPECIAL NEEDS.] The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for ~~waivered services or training and habilitation services~~ for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to subdivisions 2, ~~and 4, 5, and 6,~~ *including rates established under section 252.46 when they apply to services provided to residents of intermediate care facilities for persons with mental retardation or related conditions*, and procedures to be followed for rate limitation exemptions for intermediate care facilities for persons with mental retardation or related conditions. No excess payment or limitation exemption shall be authorized unless the need for the service is documented in the individual service plan of the person or persons to be served, the type and duration of the services needed are stated, and there is a basis for estimated cost of the services:

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal audits.

Sec. 20. Minnesota Statutes 1986, section 256E.09, subdivision 3, is amended to read:

Subd. 3. [PLAN CONTENT.] The biennial community social services plan published by the county shall include:

(a) A statement of the goals of community social service programs in the county;

(b) Methods used pursuant to subdivision 2 to encourage participation of citizens and providers in the development of the plan and the allocation of money;

(c) Methods used to identify persons in need of service and the social problems to be addressed by the community social service programs, including efforts the county proposes to make in providing for early intervention, prevention and education aimed at minimizing or eliminating the need for services for groups of persons identified in section 256E.03, subdivision 2;

(d) A statement describing how the county will fulfill its responsibilities identified in section 256E.08, subdivision 1 to the groups of persons described in section 256E.03, subdivision 2, and a description of each community social service proposed and identification of the agency or person proposed to provide the service. The plan shall specify how the county proposes to make the following services available for persons identified by the county as in need of services: daytime developmental achievement services for children, day training and habilitation services for adults, subacute detoxification services, residential services and nonresidential social support

services as appropriate for the groups identified in section 256E.03, subdivision 2;

(e) The amount of money proposed to be allocated to each service;

(f) An inventory of public and private resources including associations of volunteers which are available to the county for social services;

(g) Evidence that serious consideration was given to the purchase of services from private and public agencies; and

(h) Methods whereby community social service programs will be monitored and evaluated by the county.

Sec. 21. [TASK FORCE.]

Subdivision 1. [TASK FORCE CREATED.] The director of the state planning agency shall form and chair a task force to review and make recommendations by February 1, 1988, regarding the appropriate roles of development achievement centers and sheltered workshops in providing supported work opportunities to people with disabilities.

Subd. 2. [MEMBERSHIP] The task force must include the chairs of the health and human services committees of the Minnesota senate and house of representatives, or their designees, sheltered workshops, developmental achievement centers, county government, the departments of human services and jobs and training, the special education unit of the department of education, the state planning agency, advocacy organizations and the Minnesota supported employment project advisory committee. The state planning agency shall consult with the associations representing sheltered workshops and developmental achievement centers and attempt to select service provider members representing all programmatic and philosophical perspectives.

Subd. 3. [EXTENDED EMPLOYMENT PROGRAMS.] For purposes of this section, "extended employment programs" means programs providing paid work and service hours as a step in the rehabilitation process for those who cannot readily be absorbed in the competitive labor market, or during such time as employment opportunities for them in the competitive labor market do not exist. Extended employment programs include the following:

(1) long-term employment programs as defined at Minnesota Rules, part 3300.2050, subpart 16;

(2) work activity programs as defined at Minnesota Rules, part 3300.2050, subpart 33;

(3) work component programs as defined at Minnesota Rules, part 3300.2050, subpart 34;

(4) community-based employment programs as defined at Minnesota Rules, part 3300.2050, subpart 3.

Subd. 4. [SCOPE OF THE TASK FORCE.] The task force shall review and make recommendations to the legislature and affected state departments on the following:

(1) the role and function of developmental achievement centers, sheltered workshops, and other services providing employment to people who are severely disabled;

(2) mechanisms for identifying and placing clients in appropriate services;

(3) current and recommended funding methods for developmental achievement centers and extended employment programs and the relationship between funding and placement of clients;

(4) current regulations and program standards including accountability requirements and outcome measures. Recommendations for common standards for all similar programs shall be included;

(5) improved ways of providing employment services to all disabled persons regardless of the severity of their disabilities, including persons not currently receiving services through existing programs; and

(6) the need and scope of demonstration projects to determine how existing funding can be consolidated or unified to expand community-based/supported employment opportunities for persons with severe disabilities and whether specific rule waiver authority is required to accomplish this purpose.

Subd. 5. [COSTS.] The costs of the task force, if any, shall be shared equally by the state planning agency, the department of human services, and the department of jobs and training.

Subd. 6. [COOPERATION OF STATE DEPARTMENTS.] The commissioners shall cooperate with the task force and provide information and support as requested.

Sec. 22. [REPEALER.]

(a) Minnesota Statutes 1986, sections 256B.501, subdivisions 5, 6, 7, and 9; and 256E.06, subdivision 2a, are repealed.

(b) Minnesota Rules, parts 9525.1210, subparts 11 and 12; 9525.1230, subpart 2; 9525.1260; 9525.1270; 9525.1280; and 9525.1310, are repealed.

Sec. 23. [EFFECTIVE DATE.]

Except as otherwise provided in section 14, sections 1 to 21 are effective the day following final enactment. The rates established under section 14, subdivision 11, are effective January 1, 1989. Except as specifically repealed by this act, the provisions of Minnesota Rules, parts 9525.1200 to 9525.1330 remain in effect until amended or repealed by the commissioner."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for human services, corrections, health, economic security, and other purposes with certain conditions; amending Minnesota Statutes 1986, sections 15A.081, subdivision 1; 86.33, subdivisions 2 and 3; 136C.06; 144.122; 144.123, subdivision 2; 144.219; 144.55, subdivision 6; 144.68; 144.69; 144A.05; 144A.071, subdivision 3; 144A.27; 144A.33, subdivisions 3 and 4; 171.29, subdivision 2; 245.713, subdivision 2; 245.782, subdivision 5; 246.18, subdivision 1, and by adding a subdivision; 246.50, subdivisions 3, 4a, 5, 7, and by adding a subdivision; 246.51; 246.511; 246.57, by adding a subdivision; 251.011, subdivision 6; 252.21; 252.22; 252.23; 252.24, subdivisions 1 and 4; 252.25; 252.275, subdivisions 1, 2, 4, and 7; 256.01, subdivisions 2 and 4; 256.045, subdivision 3; 256.73, by adding a subdivision; 256.736, subdivisions 3, 4, 6, 7, 8, and by adding subdivisions; 256.737, subdivision 1; 256.74, sub-

division 1; 256.969, subdivisions 2 and 3; 256.98; 256B.02, subdivision 8, and by adding a subdivision; 256B.03, subdivision 1; 256B.04, subdivisions 14 and 15; 256B.06, subdivision 1, and by adding a subdivision; 256B.064, subdivision 1a; 256B.15; 256B.17, subdivisions 4 and 5; 256B.19, subdivision 1; 256B.35, subdivisions 1 and 2; 256B.37, by adding a subdivision; 256B.421, subdivision 1; 256B.431, subdivisions 2b, 2e, 3a, 4, and by adding subdivisions; 256B.433; 256B.47, subdivision 1, and by adding subdivisions; 256B.48, subdivision 1; 256B.50, subdivision 2; 256B.501, subdivisions 1, 2, and 8; 256B.69, subdivisions 6, 11, and by adding subdivisions; 256C.26; 256D.01, subdivision 1a; 256D.02, subdivisions 5 and 8; 256D.03, subdivisions 2, 3, 4, and by adding a subdivision; 256D.05, subdivision 1, and by adding a subdivision; 256D.051 subdivisions 1, 2, 6, 8, and by adding a subdivision; 256D.06, subdivisions 1, 1b, and 2; 256D.08, subdivision 1; 256D.101; 256D.15; 256D.22; 256D.37, subdivision 1; 256E.09, subdivision 3; 256E.12, subdivision 3; 257.33; 257.34, subdivision 1; 257.35; 257.351, subdivision 15, and by adding subdivisions; 257.354, subdivision 4, and by adding a subdivision; 257.57, subdivision 2; 257.60; 257.62, by adding a subdivision; 257.63, subdivision 2; 268.0111, subdivision 8; 268.0122, subdivisions 2 and 3; 268.36; 268.37, subdivision 3; 268.53, subdivision 1; 268.673, subdivision 5, and by adding a subdivision; 268.6751; 268.676; 268.677, subdivision 1; 268.678, subdivisions 1 and 4; 268.681, subdivisions 2 and 3; 268.85, subdivision 2; 268.86, subdivisions 1, 2, and 4; 268.871, subdivisions 1, 2, and by adding a subdivision; 268.88; 268.89, subdivision 2; 268.91, subdivisions 1, 2, 3, 4, 5, 6, 11, and by adding subdivisions; 268.911, subdivision 1; 287.05, subdivision 1; 287.12; 287.21, subdivision 1; 393.07, subdivision 10; 510.07; 518.131, subdivision 7; 518.171, subdivision 1; 518.24; 518.551, subdivision 1, and by adding a subdivision; 518.57, subdivision 1; 518.611, subdivisions 1, 2, 3, 4, 6, 8, and by adding a subdivision; 518.64, subdivision 2; 524.3-1201; 525.56, subdivision 3; and Laws 1986, chapter 394, section 24; proposing coding for new law in Minnesota Statutes, chapters 62D; 144; 144A; 245; 246; 252; 256; 256B; 256D; 257; and 518; repealing Minnesota Statutes 1986, sections 116J.035, subdivision 3; 116L.04, subdivision 3; 136.63, subdivision 1b; 144.66; 144.67; 178.03, subdivision 5; 245.69, subdivision 1a; 245.713, subdivisions 1 and 3; 245.74; 245.76; 256.966, subdivision 2; 256B.05, subdivision 4; 256B.07; 256B.501, subdivisions 5, 6, 7, and 9; 256D.051, subdivisions 4, 5, 11, and 12; 256E.06, subdivision 2a; 257.34, subdivision 2; 267.01; 267.02; 267.03; 267.04; 267.05; 267.06; 268.0111, subdivision 3; and 268.86, subdivisions 1, 3, 4, and 5."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Ann Wynia, Lee Greenfield, Peter Rodosovich, Robert Anderson, Loren G. Jennings

Senate Conferees: (Signed) Don Samuelson, Allan H. Spear, Marilyn M. Lantry, Howard A. Knutson, Linda Berglin

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 243 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 243 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 3, as follows:

Those who voted in the affirmative were:

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

Messrs. Belanger, Frank and Pogemiller voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Luther moved that S.F. No. 463 be taken from the table. The motion prevailed.

S.F. No. 463: 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 or discount point agreements; 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 time-share 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; appropriating money; amending Minnesota Statutes 1986, sections 60A.17, subdivision 6c; 72A.27; 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; 80A.23, subdivision 11; 80A.26, subdivision 3; 80C.17, 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, 47, 82, and 508; 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.

CONCURRENCE AND REPASSAGE

Mr. Luther moved that the Senate concur in the amendments by the House to S.F. No. 463 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 463: 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 or discount point agreements; 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 time-share 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; appropriating money; amending Minnesota Statutes 1986, sections 60A.17, subdivision 6c; 72A.27; 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; 80A.23, subdivision 11; 80A.26, subdivision 3; 80C.17, subdivision 1; 82.17, subdivision 4; 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, 47, 82, and 508; 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.

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

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dahl	Jude	Moe, R.D.	Reichgott
Beckman	Davis	Knaak	Morse	Renneke
Belanger	DeCramer	Knutson	Novak	Spear
Benson	Dicklich	Laidig	Olson	Storm
Berg	Diessner	Lantry	Pehler	Stumpf
Berglin	Frank	Larson	Peterson, D.C.	Taylor
Bernhagen	Frederickson, D.J.	Luther	Peterson, R.W.	Vickerman
Bertram	Frederickson, D.R.	Marty	Piper	Waldorf
Brandl	Freeman	Merriam	Pogemiller	Willet
Chmielewski	Hughes	Metzen	Purfeerst	
Cohen	Johnson, D.E.	Moe, D.M.	Ramstad	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 587: A bill for an act relating to state government; adding certain emergency personnel to the list of people eligible for benefits from the peace officers benefit fund; amending Minnesota Statutes 1986, section 176B.01, subdivision 2.

Senate File No. 587 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 1987

CONCURRENCE AND REPASSAGE

Mr. Luther moved that the Senate concur in the amendments by the House to S.F. No. 587 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 587: A bill for an act relating to state and local government; adding certain emergency personnel to the list of people eligible for benefits from the peace officers benefit fund; Minneapolis police relief association service pensions and survivor benefits; amending Minnesota Statutes 1986, section 176B.01, subdivision 2; and Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended, section 5, subdivisions 1 and 3, as amended, and section 6, subdivision 1; and Laws 1980, chapter 607, article 15, section 9.

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

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

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 326.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 841: A bill for an act relating to natural resources; amending requirements for eligibility, applications, agreements, payments, and other terms and conditions of the conservation reserve program; changing requirements to drain privately owned inventoried wetlands and public waters; amending and changing requirements for the waterbank program; changing requirements for persons selling land under a waterbank agreement; establishing a native prairie bank program; providing for prairie management applications, agreements, payments, and other terms and conditions; appropriating funds; amending Minnesota Statutes 1986, sections 40.41; 40.42, subdivision 5, and by adding subdivisions; 40.43, subdivisions 2, 5, 6, and 7; 40.44, subdivision 2; 84.943, subdivisions 1, 3, and 5; 84.944, subdivision 1; 84.95, subdivision 2, and by adding a subdivision; 105.391, subdivision 3; 105.392, subdivisions 1, 2, 3, 4, 5, and 6; proposing coding for new law in Minnesota Statutes, chapter 84.

There has been appointed as such committee on the part of the House: Munger; Olson, E. and Rose.

Senate File No. 841 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 451: A bill for an act relating to public safety; parking for handicapped persons; imposing a fine for violations of handicapped parking provisions; providing penalties; amending Minnesota Statutes 1986, sections 168.021, subdivisions 1, 1a, 2, 3, 5, and 6; 169.345; and 169.346; repealing Minnesota Statutes 1986, section 168.021, subdivision 7.

There has been appointed as such committee on the part of the House: Reding, Bishop and Lasley.

Senate File No. 451 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1: A bill for an act relating to economic development; rural development; renaming and providing powers to the agricultural resource loan guaranty board; establishing a mineral resources program; establishing duties for the community development division in the department of energy and economic development; transferring the independent wastewater treatment grant program from the pollution control agency to the Minnesota public finance authority; changing the membership of the Minnesota job skills partnership board; establishing the rural development board; establishing the challenge grant program; establishing the customized training program; establishing the greater Minnesota corporation; establishing the state supplemental education grant program; establishing the Minnesota public finance authority; providing a program for revitalization of the cities of St. Paul and Minneapolis; creating a program for funding economic development projects in the taconite tax relief area; permitting investment of earnings of the northeast Minnesota economic protection trust in venture capital enterprises; appropriating money; amending Minnesota Statutes 1986, sections 15.039, by adding a subdivision; 16A.80, subdivision 2a; 41A.01; 41A.02, subdivisions 3, 4, 6, 11, and by adding subdivisions; 41A.05, subdivisions 1 and 2; 41A.08; 116.16, subdivisions 2, 4, 5, 9, and by adding subdivisions; 116.18, subdivisions 2a and 3a; 116J.36, subdivisions 2, 3b, 3c, 8, 8a, and 11; 116J.37, subdivision 1, and by adding a subdivision; 116J.955, subdivisions 1 and 2; 116L.03, subdivision 2; 281.17; 298.292; 298.296, subdivision 2; 462.384, subdivision 7; 462.385, subdivisions 1 and 3; 462.386, subdivision 1; 462.387, subdivisions 1, 3 and 4; 462.39, subdivisions 2 and 3; 462.391, subdivisions 2, 3 and 4; 462.395; 462.396, subdivision 1; 462.398; and 462.445, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 41A; 93; 116J; 116L; and 136A; proposing coding for new law as Minnesota Statutes, chapters 116N; 116P; and 446A; repealing Minnesota Statutes 1986, sections 116.167; 116J.951; 116J.961; 116J.965; 116M.01; 116M.02; 116M.03; 116M.04; 116M.05; 116M.06; 116M.07; 116M.08; 116M.09; 116M.10; 116M.11; 116M.12; 116M.13; 472.11, subdivisions 3, 5, 6, 7, 8, and 9; 472.12, subdivisions 2, 3, and 4; 472.125; 472.13, subdivisions 2, 3, and 4; and Laws 1969, chapters 833 and 984.

Senate File No. 1 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Special Orders Calendar. The motion prevailed.

SPECIAL ORDER

H.F. No. 257: A bill for an act relating to state government; requiring the board of investments to adopt an investment policy; authorizing certain investments by the board of investments; providing that certain state employees who are eligible to retire are eligible for state-paid insurance benefits; modifying definition of terms and conditions of employment for public employees; amending Minnesota Statutes 1986, sections 11A.04; 11A.24, subdivisions 2, 4, 5, and 6; 11A.25; 43A.24, subdivision 2; and 179A.03, subdivision 19.

Mr. Moe, D.M. moved to amend H.F. No. 257, the unofficial engrossment, as follows:

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1986, section 43A.18, is amended by adding a subdivision to read:

Subd. 9. [SEVERANCE PAY.] Severance pay provided under a collective bargaining agreement or plan established in this section for an employee leaving employment may not exceed an amount equivalent to one year of pay. For purposes of this subdivision, severance pay does not include the payment of accumulated vacation leave nor a periodic contribution by the state toward insurance premiums under section 43A.24 or 43A.29."

Page 4, after line 8, insert:

"Sec. 3. Minnesota Statutes 1986, section 43A.29, is amended to read:

43A.29 [CONTRIBUTIONS BY STATE.]

The total contribution by the state for eligible state employees and for dependents of eligible state employees shall be prescribed by collective bargaining agreements or plans established pursuant to section 43A.18. The total contribution by the state for individuals who are eligible to participate under section 43A.27, subdivision 3, is a permissive subject of collective bargaining, provided that the state contribution must cease no later than the end of the month in which the individual reaches age 65."

Page 6, after line 9, insert:

"Sec. 6. Minnesota Statutes 1986, section 471.616, subdivision 1, is amended to read:

Subdivision 1. [BIDDING REQUIRED.] No governmental subdivision, political subdivision, or any other body corporate and politic authorized by law to purchase group insurance for its employees and providing or intending to provide group insurance protections and benefits for 25 or more of its employees shall enter into a contract for or renew any group insurance policy or contract without calling for bids and awarding the contract to the lowest responsible bidder by way of competitive bidding

procedures similar to those for the provision of services and supplies under section 16B.07, subdivisions 1 to 5. A political subdivision may provide in the bid specifications that self-insured health benefit plans will not be considered. Lowest responsible bidder means the insurer, service plan corporation, or self-insurance plan, if allowed by the bid specifications which offers the lowest cost, is authorized to do business in this state, and is deemed by the governmental unit to be capable of satisfactorily performing the administration of the policy or contract in accordance with the bid specifications. "Cost" means in the case of an insurer, the net premium, including consideration of any expense and risk charges; in the case of service plan corporation, the charge for expenses and risk taking; and in the case of self-insurance plans, the sum of the cost of paid claims, including provision for estimated incurred but unpaid claims at the end of the term, administrative costs, and premium for excess coverage. The cost of changing plans may also be considered in determining the lowest cost. The aggregate value of benefits provided by a contract entered into after July 1, 1973 shall not be less than those provided by the preexisting contract (a) unless a majority of the employees covered under the group insurance plan and voting on the question agree to a reduction in the benefits, if the employees are not represented by an exclusive representative pursuant to section 179A.12, or (b) unless the public employer and the exclusive representative of the employees of an appropriate bargaining unit, certified pursuant to section 179.67, agree to a reduction in the benefits. The aggregate value of benefits of any former employee who has retired shall not, in any event, be reduced pursuant to clause (a) or (b) *under a contract entered into before July 1, 1987*, unless the employee has individually agreed to the reduction.

No contract need be submitted to bid more frequently than once every 48 months, unless for any reason whatsoever, a 50 percent or greater change in the premium per covered employee under the policy contract is provided, required or indicated. If additional employees are added to an existing group pursuant to a joint powers agreement under section 471.59, new bids and award are not required.

When an insurer proposes an increase in rates, it shall accompany its proposal with an aggregate claims record for the appropriate period that explains the proposed increase. When a contract is resubmitted for bids the aggregate claims record shall accompany the specifications for the contract. Cost comparisons are not required between insured and self-insurance alternatives, but apply to comparisons between two or more insured proposals or comparisons between two or more self-insurance proposals."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Taylor moved to amend the Moe, D.M. amendment to H.F. No. 257, adopted by the Senate May 18, 1987, as follows:

Page 1, line 11, after "leave" insert "*or, in the case of state university and community college faculty, accumulated sick leave*"

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

H.F. No. 257 was then progressed.

SPECIAL ORDER

S.F. No. 596: A bill for an act relating to taxation; providing for allocation among governmental units of increases in the assessed valuation of commercial-industrial property within the taconite tax relief area; providing a formula for the distribution of additional revenues to municipalities within the taconite tax relief area; proposing coding for new law as Minnesota Statutes, chapter 276A.

Mr. Johnson, D.J. moved to amend S.F. No. 596 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Laws 1985, First Special Session chapter 14, article 18, section 8, is amended to read:

Sec. 8. [APPROPRIATION; OCCUPATION TAX REFUNDS.]

(a) There is appropriated effective July 1, ~~1988~~ 1987, to the commissioner of revenue from the general fund an amount equal to one-half of any credits due as a result of a recomputation of occupation taxes for production year 1984 and previous years based on the limitations prescribed in section 298.40, subdivision 1, and established by the commissioner as an account payable on or before May 1, 1985, to the extent the refunds were not paid pursuant to section 7. The commissioner shall refund to the taxpayers the amount computed plus interest at the rate established in Minnesota Statutes, section 298.09, subdivision 4, from the date of the overpayment.

(b) There is appropriated effective July 1, 1989, to the commissioner of revenue from the general fund the remainder of the amount computed pursuant to paragraph (a). The commissioner shall refund to the taxpayers the amount computed plus interest at the rate established in Minnesota Statutes, section 298.09, subdivision 4, from the date of the overpayment.

Sec. 2. If H.F. No. 529 is enacted in the regular 1987 session, article 19, section 2, is amended to read:

Sec. 2. [APPROPRIATION; OCCUPATION TAX REFUNDS; PROCEDURE.]

The provisions of Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, *as amended by section 1 of this act*, shall be controlling with respect to appropriations for the payment of the occupation tax refunds referenced therein, notwithstanding anything to the contrary in Minnesota Statutes, section 16A.48, subdivision 2. Provided, however, that no occupation tax refund referred to in Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, *as amended by section 1 of this act*, shall be appropriated or paid unless the commissioner of revenue first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoff or recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoff or recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1987."

Amend the title as follows:

Page 1, delete lines 2 to 8 and insert "changing the effective date of an

appropriation for payment of certain occupation tax refunds; amending Laws 1985, First Special Session chapter 14, article 18, section 8; and H.F. No. 529, article 19, section 2, if enacted."

The motion prevailed. So the amendment was adopted.

S.F. No. 596 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	Mehrrens	Reichgott
Anderson	Dahl	Johnson, D.J.	Metzen	Renneke
Beckman	Davis	Jude	Moe, R.D.	Solon
Belanger	Dicklich	Knaak	Morse	Spear
Benson	Diessner	Knutson	Pehler	Storm
Berg	Frank	Laidig	Peterson, D.C.	Stumpf
Berglin	Frederickson, D.I.	Lantry	Peterson, R.W.	Taylor
Bernhagen	Frederickson, D.R.	Larson	Piper	Vickerman
Bertram	Freeman	Luther	Pogemiller	Waldorf
Brandl	Gustafson	Marty	Purfeerst	
Chmielewski	Hughes	McQuaid	Ramstad	

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

SPECIAL ORDER

H.F. No. 239: A bill for an act relating to elections; providing for school district elections to be conducted according to Minnesota election law; appropriating money; amending Minnesota Statutes 1986, sections 6.54; 122.22, subdivisions 2 and 4; 122.23, subdivisions 2, 9, and 10; 122.25, subdivision 1; 123.11, subdivision 7; 123.33, subdivision 4; 123.351, subdivision 1; 123.51; 127.09; 127.11; 200.01; 200.015; 200.02, by adding a subdivision; 201.016, subdivision 2; 201.018, subdivision 2; 201.061, subdivisions 3 and 6; 201.071, subdivisions 1, 3, 5, 6, and by adding a subdivision; 201.221, subdivisions 3 and 4; 201.27, subdivision 2; 203B.01, subdivision 2; 203B.04, subdivisions 1 and 2; 203B.05, subdivisions 1 and 2; 203B.06, subdivision 2; 203B.08, subdivision 4; 203B.10; 203B.11, subdivision 1; 203B.12, subdivision 6; 203B.13; 203B.15; 203B.19; 203B.23; 204B.02; 204B.09, subdivision 2; 204B.16, subdivision 1; 204B.18, subdivision 2; 204B.19, subdivision 1; 204B.21, subdivision 2; 204B.25, subdivision 1; 204B.29; 204B.31; 204B.32; 204B.34, by adding a subdivision; 204B.35, subdivision 1; 204C.02; 204C.06, subdivision 2; 204C.07, subdivision 3; 204C.08, subdivision 4; 204C.10, subdivision 2; 204C.19, subdivision 2; 204C.20, subdivision 4; 204C.24, subdivision 2; 204C.25; 204C.26, subdivisions 2 and 3; 204C.27; 204C.28, subdivision 2, and by adding a subdivision; 204C.29, subdivision 1; 204C.36; 206.56, by adding a subdivision; 206.58, subdivision 2; 209.02; 209.021, subdivision 3; 210A.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 206; proposing coding for new law as Minnesota Statutes, chapter 205A; repealing Minnesota Statutes 1986, sections 123.015; 123.32; and 201.095.

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 51 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	Mehrkens	Renneke
Anderson	Dahl	Jude	Metzen	Spear
Beckman	Davis	Knaak	Moe, R.D.	Storm
Belanger	Dicklich	Knutson	Morse	Stumpf
Benson	Diessner	Kroening	Pehler	Taylor
Berglin	Frank	Laidig	Peterson, R.W.	Vickerman
Bernhagen	Frederickson, D.J.	Lantry	Piper	Waldorf
Bertram	Frederickson, D.R.	Larson	Pogemiller	
Brandl	Freeman	Lessard	Purfeerst	
Brataas	Gustafson	Luther	Ramstad	
Chmielewski	Hughes	Marty	Reichgott	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 943: A bill for an act relating to the attorney general; creating a consumer education account; providing for its administration; appropriating money; amending Minnesota Statutes 1986, section 8.31, subdivisions 2b, 3, and by adding subdivisions.

Ms. Reichgott moved to amend H.F. No. 943, as amended pursuant to Rule 49, adopted by the Senate May 16, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 1428.)

Page 2, line 20, delete "and"

Page 2, line 23, before the period, insert "; and"

(4) To assist the commissioner of education in establishing curriculum guidelines for elementary and secondary schools in the areas of consumer protection and consumer literacy"

The motion prevailed. So the amendment was adopted.

H.F. No. 943 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Johnson, D.E.	Mehrkens	Ramstad
Beckman	Dahl	Jude	Metzen	Reichgott.
Belanger	Davis	Knutson	Moe, R.D.	Renneke
Benson	DeCramer	Kroening	Morse	Spear
Berg	Dicklich	Laidig	Pehler	Storm
Berglin	Diessner	Lantry	Peterson, D.C.	Stumpf
Bernhagen	Frank	Larson	Peterson, R.W.	Taylor
Bertram	Frederickson, D.R.	Luther	Piper	Vickerman
Brandl	Gustafson	Marty	Pogemiller	Waldorf
Chmielewski	Hughes	McQuaid	Purfeerst	Wegscheid

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on S.F. No. 841 at 5:00 p.m.:

Messrs. Novak, Merriam and Willet. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Chmielewski moved that H.F. No. 899 be taken from the table. The motion prevailed.

H.F. No. 899: A bill for an act relating to education; establishing the Fond du Lac Higher Education Center; continuing the Fond du Lac Higher Education Task Force; requiring reports; appropriating money; amending Laws 1986, First Special Session chapter 1, article 10, section 1, subdivision 9.

SUSPENSION OF RULES

Mr. Chmielewski moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 899 and that the rules of the Senate be so far suspended as to give H.F. No. 899 its second and third reading and place it on its final passage.

CALL OF THE SENATE

Mr. Chmielewski imposed a call of the Senate for the balance of the proceedings on H.F. No. 899. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion.

Mr. Brandl moved that those not voting be excused from voting. The motion did not prevail.

The roll was called, and there were yeas 45 and nays 18, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Laidig	Metzen	Purfeerst
Anderson	Davis	Langseth	Moe, D.M.	Ramstad
Beckman	Dicklich	Lantry	Moe, R.D.	Renneke
Belanger	Frederickson, D.J.	Larson	Morse	Samuelson
Benson	Gustafson	Lessard	Novak	Schmitz
Bernhagen	Johnson, D.J.	Luther	Olson	Solon
Bertram	Jude	Marty	Pehler	Storm
Brataas	Knaak	McQuaid	Piper	Stumpf
Chmielewski	Knutson	Mehrkins	Pogemiller	Vickerman

Those who voted in the negative were:

Berg	DeCramer	Freeman	Peterson, D.C.	Waldorf
Berglin	Diessner	Johnson, D.E.	Peterson, R.W.	Wegscheid
Brandl	Frank	Kroening	Reichgott	
Dahl	Frederickson, D.R.	Merriam	Spear	

The motion prevailed.

H.F. No. 899 was read the second time.

H.F. No. 899 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 36 and nays 26, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Langseth	Pehler	Solon
Benson	Frederick	Lantry	Piper	Stumpf
Bertram	Gustafson	Lessard	Pogemiller	Vickerman
Brataas	Johnson, D.J.	Marty	Purfeerst	Willet
Chmielewski	Jude	Metzen	Ramstad	
Cohen	Knaak	Moe, R.D.	Renneke	
Davis	Kroening	Morse	Samuelson	
DeCramer	Laidig	Novak	Schmitz	

Those who voted in the negative were:

Anderson	Dahl	Johnson, D.E.	Moe, D.M.	Waldorf
Beckman	Diessner	Knutson	Peterson, D.C.	Wegscheid
Belanger	Frank	Luther	Peterson, R.W.	
Berg	Frederickson, D.J.	McQuaid	Reichgott	
Bernhagen	Frederickson, D.R.	Mehrkens	Spear	
Brandt	Freeman	Merriam	Storm	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 794:

H.F. No. 794: A bill for an act relating to waste management; regulating disposal of wastes; providing for a solid waste management policy; providing for recycling policy and marketing; managing household hazardous wastes; regulating the sale and disposal of motor oil and lead acid batteries; providing for waste pesticide collection; appropriating money; amending Minnesota Statutes 1986, sections 115A.03, subdivisions 9 and 21; 115A.06, subdivision 14; 115A.11, subdivision 2; 115A.15, subdivision 6; 115A.42; 115A.45; 115A.49; 115A.51; 115A.52; 115A.53; 115A.54, subdivision 2a; 115A.81, subdivision 2; 115A.921; 115A.95; 116.07, subdivision 4b; 116.41, subdivision 2; 116M.07, by adding a subdivision; 176.011, subdivision 9; 239.52; 325E.11; 473.149, subdivisions 2d and 6; 473.803, by adding a subdivision; 473.834, subdivision 2; 473.842, subdivision 2; 473.844, subdivisions 1 and 4; and 473.846; proposing coding for new law in Minnesota Statutes, chapters 115A; 239; 325E; and 473; repealing Minnesota Statutes 1986, sections 115A.13; 115A.43; 115A.44; 473.834, subdivision 3; and 473.844, subdivisions 2 and 5.

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

Long, Munger and Pauly have been appointed as such committee on the part of the House.

House File No. 794 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

Mr. Merriam moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 794, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1283:

H.F. No. 1283: A bill for an act relating to health; prohibiting smoking in day care centers and health care facilities; amending Minnesota Statutes 1986, sections 144.412; and 144.414.

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

Skoglund, Dille and Nelson, D. have been appointed as such committee on the part of the House.

House File No. 1283 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

Mr. Marty moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1283, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

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

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

APPOINTMENTS

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

H.F. No. 1283: Messrs. Marty; Frederickson, D.R. and Dahl.

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 478 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 478

A bill for an act relating to insurance; requiring notification of group life or health coverage changes; eliminating mandatory temporary insurance agent licenses; requiring those who solicit insurance to act as agent for the insured; regulating surplus lines insurance; regulating rates and forms; regulating insurance plan administrators; regulating trust funds; regulating the renewal, nonrenewal, and cancellation of commercial liability and property insurance policies; authorizing employers to jointly self-insure for property or casualty liability and regulating these plans; providing continued group life coverage upon termination or layoff; providing for the establishment and operation of the insurance guaranty association and the life and health guaranty association; regulating accident and health insurance; regulating joint self-insurance employee health plans; requiring the treatment of pregnancy-related conditions in the same manner as other illnesses; mandating certain coverages; clarifying coverage for handicapped dependents; providing continued group accident and health coverage upon termination or layoff; requiring coverage of current spouse and children; imposing surety bond or securities requirements on certain health benefit plans; regulating Medicare supplement plan premium refunds; authorizing the renewal of certain long-term health policies; providing for the establishment and operation of the comprehensive health association and the joint underwriting association; providing comprehensive health insurance coverage for certain employees not eligible for Medicare; regulating fraternal benefit associations; regulating automobile insurance; providing for exemption from certain legal process of cash value, proceeds, or benefits under certain life insurance or annuity contracts; limiting the cancellation of fire insurance binders and policies; providing for administration of the FAIR plan; requiring accident prevention course premium reductions; limiting the grounds for cancellation or reduction in limits during the policy period; providing for the priority of security for payment of basic economic loss benefits; extending basic economic loss benefit protection; requiring coverages for former spouses; specifying membership on the assigned claims bureau; extending no-fault benefits to pedestrians who are struck by motorcycles; regulating township mutual insurance companies; providing for mandatory arbitration of certain claims; establishing a demonstration project to provide medical insurance to certain low income persons; requiring the commissioner to set rates for cooperative housing and neighborhood real estate trust insurance; authorizing investments in certain insurers; regulating trade practices; requiring life and health insurers to substantiate the underwriting standards they use; providing assigned risk plan coverage for certain vehicles used by the handicapped; regulating motor vehicle repairs; regulating certain self-insurance by political subdivisions; granting immunity from liability for volunteer coaches, managers, and officials; clarifying the statute of limitations applicable to actions regarding manufacturers or suppliers of material containing asbestos; modifying discounting of future damages; prescribing penalties; amending Minnesota Statutes 1986, sections 16A.133, subdivision 1; 45.024, subdivision 2; 60A.17, subdivisions 1a, 2c, 11, and 13; 60A.1701, subdivisions 7, and 8; 60A.196; 60A.197; 60A.198, subdivision 3; 60A.23, subdivision 8; 60A.29, subdivisions 2, 5, and 16, and by adding subdivisions; 60A.30; 60A.31; 60B.44, subdivisions 1, 4, 5, and 9; 60C.08, subdivision 1; 60C.09; 60C.12; 61A.28, subdivision 12; 61B.05, subdivision 1; 61B.09; 62A.041; 62A.043, by adding a subdivision; 62A.141; 62A.146; 62A.152, subdivision 2; 62A.17; 62A.21; 62A.27; 62A.31, subdivision 1a; 62A.43, subdivision 2, and by

adding a subdivision; 62A.46, by adding a subdivision; 62A.48, subdivisions 1, 2, 6, and by adding a subdivision; 62A.50, subdivision 3; 62D.05, by adding a subdivision; 62D.102; 62E.06, subdivision 1; 62E.10, subdivision 2, and by adding subdivisions; 62E.14, by adding a subdivision; 62F.041, subdivision 2; 62F.06, subdivision 1; 62H.01; 62H.02; 62H.04; 62I.02, subdivisions 1, and 3, and by adding a subdivision; 62I.03, subdivision 5; 62I.04; 62I.12, subdivision 1; 62I.13, by adding a subdivision; 62I.16, subdivision 3; 62I.22, subdivision 2, and by adding a subdivision; 64B.11, subdivision 4; 64B.18; 64B.27; 65A.01, subdivision 3a; 65A.03, subdivision 1; 65A.10; 65A.29, by adding a subdivision; 65A.35, subdivision 5; 65A.39; 65B.03, subdivision 1; 65B.12; 65B.1311; 65B.16; 65B.21, subdivision 2; 65B.28; 65B.46; 65B.49, by adding a subdivision; 65B.525, subdivision 1; 65B.63, subdivision 1; 67A.05, subdivision 2; 67A.06; 67A.231; 70A.06, by adding a subdivision; 70A.08, subdivision 3; 72A.20, subdivisions 11, 17, and by adding subdivisions; 72A.31, subdivision 1; 169.045, subdivision 1, and by adding a subdivision; 471.98, subdivision 2; 604.07, subdivisions 2, 3, 4, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; 62E; 65A; 65B; 72A; 256B; 541; and 604; proposing coding for new law as Minnesota Statutes, chapter 60E; repealing Minnesota Statutes 1986, sections 62A.12; and 67A.43, subdivision 3; and Minnesota Rules, parts 2700.2400 to 2700.2440.

May 17, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 478, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 478 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 16A.133, subdivision 1, is amended to read:

Subdivision 1. [CREDIT UNION; ORGANIZATION; COMPANY.] An agency head may, with the written request of an employee, deduct from the pay of the employee a requested amount to be paid to any state employees' credit union, or the Minnesota benefit association, or to any organization contemplated by section 179A.06, of which the employee is a member, or to a company that has contracted to insure the employee for the medical costs of cancer or intensive care. If an employee is a member of more than one such credit union or more than one such organization, or is insured by more than one company, only one credit union and one organization and one company may be paid money by payroll deduction from the employee's pay. No deduction may be made from the salary of an employee for payment to a credit union or organization or company unless 100 employees request deductions for payment to the credit union or organization or company. The 100 employee minimum does not apply to credit unions and organizations which received authorized payroll deduction payments on June 5, 1971.

Sec. 2. Minnesota Statutes 1986, section 45.024, subdivision 2, is amended to read:

Subd. 2. [DELEGATION.] The commissioner of commerce may delegate to ~~one or more of the~~ *a deputy commissioner, assistant commissioner, or director* the exercise of the commissioner's statutory powers and duties, including the authority to decide and issue final orders in contested cases, rulemaking proceedings, and other hearings held under chapter 14.

Sec. 3. [60A.084] [NOTIFICATION ON GROUP POLICIES.]

An employer providing life or health benefits may not change benefits, limit coverage, or otherwise restrict participation until the certificate holder or enrollee has been notified of any changes, limitations, or restrictions. Notice in a format which meets the requirements of the Employee Retirement Income Security Act, 29 U.S.C.A., sections 1001 to 1461, is satisfactory for compliance with this section.

Sec. 4. Minnesota Statutes 1986, section 60A.17, subdivision 1a, is amended to read:

Subd. 1a. [LICENSE APPLICATION.] (a) [PROCEDURE.] An application for a license to act as an insurance agent shall be made to the commissioner by the person who seeks to be licensed. The application for license shall be accompanied by a written appointment from an admitted insurer authorizing the applicant to act as its agent under one or both classes of license. The insurer must also submit its check payable to the state treasurer for the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9) at the time the agent becomes licensed. The application and appointment shall be on forms prescribed by the commissioner.

If the applicant is a natural person, no license shall be issued until that natural person has become qualified.

If the applicant is a partnership or corporation, no license shall be issued until at least one natural person who is a partner, director, officer, stockholder, or employee shall be licensed as an insurance agent.

(b) [RESIDENT AGENT.] The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

(1) a person may qualify as a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state for licensing purposes, shall constitute an election of residency in this state. Any license issued upon an application claiming residency in this state shall be void if the licensee, while holding a resident license in this state, also holds, or makes application for, a resident license in, or thereafter claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state; provided, however, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state;

(2) the commissioner shall subject each applicant who is a natural person to a written examination as to the applicant's competence to act as an insurance agent. The examination shall be held at a reasonable time and

place designated by the commissioner;

(3) the examination shall be approved for use by the commissioner and shall test the applicant's knowledge of the lines of insurance, policies, and transactions to be handled under the class of license applied for, of the duties and responsibilities of the licensee, and pertinent insurance laws of this state;

(4) the examination shall be given only after the applicant has completed a program of classroom studies in a school, which shall *not* include a school ~~conducted by an admitted insurer sponsored by, offered by, or affiliated with an insurance company or its agents; except that this limitation does not preclude a bona fide professional association of agents, not acting on behalf of an insurer, from offering courses.~~ The course of study shall consist of 30 hours of classroom study devoted to the basic fundamentals of insurance for those seeking a Minnesota license for the first time, 15 hours devoted to specific life and health topics for those seeking a life and health license, and 15 hours devoted to specific property and casualty topics for those seeking a property and casualty license. The program of studies or study course shall have been approved by the commissioner in order to qualify under this clause. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by the organization offering the course shall accompany the applicant's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by order;

(5) the applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed;

(6) an applicant who has failed to pass an examination may take subsequent examinations. Examination fees for subsequent examinations shall not be waived; and

(7) any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner. An applicant whose license is not renewed under subdivision 20 is exempt from the requirement of a written examination.

(c) [NONRESIDENT AGENT.] The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

(1) A person may qualify for a license under this section as a nonresident only if that person holds a license in another state, province of Canada, or other foreign country which, in the opinion of the commissioner, qualifies that person for the same activity as that for which a license is sought;

(2) The commissioner shall not issue a license to any nonresident applicant until that person files with the commissioner a designation of the commissioner and the commissioner's successors in office as the applicant's

true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's insurance business in this state. This designation shall constitute an agreement that this service of process is of the same legal force and validity as personal service of process in this state upon that applicant.

Service of process upon any licensee in any action or proceeding commenced in any court of competent jurisdiction of this state may be made by serving the commissioner with appropriate copies of the process along with payment of the fee pursuant to section 60A.14, subdivision 1, paragraph (c), clause (4). The commissioner shall forward a copy of the process by registered or certified mail to the licensee at the last known address of record or principal place of business of the licensee; and

(3) A nonresident license shall terminate automatically when the resident license for that class of license in the state, province, or foreign country in which the licensee is a resident is terminated for any reason.

(d) [DENIAL.] (1) If the commissioner finds that an applicant for a resident or nonresident license has not fully met the requirements for licensing, the commissioner shall refuse to issue the license and shall promptly give written notice to both the applicant and the appointing insurer of the denial, stating the grounds for the denial. All fees which accompanied the application and appointment shall be deemed earned and shall not be refundable.

(2) The commissioner may also deny issuance of a license for any cause that would subject the license of a licensee to suspension or revocation. If a license is denied pursuant to this clause, the provisions of subdivision 6c, paragraph (c) apply.

(3) The applicant may make a written demand upon the commissioner for a hearing within 30 days of the denial of a license to determine whether the reasons stated for the denial were lawful. The hearing shall be held pursuant to chapter 14.

(e) [TERM.] All licenses issued pursuant to this section shall remain in force until voluntarily terminated by the licensee, not renewed as prescribed in subdivision 1d, or until suspended or revoked by the commissioner. A voluntary termination shall occur when the license is surrendered to the commissioner with the request that it be terminated or when the licensee dies, or when the licensee is dissolved or its existence is terminated. In the case of a nonresident license, a voluntary termination shall also occur upon the happening of the event described in paragraph (c), clause (3).

Every licensed agent shall notify the commissioner within 30 days of any change of name, address, or information contained in the application.

(f) [SUBSEQUENT APPOINTMENTS.] A person who holds a valid agent's license from this state may solicit applications for insurance on behalf of an admitted insurer with which the licensee does not have a valid appointment on file with the commissioner; provided, that the licensee has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable to the state treasurer in the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (9). The notice of appointment shall be on a form prescribed by the commissioner.

(g) [AMENDMENT OF LICENSE.] An application to the commissioner to amend a license to reflect a change of name, or to include an additional class of license, or for any other reason, shall be on forms provided by the commissioner and shall be accompanied by the applicant's surrendered license and a check payable to the state treasurer for the amount of fee specified in section 60A.14, subdivision 1, paragraph (c).

An applicant who surrenders an insurance license pursuant to this clause retains licensed status until an amended license is received.

(h) [EXCEPTIONS.] The following are exempt from the general licensing requirements prescribed by this section:

(1) agents of township mutuals who are exempted pursuant to subdivision 1b;

(2) fraternal beneficiary association representatives exempted pursuant to subdivision 1c;

(3) any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer; provided that a licensed agent must participate in the sale of any such insurance;

(4) employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided, that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications therefor;

(5) employees of a creditor who enroll debtors for life or accident and health insurance; provided the employees receive no commission or fee therefor; and

(6) clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums; and

(7) rental vehicle companies and their employees in connection with the offer of rental vehicle personal accident insurance under section 72A.125.

Sec. 5. Minnesota Statutes 1986, section 60A.17, subdivision 2c, is amended to read:

Subd. 2c. [~~MANDATORY~~ TEMPORARY LICENSES.] The commissioner ~~shall~~ may grant a temporary insurance agent's license to a person who has submitted an application for a resident license which is accepted by the commissioner and who has successfully completed the examination, if any, required by the commissioner. The temporary license ~~shall~~ may be granted ~~no later than as of the date upon which the applicant receives written notice from the commissioner that the application for resident license has been accepted by the commissioner and that the person has passed any required examination.~~ A temporary license will permit the applicant to act as an insurance agent for the original appointing insurer

for the class of business specified therein until the earlier of (a) receipt by the applicant of the resident license, or (b) the expiration of 90 days from the date on which the temporary license was granted.

Sec. 6. Minnesota Statutes 1986, section 60A.17, subdivision 11, is amended to read:

Subd. 11. [~~LIFE COMPANY AGENTS INSURER'S AGENT.~~] Any person who ~~shall solicit an application for~~ *solicits* insurance ~~upon the life of another shall, in any controversy between the assured or the assured's beneficiary and the company issuing any policy upon such application, be regarded as is the agent of the company insurer and not the agent of the assured insured.~~

Sec. 7. Minnesota Statutes 1986, section 60A.17, subdivision 13, is amended to read:

Subd. 13. [AGENTS; VARIABLE CONTRACTS.] (a) [LICENSE REQUIRED.] No person shall sell or offer for sale a contract on a variable basis unless prior to making any solicitation or sale the person has obtained from the commissioner a license therefor. The license shall only be granted, upon the written requisition of an insurer, to a qualified person who holds a current license authorizing the person to solicit and sell life insurance and annuity contracts in this state. To become qualified, a person shall complete a written application on a form prescribed by the commissioner and shall take and pass an examination prescribed by the commissioner. ~~Prior to the taking of the examination, or upon reexamination, the applicant shall transmit to the commissioner, by money order or cashiers check payable to the state treasurer, an examination fee of \$10.~~

(b) [EXCEPTIONS.] (1) Any regularly salaried officer or employee of a licensed insurer may, without license or other qualification, act on behalf of that licensed insurer in the negotiation of a contract on a variable basis, provided that a licensed agent must participate in the sale of any contract.

(2) Any person who, on July 1, 1969, holds a valid license authorizing the person to solicit and sell life insurance and annuity contracts and who also holds a valid license issued by the department of commerce authorizing the person to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of commerce upon application therefor and payment of a \$2 fee, which license shall expire on May 31, 1970, unless renewed by an insurer as provided in paragraph (a).

(3) Any person who holds a valid license to solicit and sell life insurance and annuity contracts may solicit and sell contracts on a variable basis without acquiring a license under this subdivision if the contract is based on an account which is excluded from the definition of investment company under the Investment Company Act of 1940, United States Code, title 15, section 80a-3(11).

(c) [RULES.] The commissioner may by rules waive or modify any of the foregoing requirements or prescribe additional requirements deemed necessary for the proper sale and solicitation of contracts on a variable basis.

Sec. 8. Minnesota Statutes 1986, section 60A.1701, subdivision 5, is amended to read:

Subd. 5. [POWERS OF THE ADVISORY TASK FORCE.] (a) ~~Applications for accreditation of each course and for approval of individuals~~

responsible for monitoring course offerings must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than \$50 payable to the state of Minnesota for deposit in the general fund. *A fee of \$5 for each hour or fraction of one hour of course approval sought must be forwarded with the application for course approval.* If the advisory task force is created, it shall make recommendations to the commissioner regarding the accreditation of courses sponsored by institutions, both public and private, which satisfy the criteria established by this section, the number of credit hours to be assigned to the courses, and rules which may be promulgated by the commissioner. The advisory task force shall seek out and encourage the presentation of courses.

(b) If the advisory task force is created, it shall make recommendations and provide subsequent evaluations to the commissioner regarding procedures for reporting compliance with the minimum education requirement.

Sec. 9. Minnesota Statutes 1986, section 60A.1701, subdivision 7, is amended to read:

Subd. 7. [CRITERIA FOR COURSE ACCREDITATION.] (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commissioner shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field.

(b) The commissioner may not accredit a course:

(1) that is designed to prepare students for a license examination;

(2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;

(3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent; or

(4) in motivation, the art of selling, psychology, or time management;

(5) *unless the student attends classroom instruction conducted by an instructor approved by the department of commerce; or*

(6) *which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce.*

Sec. 10. Minnesota Statutes 1986, section 60A.1701, subdivision 8, is amended to read:

Subd. 8. [MINIMUM EDUCATION REQUIREMENT.] Each person subject to this section shall complete annually a minimum of 20 credit hours of courses accredited by the commissioner. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. *Credit hours over 20 earned in any one year may be carried forward for the following two years. The commissioner may recognize accredited courses completed in 1983, 1984, or 1985 for the minimum education requirement for 1985. No more than ten credit hours per year may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. Courses sponsored by, offered by, or*

affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 11. Minnesota Statutes 1986, section 60A.196, is amended to read:
60A.196 [DEFINITIONS.]

Unless the context otherwise requires, the following terms have the meanings given them for the purposes of sections 60A.195 to 60A.209:

(a) "Surplus lines insurance" means insurance placed with an insurer permitted to transact the business of insurance in this state only pursuant to sections 60A.195 to 60A.209.

(b) "Eligible surplus lines insurer" means an insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209 but not licensed by any other Minnesota law to transact the business of insurance.

(c) "Ineligible surplus lines insurer" means an insurer not recognized as an eligible surplus lines insurer pursuant to sections 60A.195 to 60A.209 and not licensed by any other Minnesota law to transact the business of insurance. *"Ineligible surplus lines insurer" includes a risk retention group as defined under the Liability Risk Retention Act, Public Law Number 99-563.*

(d) "Surplus lines licensee" or "licensee" means a person licensed under sections 60A.195 to 60A.209 to place insurance with an eligible or ineligible surplus lines insurer.

(e) "Association" means an association registered under section 60A.208.

(f) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.

(g) "Insurance laws" means chapters 60 to 79 inclusive.

Sec. 12. Minnesota Statutes 1986, section 60A.198, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE FOR OBTAINING LICENSE.] A person licensed as a ~~resident~~ *an agent* in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining a ~~resident agent~~ *an agent's* license in this state;

(c) delivering to the commissioner a financial guarantee bond from a surety acceptable to the commissioner for the greater of the following:

(1) \$5,000; or

(2) the largest semiannual surplus lines premium tax liability incurred by the applicant in the immediately preceding five years; and

(d) agreeing to file with the commissioner of revenue no later than February 15 and August 15 annually, a sworn statement of the charges for insurance procured or placed and the amounts returned on the insurance canceled under the license for the preceding six-month period ending December 31 and June 30 respectively, and at the time of the filing of this statement, paying the commissioner a tax on premiums equal to three percent of the total written premiums less cancellations; and

(e) annually paying a fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (11).

Sec. 13. [60A.2095] [CONSTRUCTION.]

Nothing in sections 60A.195 to 60A.209 shall be construed to permit the state to impose requirements beyond those granted by the Liability Risk Retention Act, Public Law Number 99-563.

Sec. 14. Minnesota Statutes 1986, section 60A.23, subdivision 8, is amended to read:

Subd. 8. [SELF-INSURANCE OR INSURANCE PLAN ADMINISTRATORS; WHO ARE VENDORS OF RISK MANAGEMENT SERVICES.]

(1) [SCOPE.] This subdivision applies to any vendor of risk management services and to any entity which administers, for compensation, a self-insurance or insurance plan. This subdivision does not apply (a) to an insurance company authorized to transact insurance in this state, as defined by section 60A.06, subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for its employees' benefits; or (e) to an entity which administers a program of health benefits established pursuant to a collective bargaining agreement between an employer, or group or association of employers, and a union or unions.

(2) [DEFINITIONS.] For purposes of this subdivision the following terms have the meanings given them.

(a) "Administering a self-insurance or insurance plan" means (i) processing, reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii) otherwise providing necessary administrative services in connection with the operation of a self-insurance or insurance plan.

(b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

(c) "Entity" means any association, corporation, partnership, sole proprietorship, trust, or other business entity engaged in or transacting business in this state.

(d) "Self-insurance or insurance plan" means a plan providing life, medical or hospital care, accident, sickness or disability insurance, as an employee fringe benefit, or a plan providing liability coverage for any other risk or hazard, which is or is not directly insured or provided by a licensed insurer, service plan corporation, or health maintenance organization.

(e) "Vendor of risk management services" means an entity providing for compensation actuarial, financial management, accounting, legal or other services for the purpose of designing and establishing a self-insurance or insurance plan for an employer.

(3) [LICENSE.] No vendor of risk management services or entity administering a self-insurance or insurance plan may transact this business in this state unless it is licensed to do so by the commissioner. 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 may be granted only when the commissioner is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The com-

missioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee is \$100. All licenses are for a period of two years.

(4) [REGULATORY RESTRICTIONS; POWERS OF THE COMMISSIONER.] To assure that self-insurance *or insurance* plans are financially solvent, are administered in a fair and equitable fashion, and are processing claims and paying benefits in a prompt, fair, and honest manner, vendors of risk management services and entities administering *insurance or self-insurance* plans are subject to the supervision and examination by the commissioner. Vendors of risk management services, entities administering *insurance or self-insurance* plans, and *insurance or self-insurance* plans established or operated by them are subject to the trade practice requirements of sections 72A.19 to 72A.30.

(5) [RULE MAKING AUTHORITY.] To carry out the purposes of this subdivision, the commissioner may adopt rules, including emergency rules, pursuant to sections 14.01 to ~~14.70~~ 14.69. These rules may:

(a) establish reporting requirements for administrators of *insurance or self-insurance* plans;

(b) establish standards and guidelines to assure the adequacy of financing, reinsuring, and administration of *insurance or self-insurance* plans;

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

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

Sec. 15. Minnesota Statutes 1986, section 60A.29, subdivision 2, is amended to read:

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

Sec. 16. Minnesota Statutes 1986, section 60A.29, subdivision 5, is amended to read:

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

Sec. 17. Minnesota Statutes 1986, section 60A.29, subdivision 16, is amended to read:

Subd. 16. [REINSURANCE.] Authorized trust funds may insure or reinsure their obligations and liabilities with:

(1) insurance companies authorized to do business in Minnesota, pursuant to section 60A.06; ~~or with;~~

(2) *insurance* companies similarly authorized in any other state of the United States;

(3) *insurance companies not authorized in Minnesota or any other state if the unauthorized insurance company establishes reinsurance security in favor of the ceding trust fund conforming to the general rules for allowance of reinsurance credits stated in the Financial Condition Examiners Handbook adopted by the National Association of Insurance Commissioners; or*

(4) *other trust funds organized under this section or under similar laws of any other state if the reinsuring trust fund establishes reinsurance security as specified in clause (3) in favor of the ceding trust fund.*

Sec. 18. Minnesota Statutes 1986, section 60A.29, is amended by adding a subdivision to read:

Subd. 22. [FOREIGN TRUST FUNDS.] *A trust fund organized and existing under the laws of another state for the sole purpose of indemnifying nonprofit beneficiary organizations and their officers, directors, and agents for financial loss due to the imposition of legal liability or for damage or destruction of property, as provided in subdivisions 2 and 4, may apply to the commissioner for authority to operate within this state, provided that:*

(1) *the trust fund has been continuously in operation for a period of not less than five years prior to the date it applies for authorization under this subdivision, during which period it must have issued only nonassessable indemnification agreements to its beneficiaries, and during each of those years the trust fund received not less than \$1,000,000 in contributions from beneficiaries for protections afforded by the trust fund;*

(2) *the trust fund has been authorized by and is subject to regulation and examination by the department of insurance of its domiciliary state;*

(3) *the trust fund must file with the commissioner its trust agreement, bylaws or plan of operation, schedule of benefits, forms of indemnification agreements, and contribution schedules applicable to beneficiaries in this state;*

(4) *the trust fund must be governed by a board of not fewer than five trustees, all of whom must be elected by the beneficiaries of the trust fund, and none of whom may receive compensation for service as a trustee;*

(5) *the trust fund has, as of the last day of the calendar year immediately prior to its application for authority, a net fund balance surplus of not less than \$1,000,000, as evidenced by its financial statements certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied; and*

(6) *the trust fund must, upon and at all times after authorization by the commissioner, maintain a registered office within this state.*

Sec. 19. Minnesota Statutes 1986, section 60A.29, is amended by adding a subdivision to read:

Subd. 23. [STANDARDS FOR AUTHORIZATION.] *Within 60 days after receipt of the documents specified under subdivision 22 and supporting evidence which establishes compliance with the standards set forth under that subdivision, the commissioner shall grant to the trust fund a certificate of authority to conduct operations in this state. The operations in this state are subject to the limitations and standards set forth in subdivisions 4 to 22 of this section. In the event an authorized foreign trust fund violates*

one of those subdivisions or the rules of the commissioner applicable to foreign trust funds, the commissioner may suspend or revoke the certificate of authority.

Sec. 20. Minnesota Statutes 1986, section 60A.29, is amended by adding a subdivision to read:

Subd. 24. [RULES.] The commissioner may adopt rules to enforce and administer requirements of sections 18 and 19.

Sec. 21. Minnesota Statutes 1986, section 60A.30, is amended to read:

60A.30 [RENEWAL OF INSURANCE POLICY WITH ALTERED RATES.]

If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least ~~30~~ 60 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the ~~30-day~~ 60-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance, and reinsurance.

This section does not apply if the change relates to guide "a" rates or excess rates also known as "consent to rates."

Sec. 22. Minnesota Statutes 1986, section 60A.31, is amended to read:

60A.31 [MIDTERM CANCELLATION WORKER'S COMPENSATION INSURANCE.]

In addition to the requirements of Minnesota Statutes 1984, section 176.185, subdivision 1, ~~no~~ a policy of insurance issued to cover the liability to pay compensation under Minnesota Statutes 1984, chapter 176, shall be ~~canceled by the insurer within the policy period unless the insurer has also complied with the requirements of such rules as the commissioner of commerce may adopt in regard to the cancellation of commercial liability and/or commercial property insurance policies~~ comply with sections 60A.30 and 60A.35 to 60A.38.

Sec. 23. [60A.35] [SCOPE.]

Except as specifically limited in section 60A.30, sections 23 to 26 apply to all commercial liability and/or property insurance policies issued by companies licensed to do business in this state except ocean marine insurance, accident and health insurance, excess insurance, surplus lines insurance, and reinsurance.

Sec. 24. [60A.36] [MIDTERM CANCELLATION.]

Subdivision 1. [REASON FOR CANCELLATION.] No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

(1) nonpayment of premium;

(2) misrepresentation or fraud made by or with the knowledge of the

insured in obtaining the policy or in pursuing a claim under the policy;

(3) actions by the insured that have substantially increased or substantially changed the risk insured;

(4) refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;

(5) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract;

(6) loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. A notice of cancellation under this clause shall advise the policyholder that the policyholder has ten days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within five business days after receipt of the appeal;

(7) a determination by the commissioner that the continuation of the policy could place the insurer in violation of the insurance laws of this state; or

(8) nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing the insurance. This provision for cancellation for failure to pay dues does not apply to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Subd. 2. [NOTICE.] *Cancellation under subdivision 1, clauses (2) to (8), shall not be effective before 60 days after notice to the policyholder. The notice of cancellation shall contain a specific reason for cancellation as provided in subdivision 1.*

A policy shall not be canceled for nonpayment of premium pursuant to subdivision 1, clause (1), unless the insurer, at least ten days before the effective cancellation date, has given notice to the policyholder of the amount of premium due and the due date. The notice shall state the effect of nonpayment by the due date. No cancellation for nonpayment of premium shall be effective if payment of the amount due is made before the effective date in the notice.

Subd. 3. [NEW POLICIES.] *Subdivisions 1 and 2 do not apply to any insurance policy that has not been previously renewed if the policy has been in effect less than 90 days at the time the notice of cancellation is mailed or delivered. No cancellation under this subdivision is effective until at least ten days after the written notice to the policyholder.*

Subd. 4. [LONGER TERM POLICIES.] *A policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer for the reasons stated in subdivision 1 by giving notice as required by subdivision 2 at least 60 days before any anniversary date.*

Sec. 25. [60A.37] [NONRENEWAL.]

Subdivision 1. [NOTICE REQUIRED.] *At least 60 days before the date*

of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date must be made to the policyholder by the insurer. If the notice is not given at least 60 days before the date of expiration provided in the policy, the policy shall continue in force until 60 days after a notice of intent not to renew is received by the policyholder.

Subd. 2. [EXCEPTIONS.] This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

Sec. 26. [60A.38] [INTERPRETATION AND PENALTIES.]

Subdivision 1. [SECTIONS NOT EXCLUSIVE.] Sections 23 to 26 are not exclusive, and the commissioner may also consider other provisions of Minnesota law to be applicable to the circumstances or situations addressed by sections 23 to 26. The rights provided by sections 23 to 26 are in addition to and do not prejudice any other rights the policyholder may have at common law, under statute, or rules.

Subd. 2. [PENALTIES.] A violation of any provisions of sections 23 to 26 shall be deemed to be an unfair trade practice in the business of insurance and shall subject the violator to the penalties provided by sections 72A.17 to 72A.32 in addition to any other penalty provided by law.

Subd. 3. [NOTICES REQUIRED.] All notices required by sections 23 to 26 shall only be made by first class mail addressed to the policyholder's last known address or by delivery to the policyholder's last known address. Notice by first class mail is effective upon deposit in the United States mail. In addition to giving notice to the policyholder, the insurer must also give notice to the agent of record, if any, in the manner specified for the policyholder.

Sec. 27. Minnesota Statutes 1986, section 60B.44, subdivision 1, is amended to read:

Subdivision 1. [DEDUCTIBLE PROVISION.] The distribution of claims from the insurer's estate shall be in the order stated in this section with a descending degree of preference for each subdivision. ~~The first \$50 of the amount allowed on each claim in the classes under subdivisions 3 to 7 shall be deducted from the claim and included in the class under subdivision 9. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision,~~ Every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

Sec. 28. Minnesota Statutes 1986, section 60B.44, subdivision 4, is amended to read:

Subd. 4. [LOSS CLAIMS; INCLUDING CLAIMS NOT COVERED BY A GUARANTY ASSOCIATION.] All claims under policies or contracts of coverage for losses incurred including third party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies or contracts, ~~except the first \$200 of losses otherwise payable to any claimant under this subdivision.~~ All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. ~~Claims may not be cumulated by assignment to avoid application of the \$200 deductible provision.~~ That portion of any loss for which

indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employee shall be treated as a gratuity. *Claims not covered by a guaranty association are loss claims. If any portion of a claim is covered by a reinsurance treaty or similar contractual obligation, that claim shall be entitled to a pro rata share, based upon the relationship the claim amount bears to all claims payable under the treaty or contract, of the proceeds received under that treaty or contractual obligation.*

Claims receiving pro rata payments shall not, as to any remaining unpaid portion of their claim, be treated in a different manner than if no such payment had been received.

Sec. 29. Minnesota Statutes 1986, section 60B.44, subdivision 5, is amended to read:

Subd. 5. [UNEARNED PREMIUMS AND SMALL LOSS CLAIMS.] Claims under nonassessable policies or contracts of coverage for unearned premiums or subscription rates or other refunds ~~and the first \$200 of loss excepted by the deductible provision in subdivision 4.~~

Sec. 30. Minnesota Statutes 1986, section 60B.44, subdivision 9, is amended to read:

Subd. 9. [MISCELLANEOUS SUBORDINATED CLAIMS.] The remaining claims or portions of claims not already paid, with interest as in subdivision 8.

(a) ~~The first \$50 of each claim in the classes under subdivisions 3 to 7 subordinated under this section;~~

(b) Claims under section 60B.39, subdivision 2;

(c) Claims subordinated by section 60B.61;

(d) Except to the extent excused or otherwise permitted pursuant to section 60B.37, claims filed late;

(e) Portions of claims subordinated under subdivision 6; and

(f) Claims or portions of claims payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

Sec. 31. Minnesota Statutes 1986, section 60C.08, subdivision 1, is amended to read:

Subdivision 1. The board of directors of the association shall consist of nine persons. *Two of the directors shall be public members and seven shall be insurer members. The public members shall be appointed by the commissioner. Public members may include licensed insurance agents. The insurer members of the board shall be selected by association members subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. The term of appointment for all members is two years.*

Sec. 32. Minnesota Statutes 1986, section 60C.09, is amended to read:

60C.09 [COVERED CLAIMS.]

Subdivision 1. [DEFINITION.] A covered claim is any unpaid claim,

including one for unearned premium, which:

(a) (1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) *Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:*

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of Laws 1971, chapter 145 by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under (i), (ii) or (iii).

For purposes of paragraph (c), item (i), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date.

Subd. 2. [LIMITATION OF AMOUNT.] Payment of a covered claim, *except a claim for unearned premium by any single claimant, whether upon a single policy or multiple policies of insurance*, is limited to the amount by which the allowance on any claim exceeds \$100 and is less than \$300,000. *In the case of claim for unearned premium, the entire claim up to \$300,000*

shall be allowed. The limitation on the amount of payment for a covered claim does not apply to claims for workers' compensation insurance. In no event is the association obligated to the policyholder or claimant in an amount in excess of the obligation of the insurer under the policy from which the claim arises.

Sec. 33. Minnesota Statutes 1986, section 60C.12, is amended to read:

60C.12 [APPEAL AND REVIEW.]

Subdivision 1. [APPEAL.] A claimant whose claim has been declared to be not covered or reduced by the board under section 60C.10 may appeal to the board within 30 days after the claimant has been notified of the board's decision and of the rights of the claimant under this section.

Subd. 2. [REVIEW.] Decisions of the board under subdivision 1 are subject to ~~judicial review~~ *appeal to the commissioner of commerce who may overturn, affirm, or modify the board's actions or take other action the commissioner considers appropriate.*

The appeal to the commissioner must be in the manner provided in chapter 14.

Subd. 3. [JUDICIAL REVIEW.] *A final action or order of the commissioner under this subdivision is subject to judicial review in the manner provided by chapter 14. In lieu of the appeal to the commissioner under subdivision 2, a claimant may seek judicial review of the board's actions.*

Sec. 34. [60F01] [ESTABLISHMENT.]

Any three or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure for any property and/or casualty or automobile liability. Joint plans must meet all conditions and terms of this chapter.

Sec. 35. [60F02] [EXCESS STOP-LOSS COVERAGE.]

A joint self-insurance plan must include aggregate excess stop-loss coverage and individual 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 the excess claims of incurred, unpaid claim liability even in the event of plan termination. The joint plan must bear the risk of coverage for any member of the pool that becomes insolvent with outstanding contribution due by providing a surety bond from a Minnesota licensed surety in the amount of one year's contribution. 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 the excess coverage limits 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 chapter and respond within a 30-day period. An excess or stop-loss insurance plan must be noncancelable for a minimum term of one year.

Sec. 36. [60F03] [LIMITATION ON ADMINISTRATIVE SERVICES.]

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.

Sec. 37. [60F04] [APPLICABILITY OF PROVISIONS.]

A joint self-insurance plan is subject to the requirements of the applicable parts of chapters 60A, 65A, 65B, 72B, and 72C, and section 72A.20, unless otherwise specifically exempt. A joint self-insurance plan must offer a plan which complies with all applicable rules and statutes.

Sec. 38. [60F05] [FUND MANAGEMENT.]

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

(a) 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.

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

(c) 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.

(d) 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.

Sec. 39. [60F06] [RULES.]

The commissioner of commerce shall adopt rules, including emergency rules, to ensure the solvency and operation of all self-insured plans subject to this chapter. The commissioner may examine the joint self-insurance plans pursuant to sections 60A.03 and 60A.031.

Sec. 40. [60F07] [REVENUE FEE.]

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 general fund.

Sec. 41. [60F08] [APPLICABILITY.]

A joint self-insurance plan is not an insurer for purposes of chapter 60C.

Sec. 42. [61A.092] [CONTINUATION OF COVERAGE FOR LIFE INSURANCE.]

Subdivision 1. [CONTINUATION OF COVERAGE.] Every group insurance policy issued or renewed within this state after August 1, 1987, providing coverage for life insurance benefits shall contain a provision that permits covered employees who are voluntarily or involuntarily terminated or laid off from their employment, if the policy remains in force

for any active employee of the employer, to elect to continue the coverage for themselves and their dependents.

An employee is considered to be laid off from employment if there is a reduction in hours to the point where the employee is no longer eligible for coverage under the group life insurance policy. Termination does not include discharge for gross misconduct.

Subd. 2. [RESPONSIBILITY OF EMPLOYEE.] Every covered employee electing to continue coverage shall pay the employee's former employer, on a monthly basis, the cost of the continued coverage. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated employees with respect to whom neither termination nor layoff has occurred, without respect to whether such cost is paid by the employer or employee. The employee is eligible to continue the coverage until the employee obtains coverage under another group policy, or for a period of 18 months after the termination or layoff from employment, whichever is shorter.

Subd. 3. [NOTICE OF OPTIONS.] Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee of:

- (1) the employee's right to elect to continue the coverage;
- (2) the amount the employee must pay monthly to the employer to retain the coverage;
- (3) the manner in which and the office of the employer to which the payment to the employer must be made; and
- (4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice must be in writing and sent by first class certified mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$. . . at . . . by the . . . of each month."

Subd. 4. [RESPONSIBILITY OF EMPLOYER AND INSURER.] If the employer fails to notify a covered employee of the options set forth in subdivision 3, or if after timely receipt of the monthly payment from a covered employee the employer fails to make the payment to the insurer, with the result that the employee's coverage is terminated, the employer is still liable for the employee's coverage to the same extent as the insurer would be if the coverage were still in effect.

Subd. 5. [CONVERSION TO INDIVIDUAL POLICY.] A group insurance policy that provides posttermination or layoff coverage as required by this section must also include a provision allowing a covered employee,

surviving spouse, or dependent at the expiration of the posttermination or layoff coverage provided by subdivision 2 to obtain from the insurer offering the group policy, at the employee's, spouse's, or dependent's option and expense, without further evidence of insurability and without interruption of coverage, an individual policy of insurance contract providing the same or substantially similar benefits.

A policy providing reduced benefits at a reduced premium rate may be accepted by the employee, the spouse, or a dependent in lieu of the coverage otherwise required by this subdivision.

Sec. 43. Minnesota Statutes 1986, section 61A.28, subdivision 12, is amended to read:

Subd. 12. [ADDITIONAL INVESTMENTS.] Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds \$675,000. Provided, however, that a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), may not exceed ten percent of the common stock of the corporation. Provided, further, that no investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph (f), with the written order of the commissioner. This approval is at the discretion of the commissioner. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph (f), or this subdivision.

Sec. 44. Minnesota Statutes 1986, section 61B.09, is amended to read:

61B.09 [DUTIES AND POWERS OF THE COMMISSIONER.]

(a) *Subdivision 1.* The commissioner shall:

(1) Notify the board of directors of the existence of an impaired insurer within three days after a determination of impairment is made or the commissioner receives notice of impairment;

(2) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member

insurer; and

(3) When an impairment is declared and the amount determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders. The failure of the insurer to promptly comply with the demand shall not excuse the association from performance under sections 61B.01 to 61B.16.

(b) *Subd. 2.* The commissioner may, after notice and hearing, suspend or revoke the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. A forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month.

(c) *Subd. 3.* Any action of the board of directors or the association may be appealed to the commissioner by any member insurer within 30 days of the occurrence notice of the action. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction, in the manner provided by chapter 14. *In lieu of the appeal to the commissioner under this subdivision, a claimant may seek judicial review of the board's actions.*

(d) *Subd. 4.* The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of sections 61B.01 to 61B.16.

Sec. 45. Minnesota Statutes 1986, section 62A.041, is amended to read:
62A.041 [MATERNITY BENEFITS; UNMARRIED WOMEN.]

Each group policy of accident and health insurance and each group health maintenance contract shall provide the same coverage for maternity benefits to unmarried women and minor female dependents that it provides to married women including the wives of employees choosing dependent family coverage. If an unmarried insured or an unmarried enrollee is a parent of a dependent child, each group policy and each group contract shall provide the same coverage for that child as that provided for the child of a married employee choosing dependent family coverage if the insured or the enrollee elects dependent family coverage.

Each individual policy of accident and health insurance and each individual health maintenance contract shall provide the same coverage for maternity benefits to unmarried women and minor female dependents as that provided for married women. If an unmarried insured or an unmarried enrollee is a parent of a dependent child, each individual policy and each individual contract shall also provide the same coverage for that child as that provided for the child of a married insured or a married enrollee choosing dependent family coverage if the insured or the enrollee elects dependent family coverage.

Except for policies which only provide coverage for specified diseases, each group subscriber contract of accident and health insurance or health maintenance contract, issued or renewed after August 1, 1987, shall include maternity benefits in the same manner as any other illness covered under the policy or contract.

For the purposes of this section, the term "maternity benefits" shall not

include elective, induced abortion whether performed in a hospital, other abortion facility, or the office of a physician.

This section applies to policies and contracts issued, delivered, or renewed after August 1, 1985, that cover Minnesota residents.

Sec. 46. Minnesota Statutes 1986, section 62A.043, is amended by adding a subdivision to read:

Subd. 3. Except for policies which only provide coverage for specified diseases, no policy or certificate of health, medical, hospitalization, or accident and sickness insurance regulated under this chapter, or subscriber contract provided by a nonprofit health service plan corporation regulated under chapter 62C, or health maintenance organization regulated under chapter 62D, shall be issued, renewed, continued, delivered, issued for delivery, or executed in this state after August 1, 1987, unless the policy, plan, or contract specifically provides coverage for surgical and nonsurgical treatment of temporomandibular joint disorder and craniomandibular disorder. Coverage shall be the same as that for treatment to any other joint in the body, and shall apply if the treatment is administered or prescribed by a physician or dentist.

Sec. 47. Minnesota Statutes 1986, section 62A.141, is amended to read:

62A.141 [COVERAGE FOR HANDICAPPED DEPENDENTS.]

No group policy or plan of health and accident insurance regulated under this chapter, chapter 62C, or 62D, which provides for dependent coverage may be issued or renewed in this state after August 1, 1983, unless it covers the handicapped dependents of the insured, subscriber, or enrollee of the policy or plan. *Consequently, the policy or plan shall not contain any provision concerning preexisting condition limitations, insurability, eligibility, or health underwriting approval concerning handicapped dependents.*

If ordered by the commissioner of commerce, the insurer of a Minnesota-domiciled nonprofit association which is composed solely of agricultural members may restrict coverage under this section to apply only to Minnesota residents.

Sec. 48. Minnesota Statutes 1986, section 62A.146, is amended to read:

62A.146 [CONTINUATION OF BENEFITS TO SURVIVORS.]

No policy or plan of accident and health protection issued by an insurer, nonprofit health service plan corporation, or health maintenance organization, providing coverage of hospital or medical expense on either an expense incurred basis or other than an expense incurred basis which in addition to coverage of the insured, subscriber, or enrollee, also provides coverage to dependents, shall, except upon the written consent of the survivor or survivors of the deceased insured, subscriber or enrollee, terminate, suspend or otherwise restrict the participation in or the receipt of benefits otherwise payable under the policy or plan to the survivor or survivors until the earlier of the following dates:

(a) the date of ~~remarriage~~ of the surviving spouse *becomes covered under another group health plan; or*

(b) the date coverage would have terminated under the policy or plan had the insured, subscriber, or enrollee lived.

The survivor or survivors, in order to have the coverage and benefits

extended, may be required to pay the entire cost of the protection *on a monthly basis. In no event shall the amount of premium or fee contributions charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children who are not the survivors of a deceased insured, without regard to whether such cost is paid by the employer or employee.* Failure of the survivor to make premium or fee payments within 90 days after notice of the requirement to pay the premiums or fees shall be a basis for the termination of the coverage without written consent. In event of termination by reason of the survivor's failure to make required premium or fee contributions, written notice of cancellation must be mailed to the survivor's last known address at least 30 days before the cancellation. If the coverage is provided under a group policy or plan, any required premium or fee contributions for the coverage shall be paid by the survivor to the group policyholder or contract holder for remittance to the insurer, nonprofit health service plan corporation, or health maintenance organization.

Sec. 49. Minnesota Statutes 1986, section 62A.152, subdivision 2, is amended to read:

Subd. 2. [MINIMUM BENEFITS.] All group policies and all group subscriber contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage, ~~to on the same basis as coverage for other benefits for at least the extent of~~ 80 percent of the first \$750 of the cost of the usual and customary charges of the first ten hours of treatment incurred over a 12-month benefit period, for mental or nervous disorder consultation, diagnosis and treatment services delivered while the insured person is not a bed patient in a hospital, and at least 75 percent of the cost of the usual and customary charges for any additional hours of treatment during the same 12-month benefit period for serious and persistent mental or nervous disorders, if the services are furnished by (1) a licensed or accredited hospital, (2) a community mental health center or mental health clinic approved or licensed by the commissioner of human services or other authorized state agency, or (3) a licensed consulting psychologist licensed under the provisions of sections 148.87 to 148.98, or a psychiatrist licensed under chapter 147. *Prior authorization from an accident and health insurance company, or a nonprofit health service corporation, shall be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may not exceed a maximum of 30 visit hours during any 12-month benefit period.*

For purposes of this section, covered treatment for a minor shall include treatment for the family if family therapy is recommended by a provider listed above in item (1), (2) or (3).

Sec. 50. Minnesota Statutes 1986, section 62A.17, is amended to read:

62A.17 [TERMINATION OF OR LAYOFF FROM EMPLOYMENT.]

Subdivision 1. [CONTINUATION OF COVERAGE.] Every group insurance policy, group subscriber contract, and health care plan included within the provisions of section 62A.16, except policies, contracts, or health care plans covering employees of an agency of the federal government, shall contain a provision which permits every ~~eligible~~ covered employee who is voluntarily or involuntarily terminated or laid off from employment, if the

policy, contract, or health care plan remains in force for active employees of the employer, to elect to continue the coverage for the employee and dependents.

An employee shall be considered to be laid off from employment if there is a reduction in hours to the point where the employee is no longer eligible under the policy, contract, or health care plan. Termination shall not include discharge for gross misconduct.

Subd. 2. [RESPONSIBILITY OF EMPLOYEE.] Every ~~eligible covered~~ employee electing to continue coverage shall pay the former employer, on a monthly basis, the cost of the continued coverage. If the policy, contract, or health care plan is administered by a trust, every ~~eligible covered~~ employee electing to continue coverage shall pay the trust the cost of continued coverage according to the eligibility rules established by the trust. *In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for similarly situated employees with respect to whom neither termination nor layoff has occurred, without regard to whether such cost is paid by the employer or employee.* The employee shall be eligible to continue the coverage until ~~reemployed and eligible for health care coverage under a group policy, contract, or plan sponsored by the same or another employer the employee becomes covered under another group health plan,~~ or for a period of ~~±~~ 18 months after the termination of or lay off from employment, whichever is shorter.

Subd. 3. [ELIGIBILITY FOR CONTINUED COVERAGE.] An employee shall be eligible to make the election for the employee and dependents provided for in subdivision 1 if:

(a) ~~In the period preceding the termination of or lay off from employment, the employee and dependents were covered through employment by a group insurance policy, subscriber's contract, or health care plan included within the provisions of section 62A.16;~~

(b) ~~The termination of or lay off from employment was for reasons other than the discontinuance of the business, bankruptcy, or the employee's disability or retirement.~~

Subd. 4. [RESPONSIBILITY OF EMPLOYER.] After timely receipt of the monthly payment from ~~an eligible a covered~~ employee, if the employer, or the trustee, if the policy, contract, or health care plan is administered by a trust, fails to make the payment to the insurer, nonprofit health service plan corporation, or health maintenance organization, with the result that the employee's coverage is terminated, the employer or trust shall become liable for the employee's coverage to the same extent as the insurer, nonprofit health service plan corporation, or health maintenance organization would be if the coverage were still in effect.

In the case of a policy, contract or plan administered by a trust, the employer must notify the trustee within 30 days of the termination or layoff of a covered employee of the name and last known address of the employee.

If the employer or trust fails to notify a covered employee, the employer or trust shall continue to remain liable for the employee's coverage to the same extent as the insurer would be if the coverage were still in effect.

Subd. 5. [NOTICE OF OPTIONS.] Upon the termination of or lay off from employment of an eligible employee, the employer shall inform the employee within ten days after termination or lay off of:

- (a) the right to elect to continue the coverage;
- (b) the amount the employee must pay monthly to the employer to retain the coverage;
- (c) the manner in which and the office of the employer to which the payment to the employer must be made; and
- (d) the time by which the payments to the employer must be made to retain coverage.

If the policy, contract, or health care plan is administered by a trust, the employer is relieved of the obligation imposed by clauses (a) to (d). The trust shall inform the employee of the information required by clauses (a) to (d).

The employee shall have 60 days within which to elect coverage. The 60-day period shall begin to run on the date plan coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice ~~may~~ must be in writing and sent by first class mail to the employee's last known address which the employee has provided the employer or trust. ~~If the employer or trust fails to so notify the employee who is properly enrolled in the program, the employee shall have the option to retain coverage if the employee makes this election within 60 days of the date terminated or laid off by making the proper payment to the employer or trust to provide continuous coverage.~~

A notice in substantially the following form shall be sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group medical insurance for a period of up to ~~12~~ 18 months. To do so you must notify your former employer within ~~ten~~ 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$. . . to . . . at . . . by the . . . of each month."

Subd. 6. [CONVERSION TO INDIVIDUAL POLICY.] A group insurance policy that provides posttermination or layoff coverage as required by this section shall also include a provision allowing a covered employee, surviving spouse, or dependent at the expiration of the posttermination or layoff coverage provided by subdivision 2 to obtain from the insurer offering the group policy or group subscriber contract, at the employee's, spouse's, or dependent's option and expense, without further evidence of insurability and without interruption of coverage, an individual policy of insurance or an individual subscriber contract providing at least the minimum benefits of a qualified plan as prescribed by section 62E.06 and the option of a number three qualified plan, a number two qualified plan, and a number one qualified plan as provided by section 62E.06, subdivisions 1 to 3, *provided application is made to the insurer within 30 days following notice of the expiration of the continued coverage and upon payment of the appropriate premium.* The required conversion contract must treat pregnancy the same as any other covered illness under the conversion contract. A health maintenance contract issued by a health maintenance organization that provides posttermination or layoff coverage as required by this section shall also include a provision allowing a former employee, surviving spouse, or dependent at the expiration of the posttermination or layoff coverage provided in subdivision 2 to obtain from the health maintenance organization, at the former employee's, spouse's, or dependent's option and expense, without further evidence of insurability and without interruption of cov-

erage, an individual health maintenance contract. Effective January 1, 1985, enrollees who have become nonresidents of the health maintenance organization's service area shall be given the option, to be arranged by the health maintenance organization, of a number three qualified plan, a number two qualified plan, or a number one qualified plan as provided by section 62E.06, subdivisions 1 to 3 if an arrangement with an insurer can reasonably be made by the health maintenance organization. This option shall be made available at the enrollee's expense, without further evidence of insurability and without interruption of coverage.

A policy providing reduced benefits at a reduced premium rate may be accepted by the employee, the spouse, or a dependent in lieu of the optional coverage otherwise required by this subdivision.

The individual policy or contract shall be renewable at the covered under another qualified plan as defined in section 62E.02, subdivision 4, up to age 65 or to the day before the date of eligibility for coverage under title XVIII of the Social Security Act, as amended. Any revisions in the table of rate for the individual policy shall apply to the covered person's original age at entry and shall apply equally to all similar policies issued by the insurer.

Sec. 51. [62A.20] [COVERAGE OF CURRENT SPOUSE AND CHILDREN.]

Subdivision 1. [REQUIREMENT.] Every policy of accident and health insurance providing coverage of hospital or medical expense on either an expense-incurred basis or other than an expense-incurred basis, which in addition to covering the insured also provides coverage to the spouse and dependent children of the insured shall contain:

(1) a provision which permits the spouse and dependent children to elect to continue coverage when the insured becomes enrolled for benefits under Title XVIII of the Social Security Act (Medicare); and

(2) a provision which permits the dependent children to continue coverage when they cease to be dependent children under the generally applicable requirement of the plan.

Subd. 2. [CONTINUATION PRIVILEGE.] The coverage described in subdivision 1 may be continued until the earlier of the following dates:

(1) the date coverage would otherwise terminate under the policy;

(2) 36 months after continuation by the spouse or dependent was elected;
or

(3) the spouse or dependent children become covered under another group health plan.

If coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured on a monthly basis to the group policyholder for remittance to the insurer. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouse and dependent children to whom subdivision 1 is not applicable, without regard to whether such cost is paid by the employer or employee.

Sec. 52. Minnesota Statutes 1986, section 62A.21, is amended to read:

62A.21 [CONVERSION PRIVILEGES FOR INSURED FORMER

SPOUSES AND CHILDREN.]

Subdivision 1. No policy of accident and health insurance providing coverage of hospital or medical expense on either an expense incurred basis or other than an expense incurred basis, which in addition to covering the insured also provides coverage to the spouse of the insured shall contain a provision for termination of coverage for a spouse covered under the policy solely as a result of a break in the marital relationship ~~except by reason of an entry of a valid decree of dissolution of marriage.~~

Subd. 2a. [CONTINUATION PRIVILEGE.] Every policy described in subdivision 1 shall contain a provision which permits continuation of coverage under the policy for the insured's former spouse and dependent children upon entry of a valid decree of dissolution of marriage; ~~if the decree requires the insured to provide continued coverage for those persons.~~ The coverage ~~may~~ shall be continued until the earlier of the following dates:

(a) The date of ~~remarriage of either the insured or the insured's former spouse becomes covered under any other group health plan;~~ or

(b) The date coverage would otherwise terminate under the policy.

If the coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured *on a monthly basis* to the group policyholder for remittance to the insurer. *In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee.*

Subd. 2b. [CONVERSION PRIVILEGE.] Every policy described in subdivision 1 shall contain a provision allowing a former spouse and dependent children of an insured, without providing evidence of insurability, to obtain from the insurer at the expiration of any continuation of coverage required under subdivision 2a or ~~section sections 62A.146 and 62A.20, or upon termination of coverage by reason of an entry of a valid decree of dissolution which does not require the insured to provide continued coverage for the former spouse and dependent children;~~ conversion coverage providing at least the minimum benefits of a qualified plan as prescribed by section 62E.06 and the option of a number three qualified plan, a number two qualified plan, a number one qualified plan as provided by section 62E.06, subdivisions 1 to 3, provided application is made to the insurer within 30 days following notice of the expiration of the continued coverage and upon payment of the appropriate premium. A policy providing reduced benefits at a reduced premium rate may be accepted by the former spouse and dependent children in lieu of the optional coverage otherwise required by this subdivision. The individual policy shall be renewable at the option of the former spouse as long as the former spouse is not covered under another qualified plan as defined in section 62E.02, subdivision 4, up to age 65 or to the day before the date of eligibility for coverage under Title XVIII of the Social Security Act, as amended. Any revisions in the table of rate for the individual policy shall apply to the former spouse's original age at entry, and shall apply equally to all similar policies issued by the insurer.

Subd. 3. Subdivision 1 applies to every policy of accident and health

insurance which is delivered, issued for delivery, renewed or amended on or after July 19, 1977.

Subdivisions 2a and 2b apply to every policy of accident and health insurance which is delivered, issued for delivery, renewed, or amended on or after August 1, 1981.

Sec. 53. Minnesota Statutes 1986, section 62A.27, is amended to read:
62A.27 [COVERAGE FOR ADOPTED CHILDREN.]

No individual or group policy or plan of health and accident insurance regulated under this chapter or chapter 64B, subscriber contract regulated under chapter 62C, or health maintenance contract regulated under chapter 62D, providing coverage for more than one person may be issued or renewed in this state after August 1, 1983, unless the policy, plan, or contract covers adopted children of the insured, subscriber, or enrollee on the same basis as other dependents. *Consequently, the policy or plan shall not contain any provision concerning preexisting condition limitations, insurability, eligibility, or health underwriting approval concerning adopted children.*

The coverage required by this section is effective from the date of placement for the purpose of adoption and continues unless the placement is disrupted prior to legal adoption and the child is removed from placement.

Sec. 54. [62A.28] [SURETY BOND OR SECURITY FOR CERTAIN HEALTH BENEFIT PLANS.]

Subdivision 1. [SURETY BOND OR SECURITY REQUIREMENT.] Any employer, except the state and its political subdivisions as defined in section 65B.43, subdivision 20, who provides a health benefit plan to its Minnesota employees, which is to some extent self-insured by the employer, and who purchases stop-loss insurance coverage, or any other insurance coverage, in connection with the health benefit plan, shall annually file with the commissioner, within 60 days of the end of the employer's fiscal year, security acceptable to the commissioner in an amount specified under subdivision 2, or a surety bond in the form and amount prescribed by subdivisions 2 and 3. An acceptable surety bond is one issued by a corporate surety authorized by the commissioner to transact this business in the state of Minnesota for the purposes of this section. The term "Minnesota employees" includes any Minnesota resident who is employed by the employer.

Subd. 2. [AMOUNT OF SURETY BOND OR SECURITY.] The amount of surety bond or acceptable security required by subdivision 1 shall be equal to one-fourth of the projected annual medical and hospital expenses to be incurred by the employer or \$1,000, whichever is greater, with respect to its Minnesota employees by reason of the portion of the employer's health benefit plan which is self-insured by the employer.

Subd. 3. [FORM OF THE SURETY BOND.] The surety bond shall provide as follows:

SURETY BOND

KNOW ALL PERSONS BY THESE PRESENTS: That (entity to be bonded), of (location), (hereinafter called the "principal"), as principal, 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 Minnesota residents entitled to health benefits from the principal in the

sum of (\$. . .), for the payment of which well and truly to be made, the principal binds itself, its successor and assigns, and the surety binds itself and its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, in accordance with section (. . .) of the Minnesota Statute, principal is required to file a surety bond with the commissioner of commerce of the state of Minnesota.

NOW, THEREFORE, the condition of this obligation is such that if the said principal shall, according to the terms, provisions, and limitations of principals' health benefit program for its Minnesota employees, pay all of its liabilities and obligations, including all benefits as provided in the attached plan, then, this obligation shall be null and void, otherwise to remain in full force and effect, subject, however, to the following terms and conditions:

1. The liability of the surety is limited to the payment of the benefits of the employee benefit plan which are payable by the principal and within the amount of the bond. The surety shall be bound to payments owed by the principal for obligations arising from a default of the principal or any loss incurred during the period to which the bond applies.

2. In the event of any default on the part of the principal to abide by the terms and provision of the attached plan, the commissioner of commerce may, upon ten-days notice to the surety and opportunity to be heard, require the surety to pay all of the principal's past and future obligations under the attached plan with respect to the principal's Minnesota employees.

3. Service on the surety shall be deemed to be service on the principals.

4. This bond shall be in effect from . . . to . . . , and may not be canceled by either the surety or the principal.

5. Any Minnesota employee of principal aggrieved by a default of principal under the attached plan, and/or the commissioner of commerce on behalf of any such employee, may enforce the provisions of this bond.

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

IN TESTIMONY WHEREOF, said principals 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

Bonding Company Name

By:

Subd. 4. [PENALTY FOR FAILURE TO COMPLY.] The commissioner of revenue shall deny any business tax deduction to an employer for the employer's contribution to a health plan for the period which the employer fails to comply with this section. This section does not apply to trusts established under chapter 62H which have been approved by the commissioner.

Subd. 5. [PETITION TO REDUCE BOND OR SECURITY AMOUNT.] An employer subject to this section may petition the commissioner to, and the commissioner may, allow the use of a surety bond not in the form

specified in subdivision 3, or grant a reduction in the amount of the surety bond or security required.

In reviewing a petition submitted under this subdivision, the commissioner must consider, in addition to any other factors, information provided by the petitioner in regard to the following:

- (1) the size of the petitioner's business;*
- (2) the number of employees;*
- (3) the cost of providing the bond or security and the effect the cost will have on the petitioner's financial condition;*
- (4) whether the cost of the bond or security will impair the petitioner's ability to self-insure; and*
- (5) the petitioner's likelihood of being able to meet the petitioner's future obligations in regard to the health plan.*

Sec. 55. Minnesota Statutes 1986, section 62A.31, subdivision 1a, is amended to read:

Subd. 1a. [APPLICATION TO CERTAIN POLICIES.] The requirements of sections 62A.31 to 62A.44 shall not apply to disability income protection insurance policies, long-term care policies issued pursuant to sections 62A.46 to 62A.56, or group policies of accident and health insurance which do not purport to supplement medicare issued to any of the following groups:

(a) A policy issued to an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage.

(b) A policy issued to a labor union or similar employee organization.

(c) A policy issued to an association, a trust or the trustee of a fund established, created or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 100 persons; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have a constitution and bylaws which provide that (1) the association or associations hold regular meetings not less frequently than annually to further purposes of the members, (2) except for credit unions, the association or associations collect dues or solicit contributions from members, ~~and~~ (3) the members have voting privileges and representation on the governing board and committees, *and (4) the members are not, within the first 30 days of membership, directly solicited, offered, or sold a long-term care policy or Medicare supplement policy if the policy is available as an association benefit. This clause does not prohibit direct solicitations, offers, or sales made exclusively by mail.*

Sec. 56. Minnesota Statutes 1986, section 62A.43, subdivision 2, is amended to read:

Subd. 2. [REFUNDS.] Notwithstanding the provisions of section 62A.38, an insurer which issues a medicare supplement plan to any person who has one plan then in effect, except as permitted in subdivision 1, shall, at the request of the insured, either refund the premiums or pay any claims on the policy, whichever is greater. *Any refund of premium pursuant to this section or section 62A.38 shall be sent by the insurer directly to the insured within 15 days of the request by the insured.*

Sec. 57. Minnesota Statutes 1986, section 62A.43, is amended by adding a subdivision to read:

Subd. 4. [OTHER POLICIES NOT PROHIBITED.] The prohibition in this section against the sale of duplicate Medicare supplement coverage does not preclude the sale of insurance coverage, such as travel, accident, and sickness coverage, the effect or purpose of which is not to supplement Medicare coverage. Notwithstanding this provision, if the commissioner determines that the coverage being sold is in fact Medicare supplement insurance, the commissioner shall notify the insurer in writing of the determination. If the insurer does not thereafter comply with sections 62A.31 to 62A.44, the commissioner may, pursuant to chapter 14, revoke or suspend the insurer's authority to sell accident and health insurance in this state or impose a civil penalty not to exceed \$10,000, or both.

Sec. 58. Minnesota Statutes 1986, section 62A.46, is amended by adding a subdivision to read:

Subd. 11. [BENEFIT PERIOD.] "Benefit period" means one or more separate or combined periods of confinement covered by a long-term care policy in a nursing facility or at home while receiving home care services. A benefit period begins on the first day the insured receives a benefit under the policy and ends when the insured has received no benefits for the same or related cause for an interval of 180 consecutive days.

Sec. 59. Minnesota Statutes 1986, section 62A.48, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state, unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 62A.46 to 62A.56. A long-term care policy must cover medically prescribed long-term care in nursing facilities and at least the medically prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage under a long-term care policy AA must include: a maximum lifetime benefit limit of at least \$100,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums, and a requirement of prior hospitalization for up to one day may be imposed only for long-term care in a nursing facility. Coverage under a long-term care policy A must include: a maximum lifetime benefit limit of at least \$50,000 for services, nursing facility and home care coverages must not be subject to separate lifetime maximums, and a requirement of prior hospitalization for up to three days may be imposed for long-term care in a nursing facility or home care services. If long-term care policies require the policyholder to be admitted to a nursing facility or begin home care services within a specified period after discharge from a hospital, that period may be no less than 30 days.

Coverage under either policy designation must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage. Coverage under either policy designation may include a waiting period of up to 90 days before benefits are paid, but there must be no more than one waiting period per benefit period. No policy may exclude coverage for mental or nervous

disorders which have a demonstrable organic cause, such as Alzheimer's and related dementias. No policy may require the insured to meet a prior hospitalization test more than once during a single benefit period. The policy must include a provision that the plan will not be canceled or renewal refused except on the grounds of nonpayment of the premium, provided that the insurer may change the premium rate on a class basis on any policy anniversary date. Policy options include A provision that the policyholder may elect to have the premium paid in full at age 65 by payment of a higher premium up to age 65 *and may be offered.* A provision that the premium would be waived during any period in which benefits are being paid to the insured *during confinement in a nursing facility must be included.* A non-group policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

Sec. 60. Minnesota Statutes 1986, section 62A.48, subdivision 2, is amended to read:

Subd. 2. [PER DIEM COVERAGE.] If benefits are provided on a per diem basis, the minimum daily benefit for care in a nursing facility must be the lesser of \$60 or actual charges under a long-term care policy AA or the lesser of \$40 or actual charges under a long-term care policy A and the minimum daily benefit *per visit* for home care *under a long-term care policy AA or A* must be the lesser of \$25 or actual charges *under a long-term care policy AA or the lesser of \$25 or actual charges for nurse and therapy services and \$20 for home health aide and nonmedical services under a long-term care policy A.* If home care services are provided less frequently than daily, the minimum benefit is the lesser of actual charges or an amount determined by multiplying the number of days of the period during which services will be provided, or a reasonable interval of the service period, by \$25 and dividing the resulting amount by the number of days during this period on which home care services were rendered. The home care services benefit must cover at least seven paid visits per week.

Sec. 61. Minnesota Statutes 1986, section 62A.48, subdivision 6, is amended to read:

Subd. 6. [COORDINATION OF BENEFITS.] A long-term care policy ~~shall~~ *may* be secondary coverage for services provided under sections 62A.46 to 62A.56. Nothing in sections 62A.46 to 62A.56 shall require the secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

There shall be no coordination of benefits between a long-term care policy and a policy designed primarily to provide coverage payable on a per diem, fixed indemnity or nonexpense-incurred basis, or a policy that provides only accident coverage.

Sec. 62. Minnesota Statutes 1986, section 62A.48, is amended by adding a subdivision to read:

Subd. 7. [EXISTING POLICIES.] *Nothing in sections 62A.46 to 62A.56 prohibits the renewal of policies sold outside the state of Minnesota to persons who at the time of sale were not residents of the state of Minnesota.*

Sec. 63. Minnesota Statutes 1986, section 62A.50, subdivision 3, is

amended to read:

Subd. 3. [DISCLOSURES.] No long-term care policy shall be offered or delivered in this state, whether or not the policy is issued in this state, and no certificate of coverage under a group long-term care policy shall be offered or delivered in this state, unless a statement containing at least the following information is delivered to the applicant at the time the application is made:

(1) a description of the benefits and coverage provided by the policy and the differences between this policy, a supplemental medicare policy and the benefits to which an individual is entitled under parts A and B of medicare *and the differences between policy designations A and AA*;

(2) a statement of the exceptions and limitations in the policy including the following language, as applicable, in bold print: **"THIS POLICY DOES NOT COVER ALL NURSING CARE FACILITIES OR NURSING HOME OR HOME CARE EXPENSES AND DOES NOT COVER RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY."**;

(3) a statement of the renewal provisions including any reservation by the insurer of the right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

(5) an explanation of the policy's loss ratio including at least the following language: "This means that, on the average, policyholders may expect that \$. . . of every \$100 in premium will be returned as benefits to policyholders over the life of the contract."; and

(6) a statement of the out-of-pocket expenses, including deductibles and copayments for which the insured is responsible, and an explanation of the specific out-of-pocket expenses that may be accumulated toward any out-of-pocket maximum as specified in the policy.

Sec. 64. Minnesota Statutes 1986, section 62D.05, is amended by adding a subdivision to read:

Subd. 6. [SUPPLEMENTAL BENEFITS.] *A health maintenance organization may, as a supplemental benefit, provide coverage to its enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization. The commissioner may, pursuant to chapter 14, adopt, enforce, and administer rules relating to this subdivision, including: rules insuring that these benefits are supplementary and not substitutes for comprehensive health maintenance services; rules relating to protection against insolvency, including the establishment of necessary financial reserves; rules relating to appropriate standards for claims processing; rules relating to marketing practices; and other rules necessary for the effective and efficient administration of this subdivision. The commissioner, in adopting rules, shall give consideration to existing laws and rules administered and enforced by the department of commerce relating to health insurance plans. Except as otherwise provided by law, a health maintenance organization may not advertise, offer, or enter into contracts for the coverage described in this subdivision until 30 days after the effective date of rules adopted by the commissioner of health to implement this*

subdivision.

Sec. 65. Minnesota Statutes 1986, section 62D.102, is amended to read:
62D.102 [MINIMUM BENEFITS.]

In addition to minimum requirements established in other sections, all group health maintenance contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage for at least ten hours of treatment over a 12-month period with a copayment not to exceed the greater of \$10 or 20 percent of the applicable usual and customary charge for mental or nervous disorder consultation, diagnosis and treatment services delivered while the enrollee is not a bed patient in a hospital *and at least 75 percent of the cost of the usual and customary charges for any additional hours of ambulatory mental health treatment during the same 12-month benefit period for serious and persistent mental or nervous disorders.*

Prior authorization may be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may not exceed a maximum of 30 visit hours during any 12-month benefit period.

For purposes of this section, covered treatment for a minor shall include treatment for the family if family therapy is recommended by a health maintenance organization provider.

Sec. 66. Minnesota Statutes 1986, section 62E.06, subdivision 1, is amended to read:

Subdivision 1. [NUMBER THREE PLAN.] A plan of health coverage shall be certified as a number three qualified plan if it otherwise meets the requirements established by chapters 62A and 62C, and the other laws of this state, whether or not the policy is issued in Minnesota, and meets or exceeds the following minimum standards:

(a) The minimum benefits for a covered individual shall, subject to the other provisions of this subdivision, be equal to at least 80 percent of the cost of covered services in excess of an annual deductible which does not exceed \$150 per person. The coverage shall include a limitation of \$3,000 per person on total annual out-of-pocket expenses for services covered under this subdivision. The coverage shall be subject to a maximum lifetime benefit of not less than \$250,000.

The \$3,000 limitation on total annual out-of-pocket expenses and the \$250,000 maximum lifetime benefit shall not be subject to change or substitution by use of an actuarially equivalent benefit.

(b) Covered expenses shall be the usual and customary charges for the following services and articles when prescribed by a physician:

- (1) hospital services;
- (2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than ~~outpatient mental or~~ dental, which are rendered by a physician or at the physician's direction;
- (3) drugs requiring a physician's prescription;
- (4) services of a nursing home for not more than 120 days in a year if

the services would qualify as reimbursable services under medicare;

(5) services of a home health agency if the services would qualify as reimbursable services under medicare;

(6) use of radium or other radioactive materials;

(7) oxygen;

(8) anesthetics;

(9) prostheses other than dental;

(10) rental or purchase, as appropriate, of durable medical equipment other than eyeglasses and hearing aids;

(11) diagnostic X-rays and laboratory tests;

(12) oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

(13) services of a physical therapist; and

(14) transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition; or a reasonable mileage rate for transportation to a kidney dialysis center for treatment; and

(15) services of an occupational therapist.

(c) Covered expenses for the services and articles specified in this subdivision do not include the following:

(1) any charge for care for injury or disease either (i) arising out of an injury in the course of employment and subject to a workers' compensation or similar law, (ii) for which benefits are payable without regard to fault under coverage statutorily required to be contained in any motor vehicle, or other liability insurance policy or equivalent self-insurance, or (iii) for which benefits are payable under another policy of accident and health insurance, medicare or any other governmental program except as otherwise provided by law;

(2) any charge for treatment for cosmetic purposes other than for reconstructive surgery when such service is incidental to or follows surgery resulting from injury, sickness or other diseases of the involved part or when such service is performed on a covered dependent child because of congenital disease or anomaly which has resulted in a functional defect as determined by the attending physician;

(3) care which is primarily for custodial or domiciliary purposes which would not qualify as eligible services under medicare;

(4) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician, provided, however, that if the institution does not have semiprivate rooms, its most common semiprivate room charge shall be considered to be 90 percent of its lowest private room charge;

(5) that part of any charge for services or articles rendered or prescribed by a physician, dentist, or other health care personnel which exceeds the prevailing charge in the locality where the service is provided; and

(6) any charge for services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles.

(d) The minimum benefits for a qualified plan shall include, in addition to those benefits specified in clauses (a) and (e), benefits for well baby care, effective July 1, 1980, subject to applicable deductibles, coinsurance provisions, and maximum lifetime benefit limitations.

(e) Effective July 1, 1979, the minimum benefits of a qualified plan shall include, in addition to those benefits specified in clause (a), a second opinion from a physician on all surgical procedures expected to cost a total of \$500 or more in physician, laboratory and hospital fees, provided that the coverage need not include the repetition of any diagnostic tests.

(f) Effective August 1, 1985, the minimum benefits of a qualified plan must include, in addition to the benefits specified in clauses (a), (d), and (e), coverage for special dietary treatment for phenylketonuria when recommended by a physician.

(g) *Outpatient mental health coverage is subject to section 62A.152, subdivision 2.*

Sec. 67. Minnesota Statutes 1986, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] The board of directors of the association shall be made up of ~~seven individuals~~ *nine members as follows: five insurer directors* selected by participating members, subject to approval by the commissioner ~~and two; four public members appointed by the governor~~ *directors selected by the commissioner. Public members may include licensed insurance agents.* In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, or health maintenance contract payment derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the commissioner. In approving ~~members~~ *directors* of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. ~~Members of the board~~ *Insurer directors* may be reimbursed from the money of the association for expenses incurred by them as ~~members~~ *directors*, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

Sec. 68. Minnesota Statutes 1986, section 62E.10, is amended by adding a subdivision to read:

Subd. 2a. [APPEALS.] *A person may appeal to the commissioner within 30 days after notice of an action, ruling, or decision by the board.*

A final action or order of the commissioner under this subdivision is subject to judicial review in the manner provided by chapter 14.

In lieu of the appeal to the commissioner, a person may seek judicial review of the board's action.

Sec. 69. Minnesota Statutes 1986, section 62E.10, is amended by adding a subdivision to read:

Subd. 9. [EXPERIMENTAL DELIVERY METHOD.] The association may petition the commissioner of commerce for a waiver to allow the experimental use of alternative means of health care delivery. The commissioner may approve the use of the alternative means the commissioner considers appropriate. The commissioner may waive any of the requirements of chapters 60A, 62A, 62D, and 62E in granting the waiver. The commissioner may also grant to the association any additional powers as are necessary to facilitate the specific waiver.

This subdivision is effective until August 1, 1989.

Sec. 70. Minnesota Statutes 1986, section 62E.14, is amended by adding a subdivision to read:

Subd. 5. [TERMINATED EMPLOYEES.] An employee who is voluntarily or involuntarily terminated or laid off from employment and unable to exercise the option to continue coverage under section 62A.17 may enroll, within 60 days of termination or lay-off, with a waiver of the preexisting condition limitation set forth in subdivision 3 and a waiver of the evidence of rejection set forth in subdivision 1, paragraph (c).

Sec. 71. [62E.18] [HEALTH INSURANCE FOR RETIRED EMPLOYEES NOT ELIGIBLE FOR MEDICARE.]

A Minnesota resident who is age 65 or over and is not eligible for the health insurance benefits of the federal Medicare program is entitled to purchase the benefits of a qualified plan, one or two, offered by the Minnesota comprehensive health association without any of the limitations set forth in section 62E.14, subdivision 1, paragraph (c), and subdivision 3.

Sec. 72. Minnesota Statutes 1986, section 62F.041, subdivision 2, is amended to read:

Subd. 2. This section shall expire on June 30, 1987 1989.

Sec. 73. Minnesota Statutes 1986, section 62F.06, subdivision 1, is amended to read:

Subdivision 1. A policy issued by the association shall provide for a continuous period of coverage beginning with its effective date and terminating automatically at 12:01 a.m. on September 1, 1988, or sooner as provided in sections 62F.01 to 62F.14 may not extend beyond a period of one year from the date on which the authorization under section 62F.04 ends. The policy shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by section 62F.09. The policy shall be written to apply to claims first made against the insured and reported to the association during the policy period. No policy form shall be used by the association unless it has been filed with the commissioner, and the commissioner may disapprove the form within 30 days if the commissioner determines it is misleading or violates public policy.

Sec. 74. Minnesota Statutes 1986, section 62H.01, is amended to read:

62H.01 [JOINT SELF-INSURANCE EMPLOYEE HEALTH PLAN.]

Any three or more employers, excluding the state and its political subdivisions as described in 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure employee health, dental, or short-term disability benefits. Joint plans must have a minimum of 250 covered employees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Min-

nesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.

Sec. 75. Minnesota Statutes 1986, section 62H.02, is amended to read:

62H.02 [REQUIRED PROVISIONS.]

A joint self-insurance plan must include aggregate excess stop-loss coverage and individual 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 outstanding contribution due.~~ In addition, the plan of self-insurance must have participating employers fund an amount at least equal to the point at which the excess or stop-loss insurer ~~must~~ *has contracted to* 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 they meet the standards established by sections 62H.01 to 62H.08 and respond within a 30-day period. Any excess or stop-loss insurance plan ~~must be noncancelable for a minimum term of two years~~ *contain a provision that the excess or stop-loss insurer will give the plan and the commissioner of commerce a minimum of 180 days notice of termination or nonrenewal. If the plan fails to secure replacement coverage within 60 days after receipt of the notice of cancellation or nonrenewal, the commissioner shall issue an order providing for the orderly termination of the plan.*

Sec. 76. Minnesota Statutes 1986, section 62H.04, is amended to read:

62H.04 [COMPLIANCE WITH OTHER LAWS.]

A joint self-insurance plan is subject to the requirements of ~~chapter~~ *chapters* 62A, and 62E, and sections 72A.17 to 72A.32 unless otherwise specifically exempt. A joint self-insurance plan must not offer less than a number two qualified plan or its actuarial equivalent.

Sec. 77. Minnesota Statutes 1986, section 62I.02, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] The Minnesota joint underwriting association is created to provide insurance coverage to any person or entity unable to obtain insurance through ordinary methods if the insurance is required by statute, ordinance, or otherwise required by law, or is necessary to earn a livelihood or conduct a business and serves a public purpose. Prudent business practice or mere desire to have insurance coverage is not a sufficient standard for the association to offer insurance coverage to a person or entity. *For purposes of this subdivision, directors' and officers' liability insurance is considered to be a business necessity and not merely a prudent business practice.* The association shall be specifically authorized to provide insurance coverage to day care providers, foster parents, foster homes, developmental achievement centers, group homes, and sheltered workshops for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383.

Because the activities of certain persons or entities present a risk that is so great, the association shall not offer insurance coverage to any person or entity the board of directors of the association determines is outside the intended scope and purpose of the association because of the gravity of the risk of offering insurance coverage. The association shall not offer environmental impairment liability or product liability insurance. The association shall not offer coverage for activities that are conducted substantially outside the state of Minnesota unless the insurance is required by statute, ordinance, or otherwise required by law. Every insurer authorized to write property and casualty insurance in this state shall be a member of the association as a condition to obtaining and retaining a license to write insurance in this state.

Sec. 78. Minnesota Statutes 1986, section 62I.02, subdivision 3, is amended to read:

Subd. 3. [REAUTHORIZATION.] The authorization to issue insurance to day care providers, foster parents, foster homes, developmental activity centers, group homes, and sheltered workshops for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383, is valid for a period of two years from the date it was made. The commissioner may reauthorize the issuance of insurance *for these groups and other classes of business* for additional two-year periods pursuant to sections 62I.21 and 62I.22. This subdivision is not a limitation on the number of times the commissioner may reauthorize the issuance of insurance. ~~Insurance may not be offered pursuant to this section to persons or entities other than those listed in this subdivision after December 31, 1989.~~

Sec. 79. Minnesota Statutes 1986, section 62I.03, subdivision 5, is amended to read:

Subd. 5. [DEFICIT.] "Deficit" means, for a particular policy year ~~and line or type of insurance~~, that amount by which total paid and outstanding losses and loss adjustment expenses exceed premium revenue, including retrospective premium revenue.

Sec. 80. Minnesota Statutes 1986, section 62I.04, is amended to read:
62I.04 [POLICY ISSUANCE.]

Any person or entity that is a resident of the state of Minnesota who has a current ~~written~~ notice of refusal to insure from an insurer licensed to offer insurance in the state of Minnesota may make written application to the association for coverage. The applicable premium or required portion of it must be paid prior to coverage by the association.

The application shall be filed simultaneously with the association and the market assistance plan for the association.

The association is authorized to (1) issue or cause to be issued insurance policies to applicants subject to limits specified in the plan of operation; (2) underwrite the insurance and adjust and pay losses with respect to it, or appoint service companies to perform those functions; (3) assume reinsurance from its members; and (4) cede reinsurance.

Sec. 81. Minnesota Statutes 1986, section 62I.12, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATOR.] The association shall be administered by a qualified insurer or vendor of risk management services selected by the commissioner. If the commissioner deems it necessary, the commissioner may select more than one person to administer the association. *At the option of the board, employees may participate in the state retirement plan and the state deferred compensation plan for employees in the unclassified service, and an insurance plan administered by the commissioner of employee relations under chapter 43A.*

Sec. 82. Minnesota Statutes 1986, section 62I.13, is amended by adding a subdivision to read:

Subd. 6. Notwithstanding any order of the commissioner or inconsistent provisions of this chapter, the board of directors may decline to offer coverage to any class of business or a member of a class of business upon a reasonable underwriting basis.

Sec. 83. Minnesota Statutes 1986, section 62I.16, subdivision 3, is amended to read:

Subd. 3. [SUPERVISION.] All money paid into the fund shall be held in trust by the corporate trustee selected by the board of directors. The corporate trustee may invest the money held in trust subject to the approval of the board. All investment income shall be credited to the fund. All expenses of the administration of the fund shall be charged against the fund. The money held in trust shall be used solely for the purpose of discharging when due any retrospective premium charges payable by policyholders and any retrospective premium refunds payable to policyholders under the group retrospective rating plan. Payment of retrospective premium charges shall be made upon certification of the amount due. If all money accruing to the fund is exhausted in payment of retrospective premium charges, all liability and obligations of the association's policyholders with respect to the payment of retrospective premium charges shall terminate and shall be conclusively presumed to have been discharged. Any stabilization reserve fund charges from a particular policy year ~~and line or type of insurance~~ not used to pay retrospective premiums must be returned to policyholders after all claims and expense obligations from that particular policy year ~~and line or type of insurance~~ are satisfied.

Sec. 84. Minnesota Statutes 1986, section 62I.22, subdivision 2, is amended to read:

Subd. 2. [NOTICE.] The commissioner of commerce shall publish notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required. *The notice must contain a statement that anyone wishing to oppose activation beyond 180 days for any particular class, must file a petition to intervene with the administrative law judge at least ten days before the hearing date. If no notice to intervene is filed for a class, then the class is activated beyond the 180-day period without further action.*

Sec. 85. Minnesota Statutes 1986, section 62I.22, is amended by adding a subdivision to read:

Subd. 6. [CASE PRESENTATION.] The department of commerce, upon request by small businesses as defined by section 14.115, subdivision 1, shall assist small businesses in any specific class requesting continuation of coverage beyond the 180-day period, in coordinating the class and

presenting the case in the contested hearing.

Sec. 86. Minnesota Statutes 1986, section 64B.11, subdivision 4, is amended to read:

Subd. 4. [FILING OF AMENDMENTS BY FOREIGN OR ALIEN SOCIETY.] Every foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of, or additions to, its laws within 90 days after the enactment of same be subject to the requirements of section 72A.061, subdivision 2, as to amendments or additions to its bylaws.

Sec. 87. Minnesota Statutes 1986, section 64B.18, is amended to read:

64B.18 [BENEFITS NOT ATTACHABLE.]

Except as provided in chapter 256B, the money or other benefits, charity, relief, or aid to be paid, provided, or rendered by any society authorized to do business under this chapter shall, neither before nor after being paid, be liable to attachment, garnishment, or other process and shall not be ceased, taken, appropriated, or applied by any legal or equitable process or operation of laws to pay any debt or liability of a certificate holder or of any beneficiary named in the certificate, or of any person who may have any right thereunder. The cash value, proceeds, or benefits under any matured or unmatured life insurance or annuity contract issued before, on, or after the effective date of this section, by any society authorized to do business under this chapter, is exempt from attachment, garnishment, execution, or other legal process to the extent provided by section 550.37, subdivisions 10, 23, and 24.

Sec. 88. Minnesota Statutes 1986, section 64B.27, is amended to read:

64B.27 [ANNUAL LICENSE.]

Societies that are now authorized to transact business in this state may continue this business until the first day of June next succeeding August 1, 1985. The authority of the societies and all societies hereafter licensed, may thereafter be renewed annually, subject to section 60A.13, subdivisions 1, 5, 6, and 7. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner \$20. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 89. Minnesota Statutes 1986, section 65A.01, subdivision 3a, is amended to read:

Subd. 3a. [CANCELLATION.] (1) There shall be printed in the policy or an endorsement attached to the policy a printed form in the following words:

When this policy has been issued to cover buildings used for residential purposes other than a hotel or motel and has been in effect for at least six months 60 days, or if it has been renewed, this policy shall not be canceled, except for one or more of the following reasons which shall be stated in the notice of cancellation:

(a) Nonpayment of premium;

(b) Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim thereunder;

(c) An act or omission of the insured which materially increases the risk originally accepted;

(d) Physical changes in the insured property which are not corrected or restored within a reasonable time after they occur and which result in the property becoming uninsurable; or

(e) Nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing the insurance.

Provided, however, that this limitation on cancellation shall not apply to additional coverages in a divisible policy, other than a policy of fire and extended coverage insurance. If this company cancels the additional coverages, it may issue a new, separate fire policy at a premium calculated on a pro rata basis for the remaining period of the original policy.

(2) The provisions of clause (1)(e) shall not be included in the language of the policy or endorsement unless the payment of dues to an association or organization, other than an insurance association or organization, is a prerequisite to obtaining or continuing the insurance.

Sec. 90. Minnesota Statutes 1986, section 65A.03, subdivision 1, is amended to read:

65A.03 [BINDERS, TEMPORARY INSURANCE.]

Subdivision 1. [GENERALLY.] Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the terms of such standard fire insurance policy and all such applicable endorsements as may be designated in such contract of temporary insurance; except that the ~~cancellation clause of such standard fire insurance policy~~ and the clause specifying the hour of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

Sec. 91. Minnesota Statutes 1986, section 65A.10, is amended to read:

65A.10 [LIMITATION.]

Nothing contained in sections 65A.08 and 65A.09 shall be construed to preclude insurance against the cost, in excess of actual cash value at the time any loss or damage occurs, of actually repairing, rebuilding or replacing the insured property. *Subject to any applicable policy limits, where an insurer offers replacement cost insurance, the insurance must cover the cost of replacing, rebuilding, or repairing any loss or damaged property in accordance with the minimum code as required by state or local authorities. In the case of a partial loss, unless more extensive coverage is otherwise specified in the policy, this coverage applies only to the damaged portion of the property.*

Sec. 92. Minnesota Statutes 1986, section 65A.29, is amended by adding a subdivision to read:

Subd. 10. [RETURN OF UNEARNED PREMIUM.] Cancellation of a policy of homeowner's insurance pursuant to this section is not effective unless any unearned premium due the insured is returned to the insured with the notice of cancellation or is delivered or sent by mail to the insured so as to be received by the insured not later than the effective date of cancellation. If the premium has been paid by the insured's agent and debited to the agent's account with the company, upon cancellation, the

unearned premium must be credited to the agent's account with the company.

Sec. 93. Minnesota Statutes 1986, section 65A.35, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATION.] (1) The facility shall be administered by a governing ~~committee board of five members~~ *nine directors, five of whom are elected annually* by the members of the facility; and four ~~additional members who represent the public~~. *Public directors may include licensed insurance agents. Public directors are appointed by the commissioner, at least three of whom shall be public members.* At least one elected member of the governing ~~committee~~ *director* shall be a domestic stock insurer, and at least one elected member of the governing ~~committee~~ *director* shall be a domestic nonstock insurer. In the election of ~~members of the governing committee directors~~, each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as its degree of participation in the facility bears to the total participation. ~~Pending the determination of the degree of participation of the members in the facility, each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as each member's written premium on basic property insurance during calendar year 1968 bears to the statewide total written premium for basic property insurance during such year. The first governing committee shall be elected at a meeting of the members or their authorized representatives.~~

(2) Any vacancy among the elected ~~members on the governing committee directors~~ shall be filled by a vote of the other elected ~~members of the governing committee directors~~.

(3) If at any time the ~~members~~ *directors* fail to elect the required number of members to the ~~governing committee board~~, or a vacancy remains unfilled for more than 15 days, the commissioner may appoint the members necessary to constitute a full ~~governing committee board of directors~~.

(4) *Vacancies among directors appointed by the commissioner shall be filled by appointment by the commissioner. A person so appointed serves until the end of the term of the member they are replacing.*

(5) *All directors serve for a period of two years. The terms of all directors begin on January 1 of the year their appointment begins.*

(6) *The plan of operation must provide for adequate compensation of directors. A per diem amount and a procedure for reimbursement of expenses incurred in the discharge of their duties must be included in the plan. Directors whose employers compensate them while serving on the board or who would submit their compensation to their employer are not eligible for compensation under the plan.*

Sec. 94. [65A.375] [RATES FOR COOPERATIVE HOUSING AND NEIGHBORHOOD REAL ESTATE TRUST INSURANCE.]

The commissioner shall set the insurance rates for cooperative housing, organized under chapter 308, and for neighborhood real estate trusts, characterized as nonprofit ownership of real estate with resident control. The rates must be actuarially sound.

Sec. 95. Minnesota Statutes 1986, section 65A.39, is amended to read:
65A.39 [RIGHT OF APPEAL.]

(a) Any applicant or participating insurer shall have the right of appeal to the ~~governing committee~~ *board of directors*, which shall promptly determine ~~said~~ the appeal. A decision of the ~~committee~~ *board* may be appealed to the commissioner within 30 days from *notice of* the action or decision ~~of the committee, and~~. The commissioner shall promptly determine ~~said~~ the appeal. Each denial of insurance shall be accompanied by a statement that the applicant has the right of appeal to the ~~governing committee~~ *board* and the commissioner and setting forth the procedures to be followed for ~~such~~ the appeal. *A final action of the commissioner is subject to judicial review as provided in chapter 14.*

(b) *In lieu of the appeal to the commissioner under paragraph (a), an applicant or insurer may seek judicial review of the board's action.*

Sec. 96. Minnesota Statutes 1986, section 65B.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP] The commissioner shall direct that an election be held among every insurer subject to this chapter, for the election of ~~a insurer representatives on the facility governing committee~~. The governing committee shall be made up of ~~eight~~ *nine* individuals ~~selected, five of whom shall be elected by participating members of the facility and one public member appointed by the governor to two-year terms four who shall be public members. Public members may include licensed insurance agents. The public members shall be appointed by the commissioner.~~ Each insurer member of the governing committee shall be a participating member. *The term of office for members of the governing committee is two years.*

Each participating member serving on the governing committee shall be represented by a salaried employee of that participating member, and not more than one participating member in a group under the same management shall serve on the governing committee at the same time. ~~The commissioner of commerce or a designee shall be an ex officio member of the governing committee.~~

Sec. 97. Minnesota Statutes 1986, section 65B.12, is amended to read:

65B.12 [RIGHT TO HEARING; CONSTRUCTION OF PLAN OF OPERATION.]

Subdivision 1. Any participating member, applicant or person insured under a policy placed through the facility may request a formal hearing and ruling by the governing committee on any alleged violation of the plan of operation or any alleged improper act or ruling of the facility ~~directly affecting its assessment, premium or coverage furnished, provided that such right to hearing shall not apply to any claim arising out of insurance provided by any participating member. Such~~ *The request for hearing must be filed within 30 days after the date of the alleged act or decision.*

Subd. 2. The plan of operation shall provide for prompt and fair hearings, and shall prescribe the procedure to be followed in ~~such~~ the hearings.

Subd. 3. Any formal ruling by the governing committee may be appealed to the commissioner by filing notice of appeal with the facility and the commissioner within 30 days after issuance of the ruling. ~~Such a~~ *The* hearing shall be governed by the procedures for contested cases.

Subd. 4. Upon a hearing pursuant to ~~Laws 1971, chapter 813~~ *chapter 14*, the commissioner shall issue an order approving or disapproving the action or decision of the governing committee or directing the governing

committee to reconsider the ruling.

Subd. 4a. In lieu of the appeal to the commissioner, a member, applicant, or person may seek judicial review of the governing committee's action.

Subd. 5. The plan of operation shall be interpreted to conform to the laws of this state with respect to automobile insurance coverage and any changes ~~therein in the laws~~, unless the facility is specifically excluded from the applicability of ~~such these~~ laws.

Sec. 98. Minnesota Statutes 1986, section 65B.1311, is amended to read:

65B.1311 [COVERAGE FOR FORMER SPOUSE.]

Subdivision 1. [NEW POLICY ISSUED.] ~~If the former spouse of a named insured under a policy of private passenger vehicle insurance applies within 60 days of entry of a valid decree of dissolution of the marriage and the former spouse was an insured driver under the policy for at least 12 months prior to entry of the decree, the insurer must issue a policy, upon payment of the appropriate premium, to the former spouse only on the basis of the driving record applicable to the former spouse and any person who is to be an insured, as defined in section 65B.43, under the policy to be issued, provided the person or persons to be insured meets the insurer's eligibility standards. An insurer must issue a policy of private passenger insurance to the former spouse of a named insured, within the provisions of subdivision 2 of this section, if the following conditions are met:~~

(1) the former spouse has been an insured driver under the former policy for at least the six months immediately preceding the entry of a valid decree of dissolution of marriage;

(2) the former spouse makes application for a policy before the end of the policy period or within 60 days after the entry of the decree of dissolution of marriage, whichever is later;

(3) the appropriate premium is paid; and

(4) the former spouse and any person or persons who are to be an insured, as defined in section 65B.43, meets the insurer's eligibility standards for renewal policies.

Subd. 2. [NAMED INSURED.] A named insured under a policy of private passenger vehicle insurance shall have the premium determined at the first and any subsequent renewals of the policy after entry of a valid decree of dissolution of the marriage of the named insured only on the basis of the driving record *and rating classification* applicable to the named insured and any person who is to be an insured, as defined in section 65B.43, under the policy to be renewed.

Sec. 99. Minnesota Statutes 1986, section 65B.15, subdivision 1, is amended to read:

Subdivision 1. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. Nonpayment of premium; or
2. The policy was obtained through a material misrepresentation; or
3. Any insured made a false or fraudulent claim or knowingly aided or

abetted another in the presentation of such a claim; or

4. The named insured failed to disclose fully motor vehicle accidents and moving traffic violations of the named insured for the preceding 36 months if called for in the written application; or

5. The named insured failed to disclose in the written application any requested information necessary for the acceptance or proper rating of the risk; or

6. The named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against the named insured, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or

7. The named insured or any other operator who either resides in the same household, *unless the other operator is identified by name in any other policy as an insured*; or customarily operates an automobile insured under such policy:

(a) has, within the 36 months prior to the notice of cancellation, had that person's driver's license under suspension or revocation; or

(b) is or becomes subject to epilepsy or heart attacks, and such individual does not produce a written opinion from a physician testifying to that person's medical ability to operate a motor vehicle safely, such opinion to be based upon a reasonable medical probability; or

(c) has an accident record, conviction record (criminal or traffic), physical condition or mental condition, any one or all of which are such that the person's operation of an automobile might endanger the public safety; or

(d) has been convicted, or forfeited bail, during the 24 months immediately preceding the notice of cancellation for criminal negligence in the use or operation of an automobile, or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or leaving the scene of an accident without stopping to report; or making false statements in an application for a driver's license, or theft or unlawful taking of a motor vehicle; or

(e) has been convicted of, or forfeited bail for, one or more violations within the 18 months immediately preceding the notice of cancellation, of any law, ordinance, or rule which justify a revocation of a driver's license.

8. The insured automobile is:

(1) so mechanically defective that its operation might endanger public safety; or

(2) used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

(3) used in the business of transportation of flammables or explosives; or

(4) an authorized emergency vehicle; or

(5) subject to an inspection law and has not been inspected or, if inspected, has failed to qualify within the period specified under such inspection law;

or

(6) substantially changed in type or condition during the policy period, increasing the risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car or so as to give clear evidence of a use other than the original use.

Sec. 100. Minnesota Statutes 1986, section 65B.16, is amended to read:

65B.16 [STATEMENT OF REASONS FOR CANCELLATION OR REDUCTION.]

No notice of cancellation or reduction in the limits of liability of coverage of an automobile insurance policy under section 65B.15 shall be effective unless the specific underwriting or other reason or reasons for such cancellation or reduction in the limits of liability of coverage are stated in such notice and the notice is mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation; provided, however, that when nonpayment of premium is the reason for cancellation or when the company is exercising its right to cancel insurance which has been in effect for less than 60 days at least ten days notice of cancellation, *and the reasons for the cancellation, shall be given. Information regarding moving traffic violations or motor vehicle accidents must be specifically requested on the application in order for a company to use those incidents to exercise its right to cancel within the first 59 days of coverage.* When nonpayment of premiums is the reason for cancellation, the reason must be given to the insured with the notice of cancellation; and if the company is exercising its right to cancel within the first 59 days of coverage and notice is given with less than ten days remaining in the 59-day period, the coverage must be extended, to expire ten days after notice was mailed.

Sec. 101. [65B.162] [NOTICE OF POSSIBLE CANCELLATION.]

A written notice shall be provided to all applicants for private passenger insurance, at the time the application is submitted, containing the following language in bold print: "THE INSURER MAY ELECT TO CANCEL COVERAGE AT ANY TIME DURING THE FIRST 59 DAYS FOLLOWING ISSUANCE OF THE COVERAGE FOR ANY REASON WHICH IS NOT SPECIFICALLY PROHIBITED BY STATUTE."

Sec. 102. Minnesota Statutes 1986, section 65B.21, subdivision 2, is amended to read:

Subd. 2. Upon receipt of a written objection pursuant to the provisions herein, the commissioner ~~shall~~ *may* notify the insurer of receipt of such objection and of the right of the insurer to file a written response thereto within ten days of receipt of such notification. The commissioner may also order an investigation of the objection or complaint, the submission of additional information by the insured or the insurer about the action by the insurer or the objections of the insured, or such other procedure as the commissioner deems appropriate or necessary. Within 23 days of receipt of such written objection by an insured the commissioner shall approve or disapprove the insurer's action and shall notify the insured and insurer of the final decision. Either party may institute proceedings for judicial review of the commissioner's decision; provided, however, that the commissioner's final decision shall be binding pending judicial review.

Sec. 103. Minnesota Statutes 1986, section 65B.28, is amended to read:

65B.28 [ACCIDENT PREVENTION COURSE PREMIUM]

REDUCTIONS.]

Subdivision 1. [REQUIRED REDUCTION.] An insurer must provide an appropriate premium reduction of *at least ten percent* on its policies of private passenger vehicle insurance, as defined in section 65B.001, subdivision 2, issued, delivered, or renewed in this state after January 1, 1985, to insureds 65 55 years old and older who successfully complete an accident prevention course established under subdivision 2.

Subd. 2. [ACCIDENT PREVENTION COURSE; RULES.] The commissioner of public safety shall, by January 1, 1985, adopt rules establishing and regulating a motor vehicle accident prevention course for persons 65 55 years old and older. The rules must, at a minimum, include provisions:

- (1) establishing curriculum requirements;
- (2) establishing the number of hours required for successful completion of the course;
- (3) providing for the issuance of a course completion certification and requiring its submission to an insured as evidence of completion of the course; and
- (4) requiring persons 65 55 years old and older to retake the course every three years to remain eligible for a premium reduction.

Sec. 104. Minnesota Statutes 1986, section 65B.46, is amended to read:
65B.46 [RIGHT TO BENEFITS.]

Subdivision 1. If the accident causing injury occurs in this state, every person suffering loss from injury arising out of maintenance or use of a motor vehicle *or as a result of being struck as a pedestrian by a motorcycle* has a right to basic economic loss benefits.

Subd. 2. If the accident causing injury occurs outside this state in the United States, United States possessions, or Canada, the following persons and their surviving dependents suffering loss from injury arising out of maintenance or use of a motor vehicle *or as a result of being struck as a pedestrian by a motorcycle* have a right to basic economic loss benefits:

- (1) Insureds, and
- (2) the driver and other occupants of a secured vehicle, other than (a) a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership, or (b) a vehicle owned by a government other than this state, its political subdivisions, municipal corporations, or public agencies. The reparation obligor may, if the policy expressly states, extend the basic economic loss benefits to any stated area beyond the limits of the United States, United States possessions and Canada.

Subd. 3. For the purposes of sections 65B.41 to 65B.71, injuries suffered by a person while on, mounting or alighting from a motorcycle do not arise out of the maintenance or use of a motor vehicle although a motor vehicle is involved in the accident causing the injury.

Sec. 105. Minnesota Statutes 1986, section 65B.48, subdivision 1, is amended to read:

Subdivision 1. Every owner of a motor vehicle of a type which is required

to be registered or licensed or is principally garaged in this state shall maintain during the period in which operation or use is contemplated a plan of reparation security under provisions approved by the commissioner, insuring against loss resulting from liability imposed by law for injury and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the vehicle. The plan of reparation security shall provide for basic economic loss benefits and residual liability coverage in amounts not less than those specified in section 65B.49, subdivision 3, clauses (1) and (2). The nonresident owner of a motor vehicle which is not required to be registered or licensed, or which is not principally garaged in this state, shall maintain such security in effect continuously throughout the period of the operation, maintenance or use of such motor vehicle within this state with respect to accidents occurring in this state; *such security shall include coverage for property damage to a motor vehicle rented or leased within this state by a nonresident.*

Sec. 106. Minnesota Statutes 1986, section 65B.49, is amended by adding a subdivision to read:

Subd. 5a. [RENTAL VEHICLES.] (a) No plan of reparation security may be issued or renewed after August 1, 1987, unless the plan provides that all coverages under the plan are extended to any motor vehicle while being rented by the named insured. The plan must also provide that all or any part of the obligation of the named insured for property damage to a rented vehicle would be covered by the collision or comprehensive portion of the plan. The plan must provide that any deductible will not apply to claims that arise while a motor vehicle is being rented by a named insured.

(b) A vehicle is rented for purposes of this subdivision if the rate for the use of the vehicle is determined on a weekly or daily basis. A vehicle is not rented for purposes of this subdivision if the rate for the vehicle's use is determined on a monthly or longer period or the vehicle is rented principally for business purposes.

(c) The policy or certificate issued by the plan must inform the insured of the application of the plan to rental vehicles and that the insured may not need to purchase additional coverage from the rental company.

(d) Where an insured has two or more plans of reparation security containing the rented motor vehicle coverage required under paragraph (a), claims must be made against the plan covering the motor vehicle most often driven by the insured.

(e) A notice advising the insured of rental vehicle coverage must be given to each current insured with the first renewal notice after January 1, 1988. The notice must be approved by the commissioner of commerce. The commissioner may specify the form of the notice. A form approved by the commissioner must be reasonably calculated to put the insured on notice of the coverage.

(f) When a motor vehicle is rented or leased in this state, the rental contract must contain a written notice in at least ten-point bold type, if printed, or in capital letters, if typewritten, which states:

Under Minnesota law, a personal automobile insurance policy issued in Minnesota must cover the rental of a motor vehicle unless the rental is principally for business use or rented on a monthly or longer basis. Therefore, purchase of any collision damage waiver or other insurance affected in this rental contract may not be necessary if your policy was

issued in Minnesota.

No collision damage waiver or other insurance offered as part of or in conjunction with a rental of a motor vehicle may be sold unless the person renting the vehicle provides a written acknowledgment that the above consumer protection notice has been read and understood.

Sec. 107. [65B.491] [SENIOR CITIZENS.]

After August 1, 1987, no plan of reparation security issued to or renewed with a person who has attained the age of 65 years may provide coverage for wage loss reimbursement that the insured will not reasonably be expected to be able to receive. It is the responsibility of the person issuing or renewing the plan to inquire as to the applicability of this section. The rate for any plan for which coverage has been excluded or reduced pursuant to this section must be reduced accordingly. This section does apply to self-insurance.

Sec. 108. Minnesota Statutes 1986, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. The supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to arbitration of all cases at issue where ~~a the claim at the commencement of arbitration is in an amount of \$5,000 or less is made by a motor vehicle accident victim, whether in an action to recover economic loss or noneconomic detriment for the allegedly negligent operation, maintenance, or use of a motor vehicle within this state, or against any insured's reparation obligor for benefits as provided in sections 65B.41 to 65B.71 for no-fault benefits or comprehensive or collision damage coverage.~~

Sec. 109. Minnesota Statutes 1986, section 65B.63, subdivision 1, is amended to read:

Subdivision 1. Reparation obligors providing basic economic loss insurance in this state shall organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan, and adopt rules for their operation and for the assessment of costs on a fair and equitable basis consistent with sections 65B.41 to 65B.71. The assigned claims bureau shall be managed by a governing committee made up of four individuals selected by the insurer members, one individual selected by the self-insurer members, and two public members appointed by the governor to two-year terms. *Public members may include licensed insurance agents.* If such obligors do not organize and continuously maintain an assigned claims bureau and an assigned claims plan in a manner considered by the commissioner of commerce to be consistent with sections 65B.41 to 65B.71, the commissioner shall organize and maintain an assigned claims bureau and an assigned claims plan. Each reparation obligor providing basic economic loss insurance in this state shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the reparation obligors.

A ruling, action, or decision of the governing committee may be appealed to the commissioner within 30 days. A final action or order of the commissioner is subject to judicial review in the manner provided by chapter 14. In lieu of an appeal to the commissioner, judicial review of the governing committee's ruling, action, or decision may be sought.

Sec. 110. Minnesota Statutes 1986, section 67A.05, subdivision 2, is amended to read:

Subd. 2. [FILING OF BYLAWS AND AMENDMENTS THERETO.] Every township mutual fire insurance company doing business within this state shall ~~cause a copy of its bylaws to be certified to by its president and its secretary and file the same with the commissioner and thereafter every amendment to the bylaws of any township mutual fire insurance company, duly certified to by its president and its secretary, shall within a reasonable time after its adoption be filed in the office of the commissioner be subject to the requirements of section 72A.061, subdivision 2, as to amendments or additions to its bylaws.~~

Sec. 111. Minnesota Statutes 1986, section 67A.06, is amended to read:

67A.06 [POWERS OF CORPORATION.]

Every corporation formed under the provisions of sections 67A.01 to 67A.26, shall have power:

- (1) To have succession by its corporate name for the time stated in its certificate of incorporation;
- (2) To sue and be sued in any court;
- (3) To have and use a common seal and alter the same at pleasure;
- (4) To acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purpose of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation;
- (5) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, fix their compensation, and define their powers and duties;
- (6) To make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs;
- (7) To wind up and liquidate its business in the manner provided by chapter 60B; and
- (8) To indemnify certain persons against expenses and liabilities as provided in section ~~300.082~~ 300.083. In applying section ~~300.082~~ 300.083 for this purpose, the term "members" shall be substituted for the terms "shareholders" and "stockholders."

Sec. 112. Minnesota Statutes 1986, section 67A.231, is amended to read:

67A.231 [DEPOSIT OF FUNDS; INVESTMENT; LIMITATIONS.]

The directors of any township mutual insurance company may authorize the treasurer to invest any of its funds and accumulations in:

- (a) Bonds, notes, mortgages, or other obligations guaranteed by the full faith and credit of the United States of America and those for which the credit of the United States is pledged to pay principal, interest or dividends, including United States agency and instrumentality bonds, debentures, or obligations;
- (b) Bonds, notes, evidence of indebtedness, or other public authority obligations guaranteed by this state;

(c) Bonds, notes, evidence of the indebtedness or other obligations guaranteed by the full faith and credit of any county, municipality, school district, or other duly authorized political subdivision of this state;

(d) Bonds or other interest bearing obligations, payable from revenues, provided that the bonds or other interest bearing obligations are at the time of purchase rated among the highest four quality categories used by a nationally recognized rating agency for rating the quality of similar bonds or other interest bearing obligations, and are not rated lower by any other such agency; or obligations of a United States agency or instrumentality that have been determined to be investment grade (as indicated by a "yes" rating) by the Securities Valuation Office of the National Association of Insurance Commissioners. This is not applicable to bonds or other interest bearing obligations in default as to principal;

(e) Investments in the obligations stated in paragraphs (a), (b), (c), and (d), may be made either directly or in the form of securities of, or other interests in, an investment company registered under the Federal Investment Company Act of 1940. Investment company shares authorized pursuant to this subdivision shall not exceed 20 percent of the company's surplus. These obligations must be carried at the lower of cost or market on the annual statement filed with the commissioner and adjusted to market on an annual basis;

(f) Loans upon improved and unencumbered real property in this state worth at least twice the amount loaned thereon, not including buildings, unless insured by property insurance policies payable to and held by the security holder;

(g) Real estate, including land, buildings and fixtures, located in this state and used primarily as home office space for the insurance company;

(h) Demand or time deposits or savings accounts in federally insured depositories located in this state to the extent that the deposit or investment is insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Corporation, or the National Credit Union Administration;

(i) Guarantee fund certificates of a mutual insurer which reinsures the business of the township mutual insurance company. The commissioner may by rule limit the amount of guarantee fund certificates which the township mutual insurance company may purchase and this limit may be a function of the size of the township mutual insurance company; and

(j) Up to \$1,500 in stock of an insurer which issues directors and officers liability insurance to township mutual insurance company directors and officers.

Sec. 113. Minnesota Statutes 1986, section 70A.06, is amended by adding a subdivision to read:

Subd. 1a. Whenever an insurer files a change in a rate that will result in a 25 percent or more increase in a 12-month period over existing rates, the commissioner may hold a hearing to determine if the change is excessive. The hearing must be conducted under chapter 14. The commissioner must give notice of intent to hold a hearing within 60 days of the filing of the change. It shall be the responsibility of the insurer to show the rate is not excessive. The rate is effective unless it is determined as a result of the hearing that the rate is excessive.

Sec. 114. Minnesota Statutes 1986, section 70A.08, subdivision 3, is

amended to read:

Subd. 3. ~~Until January 1, 1988,~~ The commissioner may restrict approval on claims-made policies to forms filed by a rate service organization which have been approved.

Sec. 115. [72A.125] [RENTAL VEHICLE PERSONAL ACCIDENT INSURANCE; SPECIAL REQUIREMENTS.]

Subdivision 1. [DEFINITION.] (a) "Auto rental company" means a corporation, partnership, individual, or other person that is engaged primarily in the renting of motor vehicles at per diem rates.

(b) "Rental vehicle personal accident insurance" means accident only insurance providing accidental death benefits, dismemberment benefits and/or reimbursement for medical expenses which is issued by an insurer authorized in this state to issue accident and health insurance. These coverages are nonqualified plans under chapter 62E.

Subd. 2. [SALE BY AUTO RENTAL COMPANIES.] An auto rental company that offers or sells rental vehicle personal accident insurance in this state in conjunction with the rental of a vehicle shall only sell these products if the forms and rates have met the relevant requirements of section 62A.02, taking into account the possible infrequency and severity of loss that may be incurred. Sections 60A.17 and 60A.1701 do not apply if the persons engaged in the sale of these products are employees of the auto rental company who do not receive commissions or other remuneration for selling the product in addition to their regular compensation. Compensation may not be determined in any part by the sale of insurance products. The auto rental company before engaging in the sale of the product must file with the commissioner the following documents:

- (1) an appointment of the commissioner as agent for service of process;*
- (2) an agreement that the auto rental company assumes all responsibility for the authorized actions of all unlicensed employees who sell the insurance product on its behalf in conjunction with the rental of its vehicles;*
- (3) an agreement that the auto rental company with respect to itself and its employees will be subject to this chapter regarding the marketing of the insurance products and the conduct of those persons involved in the sale of insurance products in the same manner as if it were a licensed agent.*

An auto rental company failing to file the documents in clauses (1) to (3) is guilty of an individual violation as to the unlicensed sale of insurance for each sale that occurs after the effective date of this section until they make the required filings. Each individual sale after the effective date of this section and prior to the filing required by this section is subject to, in addition to any other penalties allowable by law, up to a \$100 per violation fine. Further, the sale of the insurance product by an auto rental company or any employee or agent of the company after the effective date of this section without having complied with this section shall be deemed to be in acceptance of the provisions of this section.

Insurance sold pursuant to this subdivision must be limited in availability to rental vehicle customers though coverage may extend to the customer, other drivers, and passengers using or riding in the rented vehicles; and limited in duration to a period equal to and concurrent with that of the vehicle rental.

Persons purchasing rental vehicle personal accident insurance may be provided a certificate summarizing the policy provisions in lieu of a copy of the policy if a copy of the policy is available for inspection at the place of sale and a free copy of the policy may be obtained from the auto rental company's home office.

The commissioner may, after a hearing, revoke an auto rental company's right to operate under this section if the company has repeatedly violated the insurance laws of this state and the revocation is in the public interest.

Sec. 116. Minnesota Statutes 1986, section 72A.20, subdivision 11, is amended to read:

Subd. 11. [APPLICATION TO CERTAIN SECTIONS.] Violating any provision of the following sections of this chapter not set forth in ~~subdivisions 1 to 15~~ this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision 2, 72A.03 and 72A.04, 72A.08, subdivision 1 as modified by section 72A.08, subdivision 4, and 65B.13.

Sec. 117. Minnesota Statutes 1986, section 72A.20, subdivision 17, is amended to read:

Subd. 17. [RETURN OF PREMIUMS UPON DEATH OF INSURED.] (a) Refusing, upon surrender of an individual policy of life insurance, to refund to the estate of the insured all unearned premiums paid on the policy covering the insured as of the time of the insured's death if the unearned premium is for a period of more than one month.

The insurer may deduct from the premium any previously accrued claim for loss or damage under the policy.

For the purposes of this section, a premium is unearned during the period of time the insurer has not been exposed to any risk of loss.

(b) Refusing, upon termination or cancellation of a policy of automobile insurance under section 65B.14, subdivision 2, or a policy of homeowner's insurance under section 65A.27, subdivision 4, or a policy of accident and sickness insurance under section 62A.01, or a policy of comprehensive health insurance under chapter 62E, to refund to the insured all unearned premiums paid on the policy covering the insured as of the time of the termination or cancellation if the unearned premium is for a period of more than one month.

The insurer may deduct from the premium any previously accrued claim for loss or damage under the policy.

For purposes of this section, a premium is unearned during the period of time the insurer has not been exposed to any risk of loss.

Sec. 118. Minnesota Statutes 1986, section 72A.20, is amended by adding a subdivision to read:

Subd. 18. [IMPROPER BUSINESS PRACTICES.] (a) Improperly withholding, misappropriating, or converting any money belonging to a policyholder, beneficiary, or other person when received in the course of the insurance business; or (b) engaging in fraudulent, coercive, or dishonest practices in connection with the insurance business, shall constitute an unfair method of competition and an unfair and deceptive act or practice.

Sec. 119. Minnesota Statutes 1986, section 72A.20, is amended by

adding a subdivision to read:

Subd. 19. [SUPPORT FOR UNDERWRITING STANDARDS.] No life or health insurance company doing business in this state shall engage in any selection or underwriting process unless the insurance company establishes beforehand substantial data, actuarial projections, or claims experience which support the underwriting standards used by the insurance company. The data, projections, or claims experience used to support the selection or underwriting process is not limited to only that of the company. The experience, projections, or data of other companies or a rate service organization may be used as well.

Sec. 120. Minnesota Statutes 1986, section 72A.31, subdivision 1, is amended to read:

Subdivision 1. No person, firm or corporation engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property or who acts as agent or broker for one who purchases real property and borrows money on the security thereof, and no trustee, director, officer, agent or other employee of any such person, firm, or corporation shall directly or indirectly:

(1) require, as a condition precedent to such purchase or financing the purchase of such property or to loaning money upon the security of a mortgage thereon, or as a condition prerequisite for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person, firm or corporation making such purchase or for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed negotiate any policy of insurance or renewal thereof covering such property through a particular agent, or insurer, or

(2) refuse to accept any policy of insurance covering such property because it was not negotiated through or with any particular agent, or insurer, or

(3) refuse to accept any policy of insurance covering the property issued by an insurer that is a member insurer as defined by section 60C.03, subdivision 6, or

(4) require any policy of insurance covering the property to exceed the replacement cost of the buildings on the mortgaged premises.

This section shall not prevent the disapproval of the insurer or a policy of insurance by any such person, firm, corporation, trustee, director, officer, agent or employee where there are reasonable grounds for believing that *the insurer is insolvent or that such insurance is unsatisfactory as to placement with an unauthorized insurer, the financial solvency of the insurer, adequacy of the coverage, adequacy of the insurer to assume the risk to be insured, the assessment features to which the policy is subject, or other grounds which are based on the nature of the coverage and which are not arbitrary, unreasonable or discriminatory, nor shall this section prevent a mortgage lender or mortgage servicer from requiring that a policy of insurance or renewal thereof be in conformance with standards of the federal national mortgage association or the federal home loan mortgage corporation, nor shall this section forbid the securing of insurance or a renewal thereof at the request of the borrower or because of the borrower's failure to furnish the necessary insurance or renewal thereof. For purposes of this section, "insurer" includes a township mutual fire insurance com-*

pany operating under sections 67A.01 to 67A.26 and a farmers mutual fire insurance company operating under sections 67A.27 to 67A.39.

Upon notice of any such disapproval of or refusal to accept an insurer or a policy of insurance, the commissioner may order the approval of the insurer or the acceptance of the tendered policy of insurance, or both, if the commissioner determines such disapproval or refusal to accept is not in accordance with the foregoing requirements. Failure to comply with such an order of the commissioner of commerce shall be deemed a violation of this section.

Sec. 121. Minnesota Statutes 1986, section 169.045, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION OF ROADWAYS, PERMIT.] The governing body of any home rule charter or statutory city or town may by ordinance authorize the operation of motorized golf carts, or four-wheel all-terrain vehicles, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart or four-wheel all-terrain vehicle is by permit only. ~~Permits are restricted to physically handicapped persons defined in section 169.345, subdivision 2.~~ For purposes of this section, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

Sec. 122. Minnesota Statutes 1986, section 169.045, is amended by adding a subdivision to read:

Subd. 8. [INSURANCE.] *In the event persons operating a motorized golf cart or four-wheel, all-terrain vehicle under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile Assigned Risk Plan at a rate to be determined by the commissioner of commerce.*

Sec. 123. [256B.73] [DEMONSTRATION PROJECT FOR UNINSURED LOW INCOME PERSONS.]

Subdivision 1. [PURPOSE.] *The purpose of the demonstration project is to determine the need for and the feasibility of establishing a statewide program of medical insurance for uninsured low income persons.*

Subd. 2. [ESTABLISHMENT: GEOGRAPHIC AREA.] *The commissioner of human services shall establish a demonstration project to provide low cost medical insurance to uninsured low income persons in Cook, Lake, St. Louis, Carlton, Aitkin, Pine, Itasca, and Koochiching counties except an individual county may be excluded as determined by the county board of commissioners.*

Subd. 3. [DEFINITIONS.] *For the purposes of this section, the following terms have the meanings given:*

(1) "commissioner" means the commissioner of human services;

(2) "coalition" means an organization comprised of members representative of small business, health care providers, county social service departments, health consumer groups, and the health industry, established to serve the purposes of this demonstration;

(3) "demonstration provider" means a Minnesota corporation regulated

under chapter 62A, 62C, or 62D;

(4) "individual provider" means a medical provider under contract to the demonstration provider to provide medical care to enrollees; and

(5) "enrollee" means a person eligible to receive coverage according to subdivision 4.

Subd. 4. [ENROLLEE ELIGIBILITY REQUIREMENTS.] To be eligible for participation in the demonstration project, an enrollee must:

(1) not be eligible for medicare, medical assistance, or general assistance medical care;

(2) have an income not more than 200 percent of the Minnesota income standards by family size used in the aid to families with dependent children program; and

(3) have no medical insurance or health benefits plan available through employment or other means that would provide coverage for the same medical services as provided by this demonstration.

Subd. 5. [ENROLLEE BENEFITS.] Eligible persons enrolled by a demonstration provider shall receive a health services benefit package that includes health services which the enrollees might reasonably require to be maintained in good health, including emergency care, inpatient hospital and physician care, outpatient health services, and preventive health services, except that services related to chemical dependency, mental illness, vision care, dental care, and other benefits may be excluded or limited upon approval by the commissioner. The commissioner, the coalition, and demonstration providers shall work together to design a package of benefits or packages or benefits that can be provided to enrollees for an affordable monthly premium.

Subd. 6. [ENROLLEE PARTICIPATION.] An enrollee is not required to furnish evidence of good health. The demonstration provider shall accept all persons applying for coverage who meet the criteria in subdivision 4, subject to the following provisions:

(a) Enrollees will be required to pay a sliding fee on a monthly basis for health coverage through the demonstration project. Except for any required co-payments, the sliding fee should be considered payment in full for the coverage provided. The sliding fee shall be based on the enrollee's income and shall not exceed 50 percent of the rate that would be paid to a prepaid plan serving general assistance medical care recipients in the same geographic area.

(b) The demonstration provider may terminate the coverage for an enrollee who has not made payment within the first ten calendar days of the month for which coverage is being purchased. The termination for nonpayment shall be retroactive to the first day of the month for which no payment has been made by the enrollee.

(c) An enrollee who either requests termination of coverage under the demonstration or who allows coverage to terminate due to nonpayment of the required monthly fee may be required to furnish evidence of good health prior to being reinstated in the demonstration. As an alternative to evidence of good health, the enrollee may furnish evidence of having been eligible for health care services under a plan with similar benefits.

(d) The demonstration provider shall establish limits of enrollment which

allow for a sufficient number of enrollees to constitute a reasonable demonstration project. These limits shall be established by county within the project area.

Subd. 7. [CONTRACT WITH DEMONSTRATION PROVIDER.] The commissioner shall contract with the demonstration provider for the duration of the project. This contract shall be for 24 months with an option to renew for no more than 12 months. This contract may be canceled without cause by the commissioner upon 90 days' written notice to the demonstration provider or by the demonstration provider with 90 days' written notice to the commissioner. The commissioner shall assure the cooperation of the county human services or social services staff in all counties participating in the project.

Subd. 8. [MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE COORDINATION.] To assure enrollees of uninterrupted delivery of health care services, the commissioner may pay the premium to the demonstration provider for persons who become eligible for medical assistance or general assistance medical care. To determine eligibility for medical assistance, any medical expenses for eligible services incurred by the demonstration provider shall be considered as evidence of satisfying the medical expense requirements of section 256B.06, subdivision 1, paragraphs (14) and (15). To determine eligibility for general assistance medical care, any medical expenses for eligible services incurred by the demonstration provider shall be considered as evidence of satisfying the medical expense requirements of section 256D.03, subdivision 3.

Subd. 9. [WAIVER REQUIRED.] No part of the demonstration project shall become operational until waivers of appropriate federal regulation are obtained from the health care financing administration.

Subd. 10. [COORDINATION OF DEMONSTRATION WITH REGION.] The commissioner shall consult with a health insurance coalition formed locally with members from the demonstration area. This coalition will work with the commissioner and potential demonstration providers as well as other private and public organizations to suggest program design, to secure additional funding support, and to ensure the program's local applicability.

Sec. 124. Minnesota Statutes 1986, section 471.98, subdivision 2, is amended to read:

Subd. 2. "Political subdivision" includes a statutory or home rule charter city, a county, a school district, a town, a watershed management organization as defined in section 473.876, subdivision 9, or an instrumental entity thereof having independent policy making and appropriating authority. For the purposes of this section and section 471.981, the governing body of a town is the town board.

Sec. 125. [541.22] [LIMITATION ON ASBESTOS CLAIMS.]

Subdivision 1. [FINDINGS AND PURPOSE.] The legislature finds that it is in the interest of the general public, particularly those persons who may bring claims regarding materials containing asbestos and those against whom the claims may be brought, to set a specific date by which building owners must bring a cause of action for removal or other abatement costs associated with the presence of asbestos in their building. By enactment of this statute of limitations the legislature does not imply that suits would otherwise be barred by an existing limitations period.

Subd. 2. [LIMITATION ON CERTAIN ASBESTOS ACTIONS.] Notwithstanding any other law to the contrary, an action against a manufacturer or supplier of asbestos or material containing asbestos to recover for (1) removal of asbestos or materials containing asbestos from a building, (2) other measures taken to locate, correct, or ameliorate any problem related to asbestos in a building, or (3) reimbursement for removal, correction, or amelioration of an asbestos problem that would otherwise be barred before July 1, 1990, as a result of expiration of the applicable period of limitation, is revived or extended. An asbestos action revived or extended under this subdivision may be begun before July 1, 1990.

Sec. 126. [604.08] [VOLUNTEER ATHLETIC COACHES AND OFFICIALS; IMMUNITY FROM LIABILITY.]

Subdivision 1. [GRANT.] No individual who provides services or assistance without compensation as an athletic coach, manager, or official for a sports team that is organized or performing under a nonprofit charter, and no community-based, voluntary nonprofit athletic association, or any volunteer of the nonprofit athletic association, is liable for money damages to a player or participant as a result of an individual's acts or omissions in the providing of that service or assistance.

This section applies to organized sports competitions and practice and instruction in that sport.

For purposes of this section, "compensation" does not include reimbursement for expenses.

Subd. 2. [LIMITATION.] Subdivision 1 does not apply:

(1) to the extent that the acts or omissions are covered under an insurance policy issued to the entity for whom the coach, manager, or official serves;

(2) if the individual acts in a willful and wanton or reckless manner in providing the services or assistance;

(3) if the acts or omissions arise out of the operation, maintenance, or use of a motor vehicle;

(4) to an athletic coach, manager, or official who provides services or assistance as part of a public or private educational institution's athletic program; and

(5) if the individual acts in violation of federal, state, or local law.

The limitation in clause (1) constitutes a waiver of the defense of immunity to the extent of the liability stated in the policy, but has no effect on the liability of the individual beyond the coverage provided.

Sec. 127. [SPECIAL STUDY.]

The commissioner of health, with the advice and assistance of the commissioners of commerce and human services, shall prepare a report to the legislature which addresses the issues concerning reimbursement by third-party payors of home health care benefits for individuals with a medical condition which would require inpatient hospital services in the absence of home or community-based care, and who are dependent upon medical technology in order to avoid death or serious injury. Development of the report must include participation by home care providers and third-party payors. The report must include recommendations for the adoption of definitions of home care, minimum standards of home care services, the

costs of providing home care, and resolution of the issue of cost-shifting of home care. The report must be delivered to the legislature by January 15, 1988.

Sec. 128. [RULE CHANGES.]

The commissioner shall adopt rule amendments to Minnesota Rules, chapter 2725, as necessary to effect the changes required by the legislature in sections 8 to 10.

These rules are exempt from the rulemaking provisions of chapter 14. The commissioner must comply with section 14.38, subdivision 7, when adopting these rule amendments.

Sec. 129. [APPLICATION.]

Sections 49, 65, and 66 apply to all group policies, all group subscriber contracts, all health maintenance contracts, and all qualified plans within the scope of Minnesota Statutes, chapters 62A, 62C, 62D, and 62E, that are issued, delivered or renewed in this state after August 1, 1987.

Sec. 130. [SEVERABILITY.]

The provisions of Minnesota Statutes, section 645.20 apply to this act.

Sec. 131. [REPEALER.]

Minnesota Statutes 1986, sections 62A.12; and 67A.43, subdivision 3, are repealed.

Minnesota Rules, parts 2700.2400; 2700.2410; 2700.2420; 2700.2430; and 2700.2440, are repealed.

Section 123 is repealed effective July 1, 1988, if the project implementation phase has not begun by that date.

Sec. 132. [EFFECTIVE DATE.]

Section 10 is effective May 31, 1987. Credits earned and reported to the department before May 31, 1988, may be carried forward and used to fulfill continuing education requirements until May 31, 1989.

Sections 2, 5, 6, 15 to 20, 43, 57 to 63, 69 to 75, 77, 81, 82, 87, 102, 116, and 122 to 125 are effective the day following final enactment.

Section 126 is effective August 1, 1987, and applies to claims arising from incidents occurring on or after that date."

Delete the title and insert:

"A bill for an act relating to insurance; requiring notification of group life or health coverage changes; allowing mandatory temporary insurance agent licenses; requiring those who solicit insurance to act as agent for the insurer; regulating insurance continuing education; providing for the definition of an ineligible surplus lines insurer; regulating rates and forms; regulating insurance plan administrators; regulating trust funds; regulating the renewal, nonrenewal, and cancellation of commercial liability and property insurance policies; authorizing employers to jointly self-insure for property or casualty liability and regulating these plans; providing continued group life coverage upon termination or layoff; providing for the establishment and operation of the insurance guaranty association and the life and health guaranty association; regulating accident and health insurance; regulating joint self-insurance employee health plans; requiring the treat-

ment of pregnancy-related conditions in the same manner as other illnesses; mandating certain coverages; clarifying coverage for handicapped dependents; providing continued group accident and health coverage upon termination or layoff; requiring coverage of current spouse and children; imposing surety bond or security requirements on certain health benefit plans; regulating Medicare supplement plan premium refunds; regulating long-term care policies; providing for the establishment and operation of the comprehensive health association, the medical joint underwriting association, and the joint underwriting association; providing comprehensive health insurance coverage for certain employees not eligible for Medicare; regulating fraternal benefit associations; regulating automobile insurance; providing for exemption from certain legal process of cash value, proceeds, or benefits under certain life insurance or annuity contracts; limiting the cancellation of fire insurance binders and policies; providing for administration of the FAIR plan; requiring accident prevention course premium reductions; limiting the grounds for cancellation or reduction in limits during the policy period; requiring the commissioner to set rates for cooperative housing and neighborhood real estate trust insurance; regulating no-fault automobile insurance; providing for the priority of security for payment of basic economic loss benefits; extending basic economic loss benefit protection; requiring coverages for former spouses; specifying membership on the assigned claims bureau; extending no-fault benefits to pedestrians who are struck by motorcycles; regulating township mutual insurance companies; providing for mandatory arbitration of certain claims; authorizing investments in certain insurers; regulating rental vehicle personal accident insurance; regulating trade practices; requiring life and health insurers to substantiate the underwriting standards they use; providing assigned risk plan coverage for certain vehicles used by the handicapped; establishing a demonstration project to provide medical insurance to certain low income persons; regulating certain self-insurance by political subdivisions; clarifying the statute of limitations applicable to actions regarding manufacturers or suppliers of material containing asbestos; granting immunity from liability for volunteer coaches, managers, and officials; requiring a home health care study; prescribing penalties; amending Minnesota Statutes 1986, sections 16A.133, subdivision 1; 45.024, subdivision 2; 60A.17, subdivisions 1a, 2c, 11, and 13; 60A.1701, subdivisions 5, 7, and 8; 60A.196; 60A.198, subdivision 3; 60A.23, subdivision 8; 60A.29, subdivisions 2, 5, and 16, and by adding subdivisions; 60A.30; 60A.31; 60B.44, subdivisions 1, 4, 5, and 9; 60C.08, subdivision 1; 60C.09; 60C.12; 61A.28, subdivision 12; 61B.09; 62A.041; 62A.043, by adding a subdivision; 62A.141; 62A.146; 62A.152, subdivision 2; 62A.17; 62A.21; 62A.27; 62A.31, subdivision 1a; 62A.43, subdivision 2, and by adding a subdivision; 62A.46, by adding a subdivision; 62A.48, subdivisions 1, 2, 6, and by adding a subdivision; 62A.50, subdivision 3; 62D.05, by adding a subdivision; 62D.102; 62E.06, subdivision 1; 62E.10, subdivision 2, and by adding subdivisions; 62E.14, by adding a subdivision; 62F.041, subdivision 2; 62F.06, subdivision 1; 62H.01; 62H.02; 62H.04; 62I.02, subdivisions 1 and 3; 62I.03, subdivision 5; 62I.04; 62I.12, subdivision 1; 62I.13, by adding a subdivision; 62I.16, subdivision 3; 62I.22, subdivision 2, and by adding a subdivision; 64B.11, subdivision 4; 64B.18; 64B.27; 65A.01, subdivision 3a; 65A.03, subdivision 1; 65A.10; 65A.29, by adding a subdivision; 65A.35, subdivision 5; 65A.39; 65B.03, subdivision 1; 65B.12; 65B.1311; 65B.15, subdivision 1; 65B.16; 65B.21, subdivision 2; 65B.28; 65B.46; 65B.48, subdivision 1; 65B.49, by adding a subdivision; 65B.525, subdivision 1; 65B.63, subdivision 1; 67A.05, subdivision 2; 67A.06;

67A.231; 70A.06, by adding a subdivision; 70A.08, subdivision 3; 72A.20, subdivisions 11, 17, and by adding subdivisions; 72A.31, subdivision 1; 169.045, subdivision 1, and by adding a subdivision; 471.98, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; 62E; 65A; 65B; 72A; 256B; 541; and 604; proposing coding for new law as Minnesota Statutes, chapter 60F; repealing Minnesota Statutes 1986, sections 62A.12; and 67A.43, subdivision 3; and Minnesota Rules, parts 2700.2400 to 2700.2440."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) William P. Luther, Donna C. Peterson, Sam G. Solon, Don Anderson, James P. Metzen

House Conferees: (Signed) Wes Skoglund, Phil Carruthers, Gloria M. Segal, Jerome "J.P." Peterson, Gerald Knickerbocker

Mr. Luther moved that the foregoing recommendations and Conference Committee report on S.F. No. 478 be now adopted, and that the bill be repassed as amended by the Conference Committee.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 30 and nays 26, as follows:

Those who voted in the affirmative were:

Anderson	Davis	Lantry	Morse	Purfeerst
Beckman	DeCramer	Luther	Novak	Reichgott
Berglin	Dicklich	Marty	Pehler	Spear
Brandl	Frederickson, D.J.	Merriam	Peterson, D.C.	Stumpf
Cohen	Hughes	Metzen	Piper	Vickerman
Dahl	Kroening	Moe, R.D.	Pogemiller	Willet

Those who voted in the negative were:

Adkins	Diessner	Knaak	Mehrkens	Taylor
Belanger	Frederickson, D.R.	Laidig	Olson	Wegscheid
Benson	Freeman	Langseth	Peterson, R.W.	
Berg	Gustafson	Larson	Ramstad	
Bernhagen	Johnson, D.E.	Lessard	Schmitz	
Brataas	Jude	McQuaid	Storm	

The motion prevailed. So the recommendations and Conference Committee report were adopted.

CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the balance of the proceedings on S.F. No. 478. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 478 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Anderson	Dicklich	Marty	Pehler	Samuelson
Beckman	Freeman	Merriam	Peterson, D.C.	Solon
Berglin	Hughes	Metzen	Piper	Spear
Brandl	Johnson, D.J.	Moe, D.M.	Pogemiller	Stumpf
Cohen	Kroening	Moe, R.D.	Purfeerst	Vickerman
Dahl	Lantry	Morse	Reichgott	Waldorf
DeCramer	Luther	Novak	Renneke	Willet

Those who voted in the negative were:

Adkins	Chmielewski	Johnson, D.E.	Lessard	Storm
Belanger	Davis	Jude	McQuaid	Taylor
Benson	Diessner	Knaak	Mehrkens	Wegscheid
Berg	Frederick	Knutson	Olson	
Bernhagen	Frederickson, D.J.	Laidig	Peterson, R.W.	
Bertram	Frederickson, D.R.	Langseth	Ramstad	
Brataas	Gustafson	Larson	Schmitz	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 451 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 451

A bill for an act relating to public safety; parking for handicapped persons; imposing a fine for violations of handicapped parking provisions; providing penalties; amending Minnesota Statutes 1986, sections 168.021, subdivisions 1, 1a, 2, 3, 5, and 6; 169.345; and 169.346; repealing Minnesota Statutes 1986, section 168.021, subdivision 7.

May 18, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 451, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 451 be further amended as follows:

Pages 3 to 7, delete section 7 and insert:

"Sec. 7. Minnesota Statutes 1986, section 169.345, is amended to read:
169.345 [PARKING PRIVILEGES FOR PHYSICALLY HANDICAPPED.]

Subdivision 1. [SCOPE OF PRIVILEGE.] ~~Any physically handicapped person who displays prominently upon the vehicle parked by or under the direction and for the use of the handicapped person. A vehicle that prominently displays the distinguishing certificate specified in authorized by this section shall be entitled to courtesy in the parking of the vehicle and be relieved of any liability with respect to parking except as provided in sections 169.32 and 169.34; provided that any municipal governing body, or bears license plates issued under section 168.021, may be parked by or for a physically handicapped person:~~

(1) in a designated handicapped parking space, as provided in section 169.346; and

(2) in a metered parking space without obligation to pay the meter fee.

For purposes of this subdivision, a certificate is prominently displayed if it is displayed on the dashboard in the left-hand corner of the front windshield of the vehicle with no part of the certificate obscured.

Notwithstanding clauses (1) and (2), this section does not permit parking in areas prohibited by sections 169.32 and 169.34, in designated no parking spaces, or in parking spaces reserved for specified purposes or vehicles. A local governmental unit may, by ordinance, prohibit parking on any street or highway for the purpose of creating to create a fire lane, or to provide for the accommodation of accommodate heavy traffic during morning and afternoon rush hours and the privileges extended to such handicapped persons shall not these ordinances also apply on streets or highways where and at such time parking is prohibited. The certificate specified in this section shall also serve to identify vehicles properly parked in designated handicapped parking spaces as provided in section 169.346 to physically handicapped persons.

Subd. 2. [DEFINITIONS.] For the purpose of this section "physically handicapped person" means ~~any~~ a person who has sustained an amputation or material disability of either or both arms or legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome to walk:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one meter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/hg on room air at rest;

(6) uses portable oxygen; or

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association.

Subd. 2a. [PHYSICIAN'S STATEMENT.] The commissioner shall develop a form for the physician's statement. The statement must be signed by a licensed physician who certifies that the applicant is a physically handicapped person as defined in subdivision 2. The commissioner may request additional information from the physician if needed to verify the applicant's eligibility. The physician's statement must specify whether the disability is permanent or temporary, and if temporary, the opinion of the physician as to the duration of the disability. A physician who fraudulently certifies to the commissioner that a person is a physically handicapped person as defined in subdivision 2, and that the person is entitled to the license plates authorized by section 168.021 or to the certificate authorized by this section, is guilty of a misdemeanor and is subject to a fine of \$500.

Subd. 3. [IDENTIFYING CERTIFICATE.] (a) The division of driver and vehicle services in the department of public safety shall issue ~~without charge~~ a special identifying certificate for a ~~marked~~ motor vehicle to ~~any~~ when a physically handicapped applicant ~~upon submission by the applicant~~ of a certificate by a qualified physician to the division that the applicant is a physically handicapped person within the meaning of subdivision 2 submits a physician's statement. The commissioner shall design separate certificates for persons with permanent and temporary disabilities that can be readily distinguished from each other from outside a vehicle at a distance of 25 feet. The certificate is valid for the duration of the person's disability, as specified in the physician's statement, up to a maximum of six years. A person with a disability of longer duration will be required to renew the certificate for additional periods of time, up to six years each, as specified in the physician's statement.

(b) ~~Upon submission of satisfactory evidence~~ When the commissioner is satisfied that a motor vehicle is used primarily for the purpose of transporting physically handicapped persons ~~within the meaning of subdivision 2~~, the division may issue without charge a special identifying certificate ~~or insignia~~ for the vehicle. The operator of ~~the a~~ vehicle, ~~when~~ displaying the certificate ~~or insignia~~, has the same parking privileges provided in subdivision 1 ~~for the physically handicapped during the period while the vehicle is in use for transporting physically handicapped persons~~. The certificate issued to a person transporting physically handicapped persons must be renewed every third year. On application and renewal, the person must present evidence that the vehicle continues to be used for transporting physically handicapped persons.

The commissioner of public safety shall determine the form, size and promulgate rules governing their issuance and use necessary to carry out the provisions of this section. The physician's certificate shall specify whether the disability is permanent or temporary, and if temporary, the opinion of the physician as to the duration of the disability. The commissioner may issue special identifying certificates to temporarily physically handicapped persons for limited periods of time.

(c) A certificate must be made of plastic or similar durable material, must be distinct from certificates issued before January 1, 1988, and must bear its expiration date prominently on its face. A certificate issued to a temporarily disabled person must display the date of expiration of the duration of the disability, as determined under paragraph (a). Each certificate must have printed on the back a summary of the parking privileges and restrictions that apply to each vehicle in which it is used. The commissioner may charge a fee of \$5 for issuance or renewal of a certificate, and a fee of \$5 for a duplicate to replace a lost, stolen, or damaged certificate.

Subd. 4. [UNAUTHORIZED USE; REVOCATION; PENALTY.] If the police of the state or any city, or other local government shall find a peace officer finds that the certificate is being improperly used, ~~they~~ the officer shall report the violation to the division of driver and vehicle services in the department of public safety ~~any violation~~ and the commissioner of public safety may ~~remove~~ revoke the ~~privilege~~ certificate. A person who uses the certificate in violation of this section is guilty of a misdemeanor and is subject to a fine of \$500."

Page 7, line 35, after the period, delete the new language and strike the

old language

Page 7, line 36, delete the new language and strike the old language

Page 8, lines 1 and 2, strike the old language

Page 8, line 3, strike everything before "A"

Page 8, line 18, delete "\$250" and insert "\$200"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Donna C. Peterson, Marilyn M. Lantry, Jim Ramstad

House Conferees: (Signed) Leo J. Reding, David T. Bishop, Harold F. Lasley

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on S.F. No. 451 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 451 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1374, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1374 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1374

A bill for an act relating to the office of the attorney general; removing the numerical limit on the number of assistant attorneys general; authorizing the attorney general to delegate contract review duties; amending Minnesota Statutes 1986, section 8.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 8.

May 15, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1374, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1374 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 8.02, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT OF DEPUTIES AND ASSISTANTS.]
The attorney general may appoint, and at pleasure remove, six deputy attorneys general and 46 35 assistant attorneys general. The appointees shall render such aid as is required of them in the discharge of the official duties of the attorney general. To the extent authorized in writing by the attorney general, they shall have authority to appear before grand juries or in any court of this state, as the attorney general personally might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as the attorney general deems necessary for the protection of the interests of the state through the proper conduct of its legal business.

Sec. 2. [8.20] [DELEGATION OF CONTRACT REVIEW.]

The attorney general may delegate the power to approve contracts as to form and execution to any state official if it is determined that the delegation will produce a significant, demonstrable improvement in the efficiency or operation of state government. The attorney general may condition the delegation as the attorney general determines to be necessary to protect the interests of the state.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wayne Simoneau, Tom Rukavina, Connie Morrison

Senate Conferees: (Signed) William P. Luther, Donald M. Moe, Fritz

Knaak

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1374 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1374 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knutson	Moe, D.M.	Samuelson
Anderson	Davis	Laidig	Morse	Schmitz
Beckman	DeCramer	Langseth	Novak	Spear
Belanger	Dicklich	Lantry	Pehler	Storm
Benson	Diessner	Lessard	Peterson, D.C.	Stumpf
Berglin	Frank	Luther	Peterson, R.W.	Taylor
Bernhagen	Frederickson, D.R.	Marty	Piper	Vickerman
Bertram	Gustafson	McQuaid	Pogemiller	Waldorf
Brandl	Hughes	Mehrkens	Purfeerst	Wegscheid
Brataas	Jude	Merriam	Reichgott	
Cohen	Knaak	Metzen	Renneke	

Messrs. Berg, Larson, Ms. Olson and Mr. Ramstad voted in the negative.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 141, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 141 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 141

A bill for an act relating to liability; authorizing the elimination or limitation of a director's personal liability to a cooperative association or its members; exempting certain directors, members, and agents of nonprofit corporations from civil liability; exempting certain members of hospital district boards from certain civil liability; amending Minnesota Statutes 1986, sections 317.201; and 447.32, by adding a subdivision; and proposing coding for new law in Minnesota Statutes, chapter 308.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 141, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 141 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [308.111] [ELIMINATION OR LIMITATION OF LIABILITY.]

A director's personal liability to the cooperative association or its members for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles. The articles shall not eliminate or limit the liability of a director:

(1) for a breach of the director's duty of loyalty to the cooperative association or its members;

(2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

(3) for a transaction from which the director derived an improper personal benefit; or

(4) for an act or omission occurring prior to the date when the provision in the articles eliminating or limiting liability becomes effective.

Sec. 2. Minnesota Statutes 1986, section 317.201, is amended to read:

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

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

Subdivision 1. [GENERALLY.] Except as provided in subdivision 2, no person who serves without compensation as a director, officer, trustee, member, or agent of an organization exempt from state income taxation under section 290.05, subdivision 2, or who serves without compensation as a fire chief of a nonprofit firefighting corporation or municipal volunteer fire department, shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a director, officer, trustee, member, agent or fire chief of the organization, and did not constitute willful or reckless misconduct.

Subd. 2. [EXCEPTIONS.] Subdivision 1 does not apply to:

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty as a director;

(2) a cause of action to the extent it is based on federal law;

(3) a cause of action based on the person's express contractual obligation; or

(4) an action or proceeding based on a breach of public pension plan fiduciary responsibility.

Nothing in subdivision 1 limits an individual's liability for physical injury to the person of another or for wrongful death which is personally and directly caused by that individual, nor the liability of a municipality arising out of the performance of firefighting or related activities.

Subd. 3. [DEFINITION.] For purposes of this section, the term "compensation" means any thing of value received for services rendered, except:

(1) reimbursement for expenses actually incurred;

(2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees pursuant to section 15.059, subdivision 3; or

(3) payment by an organization of insurance premiums on behalf of a person who is or was a director, officer, trustee, member, or agent of an organization, or who, while a director, officer, trustee, member, or agent of the organization, is or was serving at the request of the organization as a director, officer, partner, trustee, employee, or agent of another organization or employee benefit plan against any liability asserted against and incurred by the person in or arising from that capacity.

Sec. 3. Minnesota Statutes 1986, section 447.32, is amended by adding a subdivision to read:

Subd. 8a. [LIABILITY FOR DAMAGES.] Except as otherwise provided in this subdivision, no person who serves without compensation as a member of the board of a hospital district created or organized under sections 447.31 to 447.37 shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a member of the board, and did not constitute willful or reckless misconduct. This subdivision does not apply to:

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty as a director;

(2) a cause of action to the extent it is based on federal law; or

(3) a cause of action based on the board member's express contractual obligation.

Nothing in this subdivision shall be construed to limit the liability of a member of the board for physical injury to the person of another or for wrongful death which is personally and directly caused by the board member.

For purposes of this subdivision the term "compensation" means any thing of value received for services rendered, except:

(1) reimbursement for expenses actually incurred;

(2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees pursuant to section 15.059, subdivision 3; or

(3) payment by the hospital district of insurance premiums on behalf of a member of the board.

Sec. 4. [EFFECTIVE DATE.]

Sections 1, 2, and 3 are effective August 1, 1987, and apply to claims arising from incidents occurring after that date."

Delete the title and insert:

"A bill for an act relating to liability; authorizing the elimination or limitation of a director's personal liability to a cooperative association or its members; exempting certain directors, members, and agents of nonprofit corporations from civil liability; exempting certain members of hospital district boards from certain civil liability; amending Minnesota Statutes 1986, sections 317.201; and 447.32, by adding a subdivision; and proposing coding for new law in Minnesota Statutes, chapter 308."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Paul Anders Ogren, Howard R. Orenstein, Marcus M. Marsh

Senate Conferees: (Signed) William P. Luther, Gene Merriam, Glen Taylor

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 141 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 141 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 706, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 706 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 706

A bill for an act relating to juveniles; clarifying certain recent changes to the juvenile court act; clarifying the hearing and records procedures of the juvenile court; providing for the enforcement of juvenile court restitution orders; permitting administrative docketing of certain unpaid county reimbursements; clarifying certain crime victim notification and protection laws; amending Minnesota Statutes 1986, sections 260.155, subdivisions 1 and 1a; 260.156; 260.161; 260.185, by adding a subdivision; 548.091, subdivision 1; 595.02, subdivision 4; 609.115, subdivision 1; 609.3471; 611A.031; and 611A.035; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1986, sections 609.115, subdivisions 1b and 1c; and 636.08.

May 14, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 706, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 706 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 260.155, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, a habitual truant, a runaway, a juvenile petty offender, or a juvenile alcohol or controlled substance offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. Hearings may be continued or adjourned from time to time and, in the interim, the court may make any orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301. The court shall exclude the general public from these hearings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court; except that, the court shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense *or has been proven to have committed an offense* that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the hearing. In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the reference or adjudicatory hearings, and (2) the disposition of the case. Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

Sec. 2. Minnesota Statutes 1986, section 260.155, subdivision 1a, is

amended to read:

Subd. 1a. [RIGHT TO PARTICIPATE IN PROCEEDINGS.] A child who is the subject of a petition, and the parents, guardian, or lawful custodian of the child; ~~and any grandparent of the child with whom the child has resided within the past two years,~~ have the right to participate in all proceedings on a petition. *Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.*

Sec. 3. Minnesota Statutes 1986, section 260.156, is amended to read:

260.156 [CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.]

An out-of-court statement made by a child under the age of ten years, or a child ~~over the age of ten years of age or older~~ who is mentally impaired, as defined under section 609.341, subdivision 6, alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child or any act of physical abuse or neglect of the child by another, not otherwise admissible by statute or rule of evidence, is admissible in evidence in any dependency ~~or~~, neglect, *neglected and in foster care, or domestic child abuse* proceeding or any proceeding for termination of parental rights if:

(a) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and

(b) the proponent of the statement notifies other parties of an intent to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded statement.

Sec. 4. Minnesota Statutes 1986, section 260.161, is amended to read:

260.161 [RECORDS.]

Subdivision 1. The juvenile court judge shall keep such minutes and in such manner as the ~~judge court~~ *judge court* deems necessary and proper. The court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual to a requesting adult court for purposes of sentencing, *or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution.* The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the ~~juvenile child~~. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed

in which shall be listed under the name of the ~~juvenile child~~ *juvenile child* all documents filed pertaining ~~thereto to the child~~ and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. The legal records maintained in this file shall be open at all reasonable times to the inspection of any ~~minor child~~ *minor child* to whom the records relate, and to the ~~minor's~~ *child's* parent and guardian.

Subd. 2. Except as provided in this subdivision and in subdivision 1, ~~and except for legal records arising from proceedings that are public under section 260.155, subdivision 1, none of the records of the juvenile court, including legal records and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion,~~ shall be open to public inspection or their contents disclosed except (a) by order of ~~the a~~ court or (b) as required by sections 611A.03, 611A.04, and 611A.06. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. *This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under sections section 260.255 and, 260.261, or 260.315 when the proceeding involves an adult defendant.* The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record ~~and the guardian ad litem~~ a reasonable time before it is used in connection with any proceeding before the court.

Subd. 3. Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except by order of the juvenile court ~~or as authorized under chapter 13; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident.~~ No photographs of a child taken into custody ~~for any purpose~~ may be taken without the consent of the juvenile court ~~unless the child is alleged to have violated section 169.121 or 169.129.~~ Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

Subd. 4. [COURT RECORD RELEASED TO PROSECUTOR.] *If a prosecutor has probable cause to believe that a person has committed a gross misdemeanor violation of section 169.121 or has violated section 169.129, and that a prior juvenile court adjudication forms, in part, the basis for the current violation, the prosecutor may file an application with the court having jurisdiction over the criminal matter attesting to this probable cause determination and seeking the relevant juvenile court records. The court shall transfer the application to the juvenile court where the requested records are maintained, and the juvenile court shall release to the prosecutor any records relating to the person's prior juvenile traffic adjudication, including a transcript, if any, of the court's advisory of the right to counsel and the person's exercise or waiver of that right.*

Sec. 5. Minnesota Statutes 1986, section 260.185, is amended by adding a subdivision to read:

Subd. 3a. [ENFORCEMENT OF RESTITUTION ORDERS.] *If the court*

orders payment of restitution as a condition of probation and the child fails to pay the restitution ordered before 60 days before the term of probation expires, the child's probation officer shall file a petition for violation of probation or shall ask the court to hold a hearing to determine whether the conditions of probation should be changed. The court shall schedule and hold this hearing before the child's term of probation expires.

Sec. 6. Minnesota Statutes 1986, section 548.091, subdivision 1, is amended to read:

Subdivision 1. [DOCKETING OF JUDGMENT.] A judgment for unpaid amounts under a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, ~~or~~ an order under section 256.87, ~~or an order under section 260.251~~, any of which provide for installment or periodic payments of child support, maintenance, or ~~both~~ reimbursement to a county for the cost of care, examination, or treatment of a child, or any combination of those items, shall be entered and docketed by the court administrator only when ordered by the court or when the following conditions are met:

(a) The obligee or the public authority determines that the obligor is at least 30 days in arrears;

(b) The obligee or public authority serves a copy of an affidavit of default and notice of intent to enter judgment on the obligor by mail at the obligor's last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid;

(c) The obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and

(d) Not less than 20 days after service on the obligor in the manner provided, the obligee or public authority files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee or public authority since execution of the affidavit of default, a supplemental affidavit setting forth the amount of payment received.

Sec. 7. Minnesota Statutes 1986, section 595.02, subdivision 4, is amended to read:

Subd. 4. [COURT ORDER.] (a) In a proceeding in which a child less than ten years of age is alleging, denying, or describing an act of physical abuse or an act of sexual contact or penetration performed with or on the child by another, the court may, upon its own motion or upon the motion of any party, order that the testimony of the child be taken in a room other than the courtroom or in the courtroom and televised at the same time by closed-circuit equipment, or recorded for later showing to be viewed by the jury in the proceeding.

(b) At the taking of testimony under this subdivision, only the judge, the attorneys for the defendant and for the state, any person whose presence would contribute to the welfare and well-being of the child, ~~and~~ persons

necessary to operate the recording or closed-circuit equipment *and, in a child protection proceeding under chapter 260 or a dissolution or custody proceeding under chapter 518, the attorneys for those parties with a right to participate may be present with the child during the child's testimony.*

(c) The court shall permit the defendant *in a criminal or delinquency matter* to observe and hear the testimony of the child in person. If the court, upon its own motion or the motion of any party, determines that the presence of the defendant during testimony taken pursuant to this subdivision would psychologically traumatize the witness so as to render the witness unavailable to testify, the court may order that the testimony be taken in a manner that:

(1) the defendant can see and hear the testimony of the child in person and communicate with counsel, but the child cannot see or hear the defendant; or

(2) the defendant and child can view each other by video or television monitor from separate rooms.

Sec. 8. Minnesota Statutes 1986, section 609.115, subdivision 1, is amended to read:

Subdivision 1. [PRESENTENCE INVESTIGATION.] When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. *The report shall also include the information relating to crime victims required under section 12, subdivision 1.* If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections. *The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the information required under section 12, subdivision 2.*

Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the rules of criminal procedure.

Sec. 9. Minnesota Statutes 1986, section 609.3471, is amended to read:

**609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY
CONFIDENTIAL.]**

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to *petitions*, complaints, or indictments issued pursuant to section 609.342, clause (a), (b), (g), or (h); 609.343, clause (a), (b), (g), or (h); 609.344, clause (a), (b), (e), (f), or (g); or 609.345, clause (a), (b), (e), (f), or (g) which specifically identifies the victim shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

Sec. 10. Minnesota Statutes 1986, section 611A.031, is amended to read:

611A.031 [VICTIM INPUT REGARDING PRETRIAL DIVERSION.]

A prosecutor shall make every reasonable effort to notify and seek input from the victim prior to ~~the referral~~ *referring a person* into a pretrial diversion program in lieu of prosecution *for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, and 609.687.*

Sec. 11. Minnesota Statutes 1986, section 611A.035, is amended to read:

611A.035 [CONFIDENTIALITY OF VICTIM'S ADDRESS.]

No victim or witness providing testimony in court proceedings may be compelled to state ~~the victim's~~ *his or her* home or employment address on the record in open court *unless the court finds that the testimony would be relevant evidence.*

**Sec. 12. [611A.037] [PRESENTENCE INVESTIGATION; VICTIM
IMPACT; NOTICE.]**

Subdivision 1. [VICTIM IMPACT STATEMENT.] A presentence investigation report prepared under section 609.115 shall include the following information relating to victims:

(a) a summary of the damages or harm and any other problems generated by the criminal occurrence;

(b) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of the victim's opinion; and

(c) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

Subd. 2. [NOTICE TO VICTIM.] The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the following information: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) the victim's right to request restitution pursuant to

section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (iv) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

Sec. 13. [REPEALER.]

Minnesota Statutes 1986, sections 609.115, subdivisions 1b and 1c; and 636.08, are repealed."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Randy C. Kelly, Arthur W. Seaberg, Sandra L. Pappas

Senate Conferees: (Signed) Richard J. Cohen, Gene Merriam, Jim Ramstad

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 706 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 706 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 532, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 532 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 532

A bill for an act relating to public safety; motorized bicycles; establishing standards for the safe operation of motorized bicycles; amending Minnesota Statutes 1986, sections 65B.001, by adding a subdivision; 65B.43, subdivision 13; 169.011, subdivision 27; 169.01, subdivision 4a; 169.223; 171.01, subdivision 20; and 171.02, subdivision 3.

May 16, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 532, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 532 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 65B.001, is amended by adding a subdivision to read:

Subd. 5. [MOTORCYCLE.] "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels that has an engine rated at greater than five horsepower, and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle. For purposes of this chapter, motorcycle includes a motorized bicycle as defined in section 169.01, subdivision 4a.

Sec. 2. Minnesota Statutes 1986, section 65B.43, subdivision 13, is amended to read:

Subd. 13. "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels which has an engine rated at greater than five horsepower, and includes (1) a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle; and (2) a motorized bicycle as defined in section 169.01, subdivision 4a.

Sec. 3. Minnesota Statutes 1986, section 169.011, subdivision 27, is amended to read:

Subd. 27. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle with fully operatable pedals which may be that is propelled by human power or a motor, or by both, with a motor of a piston displacement capacity of less than 50 cubic centimeters piston or less displacement, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.

Sec. 4. Minnesota Statutes 1986, section 169.01, subdivision 4a, is

amended to read:

Subd. 4a. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle ~~with fully operatable pedals which may be that is~~ propelled by human power or a motor, or by both, with a motor of a piston displacement capacity of less than 50 cubic centimeters ~~piston or less displacement~~, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.

Sec. 5. Minnesota Statutes 1986, section 169.223, is amended to read:

169.223 [MOTORIZED BICYCLES.]

Subdivision 1. Except as *otherwise* provided in this section ~~the provisions of, section 169.222~~ 169.974 relating to the operation of bicycles on roadways ~~are motorcycles~~ is applicable to the operation and the parking of motorized bicycles, *except that the provisions of section 169.222 governing the parking of bicycles apply to motorized bicycles.*

Subd. 2. Motorized bicycles shall not be operated on any bicycle way or bicycle lane, as those terms are defined in section 160.263. *A motorized bicycle may be operated under either a driver's license or a motorized bicycle permit issued under section 171.02, subdivision 3. A person under the age of 16 operating a motorized bicycle under a motorized bicycle permit is subject to the restrictions imposed by section 169.974, subdivision 2, on operation of a motorcycle under a two-wheel instruction permit.*

Subd. 3. No person shall operate a motorized bicycle upon a sidewalk at any time, except when such operation is necessary for the most direct access to a roadway from a driveway, alley or building. *No person shall operate a motorized bicycle that is carrying any person other than the operator.*

Subd. 4. Every motorized bicycle shall be subject to the same requirements as to lighting and brake equipment as apply to ~~motorcycles~~, except that ~~The provisions of section 169.974, subdivision 5, clause (i), shall not apply to motorized bicycles that are equipped with headlights. After June 1, 1987, a new motorized bicycle sold or offered for sale in Minnesota must be equipped with a headlight.~~

Subd. 5. *When operated within a statutory or home rule charter city, a motorized bicycle is entitled to the full use of a traffic lane. No motor vehicle shall be driven or operated in a way that deprives a motorized bicycle of the full use of a traffic lane. When operated on a highway that is not within a statutory or home rule charter city, a motorized bicycle shall be operated on the paved portion of the shoulder, or, if the shoulder is not paved, as near as is practicable to the right-hand side of the roadway. This section does not permit the operation of a motorized bicycle on a bikeway or other lane that is reserved for the exclusive use of nonmotorized traffic.*

Sec. 6. Minnesota Statutes 1986, section 171.01, subdivision 20, is amended to read:

Subd. 20. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle ~~with fully operatable pedals which may be that is~~ propelled by human power or a motor, or by both, with a motor of a piston displacement capacity of less than 50 cubic centimeters ~~piston or less displacement~~, and a max-

imum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.

Sec. 7. Minnesota Statutes 1986, section 171.02, subdivision 3, is amended to read:

Subd. 3. [MOTORIZED BICYCLES.] No motorized bicycle shall be operated on any public roadway by any person who does not possess a valid ~~drivers~~ driver's license, unless the person has obtained a motorized bicycle operator's permit or motorized bicycle instruction permit from the commissioner of public safety. The operator's permit may be issued to any person who has attained the age of 15 years and who has passed the examination prescribed by the commissioner. The instruction permit may be issued to any person who has attained the age of 15 years and who has *successfully completed an approved safety course and* passed the written portion of the examination prescribed by the commissioner.

This course must consist of, but is not limited to, a basic understanding of:

- (1) motorized bicycles and their limitations;*
- (2) motorized bicycle laws and rules;*
- (3) safe operating practices and basic operating techniques;*
- (4) helmets and protective clothing;*
- (5) motorized bicycle traffic strategies; and*
- (6) effects of alcohol and drugs on motorized bicycle operators.*

The commissioner may promulgate rules prescribing the content of the *safety course*, examination, and the information to be contained on the permits. *A person operating a motorized bicycle under a motorized bicycle permit is subject to the restrictions imposed by section 169.974, subdivision 2, on operation of a motorcycle under a two-wheel instruction permit.*

The fees for motorized bicycle operator's permits are as follows:

- | | |
|---|------------|
| (a) Examination and operator's permit, valid for one year | \$4 \$6 |
| (b) Duplicate | \$2 \$3 |
| (c) Renewal permit before age 19 and valid until age 19 | \$6 \$9 |
| (d) Renewal permit after age 19 and valid for four years | \$10 \$15 |
| (e) Duplicate of any renewal permit | \$3 \$4.50 |
| (f) Written examination and instruction permit, valid for 30 days | \$4 \$6 |

Sec. 8. [APPROPRIATION.]

The sum of \$20,000 is appropriated from the trunk highway fund to the commissioner of public safety to provide approved motorized bicycle safety courses to be available until June 30, 1989.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective June 1, 1987."

Delete the title and insert:

"A bill for an act relating to public safety; motorized bicycles; establishing standards for the safe operation of motorized bicycles; appropriating money; amending Minnesota Statutes 1986, sections 65B.001, by adding a subdivision; 65B.43, subdivision 13; 168.011, subdivision 27; 169.01, subdivision 4a; 169.223; 171.01, subdivision 20; and 171.02, subdivision 3."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Bob Jensen, Phyllis Kahn, Douglas W. Carlson

Senate Conferees: (Signed) Gary M. DeCramer, Fritz Knaak, Marilyn M. Lantry

Mr. DeCramer moved that the foregoing recommendations and Conference Committee Report on H.F. No. 532 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 532 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

RECESS

Mr. Luther moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

APPOINTMENTS

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

H.F. No. 794: Messrs. Merriam, Laidig and Novak.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1159, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1159 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1159

A bill for an act relating to retirement; public pension plan or fund assets; prohibiting certain transfers or uses of assets; proposing coding for new law in Minnesota Statutes, chapter 356.

May 17, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1159, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1159 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1**STATEWIDE PUBLIC SAFETY PENSION PLAN CHANGES**

Section 1. Minnesota Statutes 1986, section 69.80, is amended to read:
69.80 [AUTHORIZED ADMINISTRATIVE EXPENSES.]

Notwithstanding any provision of law to the contrary, the payment of the following necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, when provided for in the bylaws of the association and approved by the board of trustees, shall constitute authorized administrative expenses of a police, salaried firefighters' or volunteer firefighters' relief association organized under any law of this state:

(a) office expense including but not limited to rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures, and salaries of administrative personnel;

(b) salaries and itemized expenses of the president, secretary, and treasurer of the association, or their designees, and any other official of the relief association to whom a salary is payable under bylaws or articles of incorporation in effect on January 1, 1986, and their itemized expenses incurred as a result of fulfilling their responsibilities as administrators of

the special fund;

(c) tuition, registration fees, organizational dues, and other authorized expenses of the officers or members of the board of trustees incurred in attending educational conferences, seminars, or classes relating to the administration of the relief association;

(d) audit, actuarial, medical, legal, and investment and performance evaluation expenses;

(e) reimbursement to the officers and members of the board of trustees, or their designees, for reasonable and necessary expenses actually paid and incurred in the performance of their duties as officers or members of the board; and

(f) premiums on fiduciary liability insurance and official bonds for the officers, members of the board of trustees, and employees of the relief association.

Any other expenses of the relief association shall be paid from the general fund of the association, if one exists. If a relief association has only one fund, that fund shall be deemed to be the special fund for purposes of this section. If a relief association has a special fund and a general fund, and any expense of the relief association is directly related to the purposes for which both funds were established, the payment of that expense shall be apportioned between the two funds on the basis of the benefits derived by each fund.

Sec. 2. Minnesota Statutes 1986, section 352.01, subdivision 2B, is amended to read:

Subd. 2B. [EXCLUDED EMPLOYEES.] The following persons are excluded from the meaning of state employee:

(1) elective state officers;

(2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board or the state board for community colleges, as the case may be;

(3) employees who are eligible to membership in the state teachers retirement association except employees of the department of education who have elected or may elect to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval militia and such as are assigned to permanent peacetime duty who pursuant to federal law are or are required to be members of a federal retirement system;

(6) election officers;

(7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;

(9) all courts and court employees, referees, receivers, jurors, and notaries public, except employees of the appellate courts and referees and adjusters employed by the department of labor and industry;

(10) patient and inmate help in state charitable, penal and correctional institutions including the Minnesota veterans home;

(11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) employees of the Sibley House Association;

(13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;

(14) operators and drivers employed pursuant to section 16.07, subdivision 4;

(15) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service therefor is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full time secretary;

(16) state troopers;

(17) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of the same year; and persons employed at any time or times by the state fair administration for special events held on the fairgrounds;

(18) emergency employees in the classified service except emergency employees who within the same pay period become provisional or probationary employees on other than a temporary basis, shall be deemed "state employees" retroactively to the beginning of the pay period;

(19) persons described in section 352B.01, subdivision 2, clauses (b) and (c) formerly defined as state police officers;

(20) all temporary employees in the classified service, all temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and all seasonal help in the classified service employed by the department of revenue;

(21) trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision 2A, clause (10);

(22) persons whose compensation is paid on a fee basis;

(23) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) chaplains and nuns who have taken a vow of poverty as members

of a religious order;

(26) labor service employees employed as a laborer 1 on an hourly basis;

(27) examination monitors employed by departments, agencies, commissions, and boards for the purpose of conducting examinations required by law;

(28) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(29) persons appointed to serve as members of fact finding commissions, adjustment panels, arbitrators, or labor referees under the provisions of chapter 179;

(30) temporary employees employed for limited periods of time under any state or federal program for the purpose of training or rehabilitation including persons employed for limited periods of time from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) full-time students employed by the Minnesota historical society who are employed intermittently during part of the year and full time during the summer months;

(32) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, the members of which board are appointed by the metropolitan council;

(33) persons employed in positions designated by the department of employee relations as student workers;

(34) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days following appointment that coverage is desired;

(35) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage pursuant to a collective bargaining agreement first employed after June 1, 1977; and

(36) 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 system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the 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 Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution; and

(37) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund.

Sec. 3. Minnesota Statutes 1986, section 352.85, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; RETIREMENT ANNUITY.] Any person who is employed by the department of military affairs *other than as a full-time firefighter*, who is covered by the general employee retirement plan of the Minnesota state retirement system as provided in section 352.01, subdivision 23, who is ordered to active duty pursuant to section 190.08, subdivision 3, who elects this special retirement coverage pursuant to subdivision 4, who is required to retire from federal military status at the age of 60 years by applicable federal laws or regulations and who terminates employment as a state employee upon attaining that age shall be entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement pursuant to section 352.116, subdivision 1.

Sec. 4. Minnesota Statutes 1986, section 352.91, subdivision 4, is amended to read:

Subd. 4. Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, the commissioner of employee relations may certify additional civil service classifications at state ~~adult~~ correctional or security hospital facilities to the executive director of the Minnesota state retirement system as positions rendering covered correctional service. *The commissioner of corrections and the commissioner of human services must establish, in writing, a set of criteria upon which to base a recommendation for certifying additional civil service classifications as rendering covered correctional service.*

Sec. 5. Minnesota Statutes 1986, section 353.01, subdivision 2a, is amended to read:

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

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

(m) Employees of the soil and water conservation districts.

(n) Employees of a county historical society who are county employees.

(o) Employees of an economic development authority created under sections 458C.01 to 458C.23.

(p) *Employees of the department of military affairs of the state of Minnesota who are full-time firefighters.*

Sec. 6. Minnesota Statutes 1986, section 353.64, is amended by adding a subdivision to read:

Subd. 8. [PENSION COVERAGE FOR CERTAIN STATE MILITARY AFFAIRS DEPARTMENT FIREFIGHTERS.] A person who is employed as a full-time firefighter on or after the first day of the first payroll period after the effective date of this section by the department of military affairs of the state of Minnesota and who is not eligible for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to state employees because the person's position is excluded from application under United States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D) and section 355.07, is a member of the public employees police and fire fund and is considered to be a firefighter within the meaning of this section. The state department of military affairs shall make the employee contribution deduction from the salary of each full-time military affairs department firefighter as required by section 353.65, subdivision 2, shall make the employer contribution with respect to each firefighter as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

Sec. 7. Minnesota Statutes 1986, section 353.656, subdivision 3, is amended to read:

Subd. 3. [NONDUTY DISABILITY BENEFIT.] After June 30, 1973, Any member who becomes disabled after not less than five years of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason thereof of that sickness or injury the member is unable to perform duties as a police officer or firefighter, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of disability and the benefit were paid pursuant to section 353.651. Should If a disability under this clause occur subdivision occurs after five but in less than ten years of allowable service, the disability benefit shall be the same as though the member had at least ten years service. For any member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 8. Minnesota Statutes 1986, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. [DEATH WHILE ELIGIBLE SURVIVOR BENEFIT.] If a member who has attained the age of at least 50 years and has credit for not less than ten 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, *a death while eligible survivor benefit. The benefit shall be 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. The benefit must be 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. *For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.*

Sec. 9. [353B.01] [LOCAL GOVERNMENT CORRECTIONAL SERVICE RETIREMENT PLAN.]

Subdivision 1. [PLAN ADMINISTRATION; FUND.] The public employees local government correctional service retirement plan is a separate plan administered by the public employees retirement association. The association shall maintain a special fund known as the public employees local government correctional service retirement fund.

Subd. 2. [REVENUE SOURCES.] Member contributions under section 13, subdivision 1 or 3, and employer contributions under section 13, subdivision 1 or 3, and other amounts authorized by law, including any investment income or invested fund assets, must be deposited in the fund.

Subd. 3. [INVESTMENT.] The public employees local government correctional service retirement fund participates in the Minnesota postretirement investment fund. The amounts provided in section 353.271 must be deposited in that fund. The balance of any assets of the fund must be deposited in the Minnesota combined investment fund as provided in section 11A.14, if applicable, or otherwise under section 11A.23.

Subd. 4. [COLLECTION OF CONTRIBUTIONS.] The collection of member and employer contributions are governed by section 353.27, subdivisions 4, 7, 8, 9, 10, 11, 12, and 13.

Subd. 5. [FUND DISBURSEMENT RESTRICTED.] The public employees local government correctional service retirement fund and its share of participation in the Minnesota postretirement investment fund may be disbursed only for the purposes provided for in this chapter. The propor-

tional share of the expenses of the association and any benefits provided in this chapter, other than benefits payable from the Minnesota postretirement investment fund, must be paid from the correctional service retirement fund. Retirement annuities, disability benefits, survivorship benefits, and any refunds of accumulated deductions may be paid only from the correctional service retirement fund after those needs have been certified by the executive director and the amounts withdrawn from the share of participation in the Minnesota postretirement fund under section 11A.18. The amounts necessary to make the payments from the correctional service retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from those funds for those purposes.

Sec. 10. [353B.02] [CORRECTIONAL SERVICE EMPLOYEES.]

A local government correctional service employee is a person who:

(1) meets the definition of "essential employee" in section 179A.03, subdivision 7, excluding state employees, University of Minnesota employees, firefighters, peace officers subject to licensure under sections 626.84 to 626.855, employees of hospitals other than state hospitals, confidential employees, supervisory employees other than supervisory employees of correctional officers at correctional facilities or city or county jails, principals, and assistant principals;

(2) is employed by Dakota county, Hennepin county, Ramsey county, St. Louis county, or Washington county, if the county elects to participate under section 12;

(3) is a public employee within the meaning of section 353.01, subdivisions 2 and 2a; and

(4) is not at the time of the exercise of the participation option under section 12 a member of the basic program of the public employees retirement association or a member of the public employees police and fire fund.

Sec. 11. [353B.03] [CORRECTIONAL SERVICE PLAN COVERAGE.]

Subdivision 1. [INITIAL COVERAGE.] A person who is a local government correctional service employee on June 30, 1988, is a member of the local government correctional service retirement plan and shall begin contributing to the plan on July 1, 1988.

Subd. 2. [SUBSEQUENT COVERAGE.] A person who becomes a local government correctional service employee after June 30, 1988, is a member of the local government correctional service retirement plan and shall contribute to the plan.

Sec. 12. [353B.04] [LOCAL GOVERNMENT EMPLOYING UNIT PARTICIPATION OPTION.]

Dakota county, Hennepin county, Ramsey county, St. Louis county, or Washington county may elect to provide its correctional employees with retirement coverage by the local government correctional service retirement plan in lieu of retirement coverage by the public employees retirement association or the public employees police and fire fund. The election must be made on a form provided by the executive director of the public employees retirement association and, once made, is irrevocable for all local government correctional service employees employed by the county.

Sec. 13. [353B.05] [CORRECTIONAL SERVICE PLAN

CONTRIBUTIONS.]

Subdivision 1. [MEMBER CONTRIBUTIONS.] Beginning with the first full pay period after July 1, 1988, after the effective date of the election to provide retirement coverage by the local governmental unit, or after becoming a local government correctional service employee, whichever is later, in lieu of employee contributions payable under section 353.27, subdivision 2, a local government correctional service employee shall make an employee contribution in an amount equal to five percent of salary.

Subd. 2. [EMPLOYER CONTRIBUTIONS.] Beginning with the first full pay period after July 1, 1988, after the effective date of the election to provide retirement coverage by the local governmental unit, or after becoming a local government correctional service employee, whichever is later, in lieu of employer contributions payable under section 353.27, subdivision 3, the employer shall contribute for a local government correctional service employee an amount equal to five percent of salary.

Subd. 3. [ADJUSTMENT IN CONTRIBUTION RATES.] Beginning with the first full pay period after the actuarial valuation of the local government correctional service retirement plan prepared by the actuary retained by the legislative commission on pensions and retirement is filed with the executive director of the public employees retirement association, the member contribution rate is a percentage that equals one-half of the calculated total actuarial requirement of the plan, and the employer contribution rate is the balance of the calculated total actuarial requirement of the plan.

Sec. 14. [353B.06] [CORRECTIONAL SERVICE PLAN RETIREMENT ANNUITY.]

Subdivision 1. [ELIGIBILITY REQUIREMENTS.] After separation from public employment, an employee covered under section 10 who has attained the age of at least 55 years and has credit for not less than ten years of coverage in the local government correctional service plan is entitled, upon application, to a normal retirement annuity. In lieu of a normal retirement annuity, a retiring employee may elect to receive the optional annuity provided in section 353.30, subdivision 3.

Subd. 2. [AVERAGE SALARY BASE.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a local government correctional employee upon which employee contributions were paid for any five successive years of allowable service.

Subd. 3. [ANNUITY AMOUNT.] The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and 2.5 percent for each additional year of allowable service, determines the amount of the normal annuity. If a person has earned allowable service in the public employees retirement association or the public employees police and fire fund for performing services other than those of a local government correctional employee, the annuity representing such service must be computed in accordance with the coordinated formula under sections 353.29 and 353.30 or section 353.651, whichever applies.

Subd. 4. [ACCRUAL AND DURATION.] The annuity under this section begins to accrue as provided in section 353.29, subdivision 7, and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, which-

ever occurs first. After a recipient has received the annuity calculated under this formula for 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, whichever occurs first, the benefit must be recomputed in accordance with the coordinated formula in sections 353.29 and 353.30, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at that time, is less than the benefit payable under subdivision 3, the retired employee must receive an amount payable under subdivision 3. When an annuity is reduced under this subdivision, any percentage of adjustments that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity.

Subd. 5. [MULTIPLE SERVICE LIMITATION.] A former employee who has both regular and local government correctional service must, if qualified, receive an annuity based on both periods of service, but no period of service may be used more than once in calculating the annuity.

Sec. 15. [353B.07] [AUGMENTATION IN CERTAIN CASES.]

Unless prior service has been transferred or unless a combined service annuity under section 356.30 has been elected, an employee who becomes a local government correctional employee after being a member of the public employees retirement association or the public employees police and fire fund is covered under section 353.71, subdivision 2, with respect to that prior service.

Sec. 16. [353B.08] [DISABILITY BENEFITS.]

Subdivision 1. [DUTY DISABILITY QUALIFICATION REQUIREMENTS.] A local government correctional employee who is less than 55 years of age and who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that renders the employee physically or mentally unable to perform the employee's duties, is entitled to a disability benefit based on covered service only in an amount equal to 45 percent of the average salary defined in section 14, subdivision 2, plus an additional 2.5 percent for each year of covered service in excess of 20 years.

Subd. 2. [NONDUTY DISABILITY QUALIFICATION REQUIREMENTS.] A local government correctional employee who after not less than five years of covered service, before reaching the age of 55, becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 14, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Subd. 3. [OPTIONAL ANNUITY.] A disabled local government correctional employee may elect the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity must be made before the commencement of payment of the disability benefit and is effective on the date on which the disability benefit begins to accrue as provided in section 353.33, subdivision 2. Upon becoming effective, the optional annuity begins to accrue on the same date as provided for the disability benefit.

Subd. 4. [DISABILITY BENEFIT APPLICATION.] A claim or demand for a disability benefit must be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the association, showing compliance with the statutory conditions qualifying the applicant for a disability benefit. A member or former member who became disabled during a period of membership may file an application for disability benefits within three years following termination of local government correctional service, but not after that time has elapsed. This benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the 90-day period, from the date salary ceased, whichever is latest. No payment may accrue beyond the end of the month in which entitlement has terminated. If the disabilitant dies before negotiating the check for the month in which death occurs, payment must be made to the optional annuitant or beneficiary.

Subd. 5. [DISABILITY BENEFIT TERMINATION.] The disability benefit paid to a disabled local government correctional employee terminates at the end of the month in which the employee reaches age 62. If the disabled local government correctional employee is still disabled when the employee reaches age 62, the employee is deemed to be a retired employee and, if the employee had elected an optional annuity under subdivision 3, must receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 3, the employee may elect either to receive a normal retirement annuity computed in the manner provided in section 14 or to receive an optional annuity as provided in section 353.30, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made before attaining the age of 62 years. The reduction for retirement prior to age 65 as provided in section 353.30, subdivisions 1 and 1c, is not applicable.

Subd. 6. [RESUMPTION OF EMPLOYMENT.] Should a disabled employee resume a gainful occupation from which earnings are less than salary received at the date of disability or the salary currently paid for similar positions, or should the employee be entitled to receive workers' compensation benefits, the disability benefit must be continued in an amount that, when added to such earnings and workers' compensation benefits, does not exceed the salary received at the date of disability or 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.

Sec. 17. [353B.09] [SURVIVING SPOUSE OPTIONAL ANNUITY.]

If a member or former member of the local government correctional service retirement plan has attained the age of at least 50 years and has credit for not less than ten 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 section 353.32, subdivision 1, an annuity equal to the 100 percent joint and survivor annuity for which the member could have qualified 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 must be computed on the coordinated formula 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 may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment must be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 18. [353B.10] [SCOPE AND APPLICATION.]

The general provisions of chapter 353 apply to the local government correctional service retirement plan except where otherwise specifically provided in sections 9 to 18.

Sec. 19. Minnesota Statutes 1986, section 356.20, subdivision 2, is amended to read:

Subd. 2. [COVERED PUBLIC PENSION FUNDS.] (1) State employees retirement fund.

(2) Public employees retirement fund.

(3) Teachers retirement fund.

(4) State patrol retirement fund.

(5) Minneapolis teachers retirement fund association.

(6) St. Paul teachers retirement fund association.

(7) Duluth teachers retirement fund association.

(8) Minneapolis employees retirement fund.

(9) University of Minnesota faculty retirement plan.

(10) University of Minnesota faculty supplemental retirement plan.

(11) Judges retirement fund.

(12) Any police or firefighter's relief association enumerated in section 69.77, subdivision 1a or 69.771, subdivision 1.

(13) Public employees police and fire fund.

(14) Minnesota state retirement system correctional officers retirement plan.

(15) *Public employees local government correctional service retirement plan.*

Sec. 20. Minnesota Statutes 1986, section 356.30, subdivision 3, is amended to read:

Subd. 3. [COVERED FUNDS.] The provisions of this section shall apply to the following retirement funds:

(1) state employees retirement fund established pursuant to chapter 352;

(2) correctional employees retirement program, established pursuant to chapter 352;

(3) unclassified employees retirement plan, established pursuant to chapter 352D;

(4) state patrol retirement fund, established pursuant to chapter 352B;

(5) legislators' retirement plan, established pursuant to chapter 3A;

(6) elective state officers' retirement plan, established pursuant to chapter 352C;

(7) public employees retirement association, established pursuant to chapter 353;

(8) public employees police and fire fund, established pursuant to chapter 353;

(9) teachers retirement fund, established pursuant to chapter 354;

(10) Minneapolis employees retirement fund, established pursuant to chapter 422A;

(11) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;

(12) St. Paul teachers retirement fund association, established pursuant to chapter 354A;

(13) Duluth teachers retirement fund association, established pursuant to chapter 354A;

(14) *public employees local government correctional service retirement plan established by sections 9 to 18.*

Sec. 21. Minnesota Statutes 1986, section 356.32, subdivision 2, is amended to read:

Subd. 2. [COVERED FUNDS.] The provisions of this section shall apply to the following retirement funds:

(1) state employees retirement fund, established pursuant to chapter 352;

(2) correctional employees retirement program, established pursuant to chapter 352;

(3) state patrol retirement fund, established pursuant to chapter 352B;

(4) public employees retirement fund, established pursuant to chapter 353;

(5) public employees police and fire fund, established pursuant to chapter 353;

(6) teachers retirement fund, established pursuant to chapter 354;

(7) Minneapolis employees retirement fund, established pursuant to chapter 422A;

(8) Duluth teachers retirement fund association, established pursuant to chapter 354A;

(9) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;

(10) St. Paul teachers retirement fund association, established pursuant

to chapter 354A;

(11) public employees local government correctional service retirement plan established by sections 9 to 18.

Sec. 22. Minnesota Statutes 1986, section 424A.02, subdivision 9, is amended to read:

Subd. 9. [LIMITATION ON ANCILLARY BENEFITS.] Any relief association, *including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424*, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following limitations:

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

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

Sec. 23. [EFFECTIVE DATE.]

Sections 2, 3, 5, 6, 7 and 8 are effective the first day of the first full pay period beginning after final enactment. Sections 9 to 21 are effective January 1, 1988. The remaining sections are effective the day following final enactment.

ARTICLE 2

VARIOUS NONSTATEWIDE PUBLIC SAFETY PENSION PLAN CHANGES

Section 1. Minnesota Statutes 1986, section 424.04, is amended to read:

424.04 [MEMBERS.]

Subdivision 1. [PAID FIREFIGHTERS.] Every paid firefighter, as defined in section 424.03, shall be eligible to apply for membership in the relief

association in the city in which the person is employed within the time and in the manner hereinafter set forth. Any firefighter desiring to become a member shall, not later than 90 days from the time when the person is regularly entered on the payrolls of the fire department, make written application for membership in the relief association on forms supplied by the association, accompanied by one or more physician's certificates as required by the bylaws of the association. After the application has been filed, the board of examiners of the association shall make a thorough investigation thereof and file their report with the secretary of the association. An application shall be acted upon by the association within six months from the date applicant was entered on the payroll of the fire department. ~~No paid firefighter who is more than 35 years of age when the application of the person is filed shall become a member of the relief association; except that this age limitation shall not apply on application for reinstatement in the association.~~

Subd. 2. [VOLUNTEER FIREFIGHTERS.] Every volunteer firefighter shall be eligible to apply for membership in the relief association and shall make written application for membership in the relief association on forms supplied by the association not later than 90 days from the date on which the person commenced service as a volunteer firefighter. No application from a person who is ineligible for membership pursuant to section 424A.01, subdivision 1 or 2 or who is excluded as constituting an unwarranted health risk pursuant to section 424A.01, subdivision 4 shall be approved by the association. The application shall be acted upon by the association within six months from the date on which the person commenced service as a volunteer firefighter. ~~No volunteer firefighter who is more than 35 years of age when appointed to serve in any capacity performing any firefighting duties with a fire department shall become a member of the relief association; except that this age limitation shall not apply on any application for reinstatement in the association.~~

Sec. 2. Laws 1949, chapter 406, section 5, subdivision 1, as amended by Laws 1953, chapter 127, section 5, subdivision 1, Laws 1969, chapter 560, section 1, and Laws 1983, chapter 88, section 8, is amended to read:

Subdivision 1. [PERSONS MINNEAPOLIS POLICE; PERSONS ENTITLED TO RECEIVE.] The association shall grant pensions payable from the ~~policemen's~~ police pension fund in monthly installments, in the manner and for the following purposes:

(1) Any active member of the age of 50 years or more, and any deferred pensioner who performs has performed duty as a member of the police department of the city for 20 five years or more, upon his written application after retiring from such duty; ~~shall and reaching at least age 50 is entitled to be paid monthly during his lifetime a for life a service pension equal to 32 units and an additional unit for each year of such service in excess of 20 years; but after completion of the 25th year of service the member shall receive 40 units thereafter.~~

(2) Any active member who performs duty as a member of the police department of the city for 20 years or more who retires from such duty before he attains the age of 50 years, upon his written application after reaching the age of 50 years shall be paid monthly during his lifetime a pension equal to 32 units and an additional unit for each year of such service in excess of 20 years; but after completion of the 25th year of

service the member shall receive 40 units thereafter eight units. For full years of service beyond five years, the service pension increases to a maximum of 40 units, as follows:

Sixth through 20th years 1.6 units per year

21st through 24th years 1.0 units per year

25th year 4.0 units.

Fractional years of service may not be used in computing pensions.

(3) ~~To~~ (2) Any active member who shall, after ~~ten~~ five years' service but with less than 20 years' service with the police department of the city, ~~become becomes~~ superannuated so as to be permanently unable to perform his assigned duties, ~~there~~ shall be paid monthly ~~during his lifetime for life~~ a pension equal to ~~12~~ two units for ~~ten~~ five years of service and an additional two units for each ~~completed~~ full year of such service over ~~ten~~ five years and less than 20 years.

(4) ~~To~~ (3) Any active member not eligible for a service pension who, while a member of the police department of the city, becomes diseased or sustains an injury while in the service which permanently unfits ~~him the~~ member for the performance of police duties, ~~there~~ shall be paid monthly ~~during his lifetime for life~~ a pension equal to 32 units while so disabled.

Sec. 3. Laws 1949, chapter 406, section 5, subdivision 3, as amended by Laws 1953, chapter 127, section 5, subdivision 2, and Laws 1983, chapter 88, section 9, is amended to read:

Subd. 2. [PAYMENTS, MEMBER SEPARATED FROM THE SERVICE MINNEAPOLIS POLICE; REFUNDS PROHIBITED.] If an active member of the police department of the city is separated from the service after having completed not less than five years of service, under such circumstances that no pension benefits are payable to him or to his widow or to his children, the association shall return to him the sum of \$500; with an additional \$100 for each completed year of service in excess of five. In the event the member is reinstated to police duty all moneys paid him shall be returned to the pension fund within six months from the date of the reinstatement. Failure to do so relieves the association from any liability as to prior years of service credit as to reinstatement date. In case of the death of the member any such sums shall be paid to his heirs, executors, or administrators. No refund of contributions may be made upon separation from service; provided, however, that if an active member dies leaving no surviving spouse or children the member's heirs, executors, or administrators are entitled to a refund of \$100 for each completed year of service.

Sec. 4. Laws 1949, chapter 406, section 6, subdivision 1, as amended by Laws 1953, chapter 127, section 6, and Laws 1967, chapter 820, section 1, is amended to read:

Subdivision 1. [MINNEAPOLIS POLICE SURVIVOR BENEFITS; PERSONS TO WHOM GRANTED.] The association shall grant pensions or benefits payable from the ~~police men's~~ police pension fund to any member or to any ~~widow~~ surviving spouse or to any child under 18 years of age or any member from the time and for the following purposes:

When a service pensioner, disability pensioner, or deferred pensioner, or an active member of a relief association dies, leaving

(1) a ~~widow~~ surviving spouse, who was ~~his~~ a legally married ~~wife~~ spouse, residing with ~~him~~ the decedent, and who was married while or prior to the time ~~he~~ the decedent was on the payroll of the police department; and who, in case the deceased member was a service or deferred pensioner, was legally married to the member at least one year before ~~his~~ retirement from the police department; or

(2) a child or children, who were living while the deceased was on the payroll of the police department or born within nine months after the decedent was withdrawn from ~~such~~ the payroll, the ~~widow~~ surviving spouse and child, or children, shall be entitled to a pension, or pensions, as follows:

(a) To the ~~widow~~ surviving spouse of a deceased active member or disabilitant, a pension of 18 units per month for life. If the surviving spouse remarries, the pension ceases as of the date of the remarriage.

(b) To the surviving spouse of a deceased deferred or retired member, a pension of 18 4.5 units per month for ~~her~~ natural life; but, plus an additional nine-tenths of one unit per month for every year of service of the decedent beyond five years to a maximum of 18 units. If ~~she~~ ~~remarry~~ the surviving spouse remarries the pension ~~shall cease~~ ceases as of the date of the remarriage.

(b) (c) To each child of a deceased active member or disabilitant, a pension of six units per month until the child reaches the age of 18 years; or in the case of a child in full-time attendance during the normal school year, in a school approved by the board of directors, until the child receives a bachelor's degree or attains the age of 22 years, whichever occurs first.

(d) To each child of a deceased deferred or retired member, a pension of 1.5 units per month plus three-tenths of one unit per month for every year of service of the decedent beyond five years to a maximum of six units until the child reaches the age of 18 years; or, in the case of a child in full-time attendance during the normal school year in a school approved by the board of directors, until the child receives a bachelor's degree or attains the age of 22 years, whichever is first.

The total pensions hereunder for the ~~widow~~ surviving spouse and children of a deceased member shall not exceed 32 units per month.

Sec. 5. Laws 1980, chapter 607, article 15, section 9, is amended to read:

Sec. 9. [MINNEAPOLIS POLICE AND FIRE; HEALTH AND WELFARE BENEFIT.] Notwithstanding any law to the contrary, any person who, after July 1, 1980, retires on a service pension with at least 20 years of service or a permanent disability benefit from the Minneapolis police relief association or the Minneapolis firefighters relief association shall be entitled on January 1, 1981, or upon the date of retirement, whichever occurs later, to receive a monthly health and welfare benefit unless the city of Minneapolis elects to retain the local relief association by the adoption of a municipal resolution pursuant to section 4, subdivision 1. The monthly health and welfare benefit shall be an amount equal to one unit as defined pursuant to Laws 1963, Chapter 315, Section 1, Subdivision 3, for the Minneapolis police relief association, or Minnesota Statutes, Section 69.45, for the Minneapolis firefighters relief association, whichever is applicable. The monthly health and welfare benefit shall be paid to the retired member unless the retired member designates in writing that the amount be paid to an insurance carrier to defray the cost of any health or welfare related

insurance coverage.

Sec. 6. Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended by Laws 1953, chapter 127, section 4; Laws 1965, chapter 534, section 1; Laws 1967, chapter 825, section 1; Laws 1969, chapter 258, section 1; Laws 1973, chapter 272, section 1; Laws 1975, chapter 428, section 1; and Laws 1983, chapter 88, section 7, is amended to read:

Sec. 7. [MINNEAPOLIS, CITY OF; POLICEMEN'S PENSIONS.]

The policemen's pension fund shall be used only for the payment of:

- (a) Service, disability or dependency pensions;
- (b) Salaries of the secretary of the association in an amount not to exceed 30 percent of the base salary of a top-grade patrolman and of the president of the association in an amount not to exceed ten percent of the base salary of a top-grade patrolman;
- (c) Expenses of officers and employees of the association in connection with the protection of the fund;
- (d) All expenses of operating and maintaining the association;
- (e) Hospital and medical insurance for pensioners *who have completed 20 years or more of service or permanent disabilitants* and ~~widows~~ *surviving spouses of deceased active members, disabilitants, or service pensioners who have completed 20 years or more of service* of one unit per month, such one unit to be added to the pension otherwise provided for herein; provided that a pensioner or ~~widow~~ *surviving spouse* may in writing authorize a deduction from their pension for an insurance plan adopted by the association;
- (f) Health and welfare benefits of one unit per month in addition to other benefits for members who retire after July 1, 1980, *and have completed 20 years or more of service or members who are permanent disabilitants*; and
- (g) Other expenses authorized by law.

Sec. 7. Laws 1967, chapter 678, section 2, as amended by Laws 1971, chapter 807, section 2, and Laws 1983, chapter 74, section 1, is amended to read:

Sec. 2. [HIBBING POLICE; SURVIVING SPOUSES, CHILDREN; AMOUNT OF PENSION.] Notwithstanding any other provision of law or charter, pensions may be paid by the police relief association of the city of Hibbing to any surviving spouse or child under ~~46~~ 18 years of age of any pensioned and retired member of the police department, and to any surviving spouse or child under ~~46~~ 18 years of age of any member who dies while in the service of the police department of the city. The surviving spouse or child shall receive not more than the sums herein provided.

~~\$250 per month to the surviving spouse, and \$15 per month to each child under 16 years of age. Survivor benefits shall be the following percentages of the average salary of the deceased member during the last six months of employment by the police department:~~

- (1) ~~surviving spouse, 30 percent;~~
- (2) ~~surviving child under 18, 10 percent;~~
- (3) ~~maximum family benefit, 50 percent.~~

Where a surviving spouse and children reside together the money herein required to be paid to the children shall be paid to the surviving spouse for the support of the children; ~~but that money paid to the surviving spouse for the surviving spouse and children shall not exceed \$280 per month in all.~~ In the event of the death of both parents leaving a minor child or children under the age of 16 18 years of age, entitled to a pension, the sums as may be necessary for the care, maintenance and education of the child or children may be paid to the legal guardian thereof, but not to exceed the ~~sum of \$280 per month to the children of any one police officer maximum family benefit.~~ In the event that surviving spouse remarries, he or she shall receive no further benefits under this law. The fund shall not be used for any other purpose than the payment of service, disability or dependency pensions, as herein provided, and for the relief of a sick, injured and disabled police officer. The word "member", as used in this act, shall include policewomen, police matrons and assistant police matrons.

Sec. 8. Laws 1977, chapter 169, section 1, subdivision 1a, as amended by Laws 1982, chapter 443, section 1, is amended to read:

Subd. 1a. [HIBBING, CITY OF; FIREFIGHTERS; SERVICE PENSIONS; INCREASE IN CERTAIN PENSIONS.] The Hibbing firefighters relief association shall pay to any retired fireman who retired prior to September 1, 1972, ~~\$200~~ \$300 per month in addition to any service pension payable pursuant to subdivision 1.

Sec. 9. Laws 1971, chapter 614, section 1, subdivision 2, as amended by Laws 1982, chapter 443, section 2, is amended to read:

Subd. 2. [HIBBING FIRE; DEPENDENCY PENSIONS.] When a pensioned and retired or active member of the association dies leaving

(1) A ~~widow surviving spouse~~ who was ~~his the member's~~ legally married ~~wife spouse~~, residing with ~~him the member~~, and who was married to ~~him the member~~ while or prior to the time ~~he the member~~ was on the payroll of the fire department; and who, in case the deceased member was a service pensioner, was legally married to the member at least three years before ~~his~~ retirement from the fire department; or

(2) A child or children who were living while the deceased was on the payroll of the fire department, or born within nine months after the decedent was withdrawn from the payroll of the fire department, the ~~widow surviving spouse~~ and the child or children shall be entitled to a pension or pensions ~~based upon the following percentages of the average salary of the deceased member during the last six months of employment by the fire department,~~ as follows:

(a) To the ~~widow surviving spouse~~, ~~not to exceed the sum of \$250 30 percent of average salary~~ per month, as the bylaws of the association provide, for ~~her natural~~ life which amount may be applicable to ~~widows surviving spouses~~ already receiving pension payments before the effective date of the most recent amendment ~~hereto~~ which affects the amount if the bylaws should so provide; ~~provided, that.~~ If ~~she the surviving spouse~~ shall remarry then the pension shall cease and terminate as of the date of ~~her~~ remarriage;

(b) To the child or children, if their ~~mother~~ other parent be living, a pension of ~~not to exceed \$25 ten percent of average salary~~ per month for each child up to the time each child reaches the age of 18 years; provided,

the total pensions hereunder for the ~~widow~~ surviving spouse and children of the deceased member shall not exceed the sum of \$280 50 percent of average salary per month;

(c) A child or children of a deceased member receiving a pension or pensions hereunder shall, after the death of their ~~mother~~ other parent, be entitled to receive a pension or pensions in such amount as the board of trustees of the association shall deem necessary to properly support the child or children until they reach the age of 18 years; but the total amount of the pension or pensions hereunder for any child or children shall not exceed the sum of \$280 50 percent of average salary per month.

Sec. 10. Laws 1967, chapter 751, section 2, is amended to read:

Sec. 2. [WEST ST. PAUL POLICE; SERVICE PENSION.]

Subdivision 1. [PENSION AMOUNT.] Notwithstanding Minnesota Statutes, Section 423.384, the service pension of a member of the ~~police~~ police relief association of the city of West St. Paul who is qualified for a pension in accordance with Section 423.384 at the time of retirement shall be one-half of the regular salary of a top grade ~~patrolman~~ patrol officer at the time the member retires.

Subd. 2. [SALARY DEFINED.] "Regular salary of a top grade patrol officer" includes the highest amount of longevity pay which is payable to a top grade patrol officer.

Subd. 3. [POSTRETIREMENT ADJUSTMENTS.] Service pensions must be adjusted in accordance with Minnesota Statutes, section 423A.01, subdivision 4.

Sec. 11. [DISSOLUTION OF CLIFTON VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; TRANSFER OF ASSETS AND SERVICE CREDIT.]

Notwithstanding the provisions of Minnesota Statutes, section 424A.02, subdivisions 11 and 12, if the Clifton independent nonprofit firefighting corporation disbands and the Clifton volunteer firefighters relief association established as provided in Minnesota Statutes, chapter 424A, is dissolved, the assets of the Clifton volunteer firefighters relief association must be transferred to any volunteer firefighters relief association governed by Minnesota Statutes, chapter 424A, applicable to the township of Duluth, county of St. Louis. Upon the transfer of assets, the receiving volunteer firefighters relief association is the successor in interest for all claims for and against the Clifton volunteer firefighters relief association, except any claim against the relief association, the Clifton independent nonprofit firefighting corporation, or any person connected with either in a fiduciary capacity, based on any acts that were not done in good faith and that constituted a breach of the obligation as a fiduciary. As a successor in interest, the receiving volunteer firefighters relief association may assert any applicable defense in any judicial proceeding that the Clifton volunteer firefighters relief association or the Clifton independent nonprofit firefighting corporation would have otherwise been entitled to assert.

Upon transfer of the assets of the Clifton volunteer firefighters relief association, a person with credit for service in the Clifton volunteer firefighters relief association must receive an equal amount of service credit in the receiving volunteer firefighters relief association.

Sec. 12. [MANKATO POLICE; ESCALATION OF CERTAIN BENEFITS.]

Notwithstanding Minnesota Statutes, section 423.384, or any other law, the Mankato police benefit association may amend its articles or bylaws to provide for computation of postretirement increases for retired members for whom there exists no equivalent rank in the public safety department, by the same percentage increase granted retired first class patrol officers in any year. The Mankato city council shall ratify the amendment as required by section 69.77, subdivision 2i, but the council may forego the actuarial valuation or estimate required by that subdivision.

Sec. 13. [MILLERVILLE FIREFIGHTERS RELIEF ASSOCIATION; PRIOR SERVICE IN SERVICE PENSION COMPUTATIONS.]

Notwithstanding any provision of Minnesota Statutes, sections 69.771 to 69.776 or chapter 424A to the contrary, the Millerville firefighters relief association may amend its bylaws to allow computation of service pensions utilizing a member's period of service as an active member of the municipal fire department during the period prior to incorporation of the relief association.

Sec. 14. [VIRGINIA FIREFIGHTERS' RELIEF ASSOCIATION; SURVIVING SPOUSES' BENEFITS.]

Notwithstanding any law to the contrary, the survivor benefit payable to a surviving spouse of a deceased member of the Virginia firefighters' relief association is increased by \$100 per month.

Sec. 15. [SAVINGS CLAUSE.]

Nothing in sections 2 to 6 impairs or diminishes the benefits paid to members, spouses, or children of a member of the Minneapolis police relief association or the entitlement that members, spouses, or children had to benefits before the effective date of sections 2 to 6.

Sec. 16. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment. Sections 2 to 6 and 15 are effective upon approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021. Sections 7 to 9 are effective upon approval by the Hibbing city council and compliance with Minnesota Statutes, section 645.021. Section 10 is effective as approved by the governing body of the city of West St. Paul and if there is compliance with Minnesota Statutes, section 645.021, and the increase in service pensions payable due to section 10 is initially payable on January 1, 1988, and is applicable to any member of the West St. Paul police relief association who retired on or after February 1, 1985. Section 11 is effective upon approval by the Clifton independent nonprofit firefighting corporation and the approval of the governing body of the township of Duluth and compliance with Minnesota Statutes, section 645.021. Section 12 is effective upon approval by the Mankato city council and compliance with Minnesota Statutes, section 645.021. Section 13 is effective upon approval by the governing body of the city of Millerville and compliance with Minnesota Statutes, section 645.021. Section 14 is effective upon approval by the Virginia city council and compliance with Minnesota Statutes, section 645.021.

ARTICLE 3

MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION
BENEFIT MODIFICATION AUTHORIZATIONSection 1. [MINNEAPOLIS TEACHERS RESTRUCTURING OF
RETIREMENT BENEFITS; POSTRETIREMENT ADJUSTMENT
MECHANISM.]

(a) *In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the Minneapolis teachers retirement fund association to amend its articles of incorporation by repealing article IX, subsection (18), authorizing lump sum postretirement adjustments payable to retirees or beneficiaries.*

(b) *In accordance with Minnesota Statutes, section 354A.12, subdivision 4, if the repeal authorized by paragraph (a) occurs, approval is granted for the Minneapolis teachers retirement fund association to amend or make an addition to its articles of incorporation as provided in paragraphs (c) to (g).*

(c) *Article IX, subsection (11), authorizing formula retirement annuity benefits, may be amended to authorize all teachers who retired before June 1, 1985, other than persons receiving a money purchase annuity under article IX, subsection (3), receiving a C death benefit under article IX, subsection (4), item C, or receiving a total disability benefit under article IX, subsection (5), to receive as of the first day of the month following the effective date of the amendment a recomputed annuity determined according to the 1975 revised formula annuity without regard to the 30-year service limitation applicable to teachers who retired after May 1, 1974, and before June 1, 1985.*

(d) *Article IX, subsection (14) D, providing an annual automatic annuity increase of 1-1/2 percent to all annuitants who have been receiving an annuity for at least 24 months and who have attained the age of 65 may be amended to increase the annual automatic increase annuity to two percent per fiscal year on January 1, or July 1, whichever applies, and to extend eligibility for that increase annuity to all annuitants who have been receiving an annuity for at least 12 months, irrespective of the attained age of the annuitant.*

(e) *Article IX, subsection (14), may be amended by adding a provision authorizing an increase in the annuity of any annuitant who retired on or before July 1, 1986, in the amount of four percent of the annuity the member is otherwise eligible to receive on July 1, 1987, including any other increases granted as of that date under articles of incorporation amendments authorized by the section but excluding the annual automatic increase annuity payable under article IX, subsection (14), item D, on July 1, 1987, for each full year that the member has been retired and receiving an annuity, to a maximum of 20 percent.*

(f) *Article IX, subsection (14), may be amended by adding a provision authorizing payment, as of July 1, 1987, of an increase in a normal retirement annuity, joint and survivor annuity or term certain optional annuity of retired teachers of the positive dollar amount difference between a minimum normal retirement annuity equal to \$25 per month for each full year of teaching service, to a maximum of 30 years, and the amount of the*

normal retirement annuity, joint and survivor annuity or term certain optional annuity payable on June 1, 1987, to retired teachers who were members of the basic program, who ceased active teaching service in the city public schools, who are receiving a normal retirement annuity, and who have not withdrawn a portion of required member deposits upon applying for the normal retirement annuity. If the difference is not a positive dollar amount, no increase is payable and no reduction may be imposed. For persons to whom a remainder portion of a joint and survivor annuity or a term certain optional annuity is payable, a proportional increase is payable.

(g) Article IX may be amended by adding a new subsection providing for an investment related postretirement adjustment mechanism. An annual postretirement may be paid if there is any excess investment income. The determination must be made by the board of trustees in consultation with the actuary retained by the legislative commission on pensions and retirement. The fund has excess investment income if the time weighted total rate of return earned by the fund over the most recent three year fiscal year period has exceeded the rate of eight percent or the applicable postretirement interest rate assumption specified in Minnesota Statutes, section 356.215, subdivision 4d, whichever is greater. In determining the total rate of return, the board shall use the formula or formulas established by the state board of investment under Minnesota Statutes, section 11A.04, clause (11), and in effect on January 1, 1987. The amount by which the excess investment income exceeds the minimum interest rate must be expressed as a percentage and carried to four decimal places. An annual postretirement adjustment is payable to a person who is receiving an annuity under article IX, subsection (8), (9), or (11), or article XI, subsection (5), who is receiving a death benefit under article IX, subsection (4), or who is receiving a joint and survivor annuity or term certain optional annuity under article IX, subsection (2), clause (b) or (c), and who has received the annuity or benefit in the person's own right or in combination with the initial recipient of the annuity for at least 12 months as of the determination date. The determination date is June 30, and determinations must be made as soon as practicable after that date. The board of trustees shall determine the percentage amount of the postretirement adjustment payable, but the percentage amount may not exceed the amount by which the excess investment income exceeds the minimum interest rate. The board of trustees shall include in the provision criteria to govern the exercise of its discretion in determining the instances under which an annual postretirement adjustment of less than the full determined percentage is payable. The annual postretirement adjustment is payable on January 1 following the determination date and is payable for the duration of the annuity or benefit.

Sec. 2. [WITHDRAWAL OF AUTHORITY.]

The authority for the amendment of article IX of the articles of incorporation of the Minneapolis teachers retirement fund association adding subsection (18) to provide a lump sum postretirement adjustment to certain annuitants and survivor benefit recipients under Laws 1981, chapter 159, section 1, clause (1), is withdrawn.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment.

ARTICLE 4

AUTHORIZATION OF PURCHASES OF PRIOR SERVICE

Section 1. [PURCHASE OF PRIOR SERVICE CREDIT AUTHORIZATION.]

Subdivision 1. [PURCHASE ELIGIBILITY.] (a) Notwithstanding the limitations in Minnesota Statutes, section 353.36, subdivision 2, a person whose employment with the Roseau county highway department began in September 1961, but for whom no salary deductions were taken out for the public employees retirement association until June 1965, may purchase credit for the prior public service for which salary deductions were omitted by paying to the association. Eligibility to make the purchase of prior service credit expires on January 1, 1988.

(b) Notwithstanding any law to the contrary, a person who is currently a teacher in the North St. Paul school district, who was on unpaid medical leave during the 1975-1976 and 1976-1977 school years and who was born on November 13, 1926 may purchase credit in the teachers retirement association for the periods of unpaid medical leave. Eligibility to make the purchase of prior service credit expires on January 1, 1988.

Subd. 2. [PURCHASE PAYMENT AMOUNT.] For any person eligible to purchase credit for prior service as provided in subdivision 1, there must be paid to the applicable retirement association an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity that would be obtained by virtue of the purchase of the additional service credit, using the interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the applicable mortality table adopted for the applicable retirement association and assuming continuous future service in the retirement system until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased, for the retirement association, and a future salary history that includes annual salary increases at the rate specified in Minnesota Statutes, section 356.215, subdivision 4d. The person requesting the purchase of prior service must establish in the records of the retirement association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the applicable retirement association.

Subd. 3. [PAYMENT; CREDITING SERVICE.] Payment must be made in one lump sum, unless the executive director of the applicable retirement association agrees to accept payment in installments over a period not to exceed three years from the date of the agreement, with interest at a rate deemed appropriate by the executive director. The period of allowable service may be credited to the account of the person only after receipt of full payment by the executive director.

Subd. 4. [OPTIONAL EMPLOYER PARTIAL PAYMENT.] Payment must be made by the person entitled to purchase prior service; however, the current or former employer of the person may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect for the retirement fund during the period or periods of prior service applied to the actual salary rates

in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 2. [PURCHASE OF PRIOR SERVICE BY CERTAIN EMPLOYEES.]

Notwithstanding any other law, a person who was employed by the University of Minnesota hospitals pharmacy department and was a member of the Minnesota state retirement system from October 2, 1967, to March 31, 1968, and who was appointed to a faculty position in the University of Minnesota pharmacy department and became a member of the retirement plan for university faculty members on April 1, 1968, and who on September 23, 1974, returned to state service and to membership in the Minnesota state retirement system as an employee of the department of human services may withdraw his account balance from the retirement plan for university faculty members and may purchase service credit in the Minnesota state retirement system for the time spent as a university faculty member. A person covered by this section may purchase that service credit by paying to the Minnesota state retirement system, by January 1, 1988, an amount equal to all employee, employer, and additional employer contributions at the rates in effect when the service as a faculty member was rendered plus interest at the rate of six percent a year from the year of purchase to the date payment is made.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment.

ARTICLE 5

AMBULANCE SERVICE PERSONNEL RETIREMENT PLAN

Section 1. [353A.01] [AMBULANCE SERVICE PERSONNEL RETIREMENT PLAN.]

Subdivision 1. [ESTABLISHMENT.] The ambulance service personnel retirement plan is administered by the public employees retirement association under supervision of the association board of directors. To assist it in governing the operations of the plan, the board may appoint an advisory committee of not more than seven members who are representative of ambulance service operators and ambulance service personnel.

Subd. 2. [COVERAGE.] Coverage under the retirement plan is open to basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate. First response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the plan.

Sec. 2. [353A.02] [ELECTION OF COVERAGE.]

Each public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity with eligible personnel may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within the latter of 30 days of the service's election to participate or 30 days of the date on which

the individual was employed by the service or began to provide service for it. An election by a service or an individual is irrevocable.

Sec. 3. [353A.03] [FUNDING OF PLAN.]

A public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate in the plan shall fund benefits for its qualified personnel who individually elect to participate, except that personnel who are paid for their services may elect to make member contributions in an amount not to exceed the service's contribution on their behalf. Ambulance service contributions on behalf of salaried employees must be a fixed percentage of salary. An ambulance service making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions.

Sec. 4. [353A.04] [CONTRIBUTIONS TO PLAN.]

Ambulance service contributions to the plan may be made from any source of funds available to the ambulance service. Contributions must be remitted monthly to the association together with any member contributions paid or withheld during the preceding month. Contributions shall be credited to the individual account of each participating member.

Sec. 5. [353A.05] [INVESTMENT OF FUNDS.]

Subdivision 1. [INVESTMENT.] Ambulance service contributions, after the deduction of an amount for administrative expenses, and member contributions must be remitted to the state board of investment for investment in the Minnesota supplemental investment fund established by section 11A.17.

Subd. 2. [INVESTMENT OPTIONS.] (a) An individual participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of contributions to be used to purchase shares in each of the accounts.

(b) Twice in a calendar year, a participant may indicate in writing a choice of options for subsequent purchases of shares. Thereafter, until the participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment fund or funds specified by the participant. If no initial option is indicated by a participant, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. A choice of investment options is effective no later than the first pay date first occurring more than 30 days after receipt of the written choice of options.

(c) Twice in a calendar year, a participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares. If a partial transfer of previously purchased shares is selected, a minimum of \$500 must be transferred and a minimum balance of \$500 must remain in the previously selected investment option. A change may be made only from one account or a combination of accounts to a single account. A change under this paragraph is effective as soon as cash flow to an account permits, but not later than six months from the requested change.

Subd. 3. [ADMINISTRATIVE EXPENSES.] The public employees retirement association may deduct an amount, set annually by the executive director of the association, but not to exceed two percent of ambulance service contributions to the plan, to defray the expenses of the association in administering the plan.

Sec. 6. [353A.06] [REPORTING BY AMBULANCE SERVICES.]

The executive director of the public employees retirement association shall prescribe the form of monthly and any other reports required from an ambulance service and the election forms required from ambulance service members. Member forms shall contain names, identification numbers, amount of contribution by and on behalf of each member, and such other data as is required to keep an accurate account of the account value of each participating employee.

Sec. 7. [353A.07] [BENEFITS.]

Subdivision 1. [TYPE OF PLAN; UNIFORMITY.] The plan is a defined contribution plan where the benefits payable upon retirement, death, or withdrawal when permitted, are determined by the value of accumulated contributions plus a proportionate share of investment income of the fund credited to each individual account. Each ambulance service shall determine eligibility for participation subject to terms of this act. Eligibility standards must be uniform among all ambulance service personnel of an ambulance service electing to participate.

Subd. 2. [AGE; VESTING.] Normal retirement age is 50 years. Early retirement is not allowed. Sixty months of service credit are required for vesting of retirement benefits. No minimum period of service is required for vesting of death benefits. Withdrawal of or a retirement benefit based on member contributions plus accrued investment income vests immediately. Upon completion of 60 months of service under the plan with one or more ambulance services, a participant terminating active service prior to age 50 is entitled to receive the value of the participant's individual account upon or after attaining age 50. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Subd. 3. [FORM OF BENEFIT.] A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of retirement and may be rolled over into another qualified plan at the option of the member. As an alternative to a lump sum distribution, the member may choose to have the association use the total account value to purchase an annuity payable at a designated age from an insurance company licensed to do business in the state.

Subd. 4. [DISABILITY OR DEATH.] No disability coverage shall be provided by the plan. In the event of the death of an active participant with any credited service or a deferred participant under age 50, the total value of the account shall be paid in a lump sum to the designated beneficiary or, if none, the heirs at law of the decedent.

Subd. 5. [FORFEITURES.] The account value of any participant terminating service prior to acquiring a vested interest or of a participant who dies leaving no designated beneficiary or heirs at law must be returned to the public employees retirement association and credited against future ambulance service contributions by the applicable ambulance service or services after the expiration of two years from the date of termination or death.

Sec. 8. [353A.08] [PORTABILITY.]

Qualified ambulance service personnel who change employment or membership among participating ambulance services may continue participation in the plan without penalty or forfeiture after their interest vests. Qualified ambulance service personnel who change employment or membership to a nonparticipating ambulance service are not subject to the forfeiture required by section 7, subdivision 5.

Sec. 9. [353A.09] [TAX QUALIFICATION.]

The public employees retirement association shall adopt rules required for administration of the plan. The proposed plan shall be formulated and adopted in accordance with applicable restrictions and standards of the Internal Revenue Code and rulings and regulations of the Internal Revenue Service in order to assure the tax exempt status of the plan as a qualified pension plan. Contributions by ambulance service personnel and by ambulance service operators may be accepted only after approval by the Internal Revenue Service.

Sec. 10. [353A.10] [NOT CONSIDERED A LOCAL PLAN.]

The plan is not a local governmental pension plan or fund for purposes of section 356.25.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 10 are effective on July 1, 1987.

ARTICLE 6

PUBLIC PENSION PLAN ASSET USE LIMITATION

Section 1. [356.615] [LIMITATION ON USE OF PUBLIC PENSION PLAN ASSETS.]

(a) Money held by or credited to a public pension plan as assets, including employer and employee contributions, state aid, appropriations from the state or a governmental subdivision, and accrued earnings on investments, constitutes a dedicated fund. The dedicated fund must be used exclusively to pay retirement annuities, service pensions, disability benefits, survivor benefits, refunds of contributions or other benefits provided under the benefit plan document or documents governing the public pension plan, and to pay reasonable administrative expenses approved by the governing board of the public pension plan or by another appropriate authority. No assets of a public pension plan may be loaned or transferred to the state or a governmental subdivision or be used to amortize an unfunded actuarial accrued liability in another public pension plan, whether or not the plan providing the assets consolidates or has consolidated with the plan receiving the assets. Nothing in this section prohibits a public pension plan or the state board of investment from investing the assets of a plan as authorized by law, including the investment of the assets of public pension plans by the state board of investment in a commingled investment fund.

(b) A public pension plan for purposes of this section means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, or a retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or other public sources.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 7**VARIOUS MISCELLANEOUS RETIREMENT MODIFICATIONS****Section 1. [PENSION SALARY AND SERVICE CREDIT FOR CERTAIN PERSONS.]**

Subdivision 1. [ENTITLEMENT.] A person who was an employee of Ramsey county and a member of the public employees retirement association, who suffered an illness or injury entitling the person to workers' compensation benefits during the five successive years before the date on which the person would have attained normal retirement age under Minnesota Statutes 1986, section 353.29, subdivision 1, or 353.30, subdivision 1a, who was granted an authorized leave of absence by Ramsey county, and who retired between June 26, 1986, and January 1, 1987, is entitled to additional credit from the public employees retirement association for additional salary under subdivision 2 and additional service under subdivision 3 and to a recalculation by the public employees retirement association of the retirement annuity under subdivision 4.

Subd. 2. [CREDIT FOR ADDITIONAL SALARY.] The additional salary for the period of the authorized leave of absence is the portion or multiple of the average salary on which deductions were made during the last six months of public service preceding the authorized leave of absence.

Subd. 3. [CREDIT FOR ADDITIONAL ALLOWABLE SERVICE.] The additional allowable service is any period of authorized leave of absence resulting from the qualifying injury or illness, not to exceed 30 months, for which the person made payments to the public employees retirement association under Minnesota Statutes 1986, section 353.01, subdivision 16, paragraph (3).

Subd. 4. [RETIREMENT ANNUITY RECALCULATION.] If the person obtains credit for additional salary and allowable service, the public employees retirement association shall recalculate the person's retirement annuity on the basis of any greater final average salary and the additional service and shall pay any difference between the old annuity and the recalculated annuity retroactively to the date of the person's retirement. Any retroactive amounts must be paid as soon as practicable.

Sec. 2. [POSTRETIREMENT ADJUSTMENT FOR CERTAIN RETIRED TEACHER.]

Subdivision 1. [RETIREMENT EFFECTIVE DATE.] In order to determine the effective date of retirement for the purposes of paying postretirement adjustments under Minnesota Statutes, section 11A.18, an annuitant from the teachers retirement association who terminated employment with the Roseau school district on June 30, 1982, and whose application for retirement was postmarked July 1, 1982, shall be deemed to have retired effective July 1, 1982.

Subd. 2. [APPROPRIATION.] The appropriate amount of required reserves is appropriated from the teachers retirement fund to the Minnesota postretirement investment fund to make a retroactive payment on the first day of the month next following the date of the ruling of the administrative hearing required by subdivision 3 of the adjustments an annuitant described

in subdivision 1 would have received from January 1, 1984, to the last day of the month next following the date of the ruling of the administrative hearing required by subdivision 3, and to fund the reserves necessary to support an adjusted benefit for the annuitant for the future.

Subd. 3. [ADMINISTRATIVE HEARING.] *The teachers retirement association shall hold an administrative hearing under Minnesota Statutes, sections 14.57 to 14.62, to determine the date on which the annuitant described in subdivision 1 mailed the application for retirement to the teachers retirement association. Notice of the hearing must be provided within 30 days of the effective date of this section and the hearing must be held as soon as practicable after that notice is provided.*

Subd. 4. [EFFECT OF HEARING.] *Subdivisions 1 and 2 are effective if the administrative hearing required by subdivision 3 results in a finding of fact that the annuitant described in subdivision 1 mailed the application for retirement to the teachers retirement association on or before June 30, 1982.*

Sec. 3. [ALBANY COMMUNITY HOSPITAL EMPLOYEES.]

Subdivision 1. [REFUND OF CONTRIBUTIONS.] *A member of the public employees retirement association who was employed by the Albany community hospital on the date the hospital was taken over by a private corporation or organization is entitled upon application to be paid a refund of accumulated employee and employer contributions made by or on behalf of the employee to the association, plus interest on those contributions at the rate of six percent a year. If an employee has previously received a refund of employee contributions, only the accumulated employer contributions plus interest may be refunded. No employer additional contributions may be refunded. A refund of contributions may be made only to a federal income tax qualified individual retirement account established by or on behalf of the person.*

Subd. 2. [DEFERRED ANNUITY.] *If an employee described in subdivision 1 had at least five years of allowable service credit, the employee may elect to receive, in lieu of the refund, a deferred annuity under Minnesota Statutes, section 353.34, subdivision 3, notwithstanding the length of service requirements contained in that subdivision. An employee eligible for a deferred annuity who has previously received a refund of employee contributions may reinstate the employee's eligibility for a deferred annuity by repaying the amount refunded, including any interest received, to the association, and any deferred annuities augmentation may be computed only from the date of the refund repayment.*

Subd. 3. [DEADLINE.] *Refunds must be paid or options must be exercised and repayments of refunds made by July 1, 1988.*

Sec. 4. [CANBY COMMUNITY HOSPITAL EMPLOYEES.]

Subdivision 1. [REFUND OF CONTRIBUTIONS.] *A member of the public employees retirement association who was employed by the Canby community hospital district No. 1 on the date the hospital was taken over by a private corporation or organization and whose public employment was thus terminated, may, by filing a valid application, elect to be paid a refund of accumulated employee and employer contributions made by or on behalf of the employee to the association, plus interest on those contributions at the rate of six percent a year. If an employee has previously received a refund of employee contributions, only the accumulated employer*

contributions plus interest may be refunded. No employer additional contributions may be refunded. A refund of contributions may be made only to a federal income tax qualified individual retirement account established by or on behalf of the person.

Subd. 2. [DEADLINE.] Refunds must be paid within 90 days of exercise of the option. Options must be exercised by July 1, 1988.

Sec. 5. [STEARNS COUNTY HISTORICAL SOCIETY EMPLOYEE.]

Notwithstanding the amendment of section 353.01, subdivision 2a, by Laws 1986, chapter 458, section 11, which excluded county historical society employees not employed by the county from membership in the public employees retirement association, an employee of the Stearns county historical society who was born on April 2, 1923, and who was a society employee on March 26, 1986, may elect to retain membership in and retirement coverage by the public employees retirement association. Notice of intent to retain membership must be given to the association within 60 days after the effective date of this section. Any contributions refunded under Laws 1986, chapter 458, section 33, on behalf of the employee must be repaid with interest at the rate of 6.5 percent a year, compounded annually, to the association within the 60-day period.

Sec. 6. [ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION BYLAW AMENDMENT.]

In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the St. Paul teachers retirement fund association to amend its bylaws, with effect retroactive to July 1, 1986, as follows:

(1) article IV of the bylaws, section 4, paragraph 1, clause (a), governing the payment of service and deferred pensions, may be amended by removing any limitation on employment as a retired member in any capacity by the city of St. Paul; and

(2) article IV of the bylaws, section 4, paragraph 1, governing the payment of service and deferred pensions, may be amended by adding clause (c) to provide that any person who was on a leave of absence from independent school district No. 625 on January 1, 1987, who was employed by the city of St. Paul while on that leave before January 1, 1987, and who applied for, but withdrew, an application for retirement with the fund association before January 1, 1987, is considered to have filed a valid application for retirement on January 1, 1987, in the form of the previously filed application and is eligible to be paid a retirement allowance retroactive to January 1, 1987.

Sec. 7. [HIBBING ELECTED OFFICIAL.]

Notwithstanding the "incumbency" provision of Minnesota Statutes, section 353.01, subdivision 7, and rules to the contrary adopted by the board of the public employees retirement association, a person who served on the Hibbing city council and elected membership in the association from January 1, 1983, and who terminated service on the council on November 25, 1986, after being reelected to the council for a term beginning January 6, 1987, may not be considered a member of the association with respect to service rendered as an elected official after the termination date of November 25, 1986, but may elect to become a member of the association under section 353.01, subdivision 7, for service rendered as an elected official on or after January 1, 1987.

Sec. 8. [PLYMOUTH VOLUNTEER FIREFIGHTERS.]

Subdivision 1. [EXCLUSION FROM CERTAIN RETIREMENT COVERAGE.] A volunteer firefighter serving with the Plymouth fire department is excluded from the definition of "public employee" in Minnesota Statutes, section 353.01, subdivision 2, and may not be a member of the public employees police and fire fund. Compensation paid to a Plymouth volunteer firefighter is excluded from the definition of "salary" in section 353.01, subdivision 10.

Subd. 2. [DEFINITION OF VOLUNTEER FIREFIGHTER.] A volunteer firefighter for purposes of subdivision 1 is a person who is not scheduled to serve on a full-time basis, who serves on call for emergency duty as a regular active member of the Plymouth municipal fire department, and who receives no compensation for that service or whose compensation for that service is not based on or is not a multiple of any rate of compensation being paid that person by the Plymouth municipal fire department for duty other than on call emergency duty, training duty, or equipment maintenance duty.

Subd. 3. [REFUND.] A volunteer firefighter who is excluded from membership by subdivision 1 shall be entitled to a refund of member contributions to the public employees retirement association or the public employees police and fire fund based on compensation as a volunteer firefighter, plus simple interest at the rate of six percent a year, if the person or the city of Plymouth demonstrates to the satisfaction of the executive director of the association the amount of contributions made by the person on behalf of service as a volunteer firefighter.

Sec. 9. [LEGISLATIVE INTENT.]

It is the finding of the legislature that the special refund provisions authorized in sections 3 and 4 are a unique response to two unique situations and it is the intent of the legislature that this response will not be considered for any allegedly similar situations.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 7 and 9 are effective the day following final enactment. Section 8 is effective July 1, 1987.

ARTICLE 8**STATE BOARD OF INVESTMENT CHANGES**

Section 1. Minnesota Statutes 1986, section 11A.04, is amended to read:

11A.04 [DUTIES AND POWERS.]

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board shall allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board shall not be subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to the provisions of section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the state treasurer to sell property other than money which has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property shall be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. All public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8 of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs therefor. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

Sec. 2. Minnesota Statutes 1986, section 11A.24, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENT OBLIGATIONS.] The state board may invest funds in governmental bonds, notes, bills, mortgages and other ~~fixed obligations, including evidences of indebtedness~~ provided the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which the board may invest under this subdivision include guaranteed or insured issues of (a) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (b) Canada and its provinces, provided the principal and interest is payable in United States dollars; (c) the states and their municipalities, political subdivisions, agencies or instrumentalities, ~~where backed by the state's full faith and credit or if the issuer has not been in default in payments of principal or interest within the past ten years or in the case of revenue bonds the obligor has been completely self-supporting for the five prior years;~~ (d) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Afri-

can Development Bank, or any other United States Government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars ~~and the issues are rated in the highest quality category by a nationally recognized rating agency.~~

Sec. 3. Minnesota Statutes 1986, section 11A.24, subdivision 3, is amended to read:

Subd. 3. [CORPORATE OBLIGATIONS.] The state board may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(a) the principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof shall be payable in United States dollars; *and*

(b) obligations shall be rated among the top four quality categories by a nationally recognized rating agency;

~~(c) for unrated obligations, the corporation shall have issued other similar securities rated according to clause (b) or: (i) the consolidated net pretax earnings of corporations other than banks and finance corporations shall have been on average for the preceding five years at least three times the annual interest charges on total funded debt applicable to that period; or (ii) the consolidated net pretax earnings of banks and finance corporations shall have been on average for the preceding five years at least 2.4 times the annual interest charges on total funded debt applicable to that period.~~

Sec. 4. Minnesota Statutes 1986, section 11A.24, subdivision 4, is amended to read:

Subd. 4. [OTHER OBLIGATIONS.] The state board may invest funds in bankers acceptances, certificates of deposit, commercial paper, mortgage participation certificates and pools, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, and savings accounts if they conform to the following provisions:

(a) bankers acceptances of United States banks shall be limited to those ~~eligible for purchase by the Federal Reserve System issued by banks rated in the highest four quality categories by a nationally recognized rating agency;~~

(b) certificates of deposit shall be limited to those issued by *United States* banks and savings institutions that ~~meet the collateral requirements established in section 9.031, unless sufficient volume is unavailable at competitive interest rates. In that event, noncollateralized certificates of deposit may be purchased from United States banks and savings institutions that are rated in the highest quality category by a nationally recognized rating agency are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Sections 16A.58 and 16B.06 do not apply to certifications of deposit and collateralization agreements executed by the state board;~~

(c) commercial paper shall be limited to those issued by United States corporations or their Canadian subsidiaries; ~~shall be of the highest quality~~

and mature in 270 days or less rated in the highest two quality categories by a nationally recognized rating agency;

(d) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3 does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3. In addition the state board may purchase from the Minnesota housing finance agency all or any part of any pool of residential mortgages, not in default, which has previously been financed by the issuance of bonds or notes of the agency. The state board may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default, which have been made or purchased from the proceeds of the bonds or notes. The state board may charge reasonable fees for any such commitment, and may agree to purchase the mortgage loans at a price such that the yield thereon to the state board will, in its judgment, be comparable to that available on similar mortgage loans at the date of the bonds or notes. The state board may also enter into agreements with the agency for the investment of any portion of the funds of the agency for such period, with such withdrawal privileges, and at such guaranteed rate of return, if any, as may be agreed between the state board and the agency.

(e) collateral for repurchase agreements and reverse repurchase agreements shall be limited to letters of credit and securities authorized in this section;

(f) guaranteed investment contracts shall be limited to those issued by insurance companies rated in the top four quality categories by a nationally recognized rating agency;

(g) savings accounts shall be limited to those fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Sec. 5. Minnesota Statutes 1986, section 11A.24, subdivision 5, is amended to read:

Subd. 5. [CORPORATE STOCKS.] The state board may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange, if they conform to the following provisions:

(a) The aggregate value of corporate stock investments, as adjusted for realized profits and losses, shall not exceed ~~75~~ 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to subdivision 6;

(b) Investments shall not exceed five percent of the total outstanding shares of any one corporation.

Sec. 6. Minnesota Statutes 1986, section 11A.24, subdivision 6, is amended to read:

Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in clause

(b), the state board may invest funds in:

(1) Venture capital investment businesses through participation in limited partnerships and corporations;

(2) Real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;

(3) Regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940; ~~and~~

(4) Resource investments through limited partnerships, private placements and corporations; *and*

(5) *Debt obligations not subject to subdivision 3.*

(b) The investments authorized in clause (a) may only be made if they conform to the following provisions:

(1) The aggregate value of all investments made according to clause (a) shall not exceed 20 35 percent of the market value of the fund for which the state board is investing;

(2) There shall be at least four unrelated owners of the investment other than the state board *for investments made under paragraph (a), clause (1), (2), (3), or (4);*

(3) State board participation in an investment vehicle shall be limited to 20 percent thereof *for investments made under paragraph (a), clause (1), (2), (3), or (4); and*

(4) State board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board shall not engage in any activity as a limited partner which creates general liability.

Sec. 7. Minnesota Statutes 1986, section 11A.25, is amended to read:

11A.25 [ADDITIONAL INVESTMENT PROVISIONS.]

When investing assets of any funds or accounts specifically made subject to this section or not otherwise referred to in sections 11A.01 to 11A.25, all securities shall be debt obligations ~~maturing within three years of the date of purchase~~ and shall conform to the applicable provisions of section 11A.24.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment.

ARTICLE 9

REDUCED VESTING REQUIREMENTS AND MODIFIED WORKERS' COMPENSATION OFFSETS

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 REQUIRE-

MENTS.] 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, including this period.*

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, 1987, 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, including this period.

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 circumstances 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 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. 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, 1987, 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 coor-

minated 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 bears the same relationship 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 that bears the same relationship that 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.

ARTICLE 10

PUBLIC PENSION PLAN LEGAL OPINIONS

Section 1. Minnesota Statutes 1986, section 8.07, is amended to read:

8.07 [OPINIONS; COUNTY, CITY, TOWN, *PUBLIC PENSION FUND*, SCHOOL ATTORNEYS, COMMISSIONER OF EDUCATION.]

The attorney general on application shall give an opinion, in writing, to county, city, town, *public pension fund* attorneys, or the attorneys for the board of a school district or unorganized territory on questions of public importance; and on application of the commissioner of education shall give an opinion, in writing, upon any question arising under the laws relating to public schools. On all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on July 1, 1987.

ARTICLE 11

MISCELLANEOUS CORRECTIONS

Section 1. [CORRECTION; FIRST CLASS CITY TEACHERS RETIREMENT FUND AUDIT RESPONSIBILITY.]

Subdivision 1. [CORRECTION TO REFERENCE.] Minnesota Statutes

1986, section 354A.021, subdivision 7, added by H.F. No. 1213, article 7, section 1, if enacted at the 1987 regular session, is amended 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 local governmental entity equivalent to a county, city, town, or school district.*

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective July 1, 1987.*

Sec. 2. [CORRECTION; EFFECTIVE DATE.]

Subdivision 1. [CLARIFICATION OF EFFECTIVE DATE.] A law styled as H.F. No. 1213, article 7, section 2, if enacted at the 1987 regular session, is amended to read:

Sec. 2. [EFFECTIVE DATE.]

This article is effective July 1, 1987, regarding the responsibility to audit all financial transactions occurring after June 30, 1987.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective on the day following final enactment.*

Sec. 3. [CORRECTION; ERRONEOUS DATE REFERENCE.]

Subdivision 1. [DATE REFERENCE CORRECTION.] A law styled as H.F. No. 1026, section 81, if enacted at the 1987 regular session, is amended to read:

Sec. 81. [TRANSITIONAL PROVISION:]

In establishing the correctional employees retirement fund under section 20, the board of directors of the Minnesota state retirement system shall allocate the assets currently held by the state employees retirement fund between that fund and the newly created fund. The assets shall be allocated based on the actuarial valuations of the state employees retirement plan and the correctional employees retirement plan prepared by the actuary retained by the legislative commission on pensions and retirement as of July 1, ~~1986~~ 1987, and adjusted for the actual receipts of contributions and investment income and actual disbursements of benefits, refunds, and administrative expenses attributable to the correctional employees retirement plan occurring between July 1, 1987, and the date on which the correctional employees retirement fund is established.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective on the day following final enactment of H.F. No. 1026, at the 1987 regular session."*

Delete the title and insert:

"A bill for an act relating to retirement; modifying various statewide public safety pension plan provisions; modifying various nonstatewide public safety pension plan provisions; authorizing modifications in Minneapolis teacher retirement fund association benefit plan; authorizing various purchases of prior service credit; establishing an ambulance service personnel retirement plan; limiting the uses of public pension plan assets; authorizing various miscellaneous retirement benefit modifications; making various

changes in the investment authority of the state board of investment; lowering service requirements for vesting; modifying workers' compensation benefit offsets; amending Minnesota Statutes 1986, sections 11A.04; 11A.24, subdivisions 2, 3, 4, 5, and 6; 11A.25; 69.80; 352.01, subdivision 2B; 352.113, subdivision 1; 352.115, subdivision 1; 352.12, subdivision 2; 352.22, subdivision 3; 352.72, subdivision 1; 352.85, subdivision 1; 352.91, subdivision 4; 352.93, subdivision 1; 352B.08, subdivision 1; 352B.11, subdivision 2; 352B.30, subdivision 1; 353.01, subdivision 2a; 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; 353.64, by adding a subdivision; 353.651, subdivisions 1 and 2; 353.656, subdivisions 2, 3, 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; 356.20, subdivision 2; 356.30, subdivisions 1 and 3; 356.32, subdivision 2; 424.04; and 424A.02, subdivision 9; Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended, section 5, subdivisions 1 and 3, as amended, and section 6, subdivision 1, as amended; Laws 1967, chapter 678, section 2, as amended, chapter 751, section 2; Laws 1971, chapter 614, section 1, subdivision 2, as amended; Laws 1977, chapter 169, section 1, subdivision 1a, as amended; and Laws 1980, chapter 607, article 15, section 9; proposing coding for new law in Minnesota Statutes, chapters 356 and 423A; proposing coding for new law as Minnesota Statutes, chapters 353A, 353B and 356A."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wayne Simoneau, Leo J. Reding, Gerald Knickerbocker

Senate Conferees: (Signed) Darril Wegscheid, Donald M. Moe

Mr. Wegscheid moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1159 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1159 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 2, as follows:

Those who voted in the affirmative were:

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

Messrs. Knutson and Renneke voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1323 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1323

A bill for an act relating to statutes; conforming various laws to judicial decisions of unconstitutionality and suggestions for clarity; amending Minnesota Statutes 1986, sections 169.123, subdivision 7; 325B.15; 487.01, subdivisions 2, 3, and 4; 487.21, subdivision 4; 487.23, subdivisions 1, 2, and 3; 487.25, subdivisions 1 and 2; 487.33, subdivision 1; 488A.01, subdivision 14; 488A.18, subdivision 14; 501.35; and 525.712; repealing Minnesota Statutes 1986, sections 466.03, subdivision 2; 487.39; and 595.04.

May 18, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 1323, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1323 be further amended as follows:

Page 1, line 18, before "*procedure*" insert "*appellate*"

Page 1, after line 24, insert:

"Sec. 3. Minnesota Statutes 1986, section 466.07, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO INDEMNIFY.] The governing body of any municipality may defend, save harmless, and indemnify any of its officers and employees, whether elective or appointive, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty. Any independent board or commission of the municipality having authority to disburse funds for a particular function without approval of the governing body may similarly defend, save harmless, and indemnify its officers and employees against such tort claims or demands.

Notwithstanding any provisions to the contrary in section 127.03, subdivision 2 or 466.12, this section applies to all school districts, however organized."

Renumber the remaining sections

Amend the title as follows:

Page 1, line 5, after "325B.15;" insert "466.07, subdivision 1;"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) John J. Marty, Tad Jude, William V. Belanger, Jr.

House Conferees: (Signed) David T. Bishop, Ann H. Rest, Phil Carruthers

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1323 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1323 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Davis	Kroening	Metzen	Renneke
Anderson	Diessner	Laidig	Morse	Samuelson
Beckman	Frank	Langseth	Olson	Schmitz
Belanger	Frederick	Lantry	Pehler	Spear
Benson	Frederickson, D.J.	Larson	Peterson, D.C.	Storm
Berg	Frederickson, D.R.	Lessard	Peterson, R.W.	Stumpf
Bernhagen	Gustafson	Luther	Piper	Taylor
Bertram	Hughes	Marty	Pogemiller	Vickerman
Brandl	Jude	McQuaid	Purfeerst	Waldorf
Brataas	Knaak	Mehrken	Ramstad	Wegscheid
Dahl	Knutson	Merriam	Reichgott	Willet

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 291, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 291 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 291

A bill for an act relating to financial institutions; regulating incorporations and operations of banks; requiring approval of certain insider agreements; regulating acquisitions by bank holding companies; authorizing the commissioner to borrow money to satisfy obligations of certain closed

institutions; regulating bank or trust company investments; regulating claims against liquidated institutions; providing for the organization of credit unions; regulating interest and dividends paid on deposits; regulating industrial loan and thrifts; providing for the submission of certain reports; modifying the maximum allowable interest rate on certain loans used to satisfy the balances owed on contracts for deed; requiring the periodic examination of collection agencies; regulating consumer deficiency judgments; modifying the examination requirement for safe deposit companies and insurance premium finance companies; regulating motor vehicle installment sales; regulating bank applications; amending Minnesota Statutes 1986, sections 46.041; 46.042; 46.07, subdivision 2; 46.131, subdivision 9; 47.10, subdivision 3, and by adding a subdivision; 47.204, subdivision 1; 47.205, subdivisions 2 and 4; 48.055, subdivision 5; 48.15, subdivision 2; 48.51; 48.61, subdivisions 3 and 5; 48.92, subdivision 10; 48.97, subdivision 2; 48.98, subdivision 1; 48.99, subdivision 1; 49.04, subdivision 1; 49.05, by adding a subdivision; 49.24, subdivision 5; 51A.58; 52.01; 52.02, subdivision 3; 52.09, subdivision 2; 52.18; 53.04, subdivisions 3a and 5; 53.09, subdivision 2; 55.095; 55.15; 56.12; 59A.06, subdivision 3; 168.66, subdivisions 5 and 9; 168.705; 168.71; 168.72, subdivisions 1 and 4; 168.73; 168.74; 325G.36; and 332.29, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 46 and 47; repealing Minnesota Statutes 1986, sections 48.60 and 55.13.

May 16, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 291, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 291 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SUPERVISORY CLARIFICATION ACT

Section 1. Minnesota Statutes 1986, section 46.042, is amended to read:
46.042 [NOTICE AND HEARING, WHEN NOT GIVEN.]

The commissioner of commerce may dispense with the notice and hearing provided for by section 46.041 if application is made for the incorporation of a new bank to take over the assets of one or more existing banks or if the application contemplates the reorganization of a national bank into a state bank in the same locality, *or where the application is made for the incorporation of a new bank in the same locality coincidental with the closing of an existing bank by the commissioner or federal authorities. This section does not increase the number of banks in the community affected.*

Sec. 2. Minnesota Statutes 1986, section 46.07, subdivision 2, is amended to read:

46.07 [RECORDS.]

Subd. 2. [CONFIDENTIAL RECORDS.] The commissioner shall divulge facts and information obtained in the course of examining financial institutions under the commissioner's supervision only when and to the extent required or permitted by law to report upon or take special action regarding the affairs of an institution, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding, except that the commissioner may furnish information as to matters of mutual interest to an official or examiner of the federal reserve system, the federal deposit insurance corporation, the federal savings and loan insurance corporation, the national credit union administration, *comptroller of the currency*, a legally constituted state credit union share insurance corporation approved under section 52.24, the issuer of a commitment for insurance or guarantee of the certificates of an industrial loan and thrift company approved under section 53.10, or state and federal law enforcement agencies. The commissioner shall not be required to disclose the name of a debtor of a financial institution under the commissioner's supervision, or anything relative to the private accounts, ownership, or transactions of an institution, or any fact obtained in the course of an examination thereof, except as herein provided. For purposes of this subdivision, a subpoena is not an order of a court of law. These records are classified confidential or protected nonpublic for purposes of the Minnesota government data practices act and their destruction, as prescribed in section 46.21, is exempt from the provisions of chapter 138 and Laws 1971, chapter 529, so far as their deposit with the state archives.

Sec. 3. Minnesota Statutes 1986, section 46.131, subdivision 9, is amended to read:

Subd. 9. These assessments or fees shall be paid by the institution examined within 20 days after a statement of the amount has been submitted to the institution examined by the commissioner of commerce and, if not so paid, shall bear interest at the ~~discount rate charged member banks for borrowing from the Federal Reserve Bank~~ *of interest provided for by section 549.09*. The penalty shall be payable to the commissioner on request.

Sec. 4. [46.34] [CERTAIN SECURITIES DEPOSITED WITH THE STATE TREASURER.]

All securities required or permitted by law to be assigned to and deposited with the commissioner of commerce for any purpose must, after the effective date of this section, be assigned to and deposited with the state treasurer, who shall give a receipt therefor. This receipt must be filed with the commissioner, in lieu of the securities, and in this case neither the commissioner nor the commissioner's bonding agents are responsible for the safekeeping of these securities. The state treasurer shall perform all the duties with regard to the safekeeping of these securities which the commissioner is now required to perform. The state treasurer is subject to the same obligations and under the same liability, with reference to the safekeeping of these securities, as the commissioner. The state treasurer shall accept, release, surrender, and permit substitutions of securities assigned to and deposited with the state treasurer under the provisions of Laws 1923, chapter 155, upon order of the commissioner.

Sec. 5. Minnesota Statutes 1986, section 47.10, subdivision 3, is amended to read:

Subd. 3. [LEASEHOLD PLACE OF BUSINESS; APPROVAL OF CERTAIN LEASE AGREEMENTS.] No bank, trust company, savings bank, or

building and loan association may acquire property and improvements of any nature for its place of business by lease agreement if the lessor has an existing direct or indirect interest in the management or ownership of the bank, trust company, savings bank, or building and loan association ~~unless approved without prior written approval~~ by the commissioner. This includes subsequent amendments and associated ~~personal property leases leasehold improvements~~.

Sec. 6. Minnesota Statutes 1986, section 47.10, is amended by adding a subdivision to read:

Subd. 4. [APPROVAL OF CERTAIN INSIDER AGREEMENTS.] No bank, trust company, savings bank, or savings association may purchase or sell real property, personal property, improvements or equipment of a value of \$25,000 or more if the purchaser or seller other than the bank, trust company, savings bank, or savings association has an existing direct or indirect interest in the institution without prior written approval by the commissioner.

Sec. 7. Minnesota Statutes 1986, section 47.204, subdivision 1, is amended to read:

Subdivision 1. [NO USURY LIMITS.] Notwithstanding any law to the contrary, no limitation on the rate or amount of interest, discount points, finance charges or other charges shall apply to a loan, mortgage, credit sale or advance which would have been exempt from the laws of this state pursuant to Public Law Number 96-221, title V, part A, section 501, as amended as of June 2, 1981, but for section 47.203 and which is made in this state after June 2, 1981 ~~and before August 1, 1987~~.

Sec. 8. Minnesota Statutes 1986, section 47.205, subdivision 2, is amended to read:

Subd. 2. [ASSIGNMENT OR SALE OF MORTGAGE LOANS.] If the servicing of mortgage loans financing one-to-four family owner occupied residences located in this state is sold or assigned to another person:

(1) the selling lender shall notify the mortgagor of the sale no ~~less more~~ than ten days after the actual date of transfer. The notification must include the name, address, and telephone number of the person who will assume responsibility for servicing and accept payments for the mortgage loan and the notification must also include a detailed written financial breakdown, including but not limited to, interest rate, monthly payment amount, and current escrow balance;

(2) the purchasing lender shall issue corrected coupon or payment books, if used, and shall provide notification to the mortgagor within 20 days after the first payment to the purchasing lender is due, of the name, address, and telephone number of the person from whom the mortgagor can receive information regarding the servicing of the loan, and shall inform the mortgagor of any changes made regarding the mortgage escrow accounts or servicing requirements including, but not limited to, interest rate, monthly payment amount, and current escrow balance; and

(3) the purchasing lender shall respond within 15 business days to a written request for information from a mortgagor. A written response must include the telephone number of the company representative who can assist the mortgagor.

Sec. 9. Minnesota Statutes 1986, section 47.205, subdivision 4, is amended

to read:

Subd. 4. [PENALTIES.] If a lender fails to comply with the requirements of subdivisions 2 and 3, the lender is liable to the mortgagor for \$500 per occurrence, in addition to actual damages caused by the violation. *In addition, the lender is liable to the mortgagor for \$500 per occurrence if the violation of subdivision 2 or 3 was due to the lender's failure to exercise reasonable care.*

Sec. 10. Minnesota Statutes 1986, section 47.69, subdivision 3, is amended to read:

Subd. 3. Every financial institution using an electronic financial terminal shall maintain reasonable procedures to minimize losses from unauthorized withdrawals from its customers' accounts by use of an electronic financial terminal. After a customer makes a bona fide deposit or payment at an electronic financial terminal and has received a receipt, any loss due to theft or other reason shall not be borne by the customer; provided, loss due to the nonpayment or dishonor of a check, or other order for payment, deposited at an electronic financial terminal shall be governed by the applicable provisions of chapter 336. A financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was (a) (1) due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or that operator's agent in which case the operator of an electronic financial terminal or the agent shall be liable, or (b) (2) due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of \$50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft. *The limitation on liability contained in clause (2) is effective only if the issuer is notified of unauthorized charges contained in a bill within 60 days of receipt of the bill by the person in whose name the card is issued.* For purposes of this subdivision, "unauthorized withdrawal" means a withdrawal by a person other than the customer who does not have actual, implied, or apparent authority for such withdrawal, and from which withdrawal the customer or a member of the customer's family or household receives no benefit.

Sec. 11. [47.76] [TRANSFER OF ACCOUNTS PROHIBITED; NOTICE ON CLOSING.]

(a) *No financial institution shall initiate a transfer of a deposit account to another deposit account bearing different identification information without sending at least 30 days prior notice to at least one of the deposit account holders at the last known address on file with the financial institution. If the new account is subject to different terms, the financial institution must obtain the written consent of at least one of the deposit account holders before the new terms become effective.*

(b) *No financial institution shall initiate a closure of a deposit account without first sending at least one of the deposit account holders a notice of intent to close the deposit account. The notice must be sent to the deposit account holder's last known address on file with the financial institution at least 30 days before the financial institution closes the deposit account; except that, if the financial institution has reasonable suspicion to believe that account is being used in connection with a check-related fraud or other crime or that funds will not be available to pay items drawn on the account, the notice may be sent the same day as the account is closed.*

(c) As used in this section, the following terms have the meanings given them. "Deposit account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit share account, and other like arrangement. "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan associations, industrial loan and thrift companies, and credit unions.

Sec. 12. Minnesota Statutes 1986, section 48.055, subdivision 5, is amended to read:

Subd. 5. Any preferred stock issued by a state bank shall be part of its capital stock structure, and the terms "capital stock" or "capital" in any laws of this state pertaining to state banks shall be deemed to also include and apply to preferred stock; ~~except that only stock issued with or having succeeded to voting rights shall qualify a director under the provisions of section 48.06.~~

Sec. 13. Minnesota Statutes 1986, section 48.15, subdivision 2, is amended to read:

Subd. 2. ~~The department of commerce may, by majority vote of its members, which shall include the affirmative vote of the commissioner of commerce, may authorize banks organized under the laws of this state to engage in any banking activity in which banks subject to the jurisdiction of the federal government may hereafter be authorized to engage by federal legislation, ruling, or regulation. The commission may not authorize state banks as defined by section 48.01, to engage in any banking activity prohibited by the laws of this state.~~

Sec. 14. Minnesota Statutes 1986, section 48.21, is amended to read:

48.21 [REAL ESTATE; RESTRICTIONS ON HOLDING.]

Subdivision 1. A bank may purchase, carry as an asset, and convey real estate only:

- (1) As provided for in section 47.10;
- (2) If acquired through foreclosure of a mortgage given to it in good faith as security for loans made by or money due to it;
- (3) If conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings;
- (4) If acquired by sale on execution or judgment of a court in its favor; or
- (5) If reasonably necessary to mitigate or avoid loss on a loan or investment theretofore made.

Real estate acquired under clauses (2) to (5) shall be carried as an asset only in accordance with rules the commissioner prescribes.

Subd. 2. Real estate owned by a bank as a result of actions authorized in clauses (2) to (5) of subdivision 1 and subsequently sold to any buyer on a contract for deed may not be considered creating a liability to a bank for purposes of section 48.24.

Subd. 3. Notwithstanding any rules of the commissioner to the contrary,

if real estate owned by a bank pursuant to clauses (2) to (5) of subdivision 1 is not sold or otherwise disposed of within the maximum period established by rule by the commissioner, the bank may write off any remaining balance at a rate not less than one-fifth of that balance each subsequent calendar year.

Sec. 15. Minnesota Statutes 1986, section 48.24, subdivision 7, is amended to read:

Subd. 7. Obligations of any person, co-partnership, association or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering feeder livestock which is free from all other encumbrances, when the market value of the livestock securing the obligation at the time of the making of the loan is not less than 115 percentum of the face amount of the notes covered by such documents, shall be subject under this subdivision to a limitation of 20 percent of capital and surplus in addition to 20 percent of capital and surplus as included in provisions of subdivision 1. Feeder livestock loans as referred to in this subdivision is defined to include only obligations secured by liens or giving title to cattle, sheep, goats, ~~or~~ hogs *or poultry* being fattened for market, but excluding dairy cattle, milk goats, *poultry used for production of eggs*, or barnyard or work animals.

Sec. 16. Minnesota Statutes 1986, section 48.51, is amended to read:

48.51 [DEMAND DEPOSITS DEFINED.]

For the purpose of this section and section 48.50, all deposits are payable on demand except:

(1) Those deposits which are evidenced by a negotiable or nonnegotiable instrument which provides on its face that the amount of the deposit is payable:

(a) on a certain date, specified in the instrument, not less than 14 days after the date of the deposit; or (b) at the expiration of a specified period not less than 14 days after the date of the instrument; or (c) upon written notice to be given not less than 14 days before the date of repayment.

(2) Those deposits which may not be withdrawn within 14 days of the making thereof.

(3) Those deposits which may not be withdrawn within 14 days of the giving of notice of an intended withdrawal.

(4) Those deposits in which the above 14-day minimums are in conflict with ~~instruments authorized by the depository institutions deregulation committee's regulations authorized by title II, Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law Number 96-221~~ federal law or regulations.

Sec. 17. Minnesota Statutes 1986, section 48.61, subdivision 3, is amended to read:

Subd. 3. The bank or trust company may invest not to exceed ten percent of its capital and surplus in shares of stock in any banks or bank holding companies wherein the ownership of stock in the banks or bank holding companies is restricted to *bank holding companies* or banks authorized to do business in the state of Minnesota.

Sec. 18. Minnesota Statutes 1986, section 48.61, subdivision 5, is amended

to read:

Subd. 5. In the absence of an express provision to the contrary, whenever any statute, rule, charter, trust indenture, authorizing resolution, or other instrument governing the investment of funds of a banking institution, as defined in section 48.01, subdivision 2, directs, requires, authorizes, or permits *direct investment in certain obligations of the United States or obligations, the payment of the principal of and interest on which is unconditionally guaranteed by the United States*, investment in these obligations may be made either directly or in the form of securities of, or other interests in, 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 investments are limited to these obligations and repurchase agreements fully collateralized by these obligations, if the repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks.*

Investment company shares authorized pursuant to this subdivision shall Shares of investment companies whose portfolios contain investments which are subject to limits under other state law or rule as direct investments may only be held in an amount not in exceed excess of 20 percent of the banks' capital stock and paid in surplus in each such investment company. These obligations shall be carried at the lower of cost or market on the banks' books and adjusted to market on a quarterly basis.

Sec. 19. Minnesota Statutes 1986, section 48.92, subdivision 10, is amended to read:

Subd. 10. [EQUITY CAPITAL.] "Equity capital" means the sum of common stock, preferred stock, *and paid in surplus, reserves for loss loans and undivided profits.*

Sec. 20. Minnesota Statutes 1986, section 48.97, subdivision 2, is amended to read:

Subd. 2. [INVESTMENT; REPORTING REQUIREMENTS.] Each financial institution located in this state owned by an interstate bank holding company shall fully and accurately disclose in an annual report to the commissioner of commerce *for each calendar year the dollar value and volume of loans by zip code or census tract beginning with the year ending December 31, 1987, approved in the previous year in nonreal estate commercial and farm lending categories established by the commissioner. Lending categories must be delineated in sufficient detail to evaluate the lender's loan performance. Loan categories may include: demand or accrual notes, installment loans, equipment loans, inventory or accounts receivable loans, small business administration loans, and FmHA guaranteed loans. Housing loans must be disclosed statewide in the same manner and form as required by the Federal Home Mortgage Disclosure Act. The annual report must also disclose by zip code or census tract the dollar value and volume of deposits received during the previous year. The annual report must also disclose information by the categories required in section 48.991 demonstrating that developmental loans of a sufficient quantity are being made. The report must be accompanied by a copy of the most recent disclosures required under the Federal Community Reinvestment Act and the most recent Quarterly Statement of Income and Conditions.*

Sec. 21. Minnesota Statutes 1986, section 48.98, subdivision 1, is amended

to read:

Subdivision 1. [PUBLIC INFORMATION.] *Notwithstanding the Minnesota government data practices act, chapter 13, and consistent with federal law, the commissioner shall make available to the public at reasonable cost copies of all applications, including supporting documents and any other information required to be submitted to the commissioner.*

Sec. 22. Minnesota Statutes 1986, section 48.99, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION CRITERIA FOR APPROVAL.] Pursuant to the present requirement of the United States Code, title 12, section 1842(d) and notwithstanding any other provision of state law, a reciprocating state bank holding company, or any subsidiary of ~~the~~ a bank holding company, may acquire a bank located in this state where the commissioner has determined that a merger, consolidation, or purchase of assets and assumption of liabilities is necessary and in the public interest to prevent the probable failure of a bank *or is made for the incorporation of a new bank in the same locality coincidental with the closing of an existing bank by the commissioner or federal authorities and does not increase the number of banks in the community affected.* The acquisition is subject to the prior written approval of the commissioner of an application submitted under this section and after the following considerations:

- (1) the financial and managerial resources of the applicant;
- (2) the future prospects of the applicant and the state bank or its subsidiary whose assets, interest in, or shares it will acquire;
- (3) the financial history of the applicant;
- (4) whether the acquisition or holding may result in undue concentration of resources or substantial lessening of competition in this state;
- (5) the convenience and needs of the public of this state; and
- (6) whether the acquisition or holding will strengthen the financial condition of the state bank.

Sec. 23. Minnesota Statutes 1986, section 49.04, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER TAKING POSSESSION; GROUNDS FOR; RIGHTS OF THIRD PARTIES.] When it shall appear to the commissioner that any financial institution has violated its charter, or any law of the state, or is conducting its business in an unsafe or unauthorized manner, or that its capital is impaired, or if it or any of its controlling officers shall refuse to submit its books, papers, and concerns to the inspection of the commissioner, or any duly authorized assistant, or if any of its officers shall refuse to be examined upon oath touching its concerns, or if it shall suspend payment of its obligations, or furnish reason for the commissioner concluding that it is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe and inexpedient for it to continue business, or if it shall neglect or refuse to observe a proper order of the commissioner, the commissioner may forthwith take possession of its property and business *including forfeiture of its certificate of authorization* and retain this possession until it shall resume business or its affairs be finally liquidated, as herein provided. On taking possession of the property and business of any such financial institution, the com-

missioner shall forthwith give notice of that fact to any and all financial institutions or other corporations, associations, partnerships, and individuals holding, or in possession of, any of its assets. No financial institution or other corporation, association, partnership, or individual knowing of such taking possession by the commissioner, or notified, as aforesaid, shall have a lien or charge for any payment, advance, or clearance thereafter made, or liability thereafter incurred against any of the assets of the financial institution of whose property and business the commissioner shall have taken possession, as aforesaid. The financial institution may, with the consent of the commissioner, resume business upon such conditions as may be approved by the commissioner. Upon taking possession of the property and business of the financial institution, the commissioner is authorized to collect moneys due to it and to do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof, if in the commissioner's opinion it cannot safely resume business, as hereinafter provided.

Sec. 24. Minnesota Statutes 1986, section 49.05, is amended by adding a subdivision to read:

Subd. 7. [COMMISSIONER MAY BORROW MONEY.] With respect to a banking institution which is or may be closed on account of inability to meet the demands of its depositors or by action of the commissioner or of a court or by action of its directors, or, in the event of its insolvency or suspension, the commissioner may borrow from the Federal Deposit Insurance Corporation and furnish any part or all of the assets of the institution to the corporation as security for a loan from same. The order of a court of record of competent jurisdiction shall be first obtained approving this loan. The commissioner or receiver or liquidator appointed by the commissioner upon the order of a court of record of competent jurisdiction may sell to the corporation any part or all of the assets of the institution.

The provisions of this subdivision shall not be construed to limit the power of any banking institution, or the commissioner, to pledge or sell assets in accordance with any other law of this state.

Sec. 25. Minnesota Statutes 1986, section 49.24, subdivision 5, is amended to read:

Subd. 5. [REJECTION OF CLAIMS; ACTIONS; LIMITATIONS.] If the commissioner doubts the justice or validity of any claim, the commissioner may reject the same in whole or in part and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice made according to law shall be filed with the commissioner. An action upon a claim so rejected must be brought within 60 days after such service and the filing of proof thereof. The venue of such action shall be in the county in which such financial institution had its principal place of business prior to liquidation, and such action shall be brought jointly against the financial institution and the commissioner or receiver or liquidator appointed by the commissioner as statutory liquidator thereof. Any person having a claim against such financial institution which is not presented and filed within the time fixed in the notice to creditors may thereafter present the same and the commissioner shall allow or reject the same in whole or in part and give notice of any rejection, as hereinbefore provided. Suit on any such claim not filed within the time fixed by the notice which is rejected must be brought within 30 days after the service and filing of proof of such rejection. Any claim not filed within the time fixed in the

notice to creditors but later received and filed as by this section provided and duly allowed, shall participate and share in such dividends only as shall be paid from the proceeds of those assets remaining undistributed at the time of filing of such claim, and any claim not filed prior to the declaration of a final dividend shall be barred. No action shall be commenced against any such financial institution after possession of the business and property thereof has been taken by the commissioner on any claim until such claim has been filed with and rejected, in whole or in part, by the commissioner. As to any action pending at the time the commissioner takes possession of the business and property of such financial institution which has been stayed by order of the court, a claim may be filed for the subject matter of said action. If the claim be allowed, the action shall terminate and be dismissed without costs and disbursements, but, if rejected in whole or in part, the stay order shall be vacated, and the action may continue. No interest shall be allowed or paid on any deposit or other claim from and after the closing of the financial institution and the taking over of the same by the commissioner for purposes of liquidation.

Sec. 26. Minnesota Statutes 1986, section 51A.58, is amended to read:
51A.58 [INTERSTATE BRANCHING.]

An association, whether or not the subsidiary of a savings and loan holding company, may, by acquisition, merger, purchase and assumption of some or all of the assets and liabilities, or consolidation, establish or operate branch offices in any reciprocating state, and a savings and loan association chartered in the any reciprocating state may establish or operate branch offices in this state by acquisition, merger, purchase, and assumption of some or all of the assets or liabilities or consolidation. A savings and loan holding company with its headquarters in this state may acquire by direct or indirect ownership or control the voting shares of a savings and loan holding company, savings and loan association, or savings bank located in any reciprocating state, and a savings and loan holding company with its headquarters in a reciprocating state, may acquire by direct or indirect ownership or control the voting shares of a savings and loan holding company, a savings and loan association, or savings bank located in this state, and may acquire and merge with a savings and loan holding company with its headquarters in this state. For the purposes of this section, "reciprocating state" is: (1) a state that authorizes the establishment of branch offices in that state by an association located in this state, and the acquisition of savings and loan associations and savings banks located in that state by a savings and loan holding company with its headquarters in this state, under conditions no more restrictive than those imposed by the laws of Minnesota as determined by the commissioner of commerce; and (2) limited to the states specifically enumerated as reciprocating states in section 48.92, subdivision 7.

The commissioner of commerce shall adopt rules to provide that procedural requirements equivalent to those contained in sections 48.90 to 48.991 apply to reciprocal interstate branching and acquisitions by savings and loan associations.

Sec. 27. Minnesota Statutes 1986, section 52.01, is amended to read:
52.01 [ORGANIZATION.]

Any seven residents of the state may apply to the commissioner of commerce for permission to organize a credit union.

A credit union is a cooperative society, incorporated for the two-fold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes.

A credit union is organized in the following manner:

(1) The applicants execute, in duplicate, a certificate of organization by the terms of which they agree to be bound, which shall state:

- (a) the name and location of the proposed credit union;
- (b) the names and addresses of the subscribers to the certificate and the number of shares subscribed by each;

(2) The applicants submit the following in the form prescribed by the commissioner of commerce:

- (a) a statement of the common bond of the proposed credit union;
- (b) the number of potential members;
- (c) the geographic dispersion of the potential members;
- (d) evidence of interest, including willingness of potential members to assume responsibility for leadership and service;
- (e) a two-year forecast of probable levels of assets, shares and deposits, and income and expense;
- (f) the availability of other credit union services to the potential members;
- (g) other information the commissioner requires;

(3) They next prepare and adopt bylaws for the general governance of the credit union consistent with the provisions of this chapter, and execute them in duplicate;

(4) The certificate and the bylaws, both executed in duplicate, are forwarded to the commissioner of commerce with a \$100 application fee;

(5) The commissioner of commerce shall, within 60 days of the receipt of the certificate, the information required by paragraph (2), *and the bylaws, and a commitment for insurance of accounts as required by section 52.24, subdivision 2*, determine whether they comply with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit its members, be economically feasible, and be consistent with the purposes of this chapter;

(6) Thereupon the commissioner of commerce shall notify the applicants of the decision. If it is favorable, the commissioner shall *upon receipt of a commitment for insurance of accounts as required by section 52.24, subdivision 2*, issue a certificate of approval, attached to the duplicate certificate of organization, and return them with the duplicate bylaws to the applicants. If it is unfavorable, the applicants may, within 60 days after the decision, appeal for a review in a court of competent jurisdiction;

(7) The applicants shall thereupon file the duplicate of the certificate of organization, with the certificate of approval attached thereto, with the secretary of state, who shall make a record of the certificate and return it, with a certificate of record attached thereto, to the commissioner of commerce for permanent records; and

(8) Thereupon the applicants shall be a credit union incorporated in accordance with the provisions of this chapter.

In order to simplify the organization of credit unions, the commissioner of commerce shall prepare approved forms of certificate of organization and bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance, and on written application of seven residents of the state, shall supply them without charge with a blank certificate of organization and a copy of the form of suggested bylaws.

Sec. 28. Minnesota Statutes 1986, section 52.02, subdivision 3, is amended to read:

Subd. 3. [APPROVAL.] Amendments to the certificate of organization or bylaws must be approved by the commissioner of commerce before they become operative. The commissioner shall not unreasonably withhold approval if the amendments do not violate any provision of this chapter or other state law. In any event, the commissioner shall approve or disapprove the proposed amendment within 60 days of the date the proposed amendment is submitted to the commissioner by the credit union. In case of disapproval the credit union shall have the right to appeal to a court of competent jurisdiction within the time limits stated in section 52.01, clause ~~(5)~~ (6). In case any amendment to the certificate of organization is adopted, the resolution, containing a full text of the amendment and verified by its president or treasurer and approved by the commissioner of commerce, shall be recorded in the office of the secretary of state.

Sec. 29. Minnesota Statutes 1986, section 52.09, subdivision 2, is amended to read:

Subd. 2. [PARTICULAR DUTIES.] The directors shall manage the affairs of the credit union and shall:

(1) act on applications for membership. This power may be delegated to a membership chair who serves at the pleasure of the board of directors and is subject to its rules. An application must contain a certification signed by the membership chair or a member of the board showing the basis of membership;

(2) determine interest rates on loans and on deposits. The interest period on deposits may be on a daily, monthly, quarterly, semiannual or annual basis, and may be paid on all deposits whether or not the deposits have been withdrawn during the interest period. Interest may be computed on a daily basis. ~~At the discretion of the board of directors, interest need not be paid on deposit accounts of less than \$10;~~

(3) fix the amount of the surety bond required of all officers and employees handling money;

(4) declare dividends and transmit to the members recommended amendments to the bylaws;

(5) fill vacancies in the board and in the credit committee until successors are chosen and qualify at the next annual meeting;

(6) limit the number of shares and deposits which may be owned by a member, not to exceed ten percent of the outstanding shares and deposits, or \$2,000, whichever is larger, and the maximum individual loan which can be made with and without security, including liability indirectly as a comaker, guarantor, or endorser to ten percent of outstanding shares and deposits. The ten percent share and deposit limitation is not applicable to the Minnesota corporate credit union, or to credit unions insured by the National Credit Union Administration;

(7) have charge of investments including loans to members, unless a credit committee is established pursuant to section 52.08 or paragraph (13) of this subdivision;

(8) fix the salaries of the treasurer and other employees, which must be on a fixed monthly or annual basis, in dollars (not percentage);

(9) designate the depository institution in which the funds of the credit union will be deposited;

(10) authorize the officers of the credit union to borrow money from any source, as provided in section 52.15;

(11) with the permission of the commissioner of commerce, suspend any member of the credit committee or supervisory committee if it deems this action necessary to the proper conduct of the credit union, and call the members together to act on the suspension within a reasonable time after the suspension. The members at the meeting may, by majority vote of those present, sustain the suspension and remove the committee members permanently or may reinstate the committee members;

(12) provide financial assistance to the supervisory committee in carrying out its audit responsibilities;

(13) if the bylaws so provide and no credit committee has been elected pursuant to section 52.08, appoint a credit manager or a credit committee of not less than three members; and

(14) to establish different classes of shares.

Sec. 30. Minnesota Statutes 1986, section 52.18, is amended to read:

52.18 [DIVIDENDS.]

The directors of a credit union may, on a daily, monthly, quarterly, semi-annual, or annual basis as its board of directors may determine, declare and pay a dividend from net earnings or accumulated net undivided profits remaining after statutory reserve has been set aside, which dividend may be paid on all shares whether or not they have been withdrawn during the dividend period. Dividends may be computed on a daily basis. The board of directors may classify its share accounts according to character, amount and duration and declare dividends which may be at variable rates with due regard to the conditions that pertain to each class of shares, or pay no dividend at all. A dividend shall be uniform within a classification. ~~At the discretion of the board of directors dividends may not be declared or paid on share accounts of less than \$10.~~ Shares which become fully paid up during a dividend period shall be entitled to a proportional part of the dividend calculated from the first day of the month following the payment in full. For the purpose of this section, shares which become fully paid up by the fifteenth day of any month may be treated as being paid up from the first day of the month.

Sec. 31. Minnesota Statutes 1986, section 53.04, subdivision 3a, is amended to read:

Subd. 3a. (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted licensees under chapter 56. Loans made under the authority of section 56.125 must be in amounts in compliance with section 53.05, clause (7). All other loans made under the authority of chapter 56 must be in amounts in compliance with section 53.05, clause (7), or 56.131, subdivision 1, paragraph (a), whichever is

less. The right to extend credit or lend money and to collect and receive charges therefor as provided by chapter 334, or in lieu thereof to charge, collect, and receive interest at the rate of 21.75 percent per annum, including the right to contract for, charge, and collect all other charges including discount points, fees, late payment charges, and insurance premiums on the loans to the same extent permitted on loans made under the authority of chapter 56, regardless of the amount of the loan. The provisions of sections 47.20 and 47.21 do not apply to loans made under this subdivision, except as specifically provided in this subdivision. Nothing in this subdivision is deemed to supersede, repeal, or amend any provision of section 53.05. A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

(b) Loans made under this subdivision at a rate of interest not in excess of that provided for in paragraph (a) may be secured by real or personal property, or both. ~~If the proceeds of a loan made after August 1, 1987 are used in whole or in part to satisfy the balance owed on a contract for deed, the rate of interest charged on the loan must not exceed the rate provided in section 47.20, subdivision 4a.~~ If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) A loan made under this subdivision that is secured by real estate and that is in a principal amount of \$7,500 or more and a maturity of 60 months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this subdivision. Loan yield means the annual rate of return obtained by a licensee computed as the annual percentage rate is computed under Federal Regulation Z. If the loan is prepaid in full, the licensee must make a refund to the borrower to the extent that the loan yield will exceed the maximum rate of interest provided by this subdivision when the prepayment is taken into account.

(d) An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a 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, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to obtain a certificate of authorization under this chapter in order to purchase or take assignments of mortgage loans from persons holding a certificate of authorization under this chapter.

Sec. 32. Minnesota Statutes 1986, section 53.04, subdivision 5, is amended to read:

Subd. 5. The right, with the consent of the department of commerce, to (1) sell and issue for investment certificates of indebtedness, under any descriptive name, which may bear interest, if any, as their terms provide, and which may require the payment to the company of amounts, from time to time as their terms provide, and permit the withdrawal of amounts paid

on them, in whole or in part, from time to time, and the credit of amounts thereon upon conditions set forth therein; and (2) receive savings accounts or savings deposits. ~~No certificate of indebtedness shall have a surrender value which is less than the total amount paid to the company therefor.~~

Sec. 33. Minnesota Statutes 1986, section 53.05, is amended to read:

53.05 [POWERS, LIMITATION.]

No industrial loan and thrift company may do any of the following:

(1) carry demand banking accounts; use the word "savings" unless the institution's investment certificates, savings accounts, and savings deposits are insured by the federal deposit insurance corporation and then only if the word is not followed by the words "and loan" in its corporate name; use the word "bank" or "banking" in its corporate name; operate as a savings bank;

(2) have outstanding at any one time certificates of indebtedness, savings accounts, and savings deposits, exclusive of those held by the company, as security for loans made by it of more than seven times the sum of the contributed capital and appropriated reserves of the company until July 1, 1985, or the date an industrial loan and thrift company obtains a commitment for insurance or guarantee of accounts acceptable to the commissioner as required by section 53.10, whichever is earlier, and thereafter 15 times the sum of contributed capital and appropriated reserves of the company;

(3) accept trusts, except as provided in section 47.75, subdivision 1, or act as guardian, administrator, or judicial trustee in any form;

(4) deposit any of its funds in any banking corporation, unless that corporation has been designated by vote of a majority of directors or of the executive committee present at a meeting duly called, at which a quorum was in attendance;

(5) change any allocation of capital made pursuant to section 53.03 or reduce or withdraw in any way any portion of the contributed capital and appropriated reserves without prior written approval of the commissioner of commerce;

(6) take any instrument in which blanks are left to be filled in after execution;

(7) lend money in excess of ~~ten~~ 15 percent of its contributed capital and appropriated reserves to a person primarily liable. "Contributed capital and appropriated reserves" means the total of the company's contributed capital and appropriated reserves at all its authorized locations.

If a loan has been made to a person primarily liable and payments have been made on a certificate of indebtedness securing it, the amount of the payments may be added to the limitation contained in this clause for the purpose of determining whether additional loans may be made to that person; or

(8) issue cashier's checks pursuant to section 48.151, unless and at all times the aggregate liability to all creditors on these instruments is protected by a special fund in cash or due from banks to be used solely for payment of the cashier's checks.

Sec. 34. Minnesota Statutes 1986, section 53.09, subdivision 2, is amended to read:

Subd. 2. [REPORT TO COMMISSIONER.] (1) Each industrial loan and thrift company shall annually on or before the first day of February file a report with the commissioner stating in detail, under appropriate heads, its assets and liabilities at the close of business on the last day of the preceding calendar year. This report shall be made under oath in the form prescribed by the commissioner and published once, at the expense of the industrial loan and thrift company, in a newspaper of the county of its location, and proof thereof filed immediately with the commissioner of commerce.

(2) Each industrial loan and thrift company which holds authority to accept accounts pursuant to section 53.04, subdivision 5, shall in place of the requirement in clause (1) submit the reports and make the publication required of state banks pursuant to section 48.48.

(2) (3) Within 30 days following a change in controlling ownership of the capital stock of an industrial loan and thrift company, it shall file a written report with the commissioner stating in detail the nature of such change in ownership.

Sec. 35. Minnesota Statutes 1986, section 55.15, is amended to read:

55.15 [APPLICATION.]

This chapter shall not be held or construed as limiting, restricting, or in any way affecting the operation or management of safe deposit boxes or vaults, or a safe deposit business, by any savings bank, bank, or trust company. If any bank, savings bank, or trust company elects to transact the business of a safe deposit company under the provisions of this chapter, it shall so notify the commissioner of commerce and thereafter the provisions of sections 55.02 and 55.10 to ~~55.13~~ 55.12 shall apply to such safe deposit business and said bank, savings bank, or trust company shall have the benefit thereof. The provisions of sections 55.03 to 55.09 and the provisions of section 55.095 shall not apply to a bank, savings bank, or trust company carrying on the business of a safe deposit company.

Sec. 36. Minnesota Statutes 1986, section 56.12, is amended to read:

56.12 [ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.]

No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive. The commissioner may order any licensee to desist from any conduct which the commissioner shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the commissioner may deem necessary to prevent misunderstanding thereof by prospective borrowers. In lieu of the disclosure requirements of this section and section 56.14, a licensee may give the disclosures required by the federal Truth-in-Lending Act.

A licensee may take a lien upon real estate as security for any loan exceeding \$2,700 in principal amount made under this chapter. The provisions of sections 47.20 and 47.21 do not apply to loans made under this

chapter, except as provided in this section. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, unless:

(1) the proceeds of the loan are used to finance the purchase of a manufactured home; or

(2) the proceeds of the loan are used in whole or in part to satisfy the balance owed on a contract for deed. ~~The rate of interest charged on such a loan made after August 1, 1987, shall not exceed the rate provided in section 47.20, subdivision 4a.~~

If the proceeds of the loan are used to finance the purchase of the borrower's primary residence, the licensee shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The licensee shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the property used as collateral, and (2) executes an agreement in writing with the licensee whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments, but in no event shall the fee exceed \$150.

A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, if the commissioner finds that the character of the other business is such that it would facilitate evasions of this chapter or of the rules lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

No licensee shall transact the business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license. No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note or promise to pay that does not accurately disclose the principal amount of the loan, the time for which it is made, and the agreed rate or amount of charge, nor any instrument in which blanks are left to be filled in after execution. Nothing herein is deemed to prohibit the making of loans by mail.

Sec. 37. Minnesota Statutes 1986, section 325G.04, is amended by adding a subdivision to read:

Subd. 3. For purposes of subdivisions 1 and 2; "unauthorized use" means

a use by a person other than the customer who does not have actual, implied, or apparent authority for the use.

Sec. 38. Minnesota Statutes 1986, section 325G.36, is amended to read:

325G.36 [WAIVERS VOID.]

Subdivision 1. Any provision of a consumer contract which waives or attempts to waive any provision of sections 325G.29 to 325G.36 is void.

Subd. 2. Any provision of a consumer credit transaction contract which waives or attempts to waive any provision of section 325G.22 is void.

Sec. 39. Minnesota Statutes 1986, section 332.29, subdivision 1, is amended to read:

Subdivision 1. The commissioner ~~may from time to time~~ shall examine the books and records of every licensee hereunder and of any person engaged in the business of debt prorating service as defined in section 332.13 ~~at least once every 18 calendar months~~. The commissioner once during any calendar year, may require the submission of an audit prepared by a certified public accountant of the books and records of each licensee hereunder. If the licensee has, within one year previous to the commissioner's demand, had an audit prepared for some other purpose, this audit may be submitted to satisfy the requirement of this section. The commissioner may investigate any complaint concerning violations of sections 332.12 to 332.29 and may require the attendance and sworn testimony of witnesses and the production of documents.

Sec. 40. [REPEALER.]

Minnesota Statutes 1986, sections 48.60 and 55.13, are repealed.

Sec. 41. [EFFECTIVE DATE.]

Sections 1, 2, 4, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, and 28 are effective the day following final enactment. Sections 3 and 39 are effective July 1, 1987.

ARTICLE 2

REGULATORY REDUCTION ACT

Section 1. Minnesota Statutes 1986, section 55.095, is amended to read:

55.095 [DUTIES OF COMMISSIONER OF COMMERCE.]

Every safe deposit company is at all times under the supervision and subject to the control of the commissioner of commerce. ~~The commissioner's examiners shall visit at least once each year each commissioner~~ *may at any time examine a licensed safe deposit company licensed by the commissioner* to ascertain whether the safe deposit company is complying with the provisions of this chapter and whether its methods and systems are in accordance with law and designed to protect the property of persons doing business with it. For each examination the commissioner shall charge the actual expenses of examination. If the commissioner of commerce determines that the safe deposit company is violating the provisions of this chapter, any law of the state, or has engaged or the commissioner has reason to believe that a licensee is about to engage in an unlawful, unsafe, or unsound practice in the conduct of its business, the commissioner may proceed pursuant to sections 46.24 to 46.33 or serve notice on the safe deposit company of intention to revoke the license, stating in general the

grounds therefor and giving reasonable opportunity to be heard. If for a period of 15 days after the notice, the violation continues, the commissioner of commerce may revoke the license and take possession of the business and property of the safe deposit company and maintain possession until the time the commissioner permits it to continue business, or its affairs are finally liquidated. The liquidation must proceed pursuant to sections 49.04 to 49.32.

Sec. 2. Minnesota Statutes 1986, section 59A.06, subdivision 3, is amended to read:

Subd. 3. The commissioner ~~shall~~ *may at any time* make an examination of the affairs, business, office and records of each licensee ~~at least once each year~~. Each licensee shall pay to the commissioner the actual costs of examination as well as amounts required under section 46.131, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

Sec. 3. Minnesota Statutes 1986, section 168.66, subdivision 3, is amended to read:

Subd. 3. "Retail installment sale" means any sale evidenced by a retail installment contract wherein retail buyer agrees to buy and retail seller agrees to sell a motor vehicle at a ~~time~~ sale price payable in one or more installments *with the payment of a finance charge*.

Sec. 4. Minnesota Statutes 1986, section 168.66, subdivision 4, is amended to read:

Subd. 4. "Retail installment contract" means any agreement, entered into in this state, evidencing a retail installment sale of a motor vehicle, other than for the purpose of resale, when purchased primarily for personal, family or household use, pursuant to which title to, or a lien upon the motor vehicle is retained by the retail seller as security for the retail buyer's obligation. This term includes a mortgage, conditional sale contract, or any contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the ~~time retail installment~~ sale price of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such motor vehicle *for no additional consideration or for nominal additional consideration*. "Retail installment contract" does not include any agreement, entered into in this state, evidencing an installment sale of a motor vehicle purchased primarily for use in business. For purposes of this subdivision, "business" means a commercial or industrial enterprise which is carried on for the purpose of active or passive investment or profit.

Sec. 5. Minnesota Statutes 1986, section 168.66, subdivision 5, is amended to read:

Subd. 5. "Motor vehicle" means any device propelled or drawn by any power other than muscular power, in, upon, or by which any person or property is, or may be transported or drawn upon a highway, excepting building and road construction equipment not subject to motor vehicle registration fees, snowmobiles, *three-wheel off-road vehicles, boat, snowmobile, and other utility trailers*, farm tractors, and agricultural machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on a public highway, *or any other device which may not be lawfully operated upon a highway at the time of sale*.

Sec. 6. Minnesota Statutes 1986, section 168.66, subdivision 9, is amended to read:

Subd. 9. "Cash sale price" means the price at which the seller would in good faith sell to the buyer, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the retail installment contract, if such sale were a sale for cash, instead of a retail installment sale. The cash sale price may include any taxes, charges for delivery, servicing, repairing or improving the motor vehicle, including accessories and their installation, and any other charges agreed upon between the parties. *The cash price may not include a documentary fee or document administration fee in excess of \$25 for services actually rendered to, for, or on behalf of, the retail buyer in preparing, handling, and processing documents relating to the motor vehicle and the closing of the retail sale.*

Sec. 7. Minnesota Statutes 1986, section 168.66, subdivision 10, is amended to read:

Subd. 10. ~~"Time sale price"~~ "Total of payments" means the amount which the buyer contracts to pay under a retail installment contract, *excluding any down payment.*

Sec. 8. Minnesota Statutes 1986, section 168.66, subdivision 11, is amended to read:

Subd. 11. ~~"Time price differential"~~ means the amount by which the seller's total time sale price exceeds the aggregate of the cash sale price; *"Finance charge" means any charge payable directly or indirectly by the buyer and imposed directly or indirectly by the seller as a condition of the extension of credit under a retail installment contract, and includes a time price differential. The term does not include the cost of any insurance and other benefits included in the retail installment contract and any other permissible cost or expense incidental to the retail installment sale or any charge of a type payable in a comparable cash transaction, or any taxes, fees, or charges that actually are or will be paid to public officials or government agencies for determining the existence of or for perfecting, releasing, or satisfying a security interest. The term also does not include premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property if the insurance coverage may be obtained from a person of the buyer's choice.*

Sec. 9. Minnesota Statutes 1986, section 168.705, is amended to read:

168.705 [EXAMINATIONS, SPECIAL INVESTIGATIONS, COSTS.]

For the purpose of discovering violations of sections 168.66 to 168.77 or securing information lawfully required by the administrator hereunder, the administrator may, at any time, either personally or by a person or persons duly designated by the administrator, investigate the conditional sales contracts and business related to the conditional sales contracts and examine the books, accounts, records, and files used therein, of every licensee and of every person who shall be engaged in the business of a sales finance company, whether the person shall act as principal or agent, or under or without the authority of sections 168.66 to 168.77. For that purpose, the administrator and the administrator's duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons. The

administrator and all persons duly designated by the administrator shall have authority to require the attendance of and to examine, under oath, all persons whomsoever whose testimony the administrator may require relative to the conditional sales contract or the business or to the subject matter of any examination, investigation, or hearing.

The administrator ~~shall~~ *may* make an examination of the affairs, business, office, and records of each licensee at least once every two calendar years. Each licensee shall pay to the administrator an amount as may be required under section 46.131, and the administrator licenses as often as considered necessary. The administrator may assess a fee covering the necessary costs of an examination or special investigation under this section, section 168.69, or reports filed under section 168.706. The fee is payable to the administrator on the administrator's request for payment. The administrator may maintain an action for the recovery of the costs in any court of competent jurisdiction.

Sec. 10. Minnesota Statutes 1986, section 168.71, is amended to read:

168.71 [RETAIL INSTALLMENT CONTRACTS.]

(a) (1) Every retail installment contract shall be in writing, shall contain all the agreements of the parties, shall be signed by the retail buyer and seller, and a copy thereof shall be furnished to such retail buyer at the time of the execution of the contract.

(2) No provisions for confession of judgment or power of attorney therefor contained in any retail installment contract or contained in a separate agreement relating thereto, shall be valid or enforceable.

(3) The holder of a *precomputed* retail installment contract may, if the contract so provides, collect a delinquency and collection charge on each installment in arrears for a period not less than ten days in an amount not in excess of five percent of each installment or \$5, whichever is the less. In addition to such delinquency and collection charge, the retail installment contract, *whether interest-bearing or precomputed*, may provide for the payment of attorneys' fees not exceeding 15 percent of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection plus the court costs.

(4) Unless written notice has been given to the retail buyer of actual or intended assignment of a retail installment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.

(5) Upon written request from the retail buyer, the holder of the retail installment contract shall give or forward to the retail buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.

(b) The retail installment contract shall contain the following items:

(1) The cash sale price of the motor vehicle which is the subject matter of the retail installment contract;

(2) The *total* amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;

(3) The difference between items one and two;

(4) The charge, if any, included in the transaction for any insurance and other benefits *not included in clause (1)*, specifying the types of coverage and ~~benefits~~ taxes, fees, and charges that actually are or will be paid to public officials or government agencies, including those for perfecting, releasing, or satisfying a security interest if such taxes, fees, or charges are not included in clause (1);

(5) Principal balance, which is the sum of item three and item four;

(6) The amount of the ~~time price differential finance charge~~;

(7) The ~~time balance~~ total of payments payable by the retail buyer to the retail seller and the number of installment payments required and the amount of each installment expressed in dollars or percentages, and date of each payment necessary finally to pay the ~~time balance~~ total of payments which is the sum of item five and item six.

Provided, however, that said items one to seven inclusive need not be stated in the terms, sequence or order set forth above ~~and that additional items may be included which serve to explain the calculations involved in determining the stated time balance to be paid by the retail buyer.~~ *Provided further, that clauses (6) and (7) may be disclosed on the assumption that all scheduled payments under the contract will be made when due.*

In lieu of the above clauses, the retail seller may give the retail buyer disclosures which satisfy the requirements of the Federal Truth-In-Lending Act in effect as of the time of the contract, notwithstanding whether or not that act applies to the transaction.

(c) Every retail seller or sales finance company, if a charge for insurance on the motor vehicle is included in a retail installment contract shall within 30 days after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and selecting an insurance company mutually acceptable to the seller and the buyer; provided, however, that the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller.

(d) Any sales finance company hereunder may purchase or acquire from any retail seller any retail installment contract on such terms and conditions as may be mutually agreed upon between them.

(e) An acknowledgment by the retail buyer of the delivery of any such copy or notice as required in subsection (a) of this section contained in the body of the statement or contract shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.

Sec. 11. Minnesota Statutes 1986, section 168.72, subdivision 1, is amended to read:

Subdivision 1. (a) The ~~time price differential finance charge~~ authorized by sections 168.66 to 168.77 in a retail installment sale may not exceed

the following *simple interest annual percentage rates*:

Class 1. Any motor vehicle designated by the manufacturer by a year model of the same or not more than one year prior to the year in which the sale is made - \$10 per \$100 18 percent per year.

Class 2. Any motor vehicle designated by the manufacturer by a year model of two or three years prior to the year in which the sale is made - \$11 per \$100 19.75 percent per year.

Class 3. Any motor vehicle not in Class 1 or Class 2 - \$13 per \$100 23.25 percent per year plus a flat charge of \$3 for each retail installment sale.

(b) The ~~time price differential~~ *finance charge* must be computed on the principal balance *outstanding from time to time as originally determined* under section 168.71, clause (b) ~~and must be computed at the rate indicated on contracts payable in successive monthly installment payments substantially equal in amount extending for a period of one year. For purposes of this subdivision and section 168.73, contracts payable in successive monthly installment payments include those where the first installment is scheduled for not less than 15 days nor more than one month and 15 days from the date of the contract. On contracts providing for installment payments extending for a period less than or greater than one year, the time price differential must be computed proportionately.~~

(c) When a retail installment contract provides for unequal or irregular installment payments, the ~~time price differential~~ *finance charge* is at the effective rate provided in clause (a) hereof, ~~having due regard for the irregular schedule of payment.~~ Retail installment contracts may be interest-bearing or precomputed, and fixed-rate or variable rate. For precomputed retail installment contracts, the *finance charge* may be calculated in advance on the assumption that all scheduled payments will be made when due and the effect of prepayment in full is governed by section 168.73. To compute time for the purpose of calculating interest under this section and section 168.73, a day may be considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year is 12 calendar months. A calendar month is that period from a given date in one month to the same numbered date in the following month, and if there is no same-numbered date, to the last day of the following month. When a period of time includes a whole month and a fraction of a month, the fraction of a month is considered to follow the whole month. In the alternative, for interest-bearing retail installment contracts, a retail seller may charge *finance charges* not to exceed 1/365th of the simple interest annual percentage rate permitted in this section for each actual day elapsed from the date of the retail installment contract through and including the date of payment in full.

(d) (c) The ~~time price differential~~ *finance charge* is inclusive of all charges incident to investigating and making the contract, and for the extension of the credit provided for in the contract and no fee, commission, expense or other charge whatsoever may be taken, received, reserved or contracted for *except taxes, fees, and charges that actually are or will be paid to public officials or government agencies for determining the existence of or for perfecting, releasing, or satisfying a security interest, and except as provided in sections 168.66 to 168.77.*

Sec. 12. Minnesota Statutes 1986, section 168.72, subdivision 4, is

amended to read:

Subd. 4. A sale of a manufactured home made after July 31, 1983, is governed by the provisions of subdivision 1 for purposes of determining the lawful ~~time price differential finance charge~~ rate, except that the maximum ~~time differential finance charge~~ for a class I manufactured home may not exceed \$8 per \$100 ~~14.5 percent~~ per year. A retail installment sale of a manufactured home that imposes a time price differential rate that is greater than the rate permitted by this subdivision is lawful and enforceable in accordance with its terms until the indebtedness is fully satisfied if the rate was lawful when the sale was made.

Sec. 13. Minnesota Statutes 1986, section 168.73, is amended to read:

168.73 [~~PREPAYMENT IN FULL, REFUND CREDITS, ALLOWANCE.~~]

Notwithstanding the provisions of any retail installment contract to the contrary, any retail buyer may pay in full at any time before maturity the debt of any retail installment contract ~~and without penalty~~. In so paying ~~such debt a precomputed retail installment contract in full, the retail buyer shall receive a refund credit thereon for such anticipation of payments. For contracts with substantially equal scheduled monthly payments remaining after the date of prepayment in full, the refund must be calculated for all fully unexpired monthly payment periods following the date of payment in full. For all other contracts, the refund must be calculated as of the date in the month following prepayment which corresponds to the original contract date. The amount of such refund shall represent at least as great a proportion of the time price differential after first deducting from such time price differential be calculated according to the actuarial method, less an acquisition cost of \$15; as the sum of the periodic time balances after the month in which date prepayment is made; bears to the sum of all the periodic time balances under the schedule of payments in the original contract which may be deducted from the refund so calculated.~~

Where the amount of the credit for anticipation of payment is less than \$1, no refund need be made.

The actuarial method means the method of allocating payments on a contract between the principal amount and finance charge at the contract rate charged under section 168.72, whereby a payment is applied first to the accumulated finance charge and then to the unpaid principal balance based on the original terms of the contract and based on the assumption that all payments are made on the due date as originally scheduled or deferred.

Sec. 14. Minnesota Statutes 1986, section 168.74, is amended to read:

168.74 [EXTENSION OF SCHEDULES, PAYMENTS.]

The holder of a *precomputed* retail installment contract, may, upon written agreement with the retail buyer, extend the ~~schedules scheduled~~ due date, or defer the ~~schedules scheduled~~ payment of all or part of any installment payment or payments, or renew the balance of such contract. In any such case the holder may restate the amount of the installments and the time schedule therefor, and collect as a refinance charge for such extension, deferment or renewal, a flat service fee not to exceed \$5 and a total additional charge not exceeding ~~an amount equal to one percent per month~~ the simple interest ~~annual percentage rate under the original retail installment contract calculated on the respective descending balances computed from~~

the date of such extension, deferment or renewal.

Sec. 15. [EFFECTIVE DATE.]

Sections 1, 2, 5, and 9 of this article are effective July 1, 1987. Sections 6, 7, 8, 10, 11, 12, and 14 are effective January 1, 1988. Section 13 is effective January 1, 1988, and applies to contracts entered into on or after that date.

ARTICLE 3

APPLICATION PARITY ACT

Section 1. Minnesota Statutes 1986, section 46.041, is amended to read:
46.041 [BANK APPLICATIONS.]

Subdivision 1. [FILING; FEE; ~~HEARING~~ PUBLIC INSPECTION.] The incorporators of a bank proposed to be organized under the laws of this state shall execute and acknowledge a written application in the form prescribed by the commissioner of commerce. The application must be signed by two or more of the incorporators and request a certificate authorizing the proposed bank to transact business at the place and in the name stated in the application. The applicant shall file the application with the department with a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. Thereupon the applicant shall within 30 days of the receipt of the form prescribed by the commissioner, publish a notice of the filing of the application in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice shall be in the form prescribed by the commissioner and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the bank. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, must be paid by the applicant and 50 percent equally by the intervening parties. The application file must be public, with the exception of financial data on individuals which is private under the Minnesota government data practices act.

Subd. 2. [UNCONTESTED NOTICE OF FILING APPLICATION APPROVAL ORDER; PUBLICATION.] If no objection is received by the commissioner within 21 days after the publication and mailing of the notices, the commissioner may issue an order approving the application without a hearing if it is found that the applicant meets the conditions in section 46.044. Otherwise the commissioner must deny the application. Upon notice of acceptance of an application as complete in all respects for filing, the applicant shall within 30 days of the receipt of the form prescribed by the commissioner, publish a notice of the filing of the application, in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must be in the form prescribed by the commissioner and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the bank.

Subd. 3. [OBJECTIONS; COMMENTS, REQUESTS FOR HEARING.]

If the application is contested, the commissioner shall fix a time, within 60 days after the filing of the objection for a hearing, and the record of the hearing shall be considered by the commissioner in deciding whether or not the application shall be granted. A notice of the hearing must be published in the form prescribed by the commissioner in some newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice shall be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and such witnesses as may appear in favor of or against the granting of the application of the proposed bank. The hearing shall be conducted by the commissioner in accordance with the provisions of sections 14-01 to 14-70. Within 21 days after the notice of application has been published, any person may submit to the commissioner either or both written comments on an application and a written request for a hearing on the application. The request must state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the commissioner. Comments challenging the legality of an application should be submitted separately in writing.

Written requests for hearing must be evaluated by the commissioner who may grant or deny the request. A hearing must generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the commissioner.

If a request for a hearing has been denied, the commissioner shall notify the applicant and all interested persons stating the reasons for denial. Interested parties may submit to the commissioner with simultaneous copies to the applicant additional written comments on the application within 14 days after the date of the notice of denial. The applicant shall be provided an additional seven days after the 14-day deadline has expired within which to respond to any comments submitted within the 14-day period. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested parties. The commissioner may waive the additional seven-day comment period if so requested by the applicant.

Subd. 4. [HEARING.] In any case in which the commissioner grants a request for a hearing, the commissioner shall fix a time for a hearing conducted pursuant to chapter 14 to decide whether or not the application will be granted. A notice of the hearing must be published by the applicant in the form prescribed by the commissioner in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and witnesses that appear in favor of or against the granting of the application of the proposed bank. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, must be paid by the applicant and 50 percent equally by the

intervening parties.

Subd. 5. [APPROVAL, DISAPPROVAL, AFTER HEARING.] If, upon the hearing *or upon other information submitted*, it appears to the commissioner that the application should be granted, the commissioner shall, not later than 90 days after the hearing, and after the applicants have otherwise complied with the provisions of law applicable to the organization of a bank, including the provisions herein contained, make and file in the commissioner's office a written order directing the issuance of a certificate of authorization as provided by law. If the certificate of authorization is not activated within a period of 12 months from date of issuance, the commissioner may upon written notice to the applicants request a new hearing. If the commissioner decides that the application should not be granted, the commissioner shall deny the application and make a written order to that effect, file it in the commissioner's office, and forthwith give notice thereof by certified mail to one of the incorporators named in the application for the proposed bank, addressed to the incorporator at the address stated in the application. Thereupon the commissioner shall refuse to issue the certificate of authorization to the proposed bank.

Sec. 2. [EFFECTIVE DATE.]

This article is effective the day following final enactment, and applies to pending applications at that time if any notice of the filing of the application has not been fully published."

Delete the title and insert:

"A bill for an act relating to financial institutions; regulating incorporations and operations of banks; requiring prior written approval by the commissioner for certain lease arrangements; requiring certain securities to be deposited with the state treasurer; requiring approval of certain insider agreements; providing penalties against certain lenders; regulating transfer and closing of deposit accounts; regulating real estate holdings by a bank; providing for exclusions to certain usury limits; regulating acquisitions by bank holding companies; revising the definition of feeder livestock loans for bank lending limit purposes; authorizing the commissioner to borrow money to satisfy obligations of certain closed institutions; authorizing indirect investments in eligible securities for state banks; regulating bank or trust company investments; regulating claims against liquidated institutions; providing for the organization of credit unions; regulating interest and dividends paid on deposits; regulating industrial loan and thrifts; regulating interstate branch banking; providing for the submission of certain reports; modifying the maximum allowable interest rate on certain loans used to satisfy the balances owed on contracts for deed; regulating consumer credit transaction contracts; requiring the periodic examination of debt prorated companies; modifying the examination requirement for safe deposit companies and insurance premium finance companies; regulating motor vehicle installment sales; regulating bank applications; regulating electronic financial terminals and unauthorized use of financial transaction cards; amending Minnesota Statutes 1986, sections 46.041; 46.042; 46.07, subdivision 2; 46.131, subdivision 9; 47.10, subdivision 3, and by adding a subdivision; 47.204, subdivision 1; 47.205, subdivisions 2 and 4; 47.69, subdivision 3; 48.055, subdivision 5; 48.15, subdivision 2; 48.21; 48.24, subdivision 7; 48.51; 48.61, subdivisions 3 and 5; 48.92, subdivision 10; 48.97, subdivision 2; 48.98, subdivision 1; 48.99, subdivision 1; 49.04, subdivision 1; 49.05, by adding a subdivision; 49.24, subdivision 5; 51A.58;

52.01; 52.02, subdivision 3; 52.09, subdivision 2; 52.18; 53.04, subdivisions 3a and 5; 53.05; 53.09, subdivision 2; 55.095; 55.15; 56.12; 59A.06, subdivision 3; 168.66, subdivisions 3, 4, 5, 9, 10, and 11; 168.705; 168.71; 168.72, subdivisions 1 and 4; 168.73; 168.74; 325G.04, by adding a subdivision; 325G.36; 332.29, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 46 and 47; repealing Minnesota Statutes 1986, sections 48.60 and 55.13."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Theodore "Ted" Winter, Wes Skoglund, Gerald Knickerbocker

Senate Conferees: (Signed) Donna C. Peterson, James P. Metzen, William V. Belanger, Jr.

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 291 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 291 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Laidig	Morse	Samuelson
Anderson	Diessner	Langseth	Olson	Schmitz
Beckman	Frank	Lantry	Pehler	Spear
Belanger	Frederick	Larson	Peterson, D.C.	Storm
Benson	Frederickson, D.I.	Marty	Peterson, R.W.	Stumpf
Bernhagen	Frederickson, D.R.	McQuaid	Piper	Taylor
Bertram	Hughes	Mehrken	Pogemiller	Vickerman
Brandl	Jude	Merriam	Purfeerst	Waldorf
Brataas	Knaak	Metzen	Ramstad	Wegscheid
Chmielewski	Knutson	Moe, D.M.	Reichgott	Willet
Dahl	Kroening	Moe, R.D.	Renneke	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1015, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1015 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1015

A bill for an act relating to motorboat safety; providing for enforcement of sanctions for operation of a motorboat while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1986, section 361.121, subdivisions 2 and 3, and by adding subdivisions.

May 17, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1015, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1015 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 84.87, subdivision 2, is amended to read:

Subd. 2. [OPERATION GENERALLY.] It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

(a) At a rate of speed greater than reasonable or proper under all the surrounding circumstances;

(b) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;

(c) ~~While under the influence of an alcoholic beverage or a controlled substance;~~

~~(d) Without a lighted head and tail light when required for safety;~~

~~(e) (d) In any tree nursery or planting in a manner which damages or destroys growing stock.~~

Sec. 2. Minnesota Statutes 1986, section 84.87, is amended by adding a subdivision to read:

Subd. 2b. [OPERATING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.] A person in control of or operating a snowmobile under the influence of alcohol or a controlled substance is governed by the prohibitions and chemical testing requirements of sections 3 and 4 and is punishable in accordance with those sections.

Sec. 3. [84.91] [OPERATION OF SNOWMOBILES AND ALL-TERRAIN VEHICLES UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES.]

Subdivision 1. [ACTS PROHIBITED.] (a) No person shall operate or be in physical control of any snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state while under the influence of:

(1) alcohol, as provided in section 169.121, subdivision 1, clauses (a) and (d);

(2) a controlled substance, as defined in section 152.01, subdivision 4; or

(3) a combination of any two or more of the elements named in clauses (1) and (2).

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance, as provided under paragraph (a), to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

Subd. 2. [ARREST.] Conservation officers of the department of natural resources, sheriffs, sheriffs deputies, and other peace officers may arrest a person for a violation under subdivision 1 without a warrant upon probable cause, if the violation was committed in the officer's presence. If the violation did not occur in the officer's presence, the officer may arrest the person if the person was involved in a snowmobile or all-terrain vehicle accident resulting in death, personal injury, or property damage.

Subd. 3. [PRELIMINARY SCREENING TEST.] When an officer authorized under subdivision 2 to make arrests has reason to believe from the manner in which a person is operating, controlling, or acting upon departure from a snowmobile or all-terrain vehicle, or has operated or been in control of the vehicle, that the operator may be violating or has violated subdivision 1, paragraph (a), the officer may require the operator to provide a breath sample for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of the preliminary screening test shall be used for the purpose of deciding whether an arrest should be made under this section and whether to require the chemical tests authorized in section 4, but may not be used in any court action except to prove that a test was properly required of an operator under section 4. Following the preliminary screening test, additional tests may be required of the operator as provided under section 4. An operator who refuses a breath sample is subject to the provisions of section 4 unless, in compliance with that section, the operator submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Subd. 4. [EVIDENCE.] In a prosecution for a violation of subdivision 1, paragraph (a), the admission of evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine, is governed by section 361.12, subdivision 4.

Subd. 5. [PENALTIES.] (a) A person who violates any prohibition contained in subdivision 1 is guilty of a misdemeanor. A person who violates any prohibition contained in subdivision 1 within five years of a prior conviction under that subdivision or civil liability under section 4, subdivision 2, or within ten years of two or more prior convictions under that subdivision or civil liability under section 4, subdivision 2, is guilty of a gross misdemeanor.

(b) A person who operates a snowmobile or all-terrain vehicle during

the period the person is prohibited from operating the vehicle under subdivision 6 is guilty of a misdemeanor.

Subd. 6. [OPERATING PRIVILEGES SUSPENDED.] Upon conviction, and in addition to any penalty imposed under subdivision 5, the person is prohibited for one year from operating a snowmobile or all-terrain vehicle, whichever was involved in the violation.

Subd. 7. [DUTIES OF COMMISSIONER.] The court shall promptly forward to the commissioner copies of all convictions and criminal and civil penalties imposed under subdivision 5 and section 4, subdivision 2. The commissioner shall notify the convicted person of the period during which the person is prohibited from operating a snowmobile or all-terrain vehicle under subdivision 6 or section 4, subdivision 2. The commissioner shall also periodically circulate to appropriate law enforcement agencies a list of all persons who are prohibited from operating a snowmobile or all-terrain vehicle under subdivision 6 or section 4, subdivision 2.

Subd. 8. [IMMUNITY FROM LIABILITY.] The state or political subdivision that employs an officer who is authorized under subdivision 2 to make an arrest for violations of subdivision 1 is immune from any liability, civil or criminal, for the care or custody of the snowmobile or all-terrain vehicle being operated by or in the physical control of the person arrested if the officer acts in good faith and exercises due care.

Sec. 4. [84.911] [CHEMICAL TESTING.]

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 3, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was operating or in physical control of a snowmobile or all-terrain vehicle in violation of section 3, subdivision 1, paragraph (a), and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 3, subdivision 1, paragraph (a);
- (2) the person has been involved while operating a snowmobile or all-terrain vehicle in an accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 3, subdivision 3; or
- (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

Subd. 2. [PENALTIES; REFUSAL; REVOCATION OF SNOWMOBILE OR ALL-TERRAIN VEHICLE OPERATING PRIVILEGE.] (a) If a person refuses to take a test required under subdivision 1, none must be given, but the officer authorized to make arrests under section 3, subdivision 2, shall report the refusal to the commissioner of natural resources and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test

demand and refusal.

On certification by the officer that probable cause existed to believe the person had been operating or in physical control of a snowmobile or all-terrain vehicle while under the influence of alcohol or a controlled substance, and that the person refused to submit to testing, the commissioner shall impose a civil penalty of \$500 and shall prohibit the person from operating a snowmobile or all-terrain vehicle, whichever was involved in the violation, for a period of one year.

On behalf of the commissioner, an officer requiring a test or directing the administration of a test shall serve on a person who refused to permit a test immediate notice of intention to prohibit the operation of a snowmobile or all-terrain vehicle, and to impose the civil penalty set forth in this subdivision. If the officer fails to serve a notice of intent to suspend operating privileges, the commissioner may notify the person by mail, and the notice is deemed received three days after mailing. The notice must advise the person of the right to obtain administrative and judicial review as provided in this section. The prohibition imposed by the commissioner takes effect ten days after receipt of the notice. The civil penalty is imposed on receipt of the notice and must be paid within 30 days of imposition.

(b) A person who operates a snowmobile or all-terrain vehicle during the period the person is prohibited from operating the vehicle as provided under paragraph (a) is guilty of a misdemeanor.

Subd. 3. [RIGHTS AND OBLIGATIONS.] At the time a test is requested, the person must be informed:

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

(2) that if the person refuses to take the test, the person is subject to a civil penalty of \$500 and is prohibited for a one-year period from operating a snowmobile or an all-terrain vehicle, as provided under subdivision 2;

(3) that if testing is refused it will not affect the person's motor vehicle driver's license;

(4) that if the test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and in addition to any other penalties the court may impose, the person's operating privileges will be suspended as provided under section 3, subdivision 6;

(5) that, after submitting to testing, the person has the right to have additional tests made by someone of the person's own choosing; and

(6) that a refusal to take a test will be offered into evidence against the person at trial.

Subd. 4. [REQUIREMENT OF URINE TEST.] Notwithstanding subdivision 1, if there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required even after a breath test has been administered.

Subd. 5. [CHEMICAL TESTS.] Chemical tests administered under this section are governed by section 361.121, subdivisions 5, 6, and 7.

Subd. 6. [JUDICIAL AND ADMINISTRATIVE REVIEW; ENFORCEMENT.] Judicial and administrative review of sanctions imposed under

this section is governed by sections 8, 9, and 10. Payment and enforcement of the civil penalty imposed under this section is governed by sections 12 and 13.

Sec. 5. Minnesota Statutes 1986, section 84.928, subdivision 3, is amended to read:

Subd. 3. [OPERATING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.] A person may not operate or be in control of an all-terrain vehicle *anywhere in this state or on the ice of any boundary water of this state* while under the influence of alcohol or a controlled substance, as provided in section 169.121, subdivision 1, or a controlled substance defined in section 152.01, subdivision 4. A person violating this subdivision is guilty of a crime and is punishable in accordance with the provisions of section 169.121, subdivisions 3 and is subject to section 4.

Sec. 6. Minnesota Statutes 1986, section 169.121, is amended by adding a subdivision to read:

Subd. 11. [APPLICABILITY.] *For purposes of this section and section 169.123, "motor vehicle" does not include a snowmobile as defined in section 84.81, or an all-terrain vehicle as defined in section 84.92.*

Sec. 7. Minnesota Statutes 1986, section 361.121, subdivision 2, is amended to read:

Subd. 2. [PENALTIES; REFUSAL; REVOCATION OF MOTORBOAT OPERATING PRIVILEGE.] (a) *If a person who refuses to take a test required under subdivision 1 is subject to a civil penalty not to exceed \$700 and, in addition, the person is prohibited from operating any motorboat on the waters of this state for a period of one year, none must be given, but the officer authorized to make arrests under section 361.12, subdivision 2, shall report the refusal to the commissioner of natural resources and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal.*

On certification by the officer that probable cause existed to believe the person had been operating or in physical control of a motorboat while under the influence of alcohol or a controlled substance, and that the person refused to submit to testing, the commissioner shall impose a civil penalty of \$500 and shall prohibit the person from operating any motorboat on the waters of this state for a period of one year. If the person refusing to submit to testing is under the age of 18 years at the time of the refusal, the person's watercraft operator's permit shall be revoked by the commissioner as set forth in this subdivision and a new permit after the revocation must be issued only after the person successfully completes a watercraft safety course.

On behalf of the commissioner, an officer requiring a test or directing the administration of a test shall serve on a person who refused to permit a test immediate notice of intention to impose the civil penalty set forth in this subdivision, to prohibit the operation of motorboats, and to revoke a watercraft operator's permit. The officer shall take any watercraft operator's permit held by the person, and shall send the permit to the commissioner along with the certification provided for in this subdivision. If the officer fails to serve a notice of intent to revoke, the commissioner may notify the person by mail, and the notice is deemed received three days

after mailing. The notice must advise the person of the right to obtain administrative and judicial review as provided in this section. The prohibition and revocation, if any, shall take effect ten days after receipt of the notice. The civil penalty is imposed on receipt of the notice, and shall be paid within 30 days of imposition.

(b) A person who operates a motorboat on the waters of this state during the period the person is prohibited from operating any motorboat as provided under paragraph (a) is guilty of a misdemeanor.

Sec. 8. Minnesota Statutes 1986, section 361.121, is amended by adding a subdivision to read:

Subd. 2a. [ADMINISTRATIVE REVIEW.] At any time during the period of prohibition or revocation imposed under this section, the person may request in writing a review of the order imposing sanctions under this section. If the person makes a request for administrative review within 30 days following receipt of a notice and order imposing sanctions, the request shall stay imposition of the civil penalty. Upon receiving the request for review, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days after receiving the request, the commissioner shall issue a written report ordering that the prohibition, revocation, or civil penalty be either sustained or rescinded. The review provided in this subdivision is not subject to the contested case provisions of the administrative procedure act in sections 14.01 to 14.70. The availability of administrative review has no effect upon the availability of judicial review under this section.

Sec. 9. Minnesota Statutes 1986, section 361.121, is amended by adding a subdivision to read:

Subd. 2b. [JUDICIAL REVIEW.] Within 30 days following receipt of a notice and order imposing sanctions under this section, a person may petition the court for review. The petition must be filed with the court administrator of the county, municipal, or unified trial court in the county where the incident occurred which gave rise to the test demand and refusal, together with proof of service of a copy on the commissioner and the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred. A responsive pleading is not required of the commissioner of natural resources, and court fees may not be charged for the appearance of the representative of the commissioner in the matter.

The petition must be captioned in the name of the person making the petition as petitioner and the commissioner as respondent. The petition must state specifically the grounds upon which the petitioner seeks rescission of the order imposing sanctions.

The filing of the petition does not stay the revocation or prohibition against operation of a motorboat. However, the filing of a petition stays imposition of the civil penalty. The judicial review shall be conducted according to the rules of civil procedure.

Sec. 10. Minnesota Statutes 1986, section 361.121, is amended by adding a subdivision to read:

Subd. 2c. [HEARING.] A hearing under this section must be before a municipal, county, or unified trial court judge in the county where the

incident occurred which gave rise to the test demand and refusal. The hearing must be to the court, and may be conducted at the same time as hearings upon pretrial motions in the criminal prosecution under section 361.12. The hearing must be recorded. The commissioner must be represented by the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred which gave rise to the test demand and refusal.

The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The reviewing court may order a temporary stay of the balance of the prohibition or revocation if the hearing has not been conducted within 60 days after filing of the petition, upon the application of the petitioner and upon terms the court deems proper.

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

(1) whether the officer had probable cause to believe that the person was operating or in physical control of a motorboat in violation of section 361.12;

(2) whether one of the conditions in subdivision 1 existed;

(3) whether the person was informed as prescribed in subdivision 3; and

(4) whether the person refused to submit to testing.

It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

The court shall order that the prohibition or revocation be either sustained or rescinded, and shall either sustain or rescind the civil penalty. The court shall forward a copy of the order to the commissioner.

Sec. 11. Minnesota Statutes 1986, section 361.121, subdivision 3, is amended to read:

Subd. 3. [RIGHTS AND OBLIGATIONS.] At the time a test is requested, the person must be informed:

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

(2) that a person is subject to a civil penalty ~~not to exceed \$700~~ of \$500 for refusing to take the test and, in addition, the person is prohibited from operating any motorboat, as provided under subdivision 2, for refusing to take the test;

(3) that if testing is refused it will not affect the person's motor vehicle driver's license;

(4) that if the test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and in addition to any other penalties the court may impose, the person's operating privileges will be suspended as provided under section 361.12, subdivision 6, paragraph (a);

(5) that, after submitting to testing, the person has the right to have additional tests made by someone of the person's own choosing; and

(6) that a refusal to take a test will be offered into evidence against the person at trial.

Sec. 12. Minnesota Statutes 1986, section 361.121, is amended by adding a subdivision to read:

Subd. 8. [CIVIL PENALTY; PAYMENT.] The civil penalty imposed under subdivision 2 must be paid to the political subdivision that represents the commissioner on the petition for judicial review or, in the event that no petition is filed, to the political subdivision that would have represented the commissioner had a petition been filed. If a person does not pay the civil penalty, the prohibition against operating motorboats is automatically extended until the political subdivision reports in writing to the commissioner that the penalty has been paid.

Sec. 13. Minnesota Statutes 1986, section 361.121, is amended by adding a subdivision to read:

Subd. 9. [CIVIL PENALTY; ENFORCEMENT.] If a person does not pay the civil penalty imposed under subdivision 2 within 30 days of the time the penalty was imposed, the prosecuting authority representing the commissioner may petition the municipal, county, or unified court in the jurisdiction where the incident occurred to file the order imposing the civil penalty as an order of the court. Once entered, the order may be enforced in the same manner as a final judgment of the court. In addition to the penalty, attorney's fees, costs, and interest may be assessed against any person who fails to pay the civil penalty.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 6 are effective August 1, 1987. Sections 7 to 13 are effective the day following final enactment, and apply to all proceedings begun on or after that date."

Delete the title and insert:

"A bill for an act relating to motorboat and motor vehicle safety; providing for enforcement of sanctions for operation of snowmobiles, all-terrain vehicles, and motorboats while under the influence of alcohol or a controlled substance; providing for revocation of privilege to operate snowmobile or all-terrain vehicle as sanction for implied consent violation; amending Minnesota Statutes 1986, sections 84.87, subdivision 2, and by adding a subdivision; 84.928, subdivision 3; 169.121, by adding a subdivision; 361.121, subdivisions 2 and 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 84."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Ann H. Rest, Kathleen A. Blatz, Kenneth J. Kludt

Senate Conferees: (Signed) Donna C. Peterson, Gene Merriam, Jim Ramstad

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1015 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1015 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

Conference Committee.

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

Those who voted in the affirmative were:

Adkins	Dahl	Kroening	Moe, R.D.	Reichgott
Anderson	Davis	Laidig	Morse	Rennecke
Beckman	Diessner	Langseth	Novak	Samuelson
Belanger	Frank	Lantry	Olson	Schmitz
Benson	Frederick	Larson	Pehler	Spear
Berg	Frederickson, D.J.	Luther	Peterson, D.C.	Stumpf
Bernhagen	Frederickson, D.R.	Marty	Peterson, R.W.	Taylor
Bertram	Gustafson	McQuaid	Piper	Vickerman
Brandl	Hughes	Mehrkens	Pogemiller	Waldorf
Brataas	Jude	Merriam	Purfeerst	Wegscheid
Chmielewski	Knutson	Metzen	Ramstad	Willet

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1043, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1043 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1043

A bill for an act relating to metropolitan government; providing for qualifications, terms, compensation, and duties of members of various metropolitan agencies; requiring various publications, plans, and reports; regulating routes and service bidding; amending Minnesota Statutes 1986, sections 473.141, subdivision 2, and by adding a subdivision; 473.161, subdivision 1c; 473.1623, subdivisions 2, 4, and 5; 473.303, by adding a subdivision; 473.373, by adding a subdivision; 473.377, subdivision 1; and by adding subdivisions; 473.38, subdivision 2; and 473.604, subdivision 1, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 473.

May 17, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1043, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 1043 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 473.141, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP; APPOINTMENTS.] (a) Each agency consists of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members on a nonpartisan basis after consultation with the members of the legislature from the district for which the member is to be appointed. *The consultation with legislators in the affected district must include informing each legislator of the name, address, and background of each candidate for appointment and soliciting and reporting to the appointments committee the recommendation of each legislator on the appointment.*

(b) In addition to the notice required in section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The council shall notify in writing the governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which the member is to be appointed. The notices must describe the appointment process and invite participation and recommendations on the appointment.

(c) The council shall establish an appointments committee, composed of members of the council, to screen and review candidates. Following the submission of member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the appointments committee shall conduct public meetings, following appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the council a written report that lists the persons who have applied or been nominated or recommended for the position, along with a description of the background and qualifications of each. *In making its recommendation, the committee specifically shall consider evidence of the candidate's commitment to regularly communicate on issues before the agency with metropolitan council members, legislators and local elected officials in the district, and the committee shall report its findings on this subject in its written report to the council.*

(d) One member shall be appointed from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;
- (4) district D, consisting of council districts 6 and 10;
- (5) district E, consisting of council districts 8 and 9;
- (6) district F, consisting of council districts 11 and 12;
- (7) district G, consisting of council districts 13 and 14; and

(8) district H, consisting of council districts 15 and 16.

Sec. 2. Minnesota Statutes 1986, section 473.141, is amended by adding a subdivision to read:

Subd. 3a. [MEMBERS; DUTIES.] Each member shall communicate regularly with metropolitan council members, legislators, and local government officials in the district the member represents.

Sec. 3. Minnesota Statutes 1986, section 473.161, subdivision 1c, is amended to read:

Subd. 1c. [SERVICES AND SYSTEMS MANAGEMENT.] The plan must include a services and systems management component that describes the levels and costs of services that will be provided to service areas and populations within the metropolitan area. The component must describe: (1) service needs, objectives, and priorities; (2) changes in existing services; (3) deployment of new services; (4) distribution and coordination of services; (5) timing, priority, and location, with maps, of service areas, routes, levels of service, and similar matters, as appropriate to the type of service; (6) delivery methods and providers; (6) (7) system management and administration; (7) (8) costs; (8) (9) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (9) (10) fiscal effects.

Sec. 4. Minnesota Statutes 1986, section 473.1623, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL REPORTING AND MANAGEMENT ADVISORY COMMITTEE.] A financial reporting and management advisory committee is created, consisting of the chairs of the council and the following metropolitan agencies: the waste control commission, transit board, transit commission, metropolitan airports commission, and sports facilities commission. The committee is established to assist and advise the council and other governing boards in meeting the requirements of this section. Staff and administrative services for the committee must be provided by the council and the member agencies. Other agencies shall make financial information available upon request.

Sec. 5. Minnesota Statutes 1986, section 473.1623, subdivision 4, is amended to read:

Subd. 4. [FINANCIAL REPORTING; BUDGETING.] (a) The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

(b) The council and each metropolitan agency shall prepare a summary budget for agency fiscal year 1988 and each year thereafter. The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop guidelines and models for the summary budgets. The purpose of the summary budget is to increase public knowledge and agency accountability by providing citizens outside of the agency with a condensed, accessible, and graphic description of the financial affairs of the agency. The document should contain a coherent, effectively communicated, under-

standable statement of: financial trends and forecasts; budget policies and policy changes; agency financial assumptions, objectives and plans; revenue sources and expenditures by program category; personnel policies, decisions, and allocation; budgetary performance measures; and similar matters serving the purpose of the document.

Sec. 6. Minnesota Statutes 1986, section 473.1623, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATIVE COORDINATION.] The advisory committee shall evaluate the benefits, costs, methods, and effects, including operational effects, of joint or uniform and coordinated exercise of powers by the council and metropolitan agencies for appropriate administrative functions. The study must include at least ongoing managerial reporting, contracts, purchasing, data processing, and personnel. The council shall report to the legislature *from time to time* on the findings and recommendations of the advisory committee to date by January 1, 1987, and on legal and other impediments to increased coordination of administrative functions. Before submitting the report, the council shall request comments on the report from the affected metropolitan agencies, and the comments must be submitted along with the report.

Sec. 7. Minnesota Statutes 1986, section 473.1623, is amended by adding a subdivision to read:

Subd. 6. [PERSONNEL AND ETHICAL PRACTICES; COMMUNICATION.] *By January 1, of each year, the council and each agency represented on the advisory committee established under this section shall report to the legislature on the following:*

(1) *agency personnel practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and*

(2) *ethical practices requirements for board members and employees of each agency, including the sources of the requirements, agency comparisons, and comparison with requirements for state and local government officers and employees; and*

(3) *the activities undertaken by each agency board member and council member to regularly meet with and communicate with local officials and legislators in the member's district about issues before the agency or council.*

Sec. 8. [473.166] [METROPOLITAN TRANSIT PLANNING PROCESS.]

By January 15, 1988, the council shall report to the legislature a recommended process for coordinating the planning and development of transit by regional railroad authorities.

Sec. 9. [473.247] [METROPOLITAN AGENCIES; PUBLIC INFORMATION.]

The council shall publish a consolidated metropolitan bulletin or register containing official notices, meeting and hearing schedules, notices of adopted ordinances, rules, policies, and similar matters for the council and all metropolitan agencies. Metropolitan agencies shall cooperate with the council in providing timely information for publication.

Sec. 10. Minnesota Statutes 1986, section 473.303, is amended by adding a subdivision to read:

Subd. 3a. [MEMBERS; DUTIES.] Members have the duties imposed by section 2.

Sec. 11. Minnesota Statutes 1986, section 473.373, is amended by adding a subdivision to read:

Subd. 1a. [PURPOSE.] (a) The purposes of the board are:

(1) to foster effective delivery of existing transit services and encourage innovation in transit service;

(2) to prepare implementation and financial plans for the metropolitan transit system;

(3) to set policies and standards for implementing the transit policies and programs of the state and the transit policies of the metropolitan council in the metropolitan area;

(4) to conduct transit research and evaluation; and

(5) to administer state and metropolitan transit subsidies.

(b) The board shall arrange with others for the delivery and provision of transit services and facilities. The board shall avoid, to the greatest extent possible, direct operational planning, administration, and management of specific transit services and facilities.

Sec. 12. Minnesota Statutes 1986, section 473.377, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] The transit board shall prepare, submit to the council, and adopt an implementation plan as provided in section 473.161. The services and systems management component of the board's plan must include a description of the special transportation service provided under section 473.386. The board shall prepare an implementation plan meeting the requirements of this section and submit the plan to the council by August 1, 1986, and thereafter at a time prescribed by the council.

Sec. 13. Minnesota Statutes 1986, section 473.377, is amended by adding a subdivision to read:

Subd. 4. [FARE POLICY.] The plan must contain a statement of the policies that will govern the imposition of user charges for various types of transit service and the policies that will govern decisions by the board to change fare policy.

Sec. 14. Minnesota Statutes 1986, section 473.377, is amended by adding a subdivision to read:

Subd. 5. [LOCAL REVIEW AND COMMENT.] At least 30 days before holding the hearing required on the implementation plan or revision, the board shall submit copies of the plan or a summary of the plan to the chief administrative officer of each statutory and home rule charter city, town, and county in the metropolitan area, along with notice of the hearing and an invitation to testify and submit comments.

Sec. 15. Minnesota Statutes 1986, section 473.38, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL PLAN; COUNCIL APPROVAL.] Along with its annual budget, each even-numbered year the board shall prepare a financial plan for the succeeding three calendar years, in half-year segments. The

financial plan must be consistent with the board's implementation plan and must contain the elements specified in section 473.1623, subdivision 3. *The financial plan must contain schedules of user charges and any changes in user charges planned or anticipated by the board during the period of the plan.* The financial plan must contain a proposed request for state financial assistance for the succeeding biennium. The board shall submit the financial plan to the council for review and approval or disapproval. The council may approve or disapprove in whole or in part. The council may disapprove only for inconsistency with the policy plan of the council.

Sec. 16. Minnesota Statutes 1986, section 473.388, subdivision 2, is amended to read:

Subd. 2. [REPLACEMENT SERVICE; ELIGIBILITY.] The transit board may provide assistance under the program to a statutory or home rule charter city or town or combination thereof, that:

(a) is located in the metropolitan transit taxing district;

(b) is not served by the transit commission or is served only with transit commission bus routes which begin or end within the applying city or town or combination thereof; and

(c) has fewer than four scheduled runs of metropolitan transit commission bus service during off-peak hours defined in section 473.408, subdivision 1.

Eligible cities or towns or combinations thereof may apply on behalf of a transit operator with whom they propose to contract for service.

The board may not provide assistance under this section to a statutory or home rule charter city or town unless the city or town,

(i) was receiving assistance under Minnesota Statutes 1982, section 174.265 ~~or~~ by July 1, 1984,

(ii) had submitted an application for assistance under that section by July 1, 1984, or

(iii) *had submitted a letter of intent to apply for assistance under that section by July 1, 1984, and submits an application for assistance under this section by July 1, 1988. A statutory or home rule charter city or town has an additional twelve month extension if it has notified the board before July 1, 1988, that the city or town is in the process of completing a transportation evaluation study that includes an assessment of the local transit needs of the city or town.*

Sec. 17. Minnesota Statutes 1986, section 473.39, subdivision 1, is amended to read:

Subdivision 1. [GENERAL AUTHORITY.] The council, if requested by vote of at least two-thirds of all of the members of the transit board, may issue general obligation bonds *subject to the volume limitation in subdivision 1a* to provide funds to the board for expenditure to implement the board's approved implementation plan and *may issue general obligation bonds not subject to the volume limitation set forth in subdivision 1a* for the refunding of outstanding bonds; or certificates of indebtedness of the council, the board or the commission, and judgments against the board or the commission. The council may not unreasonably withhold the issuance of obligations for an implementation plan that has been approved by the council. The council may not issue obligations pursuant to this subdivision,

other than refunding bonds, in excess of the amount specifically authorized by law. Except as otherwise provided in sections 473.371 to 473.449, the council shall provide for the issuance, sale, and security of the bonds in the manner provided in chapter 475, and has the same powers and duties as a municipality issuing bonds under that law, except that no election is required and the net debt limitations in chapter 475 do not apply to the bonds. The obligations are not a debt of the state or any municipality or political subdivision within the meaning of any debt limitation or requirement pertaining to those entities. Neither the state, nor any municipality or political subdivision except the council and board, nor any member or officer or employee of the board or council, is liable on the obligations. The obligations may be secured by taxes levied without limitation of rate or amount upon all taxable property in the transit taxing district and transit area as provided in section 473.446, *subdivision 1, clause (c)*. The council shall certify to the transit board before October 1 of each year the amounts necessary to provide full and timely payment of the obligations. As part of its levy made under section 473.446, *subdivision 1, clause (c)*, the board shall levy the amounts certified by the council and transfer the proceeds to the council for payment of the obligations. The taxes must be levied, certified, and collected in accordance with the terms and conditions of the indebtedness.

Sec. 18. Minnesota Statutes 1986, section 473.39, subdivision 1a, is amended to read:

Subd. 1a. [~~AMOUNT; I-394 FACILITIES OBLIGATIONS.~~] (a) The council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~\$8,500,000~~ \$17,000,000 for ~~expenditure~~ financial assistance to the commission, as prescribed in the implementation plan of the board and the capital program of the commission. ~~Of this~~

(b) The council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount, ~~no more than~~ not exceeding \$1,500,000 ~~may be spent~~ for land acquisition and capital improvements for park and ride lots and transit transfer stations planned for the interstate highway described in section 161.123, clause (2), commonly known as I-394. These facilities may be constructed and maintained by the metropolitan transit commission. The board shall require, as a condition of financial assistance to the commission, that the commission make facilities it constructs, acquires, or improves for I-394 with funds provided under this provision available to all transit providers on a nondiscriminatory basis, as the board defines these terms. *The limitation contained in this subdivision does not apply to refunding bonds issued by the council.*

Sec. 19. Minnesota Statutes 1986, section 473.446, subdivision 1, is amended to read:

Subdivision 1. [TAXATION WITHIN TRANSIT TAXING DISTRICT.] For the purposes of sections 473.401 to 473.451 and the metropolitan transit system, except as otherwise provided in this subdivision the regional transit board shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

(a) an amount up to two mills times the assessed value of all such property, based upon the level of transit service provided for the property, the proceeds of which shall be used for payment of the expenses of operating transit and paratransit service and to provide for payment of obligations

issued by the commission under section 473.436, subdivision 6;

(b) an additional amount, if any, as the board determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, *including refunding bonds* or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council or board has specifically pledged tax levies under this clause.

The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.5 mills on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.75 mills on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the regional transit board the amounts certified by the county auditors on the dates provided in section 273.13, subdivision 15a, clause (3). There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments in fiscal year 1987 and thereafter.

For the purposes of this subdivision, "full peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

Sec. 20. Minnesota Statutes 1986, section 473.604, subdivision 1, is amended to read:

Subdivision 1. The following persons and their respective successors shall constitute the members and governing body of the corporation, namely:

(1) All of the members and commissioners in office January 1, 1973, for the remainder of the terms for which they were appointed or otherwise selected, respectively;

(2) The mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(3) A member of the council of each of the cities, appointed by the council for a term of four years commencing in July, 1977;

(4) A member of the park board of Minneapolis appointed by that board and a second member of the council of St. Paul, appointed by it, each for a term of two years commencing in July, 1979;

(5) One additional resident of each city, who does not hold any office under the state or any of its political subdivisions except that of notary public, herein termed a "citizen commissioner," such member in St. Paul to be appointed by the mayor, with the approval of the council, and in Minneapolis by the council, with the approval of the mayor; each for a term of two years commencing in July, 1979;

(6) Six additional members, each appointed by the governor on a non-partisan basis, and each holding no other office under the state or any of its political subdivisions except that of notary public; for terms and with residence qualifications as follows:

(a) (1) A resident of the area of the counties of Washington and Ramsey, outside of St. Paul, for a four-year term commencing in July, 1974, and a successor for a term ending July 1, 1981;

(2) A resident of the county of Anoka, for a four-year term commencing in July, 1974, and a successor for a term ending July 1, 1981;

(3) Three residents of the area of the counties of Carver, Scott and Hennepin, outside Minneapolis, for a two-year term commencing in July, 1974, and their successors for a term ending July 1, 1981;

(4) A resident of the county of Dakota, for a four-year term commencing in July, 1974, and a successor for a term ending July 1, 1981;

(b) As successors to all members referred to in paragraphs (2) to (6)(a), whose terms will expire in July, 1981, a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473.123. Each member shall be a resident of the precinct represented. The members shall be appointed by the governor as follows: a number as near as possible to one-fourth, for a term of one year; a similar number for a term of two years; a similar number for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four-year terms commencing in July of each fourth year after the expiration of the original term. *Before making an appointment, the governor shall consult with each member of the legislature from the precinct for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;*

(7) One member appointed by the governor of the state, who shall be chair of the corporation, appointed for a term coterminous with that of the governor.

Sec. 21. Minnesota Statutes 1986, section 473.604, is amended by adding a subdivision to read:

Subd. 7. [MEMBERS; DUTIES.] Members appointed under subdivision 1 have the duties imposed by section 2.

Sec. 22. [473.391] [ROUTE PLANNING AND SCHEDULING.]

The regional transit board shall contract with the metropolitan transit commission or other operators or local governments for route planning and scheduling services in any configuration of new or reconfiguration of existing transit services and routes, including route planning and scheduling necessary for the test marketing program, the service bidding program, and the interstate highway described in section 161.123, clause (2),

commonly known as I-394. Route planning and scheduling is subject to approval by the board for conformity to the board's transit implementation plans and route, schedule, and other service standards, objectives, and policies established by the board.

Sec. 23. [473.392] [SERVICE BIDDING.]

The regional transit board may competitively bid transit service only in accordance with standards, procedures, and guidelines adopted by resolution of the board. The board shall establish a project management team to assist and advise the board in developing and implementing standards, procedures, and guidelines. The project management team must include representatives of the metropolitan transit commission, the Amalgamated Transit Union Local 1005, private operators, local governments, and other persons interested in the subject. At least 60 days before adopting any standards, procedures, or guidelines for competitive bidding of transit service, the board shall hold a public hearing on the subject. The board shall publish notice of the hearing in newspapers of general circulation in the metropolitan area not less than 15 days before the hearing. At the hearing all interested persons must be afforded an opportunity to present their views orally and in writing. Following the hearing, and after considering the testimony, the board shall revise and adopt the standards, procedures, and guidelines.

Sec. 24. [473.393] [FEDERAL GRANTS.]

The regional transit board may not be a recipient of federal capital or operating assistance for transit. The board shall study and report to the legislature by January 1, 1988, on the effects, advantages, and disadvantages of transferring the authority to receive these funds from the commission to the board and on how and for what purpose the board would use the funds differently than the commission could use the funds.

Sec. 25. [RATIFICATION.]

Minnesota Statutes, section 473.39, subdivision 1, as amended by section 17, clarifies legislative intent. Obligations issued prior to the effective date of section 17 are not invalid or unenforceable if issued in accordance with Minnesota Statutes, section 473.39, subdivision 1, as amended by section 17.

Sec. 26. [FARE RESTRICTION REPEALED.]

The provisions respecting fares of the metropolitan transit commission in Laws 1981, chapter 363, section 55, subdivision 1; Laws 1981, Third Special Session chapter 2, article 1, section 2, subdivision 2; and Laws 1983, chapter 293, section 2, subdivision 5, are repealed.

Laws 1985, First Special Session chapter 10, section 122, is repealed.

Sec. 27. [APPLICATION.]

Sections 1 to 28 are effective in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 28. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to metropolitan government; providing for

qualifications of commission members, budget criteria, plans, and reports; clarifying purposes of regional transit board; requiring regional transit board to contract for route planning and scheduling services; requiring the regional transit board to adopt standards for competitive bidding after a public hearing; regulating participation in a transportation program; providing conditions for incurrence of debt for certain purposes; providing conditions for the use of federal funds; removing fare restrictions; amending Minnesota Statutes 1986, sections 473.141, subdivision 2, and by adding a subdivision; 473.161, subdivision 1c; 473.1623, subdivisions 2, 4, and 5, and by adding a subdivision; 473.303, by adding a subdivision; 473.373, by adding a subdivision; 473.377, subdivision 1, and by adding subdivisions; 473.38, subdivision 2; 473.388, subdivision 2; 473.39, subdivisions 1 and 1a; 473.446, subdivision 1; and 473.604, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Laws 1985, First Special Session chapter 10, section 122."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Phil Carruthers, Peter McLaughlin, Kathleen A. Blatz

Senate Conferees: (Signed) Darril Wegscheid, William P. Luther, Michael O. Freeman

Mr. Wegscheid moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1043 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1043 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Lessard moved that the following members be excused for a Conference Committee on H.F. No. 169 from 3:00 to 5:00 p.m.:

Messrs. Lessard, Frederick and Schmitz. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

H.F. No. 463: A bill for an act relating to retirement; various public retirement plans and funds; lowering vesting standards; changing certain teachers benefits; regulating Minneapolis police pensions; 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, 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; 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; 356.30, subdivision 1; Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended; section 5, subdivisions 1, as amended, and 3, as amended; section 6, subdivision 1, as amended; and Laws 1980, chapter 607, article 15, section 9; proposing coding for new law in Minnesota Statutes, chapter 423A.

Mr. Pogemiller moved to amend H.F. No. 463, as amended pursuant to Rule 49, adopted by the Senate May 1, 1987, as follows:

(The text of the amended House File is identical to S.F. No. 1063.)

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 326.32, subdivision 1, is amended to read:

Subdivision 1. As used in sections ~~326.331~~ 326.32 to 326.339, ~~and Laws 1974, chapter 340,~~ the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1986, section 326.32, subdivision 5, is amended to read:

Subd. 5. "Board review" means the ~~review, by the board, of a private detective or protective agent license application, in conjunction with other pertinent facts and information related to the application process by which the board reviews and evaluates private detective or protective agent license applications.~~

Sec. 3. Minnesota Statutes 1986, section 326.32, is amended by adding a subdivision to read:

Subd. 10a. "Minnesota manager" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The Minnesota manager must be actively involved in the day to day management and supervision of the licensed activity in the Minnesota office.

Sec. 4. Minnesota Statutes 1986, section 326.32, is amended by adding a subdivision to read:

Subd. 10b. "Minnesota office" means an office maintained in Minnesota by a license holder for the conduct or solicitation of business when the

principal place of business of the license holder is located outside the state of Minnesota.

Sec. 5. Minnesota Statutes 1986, section 326.32, subdivision 11, is amended to read:

Subd. 11. "Public member" means a person who is not, ~~or never nor~~ ever was, a member of the profession or occupation being licensed ~~or regulated~~, or the spouse of any such person or a person who has not, nor ever has had, a material ~~or~~ financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession ~~or occupation~~ being licensed ~~or regulated~~.

Sec. 6. Minnesota Statutes 1986, section 326.32, is amended by adding a subdivision to read:

Subd. 12. "Qualified representative" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The qualified representative must be actively involved in the day to day management and supervision of the licensed activity.

Sec. 7. Minnesota Statutes 1986, section 326.33, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS; MEETINGS.] There is hereby created a board of private detective and protective agent services, consisting of the superintendent of the bureau of criminal apprehension or a ~~departmental employee~~ an assistant superintendent designated by the superintendent, and the following members appointed by the commissioner of public safety: a licensed protective agent, or qualified representative for a licensed protective agent partnership or corporation, a licensed private detective, or qualified representative for a licensed private detective partnership or corporation, and two public members appointed by the commissioner of public safety. Filling of member vacancies shall be the responsibility of the commissioner of public safety. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, unless otherwise provided in sections 326.32 to 326.339; administrative services and office space; the review and processing of complaints; the setting of board fees, unless otherwise provided in sections 326.32 to 326.339; and other provisions relating to board operations shall be as provided in chapter 214.

The board members shall meet as they deem necessary and conduct such business ascribed to the board by the provisions of sections 326.331 to 326.339. The board shall designate one of the board members to fulfill the capacity of board chair who will remain in the capacity of chair for a term of one year. The board shall have the option of retaining or replacing a board member as chair.

Sec. 8. Minnesota Statutes 1986, section 326.33, subdivision 2, is amended to read:

Subd. 2. [RULEMAKING MEETINGS; CHAIR.] The board may adopt rules according to chapter 14 to govern the selection, training, and licensing of private detectives and protective agents. The board shall meet at the times it considers necessary to conduct business ascribed to the board by the provisions of sections 326.32 to 326.339. The board shall designate

one of its members to fill the position of board chair, and that person may remain in the capacity of chair for a term of one year. The board has the option of replacing a board member as chair.

Sec. 9. [326.3311] [POWERS AND DUTIES.]

The board has the following powers and duties:

(1) to receive and review all applications for private detective and protective agent licenses;

(2) to approve applications for private detective and protective agent licenses and issue, or reissue licenses as provided in sections 326.32 to 326.339;

(3) to deny applications for private detective and protective agent licenses if the applicants do not meet the requirements of sections 326.32 to 326.339; upon denial of a license application, the board shall notify the applicant of the denial and the facts and circumstances that constitute the denial; the board shall advise the applicant of the right to a contested case hearing under chapter 14;

(4) to enforce all laws and rules governing private detectives and protective agents; and

(5) to suspend or revoke the license of a license holder or impose a civil penalty on a license holder for violations of any provision of sections 326.32 to 326.339 or the rules of the board.

Sec. 10. [326.3321] [EMPLOYEES.]

Subdivision 1. [EXECUTIVE DIRECTOR.] The board shall appoint an executive director to serve in the unclassified service at the pleasure of the board. The executive director shall perform the duties as the board shall prescribe.

Subd. 2. [OTHERS.] The board may employ and assign duties to other employees or agents as it considers necessary to discharge the functions of the board.

Sec. 11. [326.3331] [RULEMAKING.]

The board shall adopt rules under chapter 14 to govern the selection, training, conduct, discipline, and licensing of private detectives and protective agents, and any other matters necessary to carry out duties imposed by sections 326.32 to 326.339.

Sec. 12. [326.3341] [EXEMPTIONS.]

Sections 326.32 to 326.339 do not apply to:

(1) an employee while providing security or conducting an investigation of a pending or potential claim against the employee's employer;

(2) a peace officer or employee of the United States, this state or one of its political subdivisions, while engaged in the discharge of official duties for the government employer;

(3) persons engaged exclusively in obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(4) an attorney at law while performing the duties of an attorney at law

or an investigator employed exclusively by an attorney or a law firm engaged in investigating legal matters;

(5) a collection agency or finance company licensed to do business under the laws of this state or an employee of one of those companies while acting within the scope of employment when making an investigation incidental to the business of the agency, including an investigation as to location of a debtor, of the debtor's assets or property, provided the client has a financial interest in or a lien upon the assets or property of the debtor;

(6) an insurance adjuster employed exclusively by an insurance company, or licensed as an adjuster with the state of Minnesota and engaged in the business of adjusting insurance claims; or

(7) persons engaged in responding to alarm signals including, but not limited to, fire alarms, industrial process failure alarms and burglary alarms, for purposes of maintaining, repairing or resetting the alarm, or for opening the premises for law enforcement personnel or responding agents.

Sec. 13. Minnesota Statutes 1986, section 326.336, is amended to read:

326.336 [EMPLOYEES OF LICENSE HOLDERS.]

Subdivision 1. A license holder may employ, in connection with the business of private detective or protective agent, as many unlicensed persons as may be necessary; provided ~~however,~~ that every license holder is at all times accountable for the good conduct of every person employed in connection with the business of private detective or protective agent. The employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee or prospective employee for the bureau to determine whether that person has a criminal record.

Subd. 2. An identification card shall be issued to each employee of a private detective agency or protective agency and shall be in the employee's possession at all times. Such identification card shall be issued by the license holder and contain the license holder's logo, corporate or company name, duly signed by the license holder or branch manager, the office address of the license holder or Minnesota branch of said license holder, the employee's photograph, and physical description, and shall bear the employee's signature. No identification card shall bear the word "police" or any other marking indicating the holder is a member of a police department or peace officer. The issuing agency shall have its name printed in full on said card and no initials that would correspond with municipal, state or federal law enforcement agencies shall be printed thereon. An identification card must be issued by the license holder to each employee. The card must be in the possession of the employee to whom it is issued at all times. The identification card must contain the license holder's name, logo (if any), address or Minnesota office address, and the employee's photograph and physical description. The card must be signed by the employee and by the license holder, qualified representative, or Minnesota office manager.

Subd. 3. Any person who shall be issued an identification card, badge, holster, weapon, shield or any other equipment bearing the name, trademark or trade name, or any combination thereof, of any licensed agency, or indicating that such person is a private detective, private protective agent, or employee of same, who does not return such badge, weapon, holster,

identification card, uniform emblem, or other equipment to the owner thereof within ten days of the termination of employment, or of receiving a written request to return same, made by certified mail to the person's last known address, whichever shall last occur, shall be guilty of a misdemeanor.

Subd. 4. No employee of any license holder shall divulge to anyone other than the employer, or as the employer shall direct, except as may be required by law, any information acquired during such employment in respect of any matter or investigation undertaken or done by such employer. Any employee who shall make any false statement in an employment statement or who willfully makes a false report to the employer in respect to any matter in the course of the employer's business, or who shall otherwise violate the provisions of this subdivision is guilty of a misdemeanor.

Sec. 14. Minnesota Statutes 1986, section 326.338, subdivision 1, is amended to read:

Subdivision 1. [PRIVATE DETECTIVE.] Persons who for a fee or, reward, or any other consideration shall engage in the business of investigators, or who for fee, reward or any consideration shall make investigations, undertake any of the following acts for the purpose of obtaining information for others with respect to any of the following matters are considered to be engaged in the business of a private detective: ~~Crime~~

(1) investigating crimes or wrongs done or threatened against the government of the United States or of any state, county, or municipal subdivision thereof;

(2) investigating the identity, habits, conduct, movements, whereabouts, affiliations, transactions, reputation, or character of any person or organization;

(3) investigating the credibility of witnesses or other persons; ~~the whereabouts of missing persons;~~

(4) investigating the location or recovery of lost or stolen property;

(5) investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to ~~real or personal~~ persons or property;

(6) investigating the affiliation, connection or ~~relation~~ relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;

(7) investigating the conduct, honesty, efficiency, loyalty, or activities of employees or, persons seeking employment, agents, or contractors and subcontractors; ~~the~~

(8) obtaining through investigation evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in the preparation for trial of civil or criminal cases; or ~~the identification~~

(9) investigating the identity or apprehension of persons suspected of crimes or misdemeanors ~~shall be deemed engaged in the business of private detective.~~

Sec. 15. Minnesota Statutes 1986, section 326.338, is amended by adding a subdivision to read:

Subd. 4. [PROTECTIVE AGENT.] A person who for a fee, reward, or other valuable consideration undertakes any of the following acts is con-

sidered to be engaged in the business of protective agent:

(1) providing guards, private patrol, or other security personnel to protect persons or their property or to prevent the theft, unlawful taking of goods, merchandise, or money, or to prevent the misappropriation or concealment of goods, merchandise, money, or other valuable things, or to procure the return of those things;

(2) physically responding to any alarm signal device, burglar alarm, television camera, still camera, or a mechanical or electronic device installed or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or other security measures;

(3) providing armored car services for the protection of persons or property;

(4) controlling motor traffic on public streets, roads, and highways for the purpose of escorting a funeral procession; or

(5) providing management and control of crowds for the purpose of safety and protection.

Sec. 16. [326.3381] [LICENSES.]

Subdivision 1. [PROHIBITION.] No person shall engage in the business of private detective or protective agent, or advertise or indicate in any verbal statement or in written material that the person is so engaged or available to supply those services, without having first obtained a license as provided in sections 326.32 to 326.339.

Subd. 2. [APPLICATION PROCEDURE.] The board shall issue a license upon application to any person qualified under sections 326.32 to 326.339 and under the rules of the board to engage in the business of private detective or protective agent. The license shall remain effective for two years as long as the license holder complies with sections 326.32 to 326.339, the laws of Minnesota, and the rules of the board. Upon receipt of an application for private detective or protective agent license, the board shall:

(1) post notice of the application in its office for a period of 20 days, and notify all persons who have requested notification of applications;

(2) conduct an investigation as it considers necessary to determine the qualifications of the applicant, qualified representative, Minnesota manager, and if appropriate, a partner or corporate officer; and

(3) notify the applicant of the date on which the board will conduct a review of the license application.

Subd. 3. [DISQUALIFICATION.] No person is qualified to hold a license who has:

(1) been convicted of (i) a felony by the courts of this or any other state or of the United States; (ii) acts which, if done in Minnesota, would be assault; theft; larceny; burglary; robbery; unlawful entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; possession, production, sale, or distribution of narcotics unlawfully; or (iii) in any other country of acts which, if done in Minnesota, would be a felony or would be any of the other offenses provided in this clause and for which a full pardon or similar

relief has not been granted;

(2) made any false statement in an application for a license or any document required to be submitted to the board; or

(3) failed to demonstrate to the board good character, honesty, and integrity.

Subd. 4. [BUSINESS ENTITY APPLICANT.] If the applicant for a license is a corporation or partnership, one member of that corporation or partnership must meet the licensing requirements in sections 326.32 to 326.339.

Subd. 5. [NONRESIDENT APPLICANT.] If an applicant's home office is located outside of Minnesota, and the applicant establishes a Minnesota office, the applicant shall provide a manager for the Minnesota office who meets the licensing requirements in sections 326.32 to 326.339.

Sec. 17. [326.3382] [APPLICATION FOR LICENSE.]

Subdivision 1. [APPLICATION FORM.] (a) Application for a private detective or protective agent license shall be made on a form prescribed by the board. Each applicant shall provide the following information:

(1) the full name, date of birth, and sex of each person signing the application, and the residences of those persons for the past five years;

(2) all past and present occupations and employers, length of employment, and the name, address, and telephone numbers of supervisors for all persons signing the application;

(3) the address or a description indicating the location of the place of business of the applicant;

(4) a statement indicating that each person signing the application has attained the age of 18;

(5) if the applicant is a corporation, the name of the corporation, the date and place of incorporation, and the location of its principal place of business or registered office in its state of incorporation; and

(6) further facts as may be required by the board to show the good character, competency, and integrity of each person signing the application; and

(b) each application shall be signed and acknowledged as follows:

(1) if the applicant is an individual, by the individual;

(2) if the applicant is a partnership, by each partner, one of whom must be a qualified representative; or

(3) if the applicant is a corporation, by the chief executive officer, chief financial officer, and the qualified representative of the corporation. If the principal place of the applicant's business is outside Minnesota, the application shall also include the signature of the Minnesota manager.

Subd. 2. [DOCUMENTS ACCOMPANYING APPLICATION.] (a) Each individual signing the application shall submit:

(1) references, on forms provided by the board, from five persons who have known the signer for at least five years, and who are not related by blood or marriage to the signer; and

(2) a recent photograph and a full set of fingerprints for each person signing the application.

(b) If the application is for a private detective license, the individual signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager, as appropriate, has been employed as an investigator for a minimum of 6,000 hours by any of the following:

(1) a licensed private detective agency;

(2) a United States government investigative service;

(3) a city police department or sheriff's office; or

(4) an occupation that, the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed; and has the qualifications established in the rules of the board.

(c) If the application is for a protective agent license, each person signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager has been employed as an investigator or protective agent for a minimum of 6,000 hours by any of the following:

(1) a licensed protective agent or licensed private detective, having gained experience in security systems, audits, and supervision;

(2) a United States government investigative service;

(3) a city police department or sheriff's office; or

(4) an occupation that the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed; and has the qualifications established in the rules of the board.

Subd. 3. [PROOF OF INSURANCE.] (a) No license may be issued to a private detective or protective agent applicant until the applicant has complied with the requirements in this subdivision.

(b) The applicant shall execute a surety bond to the state of Minnesota in the penal sum of \$10,000 and file it with the board. The surety bond must be executed by a company authorized to do business in the state of Minnesota, must name the applicant as principal, and must state that the applicant and each of the applicant's employees shall faithfully observe all of the laws of Minnesota and of the United States and shall pay all damages suffered by any person by reason of a violation of law by the applicant or by the commission of any willful and malicious wrong by the applicant in the course of business.

(c) The applicant shall furnish proof, acceptable to the board, of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings arising out of the ownership and operation of a private detective or protective agent business. Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility for purposes of this paragraph.

(d) The applicant may file with the board a certificate of insurance demonstrating coverage for general liability, completed operations, and personal injury. Personal injury insurance must include coverage for:

- (1) false arrest, detention, imprisonment, and malicious prosecution;
- (2) libel, slander, defamation, and violation of rights of privacy; and
- (3) wrongful entry, eviction, and other invasion of rights of private occupancy.

The certificate must provide that the insurance may not be modified or canceled unless 30 days prior notice is given to the board.

(e) The applicant may file with the board an annual net worth statement, signed by a licensed certified public accountant, evidencing that the applicant has a net worth of at least the following:

- (1) for an applicant with no employees, \$10,000;
- (2) for an applicant with one to ten employees, \$15,000;
- (3) for an applicant with 11 to 25 employees, \$25,000;
- (4) for an applicant with 26 to 50 employees, \$50,000; or
- (5) for an applicant with 51 or more employees, \$100,000.

Data indicating with which of the above requirements an applicant must comply is public data. The contents of the net worth statement are private data on individuals or nonpublic data, as defined in section 13.02.

(f) The applicant may file with the board an irrevocable letter of credit from a financial institution acceptable to the board in the amount listed in the appropriate category in paragraph (e).

Subd. 4. [LICENSE DISQUALIFICATION.] Unlicensed activity will not be considered as legitimate experience for qualification in being licensed. An individual, partnership, corporation, qualified representative, or Minnesota manager engaged in the business of a private detective or protective agent without a license issued by the board is prohibited from applying for licensing for a period of one year from the date of a finding of the violation.

Sec. 18. [326.3383] [LICENSE REISSUANCE.]

Subdivision 1. [REQUIREMENTS.] The board shall reissue a private detective or protective agent license to a license holder without further board review, if the license holder who has complied with all applicable laws and rules:

- (1) submits to the board an application for license reissuance on a form prescribed by the board;
- (2) submits to the board a list of all current employees; and
- (3) remits the expired license to the board.

Subd. 2. [APPEARANCE.] Nothing in this section shall preclude the board from requiring the appearance of the license holder at a board meeting prior to the reissuance of the license.

Subd. 3. [BOND AND PROOF OF FINANCIAL RESPONSIBILITY.] Each applicant for license reissuance shall maintain a \$10,000 surety bond, and show proof of financial responsibility as required in section 17, subdivision 3.

Sec. 19. [326.3384] [PROHIBITED ACTS.]

Subdivision 1. [PROHIBITION.] No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

(1) the words "police," "constable," "highway patrol," "sheriff," "trooper," or "law enforcement"; or

(2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

Subd. 2. [PENALTY.] A license holder violating subdivision 1 is guilty of a gross misdemeanor.

Sec. 20. [326.3385] [CONDITIONS OF LICENSING.]

Subdivision 1. [NOTICE OF ADDRESS CHANGE.] A license holder who moves to an address other than that given on the license certificate shall give written notice to the board within seven days of the move. The notice shall give the new address or location, the date the move was made, and be accompanied by the license, at which time a new license will be made showing the new address or location.

Subd. 2. [NOTICE OF SUCCESSOR.] A corporate or partnership license holder shall, within seven days of the death, resignation, or removal of a person signing the license application, give written notice to the board of the change and the name and address of the successor in the vacated position.

Within seven days of the death, resignation, or removal of a person signing the license application for a partnership or corporate license holder, the successor qualified representative, partner, Minnesota manager, chief executive officer, or chief financial officer who shall qualify under the same procedure and criteria, and submit the documents required, as for an original application.

Subd. 3. [SURRENDER OF LICENSE.] Every license issued to a license holder shall be surrendered to the board within seven days after its expiration, or upon notice to a license holder that a license has been revoked or suspended. If the license cannot be returned, a notarized statement indicating the circumstances shall be submitted to the board.

Subd. 4. [PENALTY.] Failure to comply with the provisions of subdivision 1, 2, or 3 may result in the revocation or suspension of the license, or the imposition of an administrative penalty.

Sec. 21. [326.3386] [FEES.]

Subdivision 1. [APPLICATION FEE.] Each applicant for a private detective or protective agent license shall pay to the board a nonrefundable application fee, as determined by the board.

Subd. 2. [LICENSE FEE.] Each applicant for a private detective or protective agent license shall pay to the board a license fee, as determined by the board. In the event that an applicant is denied licensing by the board, one-half of the license fee shall be refunded to the applicant.

Subd. 3. [DESIGNATION FEE.] When a licensed private detective or protective agent who is a partnership or corporation, desires to designate a new qualified representative or Minnesota manager, a fee equal to one-

half of the application fee shall be submitted to the board.

Subd. 4. [STATUS FEE.] At the time a licensed private detective or protective agent wishes to change a license status, as in the case of an individual license holder establishing a corporation, the difference between the individual license fee and the corporate license fee shall be paid to the board.

Subd. 5. [REISSUANCE FEE.] License holders seeking license reissuance shall pay to the board a license reissuance fee as determined by the board.

Subd. 6. [BUSINESS OR DIVISION FEE.] If a private detective or protective agent license holder wishes to add additional business names or corporate division names to an existing license, the license holder shall be required to pay a fee as determined by the board.

Subd. 7. [RULES.] All fees authorized by this section shall be established by rule by the board. All fees paid to the board shall be paid to the general fund. The cost of administering sections 326.32 to 326.339, shall be paid from appropriations made to the board.

Sec. 22. [326.3387] [DISCIPLINARY ACTION.]

Subdivision 1. [BASIS FOR ACTION.] The board may revoke or suspend or refuse to issue or reissue a private detective or protective agent license if:

(a) the license holder violates a provision of sections 326.32 to 326.339 or a rule adopted under those sections;

(b) the license holder has engaged in fraud, deceit, or misrepresentation while in the business of private detective or protective agent;

(c) the license holder has made a false statement in an application submitted to the board or in a document required to be submitted to the board; or

(d) the license holder violates an order of the board.

Subd. 2. [HEARING REQUIRED.] The board may impose the following penalties only after a contested case hearing under chapter 14:

(a) revoke or suspend a private detective or protective agent license; or

(b) impose an administrative penalty in excess of \$500.

Sec. 23. [326.3388] [ADMINISTRATIVE PENALTIES.]

The board shall, by rule, establish a graduated schedule of administrative penalties for violations of sections 326.32 to 326.339 or the board's rules. The schedule must include minimum and maximum penalties for each violation and be based on and reflect the culpability, frequency, and severity of the violator's actions. The board may impose a penalty from the schedule on a license holder for a violation of sections 326.32 to 326.339 or the rules of the board. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative penalties imposed by the board must be paid to the general fund.

Sec. 24. [326.3389] [LICENSES NONTRANSFERABLE.]

A license issued under sections 326.32 to 326.339 may not be transferred.

Sec. 25. Minnesota Statutes 1986, section 326.339, is amended to read:

326.339 [VIOLATIONS; PENALTY.]

Unless otherwise specifically provided any violation of any provision or requirement of sections ~~326.331~~ 326.32 to 326.339 is a gross misdemeanor.

Sec. 26. [REPEALER.]

Minnesota Statutes 1986, sections 326.32, subdivisions 6 and 7; 326.33, subdivisions 3, 4, and 5; 326.331; 326.332; 326.333; 326.334; 326.337; and 326.338, subdivisions 2 and 3; are repealed."

Delete the title and insert:

"A bill for an act relating to occupations and professions; providing for the licensure of private detectives and protective agents; providing definitions; providing board powers and duties; specifying application and administrative procedure; authorizing rulemaking; requiring payment of fees; providing penalties; amending Minnesota Statutes 1986, sections 326.32, subdivisions 1, 5, 11, and by adding subdivisions; 326.33, subdivisions 1 and 2; 326.336; 326.338, subdivision 1, and by adding a subdivision; and 326.339; proposing coding for new law in Minnesota Statutes, chapter 326; repealing Minnesota Statutes 1986, sections 326.32, subdivisions 6 and 7; 326.33, subdivisions 3, 4, and 5; 326.331; 326.332; 326.333; 326.334; 326.337; and 326.338, subdivisions 2 and 3."

The motion prevailed. So the amendment was adopted.

H.F. No. 463 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 51 and nays 6, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Laidig	Morse	Samuelson
Anderson	Davis	Langseth	Olson	Schmitz
Beckman	DeCramer	Lantry	Pehler	Stumpf
Belanger	Dicklich	Larson	Peterson, D.C.	Taylor
Berg	Diessner	Lessard	Peterson, R.W.	Vickerman
Bernhagen	Frank	Luther	Piper	Wegscheid
Bertram	Frederickson, D.J.	Marty	Pogemiller	Willet
Brandl	Frederickson, D.R.	McQuaid	Purfeerst	
Brataas	Gustafson	Mehrkens	Ramstad	
Chmielewski	Hughes	Merriam	Reichgott	
Cohen	Knaak	Metzen	Renneke	

Those who voted in the negative were:

Benson	Moe, D.M.	Spear	Storm	Waldorf
Knutson				

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

Mr. Wegscheid moved that his name be stricken as chief author, shown as a co-author, and the name of Mr. Pogemiller be added as chief author to S.F. No. 1063. The motion prevailed.

SPECIAL ORDER

H.F. No. 123: A bill for an act relating to probate; providing for an increased sum payable to a surviving spouse by affidavit; allowing nursing home care costs to be a claim of the same class as medical and hospital expenses; increasing the value of a probate estate allowed for purposes of

collection by affidavit; amending Minnesota Statutes 1986, sections 181.58; 524.3-805; and 524.3-1201.

Ms. Reichgott moved that the amendment made to H.F. No. 123 by the Committee on Rules and Administration in the report adopted March 30, 1987, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Merriam moved to amend H.F. No. 123 as follows:

Page 3, after line 27, insert:

"Sec. 4. If H.F. No. 243 is enacted in the regular 1987 session, article 2, section 151, is amended to read:

524.3-1201 [COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.]

(a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent, ~~or a county agency with a claim authorized by section 256B.15,~~ upon being presented a certified death certificate of the decedent and an affidavit, in duplicate, made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, wherever located, less liens and encumbrances, does not exceed \$5,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

~~(c) The claiming successor or county agency shall disburse the proceeds collected under this section to any person with a superior claim under section 524.3-805.~~

Sec. 5. [EFFECT OF OTHER AMENDMENTS.]

Notwithstanding Minnesota Statutes, sections 645.26 and 645.33, the amendments to Minnesota Statutes, section 524.3-1201, made by sections 3 and 4, prevail over any other amendments to Minnesota Statutes, section 524.3-1201, enacted during the regular 1987 session, regardless of the date of final enactment, and regardless of whether they are reconcilable with sections 3 and 4."

Page 3, line 30, after the period, insert "Sections 4 and 5 are effective the day following final enactment."

Renumber the sections in sequence and correct the internal references
Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 11 and nays 47, as follows:

Those who voted in the affirmative were:

Belanger	Gustafson	Laidig	Merriam	Reichgott
Benson	Knaak	Lessard	Olson	Renneke
Brataas				

Those who voted in the negative were:

Adkins	Dahl	Jude	Morse	Spear
Anderson	Davis	Kroening	Pehler	Storm
Beckman	DeCramer	Langseth	Peterson, D.C.	Stumpf
Berg	Dicklich	Lantry	Peterson, R.W.	Taylor
Berglin	Diessner	Larson	Piper	Vickerman
Bernhagen	Frank	Luther	Pogemiller	Waldorf
Bertram	Frederickson, D.J.	Marty	Purfeerst	Willet
Brandl	Frederickson, D.R.	McQuaid	Ramstad	
Chmielewski	Hughes	Metzen	Samuelson	
Cohen	Johnson, D.J.	Moe, R.D.	Schmitz	

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

Ms. Reichgott moved to amend H.F. No. 123 as follows:

Page 3, delete section 3

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "increasing the"

Page 1, delete line 6

Page 1, line 7, delete "collection by affidavit;"

Page 1, line 8, after the first semicolon, insert "and" and delete "; and 524.3-1201"

The motion prevailed. So the amendment was adopted.

H.F. No. 123 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

SPECIAL ORDER

H.F. No. 859: A bill for an act relating to the department of finance; clarifying and correcting miscellaneous provisions to improve the admin-

istration of the department and of state government; appropriating money; amending Minnesota Statutes 1986, sections 3C.12, subdivision 2; 16A.06, by adding a subdivision; 16A.126, subdivision 2; 16A.127, subdivision 3; 16A.275; 16A.36, subdivision 2; and 116J.36, subdivision 6.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

The question recurred on H.F. No. 257.

SPECIAL ORDER

H.F. No. 257: A bill for an act relating to state government; requiring the board of investments to adopt an investment policy; authorizing certain investments by the board of investments; providing that certain state employees who are eligible to retire are eligible for state-paid insurance benefits; modifying definition of terms and conditions of employment for public employees; amending Minnesota Statutes 1986, sections 11A.04; 11A.24, subdivisions 2, 4, 5, and 6; 11A.25; 43A.24, subdivision 2; and 179A.03, subdivision 19.

MOTIONS AND RESOLUTIONS - CONTINUED

RECONSIDERATION

Having voted on the prevailing side, Mr. DeCramer moved that the vote whereby the Taylor amendment to the Moe, D.M. amendment to H.F. No. 257 was adopted on May 18, 1987, be now reconsidered. The motion prevailed. So the vote was reconsidered.

H.F. No. 257 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	Knaak	Metzen	Renneke
Anderson	Davis	Knutson	Moe, D.M.	Schmitz
Beckman	DeCramer	Kroening	Moe, R.D.	Solon
Belanger	Diessner	Laidig	Morse	Spear
Benson	Frank	Langseth	Olson	Storm
Berg	Frederick	Lantry	Pehler	Stumpf
Berglin	Frederickson, D.J.	Larson	Peterson, D.C.	Taylor
Bernhagen	Frederickson, D.R.	Lessard	Peterson, R.W.	Vickerman
Bertram	Freeman	Luther	Piper	Waldorf
Brandl	Gustafson	Marty	Pogemiller	Wegscheid
Brataas	Hughes	McQuaid	Purfeerst	Willet
Chmielewski	Johnson, D.E.	Mehrkens	Ramstad	
Cohen	Jude	Merriam	Reichgott	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 601, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 601 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 601

A bill for an act relating to natural resources; providing that money recovered by the state for forest fire fighting expenses be restored to the fund of origination; increasing the amount that may be paid for tips related to forest fire crimes; clarifying provisions relating to the burden of proof and evidence of negligence; amending Minnesota Statutes 1986, sections 88.17, subdivision 2; 88.75, subdivision 1; and 88.76.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 601, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Loren A. Solberg, Paul Anders Ogren,
Howard G. Miller

Senate Conferees: (Signed) Gregory L. Dahl, Steven Morse, Darril Wegscheid

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 601 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 601 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 303, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 303 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 303

A bill for an act relating to agriculture; changing the shade tree disease control program; imposing certain penalties; eliminating certain audit requirements and an insurance limitation; changing the cooperative associations law; amending Minnesota Statutes 1986, sections 18.023, subdivision 1; 28A.08; 31.101, subdivisions 3, 4, 5, 6, 7, and 8; 40.071; 308.58, subdivision 2; 308.62; 308.77; 308.83; and 308.85; repealing Minnesota Statutes 1986, sections 38.02, subdivision 2; and 38.13.

May 17, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 303, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 303 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE I

RURAL FINANCE AUTHORITY

Section 1. Minnesota Statutes 1986, section 41.56, subdivision 4, is amended to read:

Subd. 4. [SALE OF DEFAULTED PROPERTY.] In the event that title to any property is acquired by the state, upon conveyance of title to the state and expiration of the period of redemption, the commissioner shall undertake to sell the property by publishing a notice of the impending sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the county in which the property to be sold is situated. The notice must describe the lots or tracts to be offered and the terms of sale. Except as further provided, the terms and method of sale shall be determined by the commissioner.

The commissioner shall first attempt to sell the property to a person who is eligible for a family farm security loan. If the commissioner is unable to effect a sale to an eligible person, the commissioner shall attempt to sell the property for cash as provided in subdivision 4a. If the commissioner is unable to effect a sale to an eligible person or for cash, or if the commissioner finds that sale to an eligible person or for cash would not best protect the interests of the state, the commissioner may sell the property on terms which the commissioner finds will best protect the interests of the state. The commissioner may lease any real property which the commissioner is unable to sell with reasonable promptness. In any event, any acquired farm property must be sold within three years after the conveyance of title to the state or after the expiration of the period of redemption. The commissioner may contract for the services of a licensed real estate agent or broker to assist in selling any property acquired under this section and may pay for the services from the proceeds of the sale before proceeds are distributed under subdivision 4b.

In lieu of selling property under this subdivision, the commissioner may utilize participation under the beginning farmer program under chapter 41B.

In selling property acquired under this section, the commissioner may not sell the property to a relative within the second degree of kindred according to common law of a person who has defaulted.

Sec. 2. [41.597] [USE AND DISPOSITION OF PROPERTY.]

Subdivision 1. [COMMISSIONER MAY SELL OR LEASE PROPERTY.] *The commissioner may sell or lease property acquired by the state in a manner that protects the interests of the state. Persons desiring to purchase or lease property must apply to the commissioner.*

Subd. 2. [MANAGING AND SELLING PROPERTY.] (a) *The commis-*

sioner must attempt to sell agricultural property to persons entering farming and farmers that need additional property to continue their farming operations.

(b) The commissioner must give priority to applicants desiring to purchase or lease property who:

(1) are residents of the state of Minnesota;

(2) have sufficient education, training, or experience in the type of farming for which the property is desired and agree to continued participation in a farm management program, approved by the commissioner for at least the first ten years;

(3) have, including the applicant's dependents and spouse, a total net worth valued at less than \$100,000 and have demonstrated a need for acquiring property from the commissioner;

(4) intend to purchase farm land to be used by the applicant for agricultural purposes; and

(5) are credit worthy according to standards prescribed by the commissioner.

(c) The commissioner must attempt to sell the property by a cash sale. Agricultural property may be leased with an option to purchase to accommodate a sale. The commissioner should avoid long-term leasing of property.

Subd. 3. [RESTRICTED AGRICULTURAL USE.] (a) Acquired property that has marginal land as defined in section 40.42, subdivision 6, or wetlands must be restricted from agricultural use on the marginal land or wetlands.

(b) If the commissioner determines that all or a portion of acquired property should be taken out of agricultural use or particular agricultural uses should be restricted, the commissioner shall have the attorney general prepare an easement restricting the agricultural use and file the easement with the county recorder where the property is located.

Subd. 4. [EXCLUSIVE AGRICULTURAL USE.] The commissioner may place easements on acquired property restricting development and allowing only agricultural or conservation use.

Sec. 3. Minnesota Statutes 1986, section 41B.01, subdivision 2, is amended to read:

Subd. 2. [PURPOSE.] Sections 41B.01 to 41B.23 create and establish the Minnesota rural finance ~~administration~~ authority and establish a program under which state bonds are authorized to be issued and proceeds of their sale are appropriated under the authority of article XI, section 5, clause (h) of the Minnesota Constitution, to develop the state's agricultural resources by extending credit on real estate security. The purpose of the ~~program~~ rural finance authority's programs and of the bonds issued to finance or provide security for the ~~program~~ programs is to purchase participation interests in loans to be made available by agricultural lenders to farmers in order to restructure existing debt and to make available additional credit to farmers who own or purchase agricultural properties on terms and conditions not otherwise available from other credit sources. It is hereby found and declared that there presently exist in the state economic conditions which have severely adversely affected the economic viability of farms to the detriment of the rural economy and to the detriment of the economy

of the state of Minnesota as a whole. It is further found and declared that as a result of public agricultural policies, agricultural market conditions, and other causes, the condition of the farm economy of the state of Minnesota is such as to jeopardize the continued existence and successful operation of farms in this state, necessitating the establishment of the ~~program~~ *programs* in sections 41B.01 to 41B.23 to provide new sources of credit on favorable terms and conditions. It is further found and declared that providing credit for farmers on favorable terms and conditions will serve and promote the public welfare by assuring the viability of farm operations, by preventing erosion of the tax base in rural areas, by reducing foreclosures on farm property, and by enhancing the financial stability of farmers and of the businesses which depend on farmers as customers. It is further found and declared that in establishing a Minnesota rural finance ~~administration authority~~ and in authorizing the programs in sections 41B.01 to 41B.23, the legislature is acting in all respects for the benefit of the people of the state of Minnesota to serve the public purpose of improving and otherwise promoting their health, welfare, and prosperity and that the Minnesota rural finance ~~administration authority~~, as created and established, is empowered to act on behalf of the people of the state of Minnesota in serving this public purpose for the benefit of the general public.

Sec. 4. Minnesota Statutes 1986, section 41B.02, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE AGRICULTURAL LENDER; ELIGIBLE LENDER.] "Eligible agricultural lender" or "eligible lender" means ~~an entity of the kind described in section 41B.04, subdivision 6, which enters into an agreement with the administration providing for the purchase by the administration of participation interests in eligible agricultural loans originated and serviced by the qualified agricultural lender~~ *a bank, credit union, or savings and loan association chartered by the state or federal government, a subdivision of the Farm Credit System, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or any insurance company, fund, or other financial institution doing business as an agricultural lender within the state, if the authority determines that the agricultural lender has sufficient personnel and other resources to efficiently and properly originate and service qualified agricultural loans. An eligible agricultural lender must enter into one or more agreements with the authority providing for the origination and servicing of qualified agricultural loans on the terms and conditions the authority determines to be appropriate.*

Sec. 5. Minnesota Statutes 1986, section 41B.02, subdivision 5, is amended to read:

Subd. 5. [ELIGIBLE BORROWER.] "Eligible borrower" means a borrower who meets the eligibility criteria ~~for a program~~ in section 41B.03.

Sec. 6. Minnesota Statutes 1986, section 41B.02, subdivision 6, is amended to read:

Subd. 6. [QUALIFIED AGRICULTURAL LOAN.] "Qualified agricultural loan" means a loan to an eligible borrower made ~~by an eligible agricultural lender which the administration purchases or in which the administration purchases a participation interest under agricultural programs established and implemented by the authority.~~

Sec. 7. Minnesota Statutes 1986, section 41B.02, subdivision 9, is amended

to read:

Subd. 9. [PRIMARY PRINCIPAL.] "Primary principal" means that portion of the ~~principal~~ outstanding *balance* on a loan covered by sections 41B.01 to 41B.23 that is equal to the current market value of the property secured by the loan.

Sec. 8. Minnesota Statutes 1986, section 41B.02, subdivision 11, is amended to read:

Subd. 11. [BASIC INTEREST.] "Basic interest" means that part of interest on primary principal that is payable ~~annually~~ *while the loan is in effect*.

Sec. 9. Minnesota Statutes 1986, section 41B.02, subdivision 13, is amended to read:

Subd. 13. [CURRENT MARKET VALUE.] "Current market value" means, *for the purposes of section 41B.04*, the value determined by an appraisal considering comparable sales in the area where the real estate is located and the reasonable productive value of the property based on past production history. The state and the eligible agricultural lender must mutually agree on the current market value.

Sec. 10. Minnesota Statutes 1986, section 41B.02, subdivision 14, is amended to read:

Subd. 14. [BORROWER.] "Borrower" means the person or persons liable on a ~~restructured note~~ *qualified agricultural loan*.

Sec. 11. Minnesota Statutes 1986, section 41B.02, subdivision 15, is amended to read:

Subd. 15. [ORIGINAL LOAN.] "Original loan" means a loan prior to restructuring *as provided in section 41B.04*.

Sec. 12. Minnesota Statutes 1986, section 41B.03, is amended to read:

41B.03 [BORROWER ELIGIBILITY CRITERIA.]

Subdivision 1. [ELIGIBILITY GENERALLY.] To be eligible for a program in sections 41B.01 to 41B.23:

(a) (1) a borrower must be a resident of Minnesota or a domestic family farm corporation, as defined in section 500.24, subdivision 2-;

(b) (2) the borrower or one of the borrowers must be the principal operator of the farm- *or, for a prospective homestead redemption borrower, must have at one time been the principal operator of a farm; and*

(3) *the borrower must not previously have received assistance under sections 41B.01 to 41B.23.*

Subd. 2. [ELIGIBILITY FOR RESTRUCTURED LOAN.] In addition to the eligibility requirements of subdivision 1, a prospective borrower for a restructured loan must:

(c) ~~the borrower or one of the borrowers must~~ (1) *have received at least 50 percent of average annual gross income from farming for the past three years or, for homesteaded property, received at least 40 percent of average gross income from farming in the past three years, and farming must be the principal occupation of the borrower-;*

(d) ~~The borrower must~~ (2) *have a debt-to-asset ratio equal to or greater*

than 50 percent- and in determining this ratio, the assets must be ~~determined by the valued at their current market value of the assets-;~~

(e) ~~The borrower's (3) have projected annual expenses, including operating expenses, family living, and interest expenses after the restructuring, must that do not exceed 95 percent of the borrower's projected annual income considering prior production history and projected prices for farm production-, except that the authority may reduce the 95 percent requirement if it finds that other significant factors in the loan application support the making of the loan; and~~

(f) ~~The borrower must be unable to meet (4) demonstrate substantial difficulty in meeting projected annual expenses without restructuring the loan.~~

(g) ~~The borrower must not previously have received restructuring assistance pursuant to sections 41B.01 to 41B.23.~~

Subd. 3. [BEGINNING FARMER LOANS.] *In addition to the requirements under subdivision 1 a prospective borrower for a beginning farm loan must:*

(1) *have sufficient education, training, or experience in the type of farming for which the loan is desired;*

(2) *have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$100,000;*

(3) *demonstrate a need for the loan;*

(4) *demonstrate an ability to repay the loan;*

(5) *demonstrate that the agricultural land to be purchased will be used by the borrower for agricultural purposes; and*

(6) *demonstrate that farming will be the principal occupation of the borrower.*

Subd. 4. [CONTINUING ELIGIBILITY REQUIREMENTS.] *After qualifying for a restructured loan, a borrower must continue to meet only the requirements of subdivision 1, clauses (1) and (2).*

Sec. 13. Minnesota Statutes 1986, section 41B.035, subdivision 5, is amended to read:

Subd. 5. [BOARD ACTIONS OF THE AUTHORITY.] ~~The powers of the board are vthe members in office from time to time.~~ A majority of the members of the ~~board~~ authority, excluding vacancies, constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the ~~board~~ authority upon a vote of a majority of a quorum present.

Sec. 14. Minnesota Statutes 1986, section 41B.035, is amended by adding a subdivision to read:

Subd. 8. [TECHNICAL ASSISTANCE.] *The authority must make technical assistance available to potential lenders and applicants to encourage applications for loans.*

Sec. 15. [41B.037] [HOMESTEAD REDEMPTION PROGRAM.]

The authority may establish and implement a homestead redemption program under sections 41B.01 to 41B.23. The purpose of the program is

to assist persons who have lost their farms due to foreclosure, granting a deed in lieu of foreclosure, or other actions necessary to settle their agricultural debts, and who are otherwise unable to secure the credit necessary to repurchase their farm homestead. The authority may enter into agreements with an eligible lender for the purposes of the program. The authority may, by rule, establish eligibility standards for the program that are different from those established for other programs of the authority. The authority's interest in a homestead redemption loan may not exceed one-half of the loan amount or \$25,000, whichever is less.

Sec. 16. [41B.038] [PROGRAMS FOR COMMITMENTS TO OTHER ENTITIES.]

The authority may establish programs to make or purchase and enter into commitments to make or purchase qualified agricultural loans or portions of the loans issued to persons described in section 41B.03, subdivision 1. The agricultural loans must be insured or guaranteed by the United States Department of Agriculture, Farmers Home Administration, Farm Credit System, a subdivision of the Farm Credit System, or any similar federal agency or federally chartered institution whose obligations are directly or indirectly guaranteed or insured by the United States. The commissioner of finance may not issue general obligation bonds pursuant to sections 41B.19 or 41B.195 to finance any programs established under this section.

Sec. 17. [41B.039] [BEGINNING FARMER PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The authority may establish, develop criteria, and implement a beginning farmer program. The program must assist persons entering farming who have not owned a farm before entering the beginning farmer program.

Subd. 2. [STATE PARTICIPATION.] The state may participate in a new real estate loan with an eligible lender to a beginning farmer to the extent of one-fourth of the principal of the loan or \$25,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the lender's retained portion of the loan.

Subd. 3. [SOIL AND WATER CONSERVATION AGREEMENTS.] (a) As a condition of receiving a beginning farmer loan the borrower must agree to implement an approved soil and water conservation plan on the land.

(b) The borrower must place marginal land as defined in section 40.42, subdivision 6, in a permanent conservation easement as provided in section 40.43. The authority may compensate the borrower for the easement as provided in section 40.43, subdivision 6.

Subd. 4. [FARM MANAGEMENT.] A borrower must agree to participate in a farm management program approved by the commissioner of agriculture for at least the first eight years of the loan.

Subd. 5. [LOAN REVIEW.] The authority shall refer all applications for the beginning farmer program to the family farm advisory council to review the loan with the beginning farmer and make recommendations to the authority.

Sec. 18. Minnesota Statutes 1986, section 41B.04, subdivision 7, is amended to read:

Subd. 7. [RESTRUCTURING PROCEDURE.] (a) The eligible agricultural lender or borrower shall propose restructuring a loan to the ~~administration authority~~. Within 30 days of receiving adequate information concerning a proposal, the ~~administration authority~~ and the eligible lender shall notify the borrower of their determination of eligibility. An eligible agricultural lender shall then expeditiously ~~conduct necessary appraisals and~~ draft the loan restructuring agreement which must be consistent with this section and documents previously approved by the ~~administration and eligible lenders authority~~. ~~The loan restructuring agreement must be approved by the eligible lender, the administration, and the borrower.~~

(b) An eligible borrower may participate in the restructured loan or the homestead redemption loan, but not both loans.

Sec. 19. Minnesota Statutes 1986, section 41B.04, subdivision 8, is amended to read:

Subd. 8. [STATE'S PARTICIPATION.] With respect to loans that are eligible for restructuring under sections 41B.01 to 41B.23 and upon acceptance by the ~~administration authority~~, the ~~administration authority~~ shall enter into a participation agreement or other financial arrangement whereby it shall participate in a restructured loan to the extent of one-quarter of the primary principal or \$50,000, whichever is less, ~~except that the administration may participate in restructured loans made for the redemption of homesteads to the extent of one-half of the primary principal or \$25,000, whichever is less.~~ The ~~administration's authority's~~ portion of the loan must thereafter be protected ~~during the authority's participation~~ by the first mortgage held by the eligible lender to the extent of its participation in the loan.

Sec. 20. Minnesota Statutes 1986, section 41B.04, subdivision 9, is amended to read:

Subd. 9. [RESTRUCTURED LOAN AGREEMENT.] (a) All payments on the primary and secondary principal of the restructured loan, all payments of interest on the secondary principal, and an agreed portion of the interest payable to the eligible agricultural lender on the primary principal must be deferred to the end of the term of the loan.

(b) A borrower may prepay the restructured loan, with all primary and secondary principal and interest and deferred interest at any time without prepayment penalty.

(c) Interest on secondary principal must accrue at a below market interest rate.

(d) At the conclusion of the term of the restructured loan, the borrower owes primary principal, secondary principal, and deferred interest on primary and secondary principal. However, part of this balloon payment may be forgiven following an appraisal by the lender and the ~~administration authority~~ to determine the current market value of the real estate subject to the mortgage. If the current market value of the land after appraisal is less than the amount of debt owed by the borrower to the lender and ~~administration authority~~ on this obligation, that portion of the obligation that exceeds the current market value of the real property must be forgiven by the lender and the ~~administration authority~~ in the following order:

- (1) deferred interest on secondary principal;
- (2) secondary principal;

- (3) deferred interest on primary principal;
- (4) primary principal as provided in an agreement between the administration and the lender; and
- (5) accrued but not deferred interest on primary principal.

The debt forgiveness may be combined with a renegotiated loan on the unforgiven balance due if the borrower is able to establish that there are reasonable prospects of repayment on a debt equal to the current market value of real estate at then existing interest rates. If so, the loan must be reamortized on terms and conditions acceptable to the lender, the administration, and the farmer.

(e) The authority may not participate in refinancing a restructured loan at the conclusion of the restructured loan.

Sec. 21. Minnesota Statutes 1986, section 41B.04, subdivision 10, is amended to read:

Subd. 10. [INTEREST RATE.] *Unless the authority determines that it is not in the best interests of the restructured loan program, the interest rate per annum on the portion of the ~~restructuring~~ restructured loan represented by the participation interest purchased by the ~~administration~~ authority must be that rate of interest determined by the ~~administration~~ authority to be necessary to provide for the timely payment of principal and interest when due on bonds or other obligations issued by the ~~administration~~ authority, and to provide for the reasonable and necessary costs of issuing, carrying, administering, and securing the bonds or notes and to pay the costs incurred and to be incurred by the ~~administration~~ authority in the implementation of the program. The interest rate per annum borne by the primary principal portion of the restructuring loan retained by the eligible agricultural lender must be a rate of interest approved by the ~~administration~~ authority. The ~~administration~~ authority may specify the points, fees, and other charges which the eligible agricultural lender may charge to the eligible borrower.*

Sec. 22. Minnesota Statutes 1986, section 41B.04, subdivision 11, is amended to read:

Subd. 11. [ADMINISTRATION.] The eligible lender shall administer the loans and shall bear all costs of the loan administration. Ordinary costs of administration include appraisals, litigation, abstracts of title, and similar costs. ~~The administration agrees to share in any other responsibilities common to a loan participation agreement.~~

Sec. 23. Minnesota Statutes 1986, section 41B.04, subdivision 12, is amended to read:

Subd. 12. [ASSIGNABILITY.] Loans restructured under this section may not be assigned to anyone other than a ~~direct descendant of the original borrower and the assignee must intend to engage in the direct operation and management of the farm which is subject to the mortgage meeting the eligibility requirements of section 41B.03, subdivision 1, and any other requirements imposed or approved by the authority.~~ If such an assignment is contemplated, the borrower must obtain prior written approval of the eligible lender and the administration and the assignee shall thereafter be subject to the same terms and conditions and events of default as the original borrower. If assigned to some other party, the eligible agricultural lender may exercise its foreclosure remedies as provided by its contracts and by

law.

Sec. 24. Minnesota Statutes 1986, section 41B.05, is amended to read:

41B.05 [GENERAL POWERS OF THE ADMINISTRATION AUTHORITY.]

For the purpose of exercising the specific powers granted in section 41B.04 and effectuating the other purposes of sections 41B.01 to 41B.23 the ~~administration authority~~ has the general powers granted in this section.

(a) It may sue and be sued.

(b) It may have a seal and alter the seal.

(c) It may make, and from time to time, amend and repeal rules consistent with sections 41B.01 to 41B.23.

(d) It may acquire, hold, and dispose of personal property for its corporate purposes.

(e) It may enter into agreements, contracts, or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization, including contracts or agreements for administration and implementation of all or part of sections 41B.01 to 41B.23.

(f) It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate.

(g) It may provide general technical services related to rural finance.

(h) It may provide general consultative assistance services related to rural finance, ~~and shall make available technical assistance to potential lenders and applicants to encourage applications for loans.~~

(i) It may promote research and development in matters related to rural finance.

(j) It may enter into agreements with lenders, borrowers, or the issuers of securities for the purpose of regulating the development and management of farms financed in whole or in part by the proceeds of qualified agricultural loans.

(k) It may enter into agreements with other appropriate federal, state, or local governmental units to foster rural finance. It may give advance reservations of loan financing as part of the agreements, with the understanding that the ~~administration authority~~ will only approve the loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in such programs.

(l) It may undertake and carry out studies and analyses of rural financing needs within the state and ways of meeting such needs including: data with respect to geographical distribution; farm size; the distribution of farm credit needs according to debt ratios and similar factors; the amount and quality of available financing and its distribution according to factors affecting rural financing needs and the meeting thereof; and may make the results of such studies and analyses available to the public and may engage in research and disseminate information on rural finance.

(m) It may survey and investigate the rural financing needs throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any

existing shortage in the state.

(n) It may establish cooperative relationships with such county and multicounty authorities as may be established and may develop priorities for the utilization of ~~administration~~ *authority* resources and assistance within a region in cooperation with county and multicounty authorities.

(o) It may contract with, use, or employ any federal, state, regional, or local public or private agency or organization, legal counsel, financial advisors, investment bankers or others, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in sections 41B.01 to 41B.23 and to carry out the objectives of sections 41B.01 to 41B.23 and may pay for the services from ~~administration~~ *authority* funds.

(p) It may establish cooperative relationships with counties to develop priorities for the use of ~~administration~~ *authority* resources and assistance within counties and to consider county plans and programs in the process of setting the priorities.

(q) It may delegate any of its powers to its officers or staff.

(r) It may enter into agreements with qualified agricultural lenders or others insuring or guaranteeing to the state the payment of all or a portion of qualified agricultural loans.

(s) It may enter into agreements with eligible agricultural lenders providing for advance reservations of purchases of participation interests in restructuring loans, if the agreements provide that the authority may only purchase participation interests in restructuring loans under the normal procedure. The authority may provide in an agreement for special procedures or requirements designed to meet specific conditions or requirements.

Sec. 25. Minnesota Statutes 1986, section 41B.08, subdivision 4, is amended to read:

Subd. 4. [REQUIRED RATING.] No bonds may be issued unless a rating of "A" or better has been awarded to the bonds by a national bond rating agency. *The "A" rating is not required if the bonds are initially sold to corporations or financial institutions for investment purposes and not for the purpose of remarketing the bonds to the public.*

Sec. 26. Minnesota Statutes 1986, section 41B.12, is amended to read:

41B.12 [REVENUE BONDS; NONLIABILITY OF INDIVIDUALS.]

~~Neither~~ The members of the ~~administration~~ *not authority and its staff* and any person executing the bonds ~~is liable~~ *are not personally liable* on the bonds or subject to any personal liability or accountability by reason of their issuance.

Sec. 27. Minnesota Statutes 1986, section 41B.19, subdivision 5, is amended to read:

Subd. 5. [RURAL FINANCE ~~ADMINISTRATION~~ *AUTHORITY* SECURITY ACCOUNT.] The commissioner of finance shall maintain a separate state building fund account designated as the rural finance ~~administration~~ *authority* security account, into which must be deposited the proceeds of the rural renewal general obligation bonds issued as provided in this section. The commissioner of finance shall maintain a separate book-keeping account to record receipts and disbursements of money transferred to or from the security account and to record income from the investment

of money in the account. Upon the written request of the ~~administration authority~~, the commissioner of finance shall transfer from the security account to an account or accounts the ~~administration authority~~ shall designate, a sum of money sufficient in amount, if available, when added to the balances then on hand in the designated accounts, to pay bonds issued by the ~~administration authority~~ under sections 41B.01 to 41B.23 and the interest on them due and to become due on the next succeeding date for the payment of the principal of and interest on the bonds of the administration or to restore to any debt service reserve fund established in connection with the bonds any amount withdrawn from the debt service reserve account to pay the bonds. *When no revenue bonds secured by the security account are outstanding under the resolution authorizing their issuance, the commissioner of finance shall further transfer from all money and securities on hand in the security account on or before the date on which any installment of the principal of and interest on bonds authorized by this section is due, a sum sufficient in amount, when added to the balance then on hand in the rural renewal bond account, to pay all bonds issued under this section and the interest on them due and to become due on the next succeeding date for payment of the bonds to the state bond fund.*

Sec. 28. Minnesota Statutes 1986, section 41B.19, subdivision 6, is amended to read:

Subd. 6. [INVESTMENT OF SECURITY ACCOUNT.] (a) Money from time to time on deposit in the security account must be invested by the state board of investment at the request of the ~~administration authority~~ in any investment authorized by this subdivision. Money on deposit in the security account may be invested in:

(1) certificates of deposit insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; (2) certificates of deposit issued by eligible agricultural lenders, whether or not fully insured or secured issued by or interest-bearing time deposits with a national banking association or a bank and trust company organized under the laws of any state;

(3) (2) deposits secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give security for those deposits;

(4) (3) qualified agricultural loans or in participation interests in qualified agricultural loans; or

(5) (4) qualified restructured loans.

(b) *The principal amount of the investment under paragraph (a), clause (1), must be fully insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; or if not fully insured, the institution issuing the certificate of deposit or accepting the time deposit must be rated in the AA or a higher category as defined by a nationally recognized bond rating agency or in an equivalent or higher rating category based on any later redefinition.*

(c) If and to the extent money has been transferred from the security account to provide for the timely payment of the principal of and interest on bonds issued by the ~~administration authority~~, or to transfer money to a debt service reserve fund established in connection with the bonds, the ~~administration authority~~ shall transfer to the security account on or before

December 1 of each succeeding year an amount equal to that previously transferred from the security account, provided that the ~~administration's~~ authority's obligation to transfer money to the security account is limited to money then on hand in funds or accounts of the ~~administration~~ authority in excess of those appropriated to other purposes or required to provide for the payment of the principal of and interest on bonds issued by the ~~administration~~ authority and to pay the costs of issuing, carrying, administering, and securing the bonds of the ~~administration~~ authority and of administering and implementing the programs of the ~~administration~~ authority financed by the bonds.

Sec. 29. [41B.195] [ADDITIONAL USE OF GENERAL OBLIGATION BONDS.]

Notwithstanding the limit set forth in section 41B.19, subdivision 1, the commissioner of finance, upon the request of the rural finance authority, may issue the general obligation bonds authorized by section 41B.19 and use the proceeds of the bonds to purchase participations in qualified agricultural loans if the commissioner determines that it is not practical or efficient to issue revenue bonds under section 41B.08 for the purpose of section 41B.04 and sections 13, 15, and 16 as a result of reduced program size or increased program costs. Subject to the other provisions of this section, the proceeds of the bonds must be deposited, held, and disbursed from a separate state building fund account, the bonds are payable from the bond account established by section 41B.19, subdivision 4, and the participations purchased with the bond proceeds must be held as assets of the bond account. If the rural finance authority later determines to issue revenue bonds under section 41B.08 for the purposes specified in section 41B.04, the commissioner may by order provide for the transfer of all or a portion of the remaining bond proceeds and interest on them, and all or a portion of the participations purchased with the bond proceeds and proceeds of them, to be transferred to the security account established in section 41B.19, subdivision 5, and used for the purposes specified in section 41B.19, subdivisions 1 and 5.

Sec. 30. [41B.211] [DATA PRIVACY.]

Financial information, including credit reports, financial statements, and net worth calculations, received or prepared by the authority regarding any authority loan and the name of each individual who is the recipient of a loan are private data on individuals, under chapter 13.

Sec. 31. [INSTRUCTIONS TO REVISOR.]

The revisor of statutes is instructed to change the phrases "rural finance administration" and "administration" when the term is applied to the rural finance administration to "rural finance authority" and "authority" respectively in Minnesota Statutes. The revisor is further instructed to rearrange the subdivisions of Minnesota Statutes 1986, section 41B.02, so that the terms defined therein are in alphabetical order.

The revisor of statutes shall renumber each section of Minnesota Statutes specified in column A with the number set forth in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Column A
41B.035
41B.05

Column B
41B.025
41B.036

Sec. 32. [REPEALER.]

Minnesota Statutes 1986, sections 41B.02, subdivision 17; 41B.035, subdivision 4; and 41B.04, subdivisions 6, 13, 14, 15, and 16, are repealed.

Sec. 33. [EFFECTIVE DATE.]

This article is effective on the day following final enactment.

ARTICLE 2

RIGHT OF FIRST REFUSAL

Section 1. Minnesota Statutes 1986, section 500.24, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings here given them:

(a) "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include the processing, refining or packaging of said products, nor the provision of spraying or harvesting services by a processor or distributor of farm products. It does not include the production of timber or forest products or the production of poultry or poultry products.

(b) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

(c) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of said related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock.

(d) "Authorized farm corporation" means a corporation meeting the following standards:

- (1) Its shareholders do not exceed five in number;
- (2) All its shareholders, other than any estate are natural persons;
- (3) It does not have more than one class of shares; and
- (4) Its revenues from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts; and
- (5) Shareholders holding a majority of the shares must be residing on the farm or actively engaging in farming.

(e) "Agricultural land" means land used for farming.

(f) "Pension or investment fund" means a pension or employee welfare benefit fund, however organized, a mutual fund, a life insurance company separate account, a common trust of a bank or other trustee established for the investment and reinvestment of money contributed to it, a real estate investment trust, or an investment company as defined in United States Code, title 15, section 80a-3. "Pension or investment fund" does not include a benevolent trust established by the owners of a family farm, authorized

farm corporation or family farm corporation.

(g) "Farm homestead" means a house including adjoining buildings that has been used as part of a farming operation or is part of the agricultural land used for a farming operation.

Sec. 2. Minnesota Statutes 1986, section 500.24, subdivision 6, is amended to read:

Subd. 6. [DISPOSAL OF LAND.] (a) A state or federal agency or a corporation, other than a family farm corporation or an authorized farm corporation, ~~when leasing may not lease or selling farm sell~~ agricultural land or a farm homestead ~~must offer that was acquired by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed, before offering or make~~ making a good faith effort to offer the land for sale or lease to the immediately preceding former owner at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor. ~~The offer must be made on the notice to offer form under section 3. Selling or leasing property to a third party at a price is prima facie evidence that the price is acceptable to the seller or lessor.~~

(b) For purposes of this subdivision, the term "a price no higher than the highest price offered by a third party" means the acceptable cash price offered by a third party or the acceptable time-price offer made by a third party. A cash price offer is one that involves simultaneous transfer of title for payment of the entire amount of the offer. If the acceptable offer made by a third party is a time-price offer, the seller or lessor must make the same time-price offer or an equivalent cash offer to the immediately preceding former owner. An equivalent cash offer is equal to the total of the payments made over a period of the time-price offer discounted by yield curve of the United States treasury notes and bonds on the first business day of the month in which the offer is personally delivered or mailed for time periods similar to the time period covered by the time-price offer, plus 2.0 percent. A time-price offer is an offer that defers payment of a portion of the price and does not involve a transfer of fee title until payment of the entire amount of the offer is made.

(c) This subdivision applies to a seller when the property is sold and to a lessor each time the property is leased, for five years after the agricultural land is acquired except:

(1) an offer to lease to the immediately preceding former owner is required only ~~on the first occasion on which the property is leased~~; until the immediately preceding owner fails to accept an offer to lease the property or the property is sold; and

(2) an offer to sell to the immediately preceding former owner is required only ~~on until the first occasion on which the property is sold~~.

(d) The notice of an offer ~~delivered~~ under section 3 that is personally delivered with a signed receipt or sent by certified mail with a receipt of mailing to the immediately preceding former owner's last known address is a good faith offer.

(e) This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for five years or longer.

(f) For purposes of this subdivision, if the immediately preceding former

owner is a bankruptcy estate the debtor in the bankruptcy is the immediately preceding owner.

(g) The immediately preceding former owner must exercise the right to lease ~~farm~~ agricultural land or a homestead located on agricultural land in writing within ~~ten~~ 15 days after ~~receiving~~ an offer to lease under this subdivision is mailed with a receipt of mailing or personally delivered. The immediately preceding former owner must exercise the right to buy ~~farm~~ the agricultural land or farm homestead located on agricultural land, in writing, within ~~60~~ 65 days after ~~receiving~~ an offer to buy under this subdivision. ~~This subdivision does not apply if the former owner is a bankruptcy estate.~~ is mailed with a receipt of mailing or is personally delivered. Within ten days after exercising the right to lease or buy by accepting the offer, the immediately preceding owner must fully perform according to the terms of the offer including paying the amounts due. A seller may sell and a lessor may lease the agricultural land or farm homestead subject to this subdivision to the third party in accordance with their lease or purchase agreement if:

(1) the immediately preceding former owner does not accept an offer to lease or buy before the offer terminates; or

(2) the immediately preceding former owner does not perform the obligations of the offer, including paying the amounts due, within ten days after accepting the offer.

(h) A certificate indicating whether or not the property contains agricultural land or a farm homestead that is signed by the county assessor where the property is located and recorded in the office of the county recorder or the registrar of titles where the property is located is prima facie evidence of whether the property is agricultural land or a farm homestead.

(i) As prima facie evidence that an offer to sell or lease agricultural land or a farm homestead has terminated, a receipt of mailing the notice under section 3 and an affidavit, signed by a person authorized to act on behalf of a state, federal agency, or corporation selling or leasing the agricultural land or a farm homestead may be filed in the office of the county recorder or registrar of titles of the county where the agricultural land or farm homestead is located. The affidavit must state that:

(1) notice of an offer to buy or lease the agricultural land or farm homestead was provided to the immediately preceding former owner at a price not higher than the highest price offered by a third party that is acceptable;

(2) the time during which the immediately preceding former owner is required to exercise the right to buy or lease the agricultural land or farm homestead has expired;

(3) the immediately preceding former owner has not exercised the right to buy or lease the agricultural land or farm homestead as provided in this subdivision or has accepted an offer and has not fully performed according to the terms of the offer; and

(4) the offer to the immediately preceding former owner has terminated.

(j) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision or to lease or purchase at a price no higher than the highest price offered by a

third party that is acceptable to the seller or lessor may be extinguished or limited by an express statement signed by the immediately preceding owner that complies with the plain language requirements of section 325G.31. The right may not be extinguished or limited except by the express statement in a deed in lieu of foreclosure or in a deed in lieu of a termination of a contract for deed for the agricultural land.

(k) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision may not be assigned or transferred, but may be inherited.

Sec. 3. Minnesota Statutes 1986, section 500.24, is amended by adding a subdivision to read:

Subd. 7. [NOTICE OF OFFER.] (a) The state, a federal agency, or a corporation subject to subdivision 6 must provide a notice of an offer to sell or lease agricultural land substantially as follows, after inserting the appropriate terms within the parentheses:

"NOTICE OF OFFER TO (LEASE, BUY) AGRICULTURAL LAND

TO: (. . . Immediately preceding former owner. . .)

FROM: (. . . The state, federal agency, or corporation subject to subdivision 6 . . .)

DATE: (. . . date notice is mailed or personally delivered . . .)

(. . . The state, federal agency, or corporation . . .) HAS ACQUIRED THE AGRICULTURAL LAND DESCRIBED BELOW AND HAS RECEIVED AN ACCEPTABLE OFFER TO (LEASE, SELL) THE AGRICULTURAL LAND FROM ANOTHER PARTY. UNDER MINNESOTA STATUTES, SECTION 500.24, SUBDIVISION 6, AN OFFER FROM (. . . the state, federal agency, or corporation . . .) MUST BE MADE TO YOU AT A PRICE NO HIGHER THAN THE HIGHEST OFFER MADE BY ANOTHER PARTY.

THE AGRICULTURAL LAND BEING OFFERED CONTAINS APPROXIMATELY (. . . approximate number of acres . . .) ACRES AND IS INFORMALLY DESCRIBED AS FOLLOWS:

(Informal description of the agricultural land being offered that reasonably describes the land. This description does not need to be a legal description.)

(. . . The state, federal agency, or corporation . . .) OFFERS TO (SELL, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE FOR A CASH PRICE OF \$(. . . cash price or equivalent cash price for lease and lease period, or cash price or equivalent cash price for sale of land . . .), WHICH IS NOT HIGHER THAN THE PRICE OFFERED BY ANOTHER PARTY. THE PRICE IS OFFERED ON THE FOLLOWING TERMS:

(Terms, if any, of acceptable offer)

IF YOU WANT TO ACCEPT THIS OFFER YOU MUST NOTIFY (. . . the state, federal agency, or corporation . . .) IN WRITING THAT YOU ACCEPT THE OFFER OR SIGN UNDERNEATH THE FOLLOWING PARAGRAPH AND RETURN A COPY OF THIS NOTICE BY (15 for a lease, 65 for a sale) DAYS AFTER THIS NOTICE IS PERSONALLY DELIVERED OR MAILED TO YOU. THE OFFER IN THIS NOTICE TERMINATES ON (. . . date of termination - 15 days for lease and 65 days for sale after date of mailing or personal delivery . . .).

ACCEPTANCE OF OFFER

I ACCEPT THE OFFER TO (BUY, LEASE) THE AGRICULTURAL LAND DESCRIBED ABOVE AT THE PRICE OFFERED TO ME IN THIS NOTICE. AS PART OF ACCEPTING THIS OFFER I WILL PERFORM ACCORDING TO THE TERMS OF THE OFFER, INCLUDING MAKING PAYMENTS DUE UNDER THE OFFER, WITHIN TEN DAYS AFTER THE DATE I ACCEPT THIS OFFER.

.....
Signature of Former Owner Accept-
ing Offer

.....
Date"

(b) For an offer to sell, a copy of the purchase agreement containing the price and terms of the highest offer made by a third party that is acceptable to the seller and a signed affidavit by the seller affirming that the purchase agreement is true, accurate, and made in good faith must be included with the notice under this subdivision. At the seller's discretion, reference to the third party's identity may be deleted from the copy of the purchase agreement.

(c) For an offer to lease, a copy of the lease containing the price and terms of the highest offer made by a third party that is acceptable to the lessor and a signed affidavit by the lessor affirming that the lease is true, accurate, and made in good faith must be included with the notice under this subdivision. At the lessor's discretion, reference to the third party's identity may be deleted from the copy of the lease agreement.

(d) The affidavit under paragraphs (b) and (c) is subject to section 609.48.

Sec. 4. [EFFECTIVE DATE.]

This article is effective July 1, 1987, and applies to property with initial offers made under section 500.24, subdivision 6, after July 1, 1987.

ARTICLE 3

WAIVER OF DEBTOR'S RIGHTS

Section 1. [550.42] [WAIVER OF AGRICULTURAL DEBTOR'S RIGHTS.]

Subdivision 1. [WAIVER IS VOID.] (a) A waiver of statutory rights of a debtor in a contract, loan agreement, or security agreement as a condition for a loan of money for agricultural production is void unless the waiver is expressly authorized by law.

(b) A waiver of mediation rights under chapter 583, the right to an offer under section 500.24, subdivision 6, or the debtor's statutory rights under chapter 580, 581, or 582 for a mortgage on agricultural property, is void unless the waiver is expressly authorized by law.

Subd. 2. [PENALTY.] A person, corporation, financial institution, or other legal entity is liable to a debtor for up to \$2,500 plus attorney fees if the person or entity:

(1) requires a waiver subject to subdivision 1 in a contract, loan agreement, or security agreement, and does not acknowledge that the waiver subject to subdivision 1 is void; or

(2) attempts to enforce a waiver that is void under subdivision 1.

Sec. 2. [EFFECTIVE DATE.]

This article is effective July 1, 1987, except: section 1, subdivision 1, is effective the day after final enactment; and section 1, subdivision 2, applies to contracts, loan agreements, and security agreements entered into after July 1, 1987.

ARTICLE 4

DESIGNATION OF HOMESTEADS AND
SEPARATE AGRICULTURAL TRACTS

Section 1. Minnesota Statutes 1986, section 582.041, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION OF HOMESTEAD DESIGNATION.] If a mortgage on real property is foreclosed and the property contains a portion of ~~the a~~ homestead ~~of the mortgagor~~, the ~~mortgagor~~ person in possession of the real property must be notified by the foreclosing mortgagee that the homestead may be sold and redeemed separately from the remaining property. The notice in subdivision 2 must be ~~included in~~ served with the notice of foreclosure ~~that is served on the mortgagor under person in possession of the real property with the requirements in section 580.04~~ 580.03 or for a foreclosure by action under chapter 581, in the summons and complaint served on the person in possession of the real property.

Sec. 2. Minnesota Statutes 1986, section 582.041, subdivision 2, is amended to read:

Subd. 2. [HOMESTEAD DESIGNATION NOTICE.] (a) The following notice must be ~~included in~~ served with the foreclosure notice of property containing a homestead that is served on the ~~mortgagor~~ person in possession of the real property under section ~~580.04~~ 580.03. The notice is not to be published. The notice must be in 10-point capitalized letters.

"IF PART OF THE PROPERTY TO BE SOLD CONTAINS YOUR

HOUSE-, YOU MAY DESIGNATE AN AREA AS A HOMESTEAD TO BE SOLD AND REDEEMED SEPARATELY.

YOU MAY DESIGNATE THE HOUSE YOU OCCUPY AND ANY AMOUNT OF THE PROPERTY AS A HOMESTEAD. THE DESIGNATED HOMESTEAD PROPERTY MUST CONFORM TO THE LOCAL ZONING ORDINANCES AND BE COMPACT SO THAT IT DOES NOT UNREASONABLY REDUCE THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE PERSON FORECLOSING ON THE PROPERTY, THE SHERIFF, AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL DESCRIPTION OF THE HOMESTEAD YOU HAVE DESIGNATED BY TEN BUSINESS DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD."

(b) The following notice must be served with the summons and complaint in an action to foreclose a mortgage of property containing a homestead under chapter 581. The notice must be in 10-point capitalized letters and *is not to be published with the summons if the summons is published.*

"IF PART OF THE PROPERTY TO BE SOLD CONTAINS YOUR HOUSE-, YOU MAY DESIGNATE AN AREA AS A HOMESTEAD TO BE SOLD AND REDEEMED SEPARATELY.

YOU MAY DESIGNATE THE HOUSE YOU OCCUPY AND ANY AMOUNT OF THE PROPERTY AS A HOMESTEAD. THE DESIGNATED HOMESTEAD PROPERTY MUST CONFORM TO THE LOCAL ZONING ORDINANCES AND BE COMPACT SO THAT IT DOES NOT UNREASONABLY REDUCE THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE COURT WITH A LEGAL DESCRIPTION OF THE HOMESTEAD YOU HAVE DESIGNATED."

Sec. 3. Minnesota Statutes 1986, section 582.041, subdivision 3, is amended to read:

Subd. 3. [DESIGNATION OF HOMESTEAD PROPERTY.] ~~The mortgagor~~ *person who is homesteading the property* must designate a legal description of the homestead property to be sold separately. The homestead property designated may include any amount of the property. The designation must conform to local zoning, include the dwelling occupied by the ~~mortgagor~~ *person homesteading the property*, and be compact so that it does not unreasonably affect the value of the remaining property. The ~~mortgagor~~ *person homesteading the property* must serve a copy of the designation on the foreclosing mortgagee, the sheriff, and the county recorder or registrar of titles by ten business days before the sale is scheduled, or for a foreclosure by action under chapter 581, a copy of the designation must be provided to the court.

Sec. 4. Minnesota Statutes 1986, section 582.041, subdivision 5, is amended to read:

Subd. 5. [REDEMPTION.] ~~The mortgagor~~ *A party who has a right of redemption* may redeem the designated homestead, the remaining property, or the entire property including the homestead. The period of redemption is the period for the entire property including the designated homestead.

Sec. 5. [582.042] [FORECLOSURE OF AGRICULTURAL LAND THAT

INCLUDES SEPARATE TRACTS.]

Subdivision 1. [NOTIFICATION OF SEPARATE TRACT DESIGNATION.] *If a mortgage on real property that is agricultural land is foreclosed and the property contains separate tracts, the person in possession of the real property must be notified by the foreclosing mortgagee that the separate tracts may be sold and redeemed separately. The notice in subdivision 2 must be served with the notice of foreclosure that is served on the person in possession of the property under section 580.03, or for a foreclosure by action under chapter 581, in the summons and complaint.*

Subd. 2. [DESIGNATION NOTICE.] *(a) The following notice must be served with the foreclosure notice of the property that is served on the person in possession of the real property under section 580.03. The notice must be in 10-point capitalized letters and the notice is not to be published.*

"IF THE PROPERTY TO BE SOLD CONTAINS SEPARATE TRACTS, YOU MAY REQUEST THAT THE TRACTS BE SOLD AND REDEEMED SEPARATELY. EACH OF THE SEPARATE TRACTS MUST CONFORM TO LOCAL ZONING ORDINANCES, MUST HAVE AN ENTRANCE BY DIRECT ACCESS TO A PUBLIC ROAD OR BY PERMANENT EASEMENT, AND MUST NOT UNREASONABLY AFFECT THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE PERSON FORECLOSING ON THE PROPERTY, THE SHERIFF AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL DESCRIPTIONS OF EACH OF THE TRACTS YOU HAVE DESIGNATED TO BE SOLD SEPARATELY BY TEN BUSINESS DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD."

(b) The following notice must be served with the summons and complaint in an action to foreclose a mortgage of real property containing separate tracts under chapter 581. The notice must be in 10-point capitalized letters and is not to be published with the summons if the summons is published.

"IF THE PROPERTY TO BE SOLD CONTAINS SEPARATE TRACTS, YOU MAY REQUEST THAT THE TRACTS BE SOLD AND REDEEMED SEPARATELY. EACH OF THE SEPARATE TRACTS MUST CONFORM TO LOCAL ZONING ORDINANCES.

YOU MUST PROVIDE THE COURT WITH A COPY OF THE LEGAL DESCRIPTIONS OF EACH OF THE TRACTS YOU HAVE DESIGNATED TO BE SOLD SEPARATELY."

Subd. 3. [DESIGNATION OF SEPARATE TRACTS.] *The person being foreclosed must designate by legal description each of the tracts to be sold separately. The tracts designated must be previously recorded as separate tracts. Each of the separate tracts must conform to local zoning ordinances, must have an entrance by direct access to a public road or by permanent easement, and must not unreasonably affect the value of the remaining property. The person being foreclosed must serve a copy of the legal descriptions of the tracts to be sold separately on the foreclosing mortgagee, the sheriff, and the county recorder or registrar of titles by ten business days before the sale is scheduled, or for a foreclosure by action under chapter 581, a copy of the legal descriptions of the tracts to be sold separately must be provided to the court.*

Subd. 4. [SALE OF PROPERTY.] *If the sheriff receives a designation of separate tracts under subdivision 3, or is ordered by the court, the*

sheriff must offer and sell the tracts separately.

Subd. 5. [REDEMPTION.] The designated tracts may be redeemed separately or the entire foreclosed property may be redeemed. The period of redemption is the period for the entire property including all of the designated tracts.

Sec. 6. [EFFECTIVE DATE.]

This article is effective July 1, 1987, and applies to foreclosures where the first publication occurs on or after July 1, 1987, and to foreclosures under chapter 581 where the first service or publication occurs on or after July 1, 1987.

ARTICLE 5

AGRICULTURAL DATA COLLECTION TASK FORCE

Section 1. [REACTIVATION OF THE AGRICULTURAL COLLECTION DATA TASK FORCE.]

The agricultural data collection task force created by Laws 1985, chapter 19, as reactivated and amended by Laws 1986, chapter 398, article 11, is reactivated.

Sec. 2. Laws 1985, chapter 19, section 2, subdivision 2, as amended by Laws 1986, chapter 398, article 11, section 2, is amended to read:

Subd. 2. [DUTIES.] The duties of the data collection task force are to:

(1) continue the uniform procedure for collecting data on the financial status of agriculture in Minnesota;

(2) report the results of the program to the legislature no later than December 31, 1986 of each fiscal year the data collection task force is funded.

Sec. 3. Laws 1985, chapter 19, section 6, subdivision 6, as amended by Laws 1986, chapter 398, article 11, section 4, is amended to read:

Subd. 6. [EXPIRATION.] The data collection task force expires January April 15, 1987 1989, or 15 days after reporting to the legislature whichever date comes later, but in no circumstance later than March June 1, 1987 1989.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 6

MINNESOTA GROWN

Section 1. Minnesota Statutes 1986, section 17.102, is amended to read:

17.102 [MINNESOTA PRODUCTS, STATE LOGO OR GROWN LABEL.]

Subdivision 1. [ESTABLISHMENT AND USE OF LABEL.] (a) The commissioner shall establish a "Minnesota grown" logo or labeling statement for use in identifying food agricultural products which that are Minnesota grown, processed, or manufactured in this state. The commissioner shall promulgate rules authorizing and governing the use of the logo or labeling statement. The Minnesota grown logo or labeling statement may be used on raw agricultural products that are not processed into a different

physical form or frozen, only if 80 percent of the agricultural product is produced in this state.

(b) The Minnesota grown logo or labeling statement may not be used without a license from the commissioner except that wholesalers and retailers may use the Minnesota grown logo and labeling statement for displaying and advertising products that qualify for use of the Minnesota grown logo or labeling statement.

Subd. 2. [LABEL DOES NOT REPLACE OTHER REQUIREMENTS.] The logo or labeling statement ~~shall~~ does not supersede or replace any federal label or grade standard ~~which~~ that is required by law and its use ~~shall be discretionary with a grower, processor, or manufacturer.~~

Subd. 3. [LICENSE.] A person may not use the Minnesota grown logo or labeling without an annual license from the commissioner. The commissioner shall issue licenses for a fee of \$5. The commissioner shall charge a late fee of \$10 for renewal of a license that has expired.

Subd. 4. [MINNESOTA GROWN ACCOUNT.] The Minnesota grown account is established as an account in the state treasury. License fee receipts and penalties collected under this section must be deposited in the state treasury and credited to the Minnesota grown account. The money in the account is continuously appropriated to the commissioner to implement and enforce this section and to promote the Minnesota grown logo and labeling.

Subd. 5. [PENALTY.] A person who is required to have a license and uses the Minnesota grown logo or labeling without a license after being notified by the commissioner that a license is required is subject to a civil penalty up to \$1,000.

Subd. 6. [RULES.] The commissioner shall promulgate rules authorizing and licensing the use of the logo or labeling statement.

Sec. 2. [MINNESOTA GROWN MATCHING ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] The Minnesota grown matching account is established as a separate account in the state treasury. The account shall be administered by the commissioner of agriculture as provided in this section.

Subd. 2. [FUNDING SOURCES.] The Minnesota grown matching account shall consist of contributions from private sources and appropriations.

Subd. 3. [APPROPRIATIONS MUST BE MATCHED BY PRIVATE FUNDS.] (a) Appropriations to the Minnesota grown matching account may be expended only to the extent that they are matched with contributions to the account from private sources as provided in paragraph (b) for fiscal years 1988 and 1989.

(b) Private contributions shall be matched on a basis of four dollars of the appropriation to each one dollar of private contributions. Matching funds are not available after the appropriation is encumbered. Private contributions made from January 1, 1987, until the end of fiscal year 1987 shall be matched by the appropriation for fiscal year 1988. Amounts that are not matched in fiscal year 1988 are available to be matched in fiscal year 1989.

Subd. 4. [EXPENDITURES.] The amount in the Minnesota grown matching account that is matched by private contributions and the private con-

tributions are appropriated to the commissioner of agriculture for promotion of products using the Minnesota grown logo and labeling.

Sec. 3. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment.

ARTICLE 7

AGRICULTURAL PRESERVES

Section 1. Minnesota Statutes 1986, section 40A.03, subdivision 2, is amended to read:

Subd. 2. [PLANS AND OFFICIAL CONTROLS.] By July 1 December 31, 1987, each pilot county selected under subdivision 1 shall submit to the commissioner and to the regional development commission in which it is located, if one exists, a proposed agricultural land preservation plan and proposed official controls implementing the plan. The commissioner, in consultation with the regional development commission, shall review the plan and controls for consistency with the elements in this chapter and shall submit written comments to the county within 90 days of receipt of the proposal. The comments must include a determination of whether the plan and controls are consistent with the elements in this chapter. The commissioner shall notify the county of its determination. If the commissioner determines that the plan and controls are consistent, the county shall adopt the controls within 60 days of completion of the commissioner's review.

Sec. 2. Minnesota Statutes 1986, section 40A.152, subdivision 1, is amended to read:

Subdivision 1. [FEE.] A county that is a metropolitan county under section 473.121, subdivision 4, has allowed exclusive agricultural zones to be created under this chapter, that has designated lands eligible for agricultural preserves under section 473H.04, or that has elected to become an agricultural land preservation pilot county, shall impose an additional fee of \$3 \$5 per transaction on the recording or registration of a mortgage subject to the tax under section 287.05 and an additional \$3 \$5 on the recording or registration of a deed subject to the tax under section 287.21. One-half of the fee must be deposited in a special conservation account to be created in the county general revenue fund and one-half must be transferred to the commissioner of revenue for deposit in the state treasury and credited to the Minnesota conservation fund.

Sec. 3. Minnesota Statutes 1986, section 40A.152, subdivision 2, is amended to read:

Subd. 2. [USE OF ACCOUNT.] Money from the county conservation account must be spent by the county to reimburse the county and taxing jurisdictions within the county for revenue lost under the conservation tax credit under section 273.119 or the valuation of agricultural preserves under section 473H.10. *If expenditures from other county funds for the same purposes remain at least equal to the amount spent in the previous county budget year, money remaining in the account after these payments the reimbursements are made may be spent for the following purposes:*

(1) agricultural land preservation and conservation planning and implementation of official controls under this chapter or chapter 473H;

(2) soil conservation activities and enforcement of soil loss ordinances;

(3) incentives for landowners who create exclusive agricultural use zones;

(4) payments to municipalities within the county for the purposes of clauses (1) to (3).

Sec. 4. Minnesota Statutes 1986, section 473H.10, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF TAX; STATE REIMBURSEMENT.] (a) After having determined the market value of all land valued according to subdivision 2, the assessor shall compute the assessed value of those properties by applying the appropriate classification percentages. When computing the rate of tax pursuant to section 275.08, the county auditor shall include the assessed value of land as provided in this clause.

(b) The county auditor shall compute the tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the assessed value times the total rate of tax for all purposes as provided in clause (a).

(c) The county auditor shall then compute the maximum ad valorem property tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the assessed value times 105 percent of the previous year's statewide average mill rate levied on property located within townships for all purposes.

(d) The tax due and payable by the owner of preserve land valued according to subdivision 2 and nonresidential buildings will be the amount determined in clause (b) or (c), whichever is less. If the gross tax in clause (c) is less than the gross tax in clause (b), the state shall reimburse the taxing jurisdictions for the amount of difference. Residential buildings shall continue to be valued and classified according to the provisions of sections 273.11 and 273.13, as they would be in the absence of this section, and the tax on those buildings shall not be subject to the limitation contained in this clause.

The county may transfer money from the county conservation account created in section 40A.152 to the county revenue fund to reimburse the fund for the tax lost as a result of this subdivision or to pay taxing jurisdictions within the county for the tax lost. The county auditor shall certify to the commissioner of revenue on or before June 1 the total amount of tax lost to the county and taxing jurisdictions located within the county as a result of this subdivision and the extent that the tax lost exceeds funds available in the county conservation account. Payments shall be made by the state as provided in section 273.13, subdivision 15a to each of the affected taxing jurisdictions if the county conservation account is insufficient to make the reimbursement. There is annually appropriated from the Minnesota conservation fund under section 40A.151 to the commissioner of revenue an amount sufficient to make the reimbursement provided in this subdivision. *If the amount available in the Minnesota conservation fund is insufficient, the balance that is needed is appropriated from the general fund.*

Sec. 5. Minnesota Statutes 1986, section 473H.17, subdivision 1, is amended to read:

Subdivision 1. Land within an agricultural preserve shall be maintained for agricultural production. The average maximum density of residential structures within an agricultural preserve shall not exceed one unit per 40 acres. The location of any new structure shall conform to locally applicable

zoning regulations. Commercial and industrial uses shall not be permitted except that ~~small on-farm commercial or industrial operations normally associated with and important to farming in the area may be permitted by the as provided in section 7 after the user is issued a permit by the authority.~~ The authority shall be responsible for enforcing this section.

Sec. 6. Minnesota Statutes 1986, section 473H.17, is amended by adding a subdivision to read:

Subd. 1a. [ALLOWED COMMERCIAL AND INDUSTRIAL OPERATIONS.] (a) Commercial and industrial operations are not allowed on land within an agricultural preserve except:

(1) small on-farm commercial or industrial operations normally associated with and important to farming in the agricultural preserve area;

(2) storage use of existing farm buildings that does not disrupt the integrity of the agricultural preserve; and

(3) small commercial use of existing farm buildings for trades not disruptive to the integrity of the agricultural preserve such as a carpentry shop, small scale mechanics shop, and similar activities that a farm operator might conduct.

(b) "Existing" in paragraph (a), clauses (2) and (3), means existing on August 1, 1987.

Sec. 7. Minnesota Statutes 1986, section 473H.17, subdivision 2, is amended to read:

Subd. 2. [DENSITY RESTRICTION AFTER SUBDIVISION.] When a separate parcel is created for a residential structure, commercial, or industrial use permitted under subdivision 1, the parcel shall cease to be an agricultural preserve unless the eligibility requirements of section 473H.03 are met. However, the ~~residential unit separate parcel shall continue to be included in~~ remain under the maximum residential density restrictions in effect for the original preserve at the time it was placed into the preserve until the agricultural preserve status for the original parcel ends.

Sec. 8. [GRANTS FOR OFFICIAL CONTROLS TO OTHER THAN PILOT COUNTIES.]

Grants to eligible recipients other than the pilot counties under section 40A.15, subdivision 4, are not available until the pilot county program has been completed and a report on the pilot county experiences has been presented to the legislature. The report must be completed by July 1, 1988.

ARTICLE 8

AGRICULTURAL COMMODITIES UTILIZATION

Section 1. Minnesota Statutes 1986, section 17.03, is amended by adding a subdivision to read:

Subd. 6. [AGRICULTURAL DIVERSIFICATION.] The commissioner shall establish a program of agricultural diversification. The commissioner must assist the horticultural industry, help producers diversify farming operations, and coordinate state agency efforts regarding agricultural diversification, after consulting with farm groups, the University of Minnesota and applicable institutions of higher learning. The commissioner shall report to the governor and legislature annually on activities and actions that should be taken in these matters.

Sec. 2. [17.50] [POLICY.]

The state must explore alternative uses for agricultural products to enable the state's agricultural economy to reach its full potential. The state must promote and encourage cooperative efforts between public and private interests in conducting basic research and disseminating the results on agricultural commodity utilization.

ARTICLE 9

Section 1. [RESEARCH STUDY; LOW LIVESTOCK PRODUCTIVITY.]

Subdivision 1. [STUDY CRITERIA; SCOPE.] The University of Minnesota or another institution or organization selected by the commissioner of agriculture in consultation with the advisory board established under subdivision 3 shall perform the study required under this article. The study must provide interdisciplinary analysis of issues frequently believed to be electrical in nature that affect dairy and livestock productivity levels or are manifested in poor animal health. The study may include analysis of possible nonelectrical causes for low productivity levels or poor animal health at the study sites in order to help isolate the specific cause or causes of the problem at the sites. The study must be conducted on farmstead sites within the state as determined appropriate by the study team. The interdisciplinary team studying the selected sites must consist of researchers from the University of Minnesota or elsewhere who have expertise in the following fields: (1) animal sciences; (2) veterinary medicine; (3) electrical power distribution; (4) farmstead electrification; and (5) any other discipline or field deemed appropriate by members of the interdisciplinary team.

Subd. 2. [STUDY SITE SELECTION.] The farmstead sites to be studied must be selected by the advisory board established under subdivision 3. Study sites must be selected from among farmsteads whose operators request participation in the study. For three or more of the sites, preference must be given to farmsteads in dairy production areas which have experienced persistent problems with low milk production levels and poor dairy herd health and where a traditional study of stray voltage has failed to identify or solve the problem.

Subd. 3. [ADVISORY BOARD: COMPOSITION, APPOINTMENT, DUTIES.] Not later than 30 days after the effective date of this act the governor, in consultation with the commissioner of agriculture, shall appoint an advisory board of nine members who shall determine farmstead sites to be included in the study. The advisory board shall meet at least quarterly to review progress reports on the study. Members of the advisory board shall include farmers experiencing conditions similar to those to be studied (membership on the advisory board does not preclude study of a farmstead operated by a member); farmers whose problems with low productivity levels or poor livestock health have been resolved; other farmers; a member of the Minnesota pollution control agency board; a representative of a cooperative electric association; a representative of an investor-owned electric utility which serves rural areas of Minnesota; a practicing veterinarian; and a representative of the University of Minnesota. Members of the advisory board shall serve without compensation but must be reimbursed by the commissioner of agriculture for mileage and actual expenses for meals related to service on the advisory board. The advisory board expires upon submission of the report required under subdivision 4.

Subd. 4. [REPORT.] The interdisciplinary study team shall prepare and deliver to the commissioner of agriculture a report on the results of the study. If feasible, the study team shall also submit the results of the study in a form appropriate for publication in one or more recognized scientific journals. The commissioner shall report results of the study to the house and senate committees on agriculture not later than February 1, 1989.

Sec. 2. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 10

AGRICULTURE AND TRADE

Section 1. Minnesota Statutes 1986, section 17.03, is amended by adding a subdivision to read:

Subd. 6. [COOPERATION WITH MINNESOTA TRADE OFFICE.] The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade office shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office have primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture.

Sec. 2. Minnesota Statutes 1986, section 17.101, subdivision 1, is amended to read:

Subdivision 1. [DEPARTMENTAL DUTIES.] For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner shall encourage and promote the marketing of these products by means of:

- (a) advertising Minnesota agricultural products;
- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;
- (f) assessing and developing national and international markets for Minnesota agricultural products;
- (g) studying the conversion of raw agricultural products to manufactured products including ethanol;
- (h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
- (i) assisting Minnesota agricultural businesses desiring to sell their products in national and international markets; and

(j) other activities the commissioner deems appropriate to promote Minnesota agricultural products in national and international markets, provided that the activities do not duplicate programs or services provided by the Minnesota trade office.

Sec. 3. Minnesota Statutes 1986, section 17.103, is amended to read:

17.103 [TRADE AND EXPORT DEVELOPMENT.]

The commissioner of agriculture shall encourage and develop commerce with other states and foreign countries and devise ways and means of removing trade barriers hampering the free flow of commerce between this and other states.

Sec. 4. [116J.966] [COMMISSIONER'S TRADE PROMOTION DUTIES.]

Subdivision 1. [GENERALLY.] (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at international trade shows;

(4) organize, promote, and present international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services;

(11) undertake activities to support the world trade center; and

(12) enter into contracts or other agreements with private persons and public entities to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry

out this section, without regard to sections 16B.07 and 16B.09.

(b) The programs and activities of the commissioner of energy and economic development and the Minnesota trade office may not duplicate programs and activities of the commissioner of agriculture.

Subd. 2. [AGRICULTURAL PROMOTION.] The commissioner of trade and economic development and the director of the Minnesota trade office shall cooperate and consult with the commissioner of agriculture in promoting the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office shall have the primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting the agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture.

Sec. 5. [236A.02] [ADMINISTRATIVE SUPPORT.]

The commissioner of agriculture in consultation with the director of the Minnesota trade office shall provide administrative staff and support to the Interstate Agricultural Grain Marketing Commission members from this state.

Sec. 6. [REORGANIZATION.]

The divisions and offices established within the department of trade and economic development include the Minnesota trade office consisting of the Minnesota trade office in the department of agriculture relating to international trade, but do not include the functions and positions of the office relating to domestic agricultural trade.

Sec. 7. [REPEALER.]

Minnesota Statutes 1986, section 17.03, subdivision 5, is repealed.

Sec. 8. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber each section of Minnesota Statutes in column A with the corresponding number in column B. The revisor shall also make necessary cross reference changes consistent with the renumbering and change the words "commissioner of agriculture" or similar words to "commissioner of the department of trade and economic development" or similar words.

Column A	Column B
17.103	116J.970
17.104	116J.971
17.105	116J.972

ARTICLE 11

AGRICULTURE DEPARTMENT

Section 1. Minnesota Statutes 1986, section 17B.15, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATION; APPROPRIATION.] The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. The commissioner shall set fees for all inspection and weighing in an amount adequate to pay the expenses of carrying out and

enforcing the purposes of sections 17B.01 to 17B.23, including the portion of general support costs and statewide indirect costs of the agency attributable to that function, with a reserve sufficient for up to six months, ~~and including repayment by the department of any amount appropriated from the general fund to establish the grain inspection and weighing account.~~ The commissioner shall review the fee schedule twice each year. Fee adjustments are not subject to chapter 14. Payment shall be required for services rendered. If the grain is in transit, the fees shall be paid by the carrier and treated as advance charges, and, if received for storage, the fees shall be paid by the warehouse operator, and added to the storage charges.

All fees collected and all fines and penalties for violation of any provision of this chapter shall be deposited in the grain inspection and weighing account, which is created in the state treasury for carrying out the purpose of sections 17B.01 to 17B.23. The money in the account is annually appropriated to the commissioner of agriculture to administer the provisions of sections 17B.01 to 17B.23.

Sec. 2. Minnesota Statutes 1986, section 18.023, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in subdivisions 1 to 12 the terms defined in this subdivision shall have the meanings given them.

(a) "Metropolitan area" means the area comprising the counties of Hennepin, Ramsey, Anoka, Dakota, Washington, Scott and Carver.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Municipality" means any home rule charter or statutory city or any town exercising municipal powers pursuant to section 368.01, or any general or special law, located in the metropolitan area; or any special park district as organized under chapter 398; or any special purpose park and recreation board organized under the city charter of a city of the first class located in the metropolitan area; or any county in the metropolitan area for the purposes of county owned property or any portion of a county located outside the geographic boundaries of a city or town exercising municipal powers; and any municipality or county located outside the metropolitan area with an approved disease control program.

(d) "Shade tree disease" means Dutch elm disease ~~or~~, oak wilt disease, *or any disorder affecting the growth and life of shade trees.*

(e) "Wood utilization or disposal system" means facilities, equipment or systems used for the removal and disposal of diseased shade trees which includes the collection, transportation, processing or storage of wood and which aids in the recovery of materials or energy from wood.

(f) "Approved disease control program" means the municipal plan as approved by the commissioner to control shade tree disease.

(g) "Disease control area" means an area approved by the commissioner within which a municipality will conduct an approved disease control program.

(h) "Sanitation" means the identification, inspection, disruption of a common root system, girdling, trimming, removal and disposal of dead or diseased wood of ~~elm or oak~~ shade trees, including subsidies for trees removed pursuant to subdivision 4, on public or private property within a disease control area.

(i) "Reforestation" means the replacement of shade trees removed from

public property and the planting of any species of tree as part of a municipal disease control program. For purposes of this clause, "public property" shall include private property within five feet of the boulevard or street terrace in any city which has enacted an ordinance on or before January 1, 1977, that prohibits or requires a permit for the planting of trees in the public right-of-way.

Sec. 3. Minnesota Statutes 1986, section 19.58, subdivision 1, is amended to read:

Subdivision 1. [ENTRY PERMIT.] No person may bring into this state any bees on comb, including nuclei, or used bee equipment without an entry permit issued by the commissioner. A person who wishes to bring any bees on comb or used bee equipment into the state shall apply for an entry permit at least 60 days before the date of entry. The 60-day requirement may be waived for a hobbyist beekeeper who intends to become a resident of Minnesota and who brings ten colonies or less into the state.

Ten days before entry, any person required to obtain an entry permit shall furnish to the commissioner a copy of a valid certificate of inspection signed by a responsible official of the state where the bees or equipment originated. The certificate must be based on ~~either an inspection or an affidavit~~. *A person may not bring into the state any bees on comb including nuclei, combless bees, or used bee equipment from any county or parish where honey bee tracheal mites or Africanized bees have been found unless it is demonstrated to the satisfaction of the commissioner that there will be no risk of introduction either of tracheal mites or Africanized bees into the state. Bees or equipment brought into the state in violation of this subdivision are a public nuisance and may be destroyed without notice by the commissioner.*

This subdivision does not apply to a common carrier transporting bees or used bee equipment from a point of origin outside of the state to a destination outside of the state.

Sec. 4. Minnesota Statutes 1986, section 28A.08, is amended to read:

28A.08 [LICENSE FEES; PENALTIES.]

~~The fees for licenses and the~~ *License fees, penalties for late renewal of licenses, and penalties for not obtaining a license before conducting business in food handling that are set in this section apply to the sections named except as provided under section 28A.09. Except as specified herein, bonds and assessments based on number of units operated or volume handled or processed which are provided for in said laws shall not be affected, nor shall any penalties for late payment of said assessments, nor shall inspection fees, be affected by this chapter. The late penalty may be waived by the commissioner.*

Type of food handler	License Fee	Penalties	
		Penalty Late Renewal	No License
1. Retail food handler			
(a) Having gross sales of less than \$50,000 for the immediately previous license or fiscal year	\$25	\$ 40 \$10	\$ 13

(b) Having \$50,000 to \$250,000 gross sales for the immediately previous license or fiscal year		\$50	\$ 75	\$13	\$ 25	\$ 25
(c) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year		\$100	\$125	\$25	\$ 50	\$ 50
(d) Having over \$1,000,000 gross sales for the immediately previous license or fiscal year		\$200	\$250	\$50	\$ 75	\$100
2.	Wholesale food handler					
	(a) Having gross sales or service of less than \$250,000 for the immediately previous license or fiscal year	\$100		\$25		\$ 50
	(b) Having \$250,000 to \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$150		\$38		\$ 75
	(c) Having over \$1,000,000 gross sales or service for the immediately previous license or fiscal year	\$200		\$50		\$100
3.	Food broker	\$50	\$ 75	\$13	\$ 25	\$ 25
4.	Wholesale food processor or manufacturer					
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$150	\$200	\$38	\$ 50	\$ 75
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$200	\$275	\$50	\$ 75	\$100
	(c) Having over \$1,000,000 gross sales for the immediately previous license or fiscal year	\$250	\$375	\$63	\$100	\$125
5.	Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture					
	(a) Having gross sales of less than \$250,000 for the immediately previous license of fiscal year	\$75	\$100	\$19	\$ 25	\$ 38
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$90	\$150	\$23	\$ 50	\$ 45

- (c) Having over \$1,000,000 gross sales for the immediately previous license or fiscal year \$405 \$175 \$27 \$ 50 \$ 53
6. Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota farmstead cheese \$ 30 \$10 \$ 15

Sec. 5. Minnesota Statutes 1986, section 31.101, subdivision 3, is amended to read:

Subd. 3. Federal pesticide chemical regulations and amendments thereto in effect on April 1, ~~1982~~ 1987 adopted under authority of the Federal Insecticide, Fungicide and Rodenticide Act, as provided by United States Code, title 7, chapter 6, are the pesticide chemical rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Sec. 6. Minnesota Statutes 1986, section 31.101, subdivision 4, is amended to read:

Subd. 4. Federal food additive regulations and amendments thereto in effect on April 1, ~~1982~~ 1987, as provided by Code of Federal Regulations, title 21, parts 170 to 199, are the food additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Sec. 7. Minnesota Statutes 1986, section 31.101, subdivision 5, is amended to read:

Subd. 5. Federal color additive regulations and amendments thereto in effect on April 1, ~~1982~~ 1987, as provided by Code of Federal Regulations, title 21, parts 70 to 82, are the color additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Sec. 8. Minnesota Statutes 1986, section 31.101, subdivision 6, is amended to read:

Subd. 6. Federal special dietary use regulations and amendments thereto in effect on April 1, ~~1982~~ 1987, as provided by Code of Federal Regulations, title 21, parts 104 and 105, are the special dietary use rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Sec. 9. Minnesota Statutes 1986, section 31.101, subdivision 7, is amended to read:

Subd. 7. Federal regulations and amendments thereto in effect on April 1, ~~1982~~ 1987 adopted under the Fair Packaging and Labeling Act, as provided by United States Code, title 15, sections 1451 to 1461, are the rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act; provided that the commissioner shall not adopt amendments to such rules or adopt other rules which are contrary to the labeling requirements for the net quantity of contents required pursuant to section 4 of the Fair Packaging and Labeling Act and the regulations promulgated thereunder.

Sec. 10. Minnesota Statutes 1986, section 31.101, subdivision 8, is amended to read:

Subd. 8. Applicable federal regulations including recodification contained in Code of Federal Regulations, title 21, parts 0-1299, Food and Drugs, in effect April 1, 1982 1987, and not otherwise adopted herein, also are adopted as food rules of this state. Such rules may be amended by the commissioner in accordance with the administrative procedure act.

Sec. 11. Minnesota Statutes 1986, section 32.394, subdivision 8, is amended to read:

Subd. 8. ~~[EXPLORATORY PRELIMINARY INSPECTIONS GRADE A INSPECTION FEES.] Any A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to learn about and acquaint producers with market Grade A requirements may make a request to the commissioner for exploratory inspections and meetings for this purpose. Upon receipt of such request, the commissioner at a convenient time shall cause such exploratory inspections to be made and such meetings to be held as are necessary to acquaint said processor and producers with such requirements. If, after such exploratory inspections are made and such meetings are held and when in the processor's opinion the processor's field service has brought producers into compliance with said requirements, said processor wishes further inspection service, the processor shall so milk or use the Grade A label must apply on a form furnished by for Grade A inspection service from the commissioner, stating the number of farms to be inspected. Such applications shall be accompanied by a fee payable to the state treasurer in an amount of not less than \$50 and not more than \$300, which fee is to be charged for preliminary inspection prior to continuous inspection, and assessments over \$50 are to be determined by charging \$1 for each farm over 50, but shall not exceed \$300 if more than 300 farms are inspected; provided that, if the plant and farms are accepted for continuous inspection, this charge shall be made only once. If the preliminary inspection discloses that the processor is eligible for use of the Grade A label on products and before the processor so labels said products, the processor shall apply for continuous inspection on a form furnished by the commissioner and shall hold a Grade A permit. Such application shall be accompanied by a fee of not less than \$100 nor more than \$500 per plant and of not less than \$15 nor more than \$50 per farm, said fee to be paid annually. A pasteurization plant requesting Grade A inspection service must hold a Grade A permit and pay an annual inspection fee of no more than \$500. For Grade A farm inspection service, the fee must be no more than \$66 per farm, paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee of no more than \$33 per reinspection must be paid by the processor or by the marketing organization on behalf of its patrons. If the commissioner deems it necessary to more nearly meet the cost of the service, the commissioner may annually adjust the assessments within the limits set herein in this subdivision.~~

Sec. 12. Minnesota Statutes 1986, section 32.394, subdivision 8b, is amended to read:

Subd. 8b. ~~[MANUFACTURING GRADE FARM CERTIFICATION.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk, other than Grade A, who wishes to obtain market other than Grade A milk must apply for a manufacturing grade farm certification; shall make a request to inspection from the commissioner for a farm certification inspection. A processor who requests and receives a farm cer-~~

tification inspection shall pay a fee to the commissioner for the certification of the milk supply. A manufacturing plant that pasteurizes milk or milk byproducts must pay an annual fee based on the number of pasteurization units. This fee must not exceed \$140 per unit. The fee for farm certification inspection must not be more than \$33 per farm to be paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring more than the one annual inspection required for certification, an additional fee of no more than \$33 must be paid by the processor or by the marketing organization on behalf of its patrons. The fee shall must be set by the commissioner in an amount necessary to meet the cost of the service for farm certification, which fee shall but must not exceed 50 percent of the fees charged for Grade A permits the limits in this subdivision.

Sec. 13. Minnesota Statutes 1986, section 32.394, subdivision 9, is amended to read:

Subd. 9. [PAYMENTS; REFUNDS; DISPOSITION.] ~~The amount of such assessments shall be~~ Fees are payable by the a processor on or before or marketing organization by July 1, of each year for Grade A, and by January 1 of each year for manufacturing grade, and if not paid on or before July 31, following within 30 days of the due date, the service shall must be discontinued, and permission to market manufacturing grade or Grade A milk or milk products or use the Grade A label shall must be withdrawn; provided, that such. A processor may terminate such payment and such service without loss of the Grade A label if written notice of such that intention is given prior to the due date of the payment of said an assessment and if the continuous inspection of said the plant and farms is assumed by a city whose milk control ordinance is substantially equivalent to Minnesota law and rule and is enforced with equal effectiveness. When such written notice is given by the processor on or before December 31 preceding the due date, that portion of the assessment for the period January 1 through June 30, immediately following, shall be refunded to the processor If a farm discontinues the production of milk within six months of the billing date, a request for a refund based on inspection services not received may be made by the processor or by the marketing organization on behalf of its patrons. This request must be made in writing by July 1 for manufacturing grade, or by December 31 for Grade A, and on approval by the commissioner refunds must be made to the processor or marketing organization.

The fees for services performed by the activities of this section shall must be deposited in the state treasury and shall constitute a separate account to be known as the milk inspection service account, which is hereby created, set aside, and appropriated as a revolving fund to be used to help to defray the cost of administration, refunds and expenses of the preliminary and continuous milk inspection services and shall be is in addition to and not in substitution for the sums appropriated or otherwise made available for this purpose to the department of agriculture.

Sec. 14. Minnesota Statutes 1986, section 40.071, is amended to read:

40.071 [ADDITIONAL POWERS OF A DISTRICT.]

In addition to powers and duties otherwise provided by law, a soil and water conservation district may procure liability insurance as provided in section 466.06, automobile insurance on personal cars while used on official business, insurance on the contents of district offices up to a maximum

of \$7,500 per office, and workers' compensation insurance, or may require the county or counties in which the district is located to include the district in the county's or counties' insurance coverage for these purposes.

Sec. 15. Minnesota Statutes 1986, section 223.17, subdivision 1, is amended to read:

Subdivision 1. [LICENSES.] An application for a grain buyer's license must be filed with the commissioner and the license issued before any grain may be purchased. *The commissioner must provide application forms and licenses that state the restrictions and authority to purchase and store grain under the license being applied for and issued.* The ~~types~~ categories of grain buyers' licenses are:

- (a) private grain warehouse operator's license;
- (b) public grain warehouse operator's license; and
- (c) independent grain buyer's license.

The applicant for a grain buyer's license shall identify all grain buying locations owned or controlled by the grain buyer and all vehicles owned or controlled by the grain buyer used to transport purchased grain. Every applicant for a grain buyer's license shall have a permanent established place of business at each licensed location. An "established place of business" means a permanent enclosed building, including a house or a farm, either owned by the applicant or leased by the applicant for a period of at least one year, and where the books, records, and files necessary to conduct the business are kept and maintained. The commissioner may maintain information on grain buyers by categories including, but not limited to, the categories provided in clauses (a) to (c) and grain buyers that are licensed to purchase grain using trucks but that do not have a public or private warehouse license.

Sec. 16. Minnesota Statutes 1986, section 308.58, subdivision 2, is amended to read:

Subd. 2. [WHERE FILED; EVIDENCE.] The articles must be subscribed by the several incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgment of deeds and conveyances; and shall be filed in the office of the secretary of state, and when so filed such incorporation shall be complete ~~and a certified copy of the articles shall be filed with the commissioner of agriculture.~~ The articles, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Sec. 17. Minnesota Statutes 1986, section 308.62, is amended to read:

308.62 [DIRECTORS; ELECTION.]

The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number, except as hereinafter provided. The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such case the bylaws shall specify the number of directors to be elected by each district, the manner and method of apportioning or reapportioning the directors, and of districting or redistricting the territory covered by the

association. The bylaws may provide that primary elections should be held in each district to elect the directors apportioned to such districts, and the result of all such primary elections must be ratified by the next regular meeting of the association, or may be considered final by the association.

~~The bylaws shall provide that one or more directors may be appointed by the commissioner or any other public official or commission. The director or directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.~~

An association may provide a fair remuneration for the time actually spent by its officials and directors in its service. No director, while serving in office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association, or to any other kind of contract differing from terms generally current in that district.

The bylaws may provide that no director shall occupy any position in the association, except the president and secretary on regular salary or substantially full-time pay.

The bylaws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by district. In such a case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

Sec. 18. Minnesota Statutes 1986, section 308.77, is amended to read:

308.77 [ASSOCIATION HERETOFORE ORGANIZED MAY ADOPT PROVISIONS.]

Any corporation or association organized under previously existing statutes may, by a majority vote of its stockholders or members, be brought under the provisions of sections 308.53 to 308.85 by limiting its membership and adopting the other restrictions, as provided therein. It shall make out, in duplicate, a statement signed and sworn to by its directors, ~~upon forms supplied by the commissioner of agriculture,~~ to the effect that the corporation or association has, by a majority vote of its stockholders or members, decided to accept the benefits and be bound by the provisions of sections 308.53 to 308.85. Articles of incorporation shall be filed as required in section 308.58, except that they shall be signed by the members of the board of directors. The filing fee shall be the same as for filing an amendment to the articles of incorporation. Where any association or corporation may be incorporated or brought under sections 308.53 to 308.85, all contracts heretofore made by or on behalf of the same by the promoters thereof in anticipation of such association becoming incorporated under the laws of this state or otherwise, including such contracts made by or in the name of some corporation organized elsewhere, and when same would have been valid, if entered into subsequent to the passage of Laws 1923, chapter 264, are hereby accepted and validated as if made after that date. Cooperative corporations and associations heretofore or hereafter organized

and doing business under the existing law or laws supplementary thereto or amendatory thereof shall continue to be governed thereby unless and until they shall elect to be brought under the provisions of sections 308.53 to 308.85 in the manner provided in this section.

Sec. 19. Minnesota Statutes 1986, section 308.83, is amended to read:

308.83 [GOVERNOR TO ACT UPON REPORT.]

The governor shall have the power to remove from office any officer or director of any association, such removal to be upon such notice to the association and to the officers or directors thereof as shall be prescribed by the governor. In case ~~the commissioner has decided that the further operation of any such association is deemed hazardous to the public interest, and so reports to the governor,~~ the governor may refer the matter of winding up the affairs of such association to the attorney general and it shall thereupon be the duty of the attorney general to proceed to wind up the affairs of any such association in the manner provided by law for winding up the business of insolvent banking institutions in the state.

Sec. 20. Minnesota Statutes 1986, section 308.85, is amended to read:

308.85 [FEES.]

For filing articles of incorporation, or amendments thereto, any association organized under sections 308.29 to ~~308.84~~ 308.85 shall pay \$15.

Sec. 21. [REPEALER.]

Minnesota Statutes 1986, section 18.023, subdivision 1a, is repealed.

Sec. 22. [EFFECTIVE DATE.]

This article is effective the day after final enactment.

ARTICLE 12

APPROPRIATIONS

Section 1. [AGRICULTURAL DATA COLLECTION TASK FORCE.]

\$50,000 is appropriated from the general fund to the legislative advisory commission to fund the activities of the agricultural data collection task force to be available until June 30, 1989.

Sec. 2. [MINNESOTA GROWN MATCHING ACCOUNT.]

\$360,000 is appropriated from the general fund to the Minnesota grown matching account to be available in the amounts for the fiscal years indicated

1988	1989
\$160,000	\$200,000

Sec. 3. [METROPOLITAN AGRICULTURAL PRESERVE DEFICIENCY.]

The amount necessary to pay the deficiency in reimbursement under Minnesota Statutes, section 473H.10, subdivision 3, in fiscal year 1987 is appropriated to the commissioner of revenue from the Minnesota conservation fund to reimburse counties. The amount of the deficiency must be certified by the county auditor on or before June 1, 1988, with the amount of tax lost in fiscal year 1988.

Sec. 4. [AGRICULTURAL LAND PRESERVATION PLANNING GUIDE.]

\$30,000 is appropriated from the general fund to the commissioner of

agriculture to provide technical assistance for agricultural land preservation and conservation activities, including preparation and publication of an agricultural land preservation planning handbook for use by local units of government, and for a study and report on the costs of providing public services to agricultural and other land uses.

Sec. 5. [INTERSTATE COMPACT ON GRAIN MARKETING.]

\$50,000 is appropriated from the general fund to the commissioner of agriculture for payment of financing the operations of the state's portion of the interstate compact on grain marketing.

Sec. 6. [SUSTAINABLE AGRICULTURE CHAIR.]

Subdivision 1. [APPROPRIATION.] \$75,000 is appropriated from the general fund to the University of Minnesota to establish an endowment for a chair in sustainable agriculture subject to the conditions of subdivision 2. This appropriation is to be included in the nonstate sources of endowment under section 137.022, subdivision 3. Sustainable agriculture represents the best aspects of traditional and modern agriculture by utilizing a fundamental understanding of nature, as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive agriculture.

Subd. 2. [PRIVATE CONTRIBUTIONS REQUIRED.] The appropriation under subdivision 1 is not effective until sufficient private contributions or pledges have been made so that the private contributions and pledges, plus the appropriation under subdivision 1, are sufficient to establish the endowment for a chair in sustainable agriculture. The appropriation cancels on June 30, 1992, if sufficient private contributions and pledges have not been made.

Sec. 7. [SWEET SORGHUM RESEARCH.]

\$300,000 is appropriated from the general fund to the state board of vocational technical education for a demonstration project at the Mankato vocational technical institute involving butanol and ethanol production from sweet sorghum, for the biennium ending June 30, 1989.

Sec. 8. [WILD RICE RESEARCH.]

\$38,000 is appropriated from the general fund to the University of Minnesota for the agricultural experimental station to conduct wild rice research to be available until June 30, 1989, as follows:

- | | |
|--|----------|
| (a) for experiments on use of fertilizers | \$ 8,000 |
| (b) for experiments on the influence of rotation and residue removal on diseases, weeds, and yield | \$ 8,000 |
| (c) to evaluate cost advantages and effect on yields of leveling and tiling | \$ 6,000 |
| (d) to conduct controlled-site experiments into the advantages of existing and future varieties of wild rice | \$16,000 |

Sec. 9. [STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION.]

\$1,450,000 is appropriated from the general fund to the state board of

vocational technical education for the biennium ending June 30, 1989, to provide the following services:

- | | |
|--|-------------|
| (1) support staff for farm business management instructors | \$ 160,000 |
| (2) additional farm business and small business management programs | \$1,175,500 |
| (3) workshops for farmers for marketing, alternative enterprises, and financial management and staff development workshops | \$ 50,000 |
| (4) beginning farmer programs | \$ 64,500 |

Sec. 10. [RURAL FINANCE AUTHORITY.]

Subdivision 1. [RURAL FINANCE AUTHORITY.] \$300,000 is appropriated from the general fund to the rural finance authority for administering the beginning farmer loan program.

The complement of the authority is increased by three positions.

Subd. 2. [DEBT SERVICE.] \$270,000 is appropriated from the general fund to the rural finance authority for debt service on general obligation bonds issued for the beginning farmer program.

Sec. 11. [AGRICULTURAL PROMOTION AND MARKETING.]

\$858,000 is appropriated from the general fund to the commissioner of agriculture in the fiscal years indicated for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting the agricultural interests of the state in cooperative production and marketing with other states.

1988	1989
\$408,000	\$450,000

The complement of the department of agriculture is increased by nine positions to reflect the programs and positions remaining in the department of agriculture.

Sec. 12. [DAIRY SHEEP DEMONSTRATION PROJECT.]

\$35,000 is appropriated from the general fund to the University of Minnesota for purposes of continuing the dairy sheep experiment project being performed at the Rosemount Experiment Station.

Sec. 13. [PSEUDORABIES CONTROL.]

\$185,000 is appropriated from the general fund to the board of animal health in the fiscal years indicated, to be available until June 30, 1989, to be used for a control program for pseudorabies in swine in which the state will pay costs of a program for testing of blood samples. Blood samples must be drawn from swine herds by practicing veterinarians. The program must be coordinated by board of animal health personnel. This appropriation is in addition to other appropriations to the board of animal health for pseudorabies control.

Sec. 14. [APPROPRIATION; LOW LIVESTOCK PRODUCTIVITY]

STUDY.]

\$50,000 is appropriated from the general fund to the commissioner of agriculture for purposes of the study required under article 9. Of this appropriation not more than \$4,000 is available for administrative costs of the department of agriculture and mileage and expense reimbursements to members of the advisory board. This appropriation is available until June 30, 1989."

Correct internal references

Amend the title accordingly

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Clair L. Nelson, Steve Wenzel, Henry J. Kalis, Jerry Schoenfeld, Stephen E. Dille

Senate Conferees: (Signed) LeRoy A. Stumpf, Charles R. Davis, Steven Morse, Keith Langseth, Earl W. Renneke

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on H.F. No. 303 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 303 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Metzen	Renneke
Anderson	DeCramer	Knutson	Moe, R.D.	Schmitz
Beckman	Dicklich	Laidig	Morse	Spear
Belanger	Diessner	Langseth	Novak	Storm
Berglin	Frank	Lantry	Olson	Stumpf
Bernhagen	Frederick	Larson	Peterson, D.C.	Taylor
Bertram	Frederickson, D.J.	Lessard	Peterson, R.W.	Vickerman
Brandl	Frederickson, D.R.	Marty	Piper	Waldorf
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Johnson, D.E.	Mehrkens	Purfeerst	
Dahl	Jude	Merriam	Ramstad	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1351, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1351 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1351

A bill for an act relating to natural resources; authorizing the taking of elk and amending related laws; authorizing compensation for certain crop damage caused by elk; appropriating money; amending Minnesota Statutes 1986, sections 97A.421, subdivision 6; 97A.431; 97A.465, subdivisions 1 and 3; 97A.471, subdivision 3; 97A.475, subdivision 2; 97A.525, subdivision 1; 97A.535; and 97B.201; proposing coding for new law in Minnesota Statutes, chapters 3 and 97B.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1351, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1351 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 3.736, subdivision 3, is amended to read:

Subd. 3. [EXCLUSIONS.] Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule;

(b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) Any loss in connection with the assessment and collection of taxes;

(d) Any loss caused by snow or ice conditions on any highway or public sidewalk that does not abut a publicly-owned building or a publicly-owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) Any loss caused by wild animals in their natural state, *except as provided in section 2*;

(f) Any loss other than injury to or loss of property or personal injury or death;

(g) Any loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures and attachments to land that the state has neither affixed nor improved;

(h) Any loss incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or main-

tenance of the system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, or from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) Any loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) Any loss for which recovery is prohibited by section 169.121, subdivision 9.

The state will not pay punitive damages.

Sec. 2. [3.7371] [COMPENSATION FOR CROP DAMAGE CAUSED BY ELK.]

Subdivision 1. [AUTHORIZATION.] Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law to the contrary, a person who owns an agricultural crop shall be compensated by the commissioner of agriculture for an agricultural crop that is damaged or destroyed by elk as provided in this section.

Subd. 2. [CLAIM FORM.] The crop owner must prepare a claim on forms provided by the commissioner of agriculture and available at the county extension agent's office. The claim form must be filed with the commissioner of agriculture. A claim form may not be filed for crop damage or destruction that occurs before the effective date of this act.

Subd. 3. [COMPENSATION.] The crop owner shall be entitled to the target price or market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner of agriculture, upon recommendation of the county extension agent for the owner's county or a federal crop adjuster. The commissioner of agriculture, upon recommendation of the agent or adjuster, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is damaged or destroyed. In any calendar year, a crop owner may not be compensated for a damaged or destroyed crop that is less than \$100 and may be compensated up to \$20,000 in value, as determined under this section, provided normal harvest procedures for the area are followed.

Subd. 4. [INSURANCE DEDUCTION.] Payments authorized by this section must be reduced by amounts received by the owner as proceeds

from an insurance policy covering crop losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. [DECISION ON CLAIMS; OPENING LAND TO HUNTING.] If the commissioner of agriculture finds that the crop owner has shown that the damage or destruction of the owner's crop was caused more probably than not by elk, the commissioner of agriculture shall pay compensation as provided in this section and the rules of the commissioner. Total compensation to all claimants shall not exceed the amount of funds appropriated for this act. A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. [DENIAL OF CLAIM; APPEAL.] (a) If the commissioner denies compensation claimed by a crop owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be transmitted to the crop owner by first class mail.

(b) A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but a crop owner may have the claim reviewed in a trial de novo in the county court in the county where the loss occurred. The decision of the county court may be appealed as in other civil cases. Review in the county court may be obtained by the filing of a petition for review with the administrator of the county court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator of the county court shall mail a copy of it to the commissioner and set a time for hearing within 90 days after the filing of the petition.

Subd. 7. [RULES.] The commissioner of agriculture shall adopt rules and may adopt emergency rules and may amend rules to carry out the provisions of this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop; and
- (4) any other matters determined necessary by the commissioner to carry out the provisions of this section.

Sec. 3. Minnesota Statutes 1986, section 97A.421, subdivision 6, is amended to read:

Subd. 6. [APPLICABILITY TO MOOSE OR ELK LICENSES.] In this section the term "license" includes an application for a license to take either moose or elk.

Sec. 4. Minnesota Statutes 1986, section 97A.431, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FOR LICENSE.] An application for a moose license must be on a form provided by the commissioner and accompanied by a \$4 \$3 nonrefundable application fee per person. A person may not make more than one application for each season. If a person makes more

than one application, the person is ineligible for a license for that season after determination by the commissioner, without a hearing.

Sec. 5. [97A.433] [ELK LICENSES.]

Subdivision 1. [NUMBER OF LICENSES.] The commissioner shall include the number of licenses to be issued in an order setting the dates for an elk season.

Subd. 2. [ELIGIBILITY.] Persons eligible for an elk license shall be determined under this section and commissioner's order. A person is eligible for an elk license only if the person:

(1) is a resident;

(2) is at least age 16 before the season opens; and

(3) has never been issued an elk license.

Subd. 3. [APPLICATION FOR LICENSE.] An application for an elk license must be on a form provided by the commissioner and accompanied by a \$10 nonrefundable application fee per person. A person may not make more than one application for each season. If a person makes more than one application, the person is ineligible for a license for that season after determination by the commissioner, without a hearing.

Subd. 4. [SEPARATE SELECTION; ELIGIBILITY.] The commissioner may conduct a separate selection for up to 20 percent of the elk licenses to be issued for an area. Only owners of, and tenants living on, at least 160 acres of agricultural or grazing land in the area are eligible for the separate selection. Persons that are unsuccessful in a separate selection must be included in the selection for the remaining licenses. Persons who obtain an elk license in a separate selection must allow public elk hunting on their land during the elk season for which the license is valid.

Sec. 6. Minnesota Statutes 1986, section 97A.465, subdivision 1, is amended to read:

Subdivision 1. [RESIDENTS ON LEAVE.] A resident that is in the armed forces of the United States, stationed outside of the state, and in the state on leave, may hunt and fish without a license if the resident possesses official military leave papers. The resident must obtain the seals, tags, and coupons required of a licensee, which must be furnished without charge. This subdivision does not apply to the taking of moose or elk.

Sec. 7. Minnesota Statutes 1986, section 97A.465, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENTS STATIONED IN THE STATE.] The commissioner may issue a resident license to take fish or game to a person in the armed forces of the United States that is stationed in the state. This subdivision does not apply to the taking of moose or elk.

Sec. 8. Minnesota Statutes 1986, section 97A.471, subdivision 3, is amended to read:

Subd. 3. [NONAPPLICABILITY TO MOOSE HUNTING.] This section does not apply to taking moose or elk.

Sec. 9. Minnesota Statutes 1986, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to

be issued to residents only, are:

- (1) for persons under age 65 to take small game, \$7;
- (2) for persons age 65 or over, \$3.50;
- (3) to take turkey, \$10;
- (4) to take deer with firearms, \$15;
- (5) to take deer by archery, \$15;
- (6) to take moose, for a party of not more than four persons, \$200; ~~and~~
- (7) to take bear, \$25; ~~and~~
- (8) *to take elk, for a party of not more than two persons, \$200.*

Sec. 10. Minnesota Statutes 1986, section 97A.525, subdivision 1, is amended to read:

Subdivision 1. [RESIDENTS.] A resident may transport wild animals within the state by common carrier without being in the vehicle if the resident has the license required to take the animals and they are shipped to the resident. The wild animals that may be transported by common carrier are:

- (1) deer, bear, *elk*, and moose;
- (2) undressed game birds; and
- (3) fish.

Sec. 11. Minnesota Statutes 1986, section 97A.535, is amended to read:

97A.535 [POSSESSION AND TRANSPORTATION OF DEER, BEAR, *ELK*, AND MOOSE.]

Subdivision 1. [TAGS REQUIRED.] A person may not possess or transport deer, bear, *elk*, or moose taken in the state unless a tag is attached to the carcass in a manner prescribed by the commissioner. The commissioner must prescribe the type of tag that has the license number of the owner, the year of its issue, and other information prescribed by the commissioner. The tag must be attached to the deer, bear, *elk*, or moose when:

- (1) the animal is in a camp, or a place occupied overnight or the yard surrounding the place; or
- (2) the animal is on a motor vehicle.

Subd. 2. [DEER TAKEN BY ARCHERY, *ELK*, AND MOOSE MUST HAVE ADDITIONAL TAG.] Deer taken by archery, *elk*, and moose must be tagged as prescribed by the commissioner, in addition to the tag required in subdivision 1.

Subd. 3. [TRANSPORTATION PERIOD RESTRICTED.] A person may transport one deer, one bear, *one elk*, or one moose during the open season and the two days following the season, and afterwards as prescribed by the commissioner.

Subd. 4. [TRANSPORTATION BY PERSON OTHER THAN LICENSEE.] A person other than the licensee may transport deer, bear, *elk*, or moose that the licensee has registered as prescribed by the commissioner. The person must transport the animal by the most direct route. A tag must be attached to the animal and marked in ink with the address, license

number, signature of the licensee, and the locations from which and to which the animal is being transported.

Subd. 5. [HEADS, HIDES, AND CLAWS.] A resident that has a license to take deer, bear, *elk*, or moose may transport the head or hide of the animal within or out of the state for mounting or tanning. The hides of deer, bear, *elk*, and moose, and the claws of bear legally taken and with the tags that are required by this section, may be bought, sold, and transported at any time.

Sec. 12. Minnesota Statutes 1986, section 97B.201, is amended to read:
97B.201 [NO OPEN SEASON FOR ~~ELK~~, CARIBOU, AND ANTELOPE.]

There may not be an open season on ~~elk~~, caribou, or antelope.

Sec. 13. [97B.515] [ELK; LICENSE REQUIRED, SEASONS, RESTRICTIONS.]

Subdivision 1. [LICENSE REQUIRED.] A person may not take an elk without an elk license.

Subd. 2. [SEASON AND RESTRICTIONS.] The commissioner may, by order, prescribe the open season and the areas and conditions for the taking of elk when the precalving population exceeds 20 animals.

Subd. 3. [STAND RESTRICTIONS.] A person may not take elk from a constructed platform or other structure higher than nine feet above the ground. The restriction does not apply to a portable stand that is chained, belted, clamped, or tied with rope.

Sec. 14. [ELK MANAGEMENT PLAN.]

The commissioner of natural resources must adopt an elk management plan that:

- (1) recognizes the value and uniqueness of elk;*
- (2) provides for integrated management of an elk population in harmony with the environment;*
- (3) affords optimum recreational opportunities; and*
- (4) restricts elk to nonagricultural land in the state.*

Sec. 15. [FEE TRANSFER.]

All fees collected under this act are appropriated to the commissioners of agriculture and natural resources for the administrative costs incurred under this act and the amounts above and beyond the administrative costs associated with the programs established by this act shall be deposited in the general fund as reimbursement for payments made to the commissioner of agriculture for landowner compensation under a bill styled as H.F. No. 1315, enacted at the 1987 regular session.

Sec. 16. [EFFECTIVE DATE.]

This act is effective the day following final enactment. However, a person may not apply for compensation for crop damage until after the commissioner of agriculture promulgates rules under section 2."

Delete the title and insert:

"A bill for an act relating to natural resources; authorizing the taking of elk and amending related laws; authorizing compensation for certain crop

damage caused by elk; appropriating money; amending Minnesota Statutes 1986, sections 3.736, subdivision 3; 97A.421, subdivision 6; 97A.431, subdivision 3; 97A.465, subdivisions 1 and 3; 97A.471, subdivision 3; 97A.475, subdivision 2; 97A.525, subdivision 1; 97A.535; 97B.201; proposing coding for new law in Minnesota Statutes, chapters 3; 97A; and 97B."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Jim Tunheim, Wally A. Sparby, Virgil J. Johnson

Senate Conferees: (Signed) LeRoy A. Stumpf, Joe Bertram, Sr., Gary M. DeCramer

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1351 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1351 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Knutson	Metzen	Ramstad
Anderson	Dahl	Kroening	Moe, R.D.	Renneke
Beckman	Davis	Laidig	Morse	Schmitz
Belanger	DeCramer	Langseth	Novak	Storm
Benson	Diessner	Lantry	Olson	Stumpf
Berg	Frank	Larson	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Lessard	Peterson, D.C.	Vickerman
Bertram	Gustafson	McQuaid	Piper	Waldorf
Brandl	Johnson, D.E.	Mehrkens	Pogemiller	Willet
Brataas	Jude	Merriam	Purfeerst	

Ms. Berglin, Messrs. Knaak; Peterson, R.W. and Spear voted in the negative.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 80, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 80: A bill for an act relating to insurance; providing flexibility in the amount of coverages other than for the dwelling under a homeowner's policy; proposing coding for new law in Minnesota Statutes, chapter 65A.

Senate File No. 80 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 830, and repassed said bill in accordance with the report of the Committee, so adopted.

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

Senate File No. 830 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 391, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 391 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 391

A bill for an act relating to crimes; increasing penalties for distributing controlled substances to a minor or employing a minor to distribute controlled substances; defining measurement and purity requirements of controlled substances for criminal and tax law purposes; amending Minnesota Statutes 1986, sections 152.15, subdivisions 1 and 4; 297D.01, subdivision 3; and 297D.07.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 391, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 391 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1986, section 152.15, subdivision 1, is amended to read:

Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

(1) ~~Seven or more grams or ten or more dosage units, when the substance is not sold by weight, of~~ Any controlled substance classified in schedule I or II which is a narcotic drug, or ~~of~~ phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is guilty of a crime and upon conviction may be imprisoned for not more than 20 years or fined not more than \$60,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than two years nor more than 30 years or fined not more than \$100,000, or both if:

(i) *the mixture contains three grams or more of cocaine base;*

(ii) *the offender sells or distributes a total of ten grams or more of the controlled substance, regardless of purity, on one or more occasions within a 90-day period;*

(iii) *the controlled substance is phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is packaged in dosage units, and equals ten or more dosage units;*

(iv) *the controlled substance is a schedule I or II narcotic drug, is packaged in dosage units, and equals 50 or more dosage units;*

(v) *the offender sells or distributes any quantity of the controlled substance to a person under the age of 18; or*

(vi) *the offender conspires with or employs a person under the age of 18 to sell or distribute any quantity of the controlled substance;*

(2) Any other amount of any controlled substance classified in schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than 15 years or fined not more than \$40,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than 30 years or fined not more than \$50,000, or both;

(3) Any other controlled substance classified in schedule I, II, or III, is guilty of a crime and upon conviction may be ~~imprisoned for not more than five years, fined not more than \$30,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than ten years or fined not more than \$45,000, or both sentenced as follows:~~

(i) *if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than ten years or to payment of a fine of not more than \$30,000, or both; or*

(ii) *in all other cases, to imprisonment for not more than five years or to payment of a fine of not more than \$30,000, or both.*

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than one year nor more than ten years or to payment of a fine of not more than \$45,000, or both;

(4) A substance classified in schedule IV, is guilty of a crime and upon conviction may be ~~imprisoned for not more than three years, fined not more than \$20,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than six months nor more than six years or fined not more than \$35,000, or both sentenced as follows:~~

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than six years or to payment of a fine of not more than \$20,000, or both; or

(ii) in all other cases, to imprisonment for not more than three years or to payment of a fine of not more than \$20,000, or both.

A person convicted under this clause a second or subsequent time shall be sentenced to imprisonment for not less than six months nor more than six years or to payment of a fine of not more than \$35,000, or both;

(5) A substance classified in schedule V, is guilty of a crime and upon conviction may be ~~imprisoned for not more than one year, fined not more than \$3,000, or both sentenced as follows:~~

(i) if the offender sells or distributes the controlled substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to sell or distribute the controlled substance, to imprisonment for not more than two years or to payment of a fine of not more than \$3,000 or both; or

(ii) in all other cases, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both;

(6) The distribution of a small amount of marijuana for no remuneration, shall be treated as provided in subdivision 2, clause (5).

Sec. 2. Minnesota Statutes 1986, section 297D.01, subdivision 3, is amended to read:

Subd. 3. "Dealer" means a person who in violation of Minnesota law manufactures, produces, ships, transports, or imports into Minnesota or in any manner acquires or possesses more than 42-1/2 grams of marijuana, or seven or more grams of any controlled substance, or ten or more dosage units of any controlled substance which is not sold by weight. *A quantity of marijuana or other controlled substance is measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.*

Sec. 3. Minnesota Statutes 1986, section 297D.07, is amended to read:

297D.07 [MEASUREMENT.]

For the purpose of calculating the tax under section 297D.08, ~~an ounce~~ *a quantity of marijuana or other controlled substance is measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.*

Sec. 4. [REPEALER.]

Minnesota Statutes 1986, section 152.15, subdivision 4, is repealed.

Sec. 5. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to crimes; increasing penalties for distributing controlled substances to a minor or employing a minor to distribute controlled substances; defining measurement and purity requirements of controlled substances for criminal and tax law purposes; amending Minnesota Statutes 1986, sections 152.15, subdivision 1; 297D.01, subdivision 3; and 297D.07; repealing Minnesota Statutes 1986, section 152.15, subdivision 4."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Marcus M. Marsh, Randy C. Kelly, Kathleen A. Blatz

Senate Conferees: (Signed) Tad Jude, Allan H. Spear, Donna C. Peterson

Mr. Jude moved that the foregoing recommendations and Conference Committee Report on H.F. No. 391 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 391 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Morse moved that S.F. No. 1279, No. 7 on Special Orders, be stricken and returned to its author. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Spear and Marty introduced—

S.F. No. 1550: A bill for an act relating to probate; enacting statutory will provisions that a testator may adopt by reference; enacting the uniform statutory will act; proposing coding for new law as Minnesota Statutes, chapter 525A.

Referred to the Committee on Judiciary.

Messrs. Spear and Marty introduced—

S.F. No. 1551: A bill for an act relating to probate; enacting the succession without administration provisions of the uniform probate code; proposing coding for new law in Minnesota Statutes, chapter 524.

Referred to the Committee on Judiciary.

Messrs. Dicklich and Frank introduced—

S.F. No. 1552: A bill for an act relating to telephones; ensuring universal access to telephone service by persons 65 years of age or older; establishing eligibility for assistance; establishing funding of the assistance program by long distance service access surcharge; proposing coding for new law in Minnesota Statutes, chapter 237.

Referred to the Committee on Public Utilities and Energy.

Mr. Wegscheid introduced—

S.F. No. 1553: A bill for an act relating to crimes; prohibiting unauthorized use of computer information; prohibiting denial of access to a computer; prohibiting use of a computer to commit a felony; authorizing persons injured by computer crime to collect treble civil damages; requiring the reporting of computer crimes; imposing penalties; amending Minnesota Statutes 1986, sections 609.531, subdivision 1; 609.87, subdivisions 3, 4, 5, and by adding subdivisions; and 609.88, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609.

Referred to the Committee on Judiciary.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

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

House Concurrent Resolution No. 11: A House concurrent resolution relating to adjournment of the Senate and House of Representatives until

1988.

BE IT RESOLVED by the House of Representatives, the Senate concurring:

(1) Upon their adjournments on May 18, 1987, the House of Representatives may set its next day of meeting for February 9, 1988, at 2:00 p.m., and the Senate may set its next day of meeting for February 9, 1988, at 2:00 p.m.

(2) By the adoption of this resolution, each house consents to adjournment of the other house for more than three days.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 16, 1987

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. introduced—

Senate Resolution No. 77: A Senate resolution relating to conduct of Senate business during the interim between Sessions.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The powers, duties and procedures set forth in this resolution apply during the interim between the adjournment of the 75th Legislature, 1987 session and the convening of the 75th Legislature, 1988 session.

The Subcommittee on Committees of the Committee on Rules and Administration shall appoint persons as necessary to fill any vacancies that may occur in committees, commissions, and other bodies whose members are to be appointed by the Senate authorized by rule, statute, resolution, or otherwise.

The Committee on Rules and Administration shall establish positions, set compensation and benefits, appoint employees and authorize expense reimbursement as it deems proper to carry out the work of the Senate.

The Secretary of the Senate shall classify as "permanent" for purposes of Minnesota Statutes, sections 3.095 and 43A.24 the Senate employees certified as "permanent" by the Committee on Rules and Administration.

The Secretary of the Senate may employ after the close of the session the employees necessary to finish the business of the Senate at the salaries paid under the rules of the Senate for the 1987 regular session. The Secretary of the Senate may employ the necessary employees to prepare for the 1988 session at the salaries in effect at that time.

The Secretary of the Senate, as authorized and directed by the Committee on Rules and Administration, shall furnish each member of the Senate with postage and supplies, and may reimburse each member for long distance telephone calls and answering service upon proper verification of the expenses incurred, and for such other expenses authorized from time to time by the Committee on Rules and Administration.

The Secretary of the Senate shall correct and approve the Journal of the Senate for those days that have not been corrected and approved by the

Senate, and shall correct printing errors found in the Journal of the Senate for the 1987 session. The Secretary of the Senate may include in the Senate Journal proceedings of the last day, appointments by the Subcommittee on Committees to interim commissions created by legislative action, permanent commissions or committees established by statute, standing committees, official communications and other matters of record received on or after May 18, 1987.

The Secretary of the Senate may pay election and litigation costs as authorized by the Committee on Rules and Administration.

The Secretary of the Senate, with the approval of the Committee on Rules and Administration, shall secure bids and enter into contracts for remodeling and improvement of Senate office space, and shall purchase all supplies, equipment, and other goods and services necessary to carry out the work of the Senate. Contracts in excess of \$5,000 must be signed by the Chair of the Committee on Rules and Administration and another member designated by the Chair.

The Secretary of the Senate shall draw warrants from the legislative expense fund in payment of the accounts referred to in this resolution.

All Senate records, including committee books, are subject to the direction of the Committee on Rules and Administration.

The Senate Chamber, retiring room, committee rooms, all conference rooms, storage rooms, Secretary of the Senate's office, Rules and Administration office, and any and all other space assigned to the Senate, are reserved for use by the Senate and its standing committees only and must not be released or used for any other purpose except upon the authorization of the Secretary of the Senate with the approval of the Committee on Rules and Administration or its Chair.

The Custodian of the Capitol shall continue to provide parking space for members and staff of the Legislature under Senate Concurrent Resolution No. 2.

Mr. Moe, R.D. moved the adoption of the foregoing resolution.

The question was taken on the adoption of the resolution.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

The motion prevailed. So the resolution was adopted.

Mr. Wegscheid moved that the name of Mr. Benson be added as a co-author to S.F. No. 1511. The motion prevailed.

Ms. Reichgott moved that the names of Messrs. Waldorf and Gustafson be added as co-authors to S.F. No. 1284. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 862 and 909.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1323, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1323: A bill for an act relating to statutes; conforming various laws to judicial decisions of unconstitutionality and suggestions for clarity; amending Minnesota Statutes 1986, sections 169.123, subdivision 7; 325B.15; 487.01, subdivisions 2, 3, and 4; 487.21, subdivision 4; 487.23, subdivisions 1, 2, and 3; 487.25, subdivisions 1 and 2; 487.33, subdivision 1; 488A.01, subdivision 14; 488A.18, subdivision 14; 501.35; and 525.712; repealing Minnesota Statutes 1986, sections 466.03, subdivision 2; 487.39; and 595.04.

Senate File No. 1323 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 451, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 451: A bill for an act relating to public safety; parking for handicapped persons; imposing a fine for violations of handicapped parking provisions; providing penalties; amending Minnesota Statutes 1986, sections 168.021, subdivisions 1, 1a, 2, 3, 5, and 6; 169.345; and 169.346; repealing Minnesota Statutes 1986, section 168.021, subdivision 7.

Senate File No. 451 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 478, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 478: A bill for an act relating to insurance; requiring notification of group life or health coverage changes; eliminating mandatory temporary insurance agent licenses; requiring those who solicit insurance to act as agent for the insured; regulating surplus lines insurance; regulating rates and forms; regulating insurance plan administrators; regulating trust funds; regulating the renewal, nonrenewal, and cancellation of commercial liability and property insurance policies; authorizing employers to jointly self-insure for property or casualty liability and regulating these plans; providing continued group life coverage upon termination or layoff; providing for the establishment and operation of the insurance guaranty association and the life and health guaranty association; regulating accident and health insurance; regulating joint self-insurance employee health plans; requiring the treatment of pregnancy-related conditions in the same manner as other illnesses; mandating certain coverages; clarifying coverage for handicapped dependents; providing continued group accident and health coverage upon termination or layoff; requiring coverage of current spouse and children; imposing surety bond or securities requirements on certain health benefit plans; regulating Medicare supplement plan premium refunds; authorizing the renewal of certain long-term health policies; providing for the establishment and operation of the comprehensive health association and the joint underwriting association; providing comprehensive health insurance coverage for certain employees not eligible for Medicare; regulating fraternal benefit associations; regulating automobile insurance; providing for exemption from certain legal process of cash value, proceeds, or benefits under certain life insurance or annuity contracts; limiting the cancellation of fire insurance binders and policies; providing for administration of the FAIR plan; requiring accident prevention course premium reductions; limiting the grounds for cancellation or reduction in limits during the policy period; providing for the priority of security for payment of basic economic loss benefits; extending basic economic loss benefit protection; requiring coverages for former spouses; specifying membership on the assigned claims bureau; extending no-fault benefits to pedestrians who are struck by motorcycles; regulating township mutual insurance companies; providing for mandatory arbitration of certain claims; establishing a demonstration project to provide medical insurance to certain low income persons; requiring the commissioner to set rates for cooperative housing and neighborhood real estate trust insurance; authorizing investments in certain insurers; regulating trade practices; requiring life and health insurers to substantiate the underwriting standards they use; providing assigned risk plan coverage for certain vehicles used by the handicapped; regulating motor vehicle repairs; regulating certain self-insurance by political subdivisions; granting immunity from liability for volunteer coaches, managers, and officials; clarifying the statute of limitations applicable to actions regarding manufacturers or suppliers of material containing asbestos; modifying discounting of future damages; prescribing penalties; amending Minnesota Statutes 1986, sections 16A.133, subdivision 1; 45.024, subdivision 2; 60A.17, subdivisions

1a, 2c, 11, and 13; 60A.1701, subdivisions 7, and 8; 60A.196; 60A.197; 60A.198, subdivision 3; 60A.23, subdivision 8; 60A.29, subdivisions 2, 5, and 16, and by adding subdivisions; 60A.30; 60A.31; 60B.44, subdivisions 1, 4, 5, and 9; 60C.08, subdivision 1; 60C.09; 60C.12; 61A.28, subdivision 12; 61B.05, subdivision 1; 61B.09; 62A.041; 62A.043, by adding a subdivision; 62A.141; 62A.146; 62A.152, subdivision 2; 62A.17; 62A.21; 62A.27; 62A.31, subdivision 1a; 62A.43, subdivision 2; and by adding a subdivision; 62A.46, by adding a subdivision; 62A.48, subdivisions 1, 2, 6, and by adding a subdivision; 62A.50, subdivision 3; 62D.05, by adding a subdivision; 62D.102; 62E.06, subdivision 1; 62E.10, subdivision 2, and by adding subdivisions; 62E.14, by adding a subdivision; 62F.041, subdivision 2; 62F.06, subdivision 1; 62H.01; 62H.02; 62H.04; 62I.02, subdivisions 1, and 3, and by adding a subdivision; 62I.03, subdivision 5; 62I.04; 62I.12, subdivision 1; 62I.13, by adding a subdivision; 62I.16, subdivision 3; 62I.22, subdivision 2, and by adding a subdivision; 64B.11, subdivision 4; 64B.18; 64B.27; 65A.01, subdivision 3a; 65A.03, subdivision 1; 65A.10; 65A.29, by adding a subdivision; 65A.35, subdivision 5; 65A.39; 65B.03, subdivision 1; 65B.12; 65B.1311; 65B.16; 65B.21, subdivision 2; 65B.28; 65B.46; 65B.49, by adding a subdivision; 65B.525, subdivision 1; 65B.63, subdivision 1; 67A.05, subdivision 2; 67A.06; 67A.231; 70A.06, by adding a subdivision; 70A.08, subdivision 3; 72A.20, subdivisions 11, 17, and by adding subdivisions; 72A.31, subdivision 1; 169.045, subdivision 1, and by adding a subdivision; 471.98, subdivision 2; 604.07, subdivisions 2, 3, 4, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; 62E; 65A; 65B; 72A; 256B; 541; and 604; proposing coding for new law as Minnesota Statutes, chapter 60E; repealing Minnesota Statutes 1986, sections 62A.12; and 67A.43, subdivision 3; and Minnesota Rules, parts 2700.2400 to 2700.2440.

Senate File No. 478 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 919, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 919 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 919

A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state and local bonds; authorizing levies; imposing taxes; appropriating

money; amending Minnesota Statutes 1986, sections 297.13, subdivision 1; and 297.26; 297A.01, subdivision 3; 297A.44, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16A and 124; proposing coding for new law as Minnesota Statutes, chapter 240A.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 919, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 919 be further amended as follows:

Delete everything after enacting clause and insert:

"Section 1. [CAPITAL IMPROVEMENTS; APPROPRIATIONS.]

The sums in the column marked "APPROPRIATIONS" are appropriated from the state building fund, or another named fund, to the state agencies indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this act.

SUMMARY

SUPREME COURT	\$ 32,500,000
ADMINISTRATION	31,267,000
CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD	300,000
NATURAL RESOURCES	26,932,000
WASTE MANAGEMENT BOARD	4,000,000
POLLUTION CONTROL AGENCY	66,747,000
ENERGY AND ECONOMIC DEVELOPMENT	46,250,000
IRON RANGE RESOURCES AND REHABILITATION BOARD	2,200,000
MILITARY AFFAIRS	2,500,000
VETERANS AFFAIRS	2,500,000
AGRICULTURE	9,000,000
MINNESOTA AMATEUR SPORTS COMMISSION	330,700
TRANSPORTATION	18,424,100
MINNESOTA HISTORICAL SOCIETY	54,674,000
EDUCATION	10,981,000
VOCATIONAL TECHNICAL EDUCATION	33,198,100
COMMUNITY COLLEGES	34,960,000
STATE UNIVERSITIES	52,491,200
UNIVERSITY OF MINNESOTA	47,779,700
CORRECTIONS	2,274,400
HUMAN SERVICES	8,428,000
MINNESOTA CENTER FOR THE ARTS	4,000,000
BOND SALE EXPENSES	452,000
TOTAL	492,189,200
General Fund	6,146,200
Reinvest in Minnesota Resources Fund	19,000,000
Trunk Highway Fund	15,224,200
Special Revenue	330,700

Transportation Fund	8,800,000
Waste Management Fund	4,000,000
Workers Compensation Special Compensation Fund	433,000
Water Pollution Control Fund	66,747,000
Highway User Tax Distribution Fund	535,900
Building Fund	370,972,200

APPROPRIATIONS

Sec. 2. SUPREME COURT

Judicial Building	\$32,500,000
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This appropriation is to the commissioner of administration, in consultation with the supreme court and the capitol area architectural and planning board, to complete working drawings and construct a judicial building.

Sec. 3. ADMINISTRATION

Subdivision 1. To the commissioner of administration for the purposes specified in this section

31,267,000

(a) Remove or contain asbestos in state buildings and provide handicapped persons with access to state buildings	4,000,000
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This appropriation is to be used to provide access to state buildings for handicapped persons and to remove or encapsulate asbestos-containing materials that have been identified as constituting risk factor 5 in the evaluation study dated January 18, 1984, and its supplement dated March 21, 1984, and risk factor 4 in state buildings to the extent that the appropriation permits.

(b) Restore Capitol Building, Phase III	1,500,000
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This appropriation is to complete Phase III exterior renovation and stairways of the Capitol Building.

(c) Restore Capitol Building	4,800,000
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The commissioner of administration shall not prepare final plans and specifications for projects included in this appropriation until the commissioner has presented the program and schematic plans and cost estimates for all elements necessary to complete the projects to the committee on rules and administration of the senate and the committee has made its recommendations on the plans. The recommendations are advisory only. Failure of refusal to make a recommendation promptly is deemed a negative recommendation.

\$800,000 of this appropriation is from the gen-

eral fund for furnishings.

(d) Remodeling of the State Office Building and House portion of the Capitol Building 819,000

This appropriation is to complete the remodeling of the State Office Building and for rehabilitation of the House of Representatives' Chamber and related offices in the State Capitol Building.

(e) Renovate elevator in Veterans Services Building in St. Paul 180,500

(f) Reroof Veterans Services Building in St. Paul 136,000

(g) Centennial Building 2,700,000

(1) Remodel 4th floor 2,300,000

(2) Planning for remodeling of 1st and ground floors 400,000

(h) Asbestos Removal from the Department of Transportation Building 4,334,000

This appropriation is from the Trunk Highway Fund and is to be used to remove or encapsulate asbestos-containing materials from the Department of Transportation Building.

(i) Relocation of Department of Revenue 1,700,000

This appropriation is from the general fund and is to provide for moving costs and estimated increased rental costs associated with moving the Department of revenue into a consolidated facility.

(j) Planning and Construction of a parking ramp west of the State Office Building 3,100,000

This appropriation is to the Department of Administration in cooperation with the capitol area architectural and planning board for the planning and construction of a parking ramp immediately west of the State Office Building, also known as lot E. As much of the ramp as feasible must be located underground and the ramp design must be in concert with the existing architecture and landscaping of the Capitol Mall area.

(k) Demolish mechanic arts high school and gymnasium, construct surface parking, remove asbestos 433,000

(l) Remodel Capitol Square Building 982,600

(m) Relocate state agencies 4,776,200

\$2,541,200 is from the general fund.

\$1,266,100 is from the trunk highway fund.

\$535,900 is from the highway user tax distribution fund.

\$433,000 is from the workers' compensation special compensation fund.

(n) Administration 624,200

This appropriation is to the commissioner of administration to administer the building construction authorized by this act. \$312,100 is for fiscal year 1988 and \$312,100 is for fiscal year 1989. Seven building fund positions are authorized.

(o) Construct Minnesota telecenter 1,000,000

This appropriation is for the commissioner of administration to make a grant to the housing and redevelopment authority of the city of St. Paul to plan, design, and construct a Minnesota telecenter facility. The grant must not be paid until the commissioner of administration has determined that the additional financing necessary to complete the project has been committed by nonstate sources.

(p) Upgrade mechanical and electrical systems and remodel Governor's Residence 181,500

Sec. 4. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD 300,000

This appropriation is to provide for planning of a parking ramp immediately west of the State Office Building, also known as lot E.

Sec. 5. NATURAL RESOURCES

Subdivision 1. To the commissioner of administration or the commissioner of natural resources for the purposes specified in the following subdivisions 26,770,000

Subd. 2. To the commissioner of natural resources to acquire critical natural habitat and to acquire and better public outdoor recreational lands and capital improvements 13,195,000

The commissioner of natural resources shall provide the necessary professional services for the performance of the duties under this subdivision from the amount appropriated for the various purposes. An approved complement of 24 unclassified positions is authorized.

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 the 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 subdivision 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.

(a) Acquisition of State Parks 1,200,000

Sufficient funds for the acquisition of Mystery Cave must be allocated from this appropriation.

(b) Acquisition of state forest lands 500,000

(c) Acquisition of wildlife areas and waterbank 750,000

(d) Fisheries acquisition 100,000

Any unencumbered balance remaining in the appropriation made by Laws 1979, chapter 301, section 6, subdivision 2, the day following enactment of this act is available to be used by the commissioner for the alteration of a portion of an old railroad bridge over the St. Louis river in the city of Duluth to make the bridge suitable for use as a public access fishing pier and observation site.

(e) Acquisition and improvement of scientific and natural areas 1,400,000

(f) Acquisition and improvement of water access sites 750,000

(g) Improvement of forest roads 500,000

(h) Betterment of state parks 3,800,000

(i) Betterment of state trails 3,700,000

(j) Interpretative Site 275,000

This grant is to redevelop Dunlap Island in the city of Cloquet in a manner that will help to interpret the city's history.

(k) Education Facility 220,000

This grant is to plan and construct an environmental learning and interpretative center in the Kettle River - Sandstone area.

Subd. 3. To the commissioner of natural resources for dam safety projects under Minnesota Statutes, section 105.482

3,000,000

(a) \$110,000 is for the Heron Lake dam and is available for expenditure immediately upon enactment of this act.

(b) \$60,000 is for the removal of the Bernings Mill dam, the owner or local unit of government shall provide a suitable disposal site for demolition debris and access to the site, which satisfies the requirement for a local financial contribution to the project.

(c) \$100,000 each year is for flood control projects in area II of the Southern Minnesota River Basin. Grants shall be allocated consistent with the formula established in Minnesota Statutes, section 104.44.

(d) \$250,000 is for the Pickwick Dam Erosion Control Dike.

(e) Any unencumbered balance remaining from the money appropriated by Laws 1985, First Special Session chapter 15, section 4, subdivision 4, clause (b)(5), for the Nett Lake Dam project after the completion of project is appropriated to the commissioner of natural resources for a grant to the Nett Lake Band of Chippewa Indians for the construction of a water treatment plant.

Subd. 4. Reinvest in Minnesota

10,000,000

The appropriations in this subdivision are from the reinvest in Minnesota resources fund.

(a) Fish and wildlife habitat

7,600,000

This appropriation is to acquire and improve land for fish and wildlife habitat under the comprehensive fish and wildlife management plan under Minnesota Statutes, section 84.942, to be available until expended. The commissioner shall provide the necessary professional services for the performance of duties under this paragraph from the amount appropriated.

(b) Aspen recycling

900,000

This appropriation is for expenditure under Minnesota Statutes, section 88.80, and for other forest wildlife management projects, to be available until expended.

- (c) Native prairie land 300,000
- (d) Critical habitat private sector matching account 1,200,000

This appropriation is for transfer to the critical habitat private sector matching account.

(e) The approved complement of the department of natural sources is increased by 9 positions in the unclassified service to implement this subdivision. One position in the unclassified service must be a program coordinator to work with other agencies and staff to implement this subdivision.

(f) Notwithstanding any other law, during the biennium easements granted under this act may be permanent or if limited duration then must be for at least 20 years with provisions for renewal for at least another 20-year period. Highest priority must be given to permanent easements consistent with the purposes of this act.

Subd. 5. Hibbing Core Library 250,000

This appropriation is to the commissioner of natural resources for the construction or purchase of a building to house the Mineral Division's Core Library in Hibbing, Minnesota.

Subd. 6. Construct regional headquarters in New Ulm 325,000

Sec. 6. WASTE MANAGEMENT BOARD 4,000,000

This appropriation is 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 \$240,000 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. POLLUTION CONTROL AGENCY

To the pollution control agency from the water pollution control fund for the purposes specified in this section 66,747,000

- (a) Construction grants for wastewater treatment facilities 47,000,000
- (b) Combined sewer overflow 16,547,000
- (c) For match to the federal revolving loan program 3,200,000

The approved complement for the pollution control agency is increased by 11 positions in the classified service for purposes of implementing this section.

Sec. 8. ENERGY AND ECONOMIC DEVELOPMENT

Subdivision 1. To the commissioner of energy and economic development for the purposes specified in this section

46,250,000

Subd. 2. Outdoor Recreation

17,000,000

(a) Local Recreation Grants

2,500,000

This appropriation is to acquire and better recreation open space projects upon application by local units of government and Indian tribes and bands recognized by the federal government. Projects that receive federal grants must be given priority. A grant under this paragraph is 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 must not receive grant assistance of more than \$400,000. A local unit of government must not receive more than one grant during each fiscal biennium.

\$500,000 the first year and \$500,000 the second year shall be granted for projects outside the metropolitan area defined in Minnesota Statutes, section 473.121.

(b) Metropolitan Open Space

15,500,000

\$9,500,000 is for payment by the commissioner of energy and economic development 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.

\$6,000,000 is for the acquisition and betterment of land on Lake Minnetonka for a regional park. No more than \$400,000 may be used for

staff and independent professional services necessary to acquire and better open space and for the performance of the duties of the metropolitan council under this paragraph.

The acquisition and betterment may include land between Lake Minnetonka and Stone Lake, to assist in connecting the Lake Minnetonka regional park with Carver park reserve. Of the \$6,000,000, the sum of \$250,000 may be used to develop parking and a pedestrian underpass to support a public access site in the city of Mound.

During the biennium, that part of Minnesota Statutes, section 398.09, paragraph (b), that requires local approval prior to acquiring real estate by purchase or condemnation shall not apply to this acquisition.

Subd. 3. Amateur Athletics

17,700,000

(a) For a stadium, track and field, soccer, velodrome and training center in the city of Blaine

14,700,000

(b) Swimming center

3,000,000

This appropriation is contingent upon designation of the facility as an official training site by the national governing body member of the United States Olympic Committee and upon issuance of the necessary general obligation special tax bonds. The commissioner shall select the location for this facility in cooperation with the Minnesota Amateur Sports Commission.

Subd. 4. Duluth Zoo

4,000,000

Subd. 5. Great River Road Project

3,000,000

This appropriation is for a grant to the Minneapolis park and recreation board for land acquisition for the Great River Road project in the central Mississippi regional park along the central waterfront area in downtown Minneapolis, provided that the city of Minneapolis issues \$3,000,000 in bonds to be used to acquire land for the same project by January 1, 1988.

Subd. 6. Railroad Assistance

2,000,000

This appropriation is from the state transportation fund specified in Minnesota Statutes, sections 222.49 to 222.63, and is to be used as a grant to the St. Louis and Lake County Regional Rail Authority to acquire and develop abandoned rail line of the Duluth, Mesabe, and Iron Range Railroad between Duluth and Two Harbors, Minnesota. If the property is acquired

and subsequently liquidated, the proceeds up to \$2,000,000 shall be paid to the state transportation fund by the St. Louis and Lake County Regional Rail Authority.

Subd. 7. Duluth Port Authority for site preparation for two mobile crawler cranes 350,000

Subd. 8. Duluth Convention Center 1,200,000

Sec. 9. IRON RANGE RESOURCES AND REHABILITATION BOARD

To the chair of the iron range resources and rehabilitation board for expansion of the Giants Ridge ski center 2,200,000

The appropriation in this section is for facilities at Biwabik. The appropriation for construction of this facility is contingent upon designation of the facility as an official training site by the national governing body member of the United States Olympic Committee and upon issuance of the necessary general obligation special tax bonds.

Sec. 10. MILITARY AFFAIRS 2,500,000

(a) This appropriation is to the adjutant general to construct a new national guard armory at Camp Ripley. The appropriation is not available until the adjutant general has determined that federal money sufficient to cover approximately 70 percent of the total construction costs has been committed to the project. 2,300,000

(b) Roof repair and replacement 200,000

Sec. 11. VETERANS AFFAIRS

To the commissioner of administration for projects at the Minneapolis veterans home as specified in this section 2,500,000

(a) Renovate food service facilities 500,000

(b) Demolish building number 7 and construct a new warehouse. No further demolition of buildings shall take place. The Minnesota historical society and the department of veterans affairs shall investigate the feasibility of restoring and reusing the remaining buildings at the Minnesota veterans homes for use by veterans, veterans' families, or veterans' groups. 1,000,000

(c) Renovate building 10 1,000,000

Sec. 12. AGRICULTURE 9,000,000

This appropriation is from the reinvest in Minnesota resources fund for the conservation reserve program under Minnesota Statutes, section 40.43, to be available until expended. The commissioner shall provide the necessary professional services for the performance of duties from the appropriation under this section.

The approved complement of the department of agriculture is increased by one position in the unclassified service to implement this section. The position must be a coordinator to work with other agencies to implement this section.

During the biennium, notwithstanding any other law, easements granted under this act may be permanent or if limited duration highest priority must be given to permanent easements consistent with the purposes of this act. Easements of limited duration must be for at least 20 years with provisions for renewal for at least another 20-year period.

Sec. 13. MINNESOTA AMATEUR SPORTS COMMISSION

330,700

This appropriation is from the amateur athletic facilities account in the special revenue fund. \$150,000 of this is for fiscal year 1988 and \$180,700 for fiscal year 1989 to operate and maintain the facilities financed by bonds whose debt service is payable primarily from proceeds of the fund.

Sec. 14. TRANSPORTATION

Subdivision 1. To the commissioner of transportation for the purposes specified in this section

18,424,100

The appropriations in subdivisions 2 to 7 are from the trunk highway fund.

Subd. 2. Construct new central laboratory and research facility

4,668,000

This appropriation is to plan, construct, and occupy the facility. It is the intention of the legislature that this is a final and nonrecurring appropriation for a central laboratory and research facility.

Subd. 3. District Headquarters

1,191,500

(a) Design new district headquarters building at Bemidji

257,500

(b) Design new district headquarters building at Brainerd

257,500

(c) Design addition to district headquarters building at Duluth	110,000	
(d) Remodel and construct an addition to district headquarters building at Rochester	566,500	
Subd. 4. Construct weigh scale at Saginaw		485,000
Subd. 5. Truck stations		2,663,200
(a) Construct addition to Arden Hills truck station	594,100	
(b) Construct vehicle storage building at Adrian truck station	413,800	
(c) Construct vehicle storage building at Austin truck station	689,600	
(d) Construct addition to Breckenridge truck station	90,200	
(e) Design repair shop and truck station at Marshall	51,500	
(f) Construct vehicle storage building at Park Rapids truck station	412,000	
(g) Construct vehicle storage building at Red Wing truck station	412,000	
Subd. 6. Statewide		360,500
(a) Construct chemical storage sheds	206,000	
(b) Construct cold storage buildings	154,500	
(c) Land acquisition		

The commissioner may purchase land for truck stations at St. James, Red Wing, and Le Sueur, for headquarters at Bemidji, and for access to a site in Blaine for a central laboratory; from any available appropriation, but the total cost shall not exceed \$273,000.

Subd. 7. Construct rest areas at the locations listed in this subdivision		255,900
(a) Hayward (Albert Lea)	222,500	
Funding for this project is 90 percent federal and 10 percent state.		
(b) Tofte	33,400	

Subd. 8. Local Road Bridge Replacement and Rehabilitation		8,800,000
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This appropriation is from the transportation fund.

Sec. 15. MINNESOTA HISTORICAL SOCIETY

Subdivision 1. To the Minnesota historical society for the purposes specified in this section

54,674,000

Subd. 2. To construct a new state history center

50,000,000

\$5,000,000 of this appropriation shall not be available unless that amount is matched by a like amount from nonstate sources. The \$50,000,000 appropriation is not available until July 1, 1989, unless the commissioner of finance certifies that the \$5,000,000 of non-state sources has been collected.

\$360,000 is for planning the labor history center. The Minnesota historical society must work with the labor history task force to ensure that adequate space is provided for the labor center within the state history center complex.

Subd. 3. Plan and construct the Mille Lacs Indian Museum and cultural center

4,000,000

Construction must not begin until the final plans and specifications have been presented to the chairs of the senate finance committee and house appropriations committee for recommendation. The recommendations are advisory only. Failure or refusal to make a recommendation promptly is deemed a negative recommendation.

Subd. 4. Restoration of the William Le Duc home

184,000

Subd. 5. Red River Valley Center

390,000

This appropriation is from the general fund and must be spent in accordance with Minnesota Statutes, sections 138.92 and 138.93.

Subd. 6. Meighen Store complex restoration and reconstruction

100,000

Sec. 16. EDUCATION

Subdivision 1. To the commissioners of administration and education for the purposes specified in this section

10,981,000

Subd. 2. To the commissioner of administration for the Faribault Academies

426,000

(a) Academy for the deaf reroof Noyes Hall

95,000

(b) Academy for the deaf air condition Frechette Hall

225,000

(c) Academy for the deaf install elevator in Noyes Hall

106,000

Subd. 3. To the commissioner of education to be used to match local district funds used for the cost of constructing, enlarging, or modifying school buildings, if the commissioner of education determines that these costs are directly related to reducing or eliminating racial imbalance, and are a part of a desegregation plan approved by the commissioner of education during the 1986-1987 school year.

900,000

Subd. 4. To the commissioner from the state building fund to make up to two pilot project grants to qualified joint powers districts under the cooperative secondary facilities grant program in this act.

8,000,000

Subd. 5. (a) To make a grant to the Southwest/West Central Educational Cooperative Service Units for the construction of the following two-way interactive telecommunications system:

1,655,000

(1) Redwood County Telecommunications Project

280,000

(2) Little Crow Tele-Media Network

330,000

(3) Independent school districts No. 892, Clarkfield, and No. 775, Kerkhoven, to join Minnesota Valley Tele-Network

80,000

(4) Des Moines River Valley Tele-Media Project

520,000

(5) Worthington Community College for interconnecting tower and equipment between Des Moines River Valley Tele-Media and Southwest Minnesota Telecommunications

145,000

(6) Joint Vocational Technical District No. 900 for interconnecting equipment within the Minnesota Tele-Media regional telecommunications network

300,000

(b) To be eligible for funds appropriated in this subdivision, the Southwest/West Central Educational Cooperative Service Unit shall establish an advisory committee with appropriate representation of all public post-secondary education systems and elementary and secondary school districts served by the proposed network. The advisory committee shall estab-

lish criteria for participation in the network and oversee implementation of the project.

Sec. 17. VOCATIONAL TECHNICAL EDUCATION

Subdivision 1. To the state board of vocational technical education for the purposes specified in this section

33,198,100

Notwithstanding Minnesota Statutes 1986, section 475.61, subdivision 4, the state board of vocational technical education may approve a request by a local school board to use any unobligated balance in the debt redemption fund to pay the districts share of construction projects authorized in this section.

Subd. 2. Post-secondary vocational technical construction in the school districts listed in this subdivision

27,593,700

(a) Independent School District No. 241, Albert Lea

1,684,000

This appropriation is to construct a new facility for diesel mechanics, classrooms, offices, and a resource center. The total cost of the project must not be more than \$1,981,000, whether paid from state, local, or federal money.

(b) Independent School District No. 206, Alexandria

2,127,500

This appropriation is for phases II and III of the Alexandria AVTI construction project. The total cost of the project must not be more than \$2,503,000 whether paid from state, local, or federal money.

(c) Independent School District No. 11, Anoka

971,100

This appropriation is to construct a new student commons and to remodel the present program space. The total cost of the project must not exceed \$1,143,000, whether paid from state, local, or federal money.

(d) Independent School District No. 492, Austin

805,200

This appropriation is to construct new library, classroom, office, and child care space. The total cost of the project must not be more than \$947,000, whether paid from state, local, or federal money.

(e) Joint Vocational Technical District No. 900, Canby Campus

70,600

This appropriation is to construct a new library

and bookstore, and remodel the existing building.

(f) Independent School District No. 709,
Duluth

2,384,900

This appropriation is for reconstruction and remodeling of existing space to meet program needs and alleviate overcrowding, and for construction of new space. The total cost of the project must not be more than \$2,806,000 whether paid from state, local, or federal money.

(g) Independent School District No. 697,
Eveleth

505,800

This appropriation is for construction of lab and classroom space, and improved handicapped access. The total cost of the project must not be more than \$595,000 whether paid from state, local, or federal money.

(h) Independent School District No. 656,
Faribault

1,405,000

This appropriation is to construct new child care and classroom space and a new resource center and to remodel existing buildings. The total cost of the project must not be more than \$1,653,000, whether paid from state, local, or federal money.

(i) Independent School District No. 701,
Hibbing

1,296,000

This appropriation is to purchase and remodel the Davey McKee building, and to study the continued development or replacement of the existing campus. The total cost of the project and the study must not be more than \$1,525,000 whether paid from state, local, or federal money.

(j) Independent School District No. 77,
Mankato

5,111,000

This appropriation is to construct new classroom space and remodel existing buildings. The total cost of the project must not be more than \$6,013,000, whether paid from state, local, or federal money.

(k) Independent School District No. 152,
Moorhead

439,500

This appropriation is for construction of an addition to house student services, child care, and a media/resource center. The total cost of the project must not be more than \$517,000 whether paid from state, local, or federal money.

(l) Independent School District No. 578,
Pine City 1,283,000

This appropriation is to construct classrooms, provide new front entrance, child care, new student support service area, multiuse room, media center, and computer rooms. The total cost of the project must not be more than \$1,510,000, whether paid from state, local, or federal money.

(m) Joint Vocational Technical District
No. 900, Pipestone campus 827,000

This appropriation is to construct an addition for the fiberglass program, and to remodel the existing building.

(n) Independent School District No. 256,
Red Wing 100,800

This appropriation is to construct a cold storage building. The total cost of the project must not be more than \$119,000, whether paid from state, local, or federal money.

(o) Independent School District No. 625,
St. Paul 4,951,000

This appropriation is to construct new and remodel existing space, develop student commons area, expand library/media center, and provide child care and new administrative area. The total cost of the project must not be more than \$5,825,000, whether paid from state, local, or federal money.

(p) Independent School District No. 564,
Thief River Falls 1,797,700

This appropriation is to construct classrooms at the airport and an addition at the main campus. The total cost of the project must not be more than \$2,115,000, whether paid from state, local, or federal money.

(q) Independent School District No. 819,
Wadena 1,803,000

This appropriation is to reconstruct the existing building to provide new front entrance, new student commons and cafeteria, child care, library, and an addition to house the automotive program. The total cost of the project must not be more than \$2,121,000, whether paid from state, local, or federal money.

(r) Independent School District No. 347,
Willmar 30,600

This appropriation is to remodel the commu-

nity college administration building for a joint child care center. The total cost of the project must not be more than \$36,000, whether paid from state, local, or federal money.

(s) Special Intermediate School District No. 287, Hennepin Technical Center

Special Intermediate School District No. 287, Hennepin Technical Center, may construct an addition to provide space for general instruction, graphics, drafting, millworking, automatic packaging, media library, and child care facilities. The total cost of the project must not be more than \$1,607,300, to be paid entirely from local money.

(t) Special Intermediate School District No. 287, Hennepin Technical Center

Special Intermediate School District No. 287, Hennepin Technical Center, is authorized to remodel the existing facility for the horse care program, and to construct new facilities as needed for livestock training and housing. The district may utilize funds authorized in this section to acquire or lease and remodel alternative facilities for the horse care program if found to be more cost effective. The total cost of the project must not be more than \$750,000, to be paid entirely from local money.

(u) Independent School District No. 742, St. Cloud

Independent School District No. 742, St. Cloud, may construct an addition to provide space for general instruction, library, student commons, and child care facilities and to remodel other space as necessary. The total cost of the project must not be more than \$1,107,400, to be paid entirely from local money.

Subd. 3. Statewide

5,104,400

(a) Roof repair for the following campuses: Albert Lea, Alexandria, Anoka, Brainerd, Dakota County, Detroit Lakes, Duluth, Faribault, Hutchinson, Mankato, Rochester, St. Cloud, Southwestern-Granite Falls, Southwestern-Pipestone, Staples, Suburban Hennepin-South Campus, Thief River Falls, Willmar, and Winona

4,173,600

(b) Remove asbestos and correct code compliance violations

930,800

The agency spending this appropriation must prepare a survey and report to the legislature

by January 1, 1988, on the asbestos and PCB's that were found and removed and what asbestos and PCB's remain.

Subd. 4. Statewide planning 500,000

Sec. 18. COMMUNITY COLLEGES

Subdivision 1. To the commissioner of administration for the purposes specified in the following subdivisions 34,960,000

Notwithstanding Minnesota Statutes, section 16B.24, subdivision 2, the state board for community colleges shall supervise and control the making of necessary repairs to all state community college buildings and structures during the biennium ending June 30, 1989.

Subd. 2. Brainerd Community College 1,640,000

This appropriation is to plan, remodel, and construct fine arts, labs, gymnasium, learning resource, child care, and storage areas.

Subd. 3. Hibbing Community College 1,240,000

This appropriation is for construction of new child care and storage space and remodeling expansion of existing space.

Subd. 4. Inver Hills Community College 3,020,000

This appropriation is to plan and construct or remodel classroom space, child care space, gymnasium, and relocation of administrative services.

Subd. 5. Itasca Community College 7,660,000

This appropriation is for a new library, campus center, power plant, vehicle storage, child care space, and remodeling of existing space, demolish buildings, and repair roads and parking lots.

Subd. 6. Mesabi Community College 1,250,000

This appropriation is to construct and remodel additional space for child care, storage, administration, and physical education.

Subd. 7. Normandale Community College 4,930,000

This appropriation is to plan construction and remodeling of classrooms, labs, child care, and community and cooperative program services.

Subd. 8. Northland Community College 3,710,000

This appropriation is for construction of a new

student center, administrative office, storage space, and child care space, and to remodel fine arts, cafeteria, and gymnasium facilities.

Subd. 9. North Hennepin Community College

970,000

This appropriation is for expanding and remodeling the gymnasium. North Hennepin Community College may contribute up to \$500,000 in campus reserve funds in addition to this appropriation to construct a swimming pool.

Subd. 10. Rochester Community College

2,620,000

This appropriation is for construction of new space for continuing education and child care, and for remodeling existing buildings.

Subd. 11. Vermilion Community College Student Housing

1,500,000

The state board for community colleges may acquire a site and construct, own, operate, furnish, and maintain one or more dormitories or other student residence facilities at Ely for the use and benefit of Vermilion Community College. The higher education facilities authority may issue revenue bonds for the facilities under Minnesota Statutes, sections 136A.25 to 136A.42, and the state board for community colleges may borrow the proceeds of the revenue bonds to finance the acquisition, construction, and equipping of the student housing facilities. The board may enter into agreements and pledge revenues of the facilities as may be necessary to provide security for the bonds and may mortgage the financed facilities to the higher education facilities authority or to a trustee for the bondholders if considered necessary by the board or the authority for the successful marketing of the bonds. The state board for community colleges shall establish, maintain, revise when necessary, and collect rates and charges for the use of the student housing facilities. The rates and charges must be sufficient, as estimated by the board, to pay all expenses of operation and maintenance of the facilities, to pay principal of, and interest on, revenue bonds or other obligations when due and to pay customary fees and charges of the higher education facilities authority and to establish and maintain the reserve funds that the board considers necessary for repair, replacement, and maintenance of the facilities. Funds and accounts established in furtherance

of these purposes are not subject to Minnesota Statutes, section 136.67, subdivision 2, and are not subject to the budgetary control of the commissioner of finance. The board shall never be obligated to use other revenues of the board or funds of the state to pay the costs of construction, operation, maintenance, and repair of the facilities or to pay principal of and interest on obligations issued for these purposes. The city of Ely may, without complying with the procedures set forth in Minnesota Statutes, chapter 475, guarantee all or any part of the loan repayment obligation of the board to the authority, by pledging its full faith and credit and taxing power. The guarantee is not subject to any limitation on net debt of the city, and taxes required to make any payment under the guarantee may be levied without limit as to rate or amount.

Subd. 12. Willmar Community College

3,090,000

This appropriation is to plan and construct or remodel new classrooms, labs, child care space, elevators, main entry, and additional parking.

Subd. 13. Systemwide

3,330,000

(a) Roof repair for the following campuses: Austin, Hibbing, Inver Hills, Mesabi, Minneapolis, Normandale, North Hennepin, and Rochester.

1,830,000

(b) Remove asbestos, improve sprinkler, mechanical, electrical, and energy systems, expand parking, and improve grounds and athletic fields

1,000,000

The agency spending this appropriation must prepare a survey and report to the legislature by January 1, 1988, on the asbestos and PCB's that were found and removed, and what asbestos and PCB's remain.

(c) Facilities planning and technical assistance

500,000

The report compiled with this appropriation must address capital needs and building concerns. The report must be presented to the legislature by January 1, 1988.

Sec. 19. STATE UNIVERSITIES

Subdivision 1. To the state university board for the purposes specified in the following subdivisions

52,491,200

Notwithstanding Minnesota Statutes, sections 16B.30 and 16B.31, during the biennium, the

state university board shall supervise and control the preparation of plans and specifications for the construction, alteration, or enlargement of the state university buildings, structures, and improvements provided for in this section. During the biennium, the state university board shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Plans must be paid for out of this appropriation. The remainder of the appropriation must not be spent until the board has secured suitable plans and specifications, prepared by a competent architect or engineer. The plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this act. The board must not direct or permit an expenditure beyond the appropriation, and an agent of the board violating this provision is guilty of a gross misdemeanor.

The board shall review and report to the governor and the legislature by January 15 of each year on the status of the capital improvement projects in this section.

Notwithstanding Minnesota Statutes 1986, section 16B.24, subdivision 2, during the biennium, the state university board shall supervise and control the making of necessary repairs to all state university buildings and structures during the biennium ending June 30, 1989.

Notwithstanding other law, during the biennium, the state university board, on behalf of St. Cloud and Winona state universities, may purchase property adjacent to or in the vicinity of the campuses as necessary for the development of the universities. The board shall make a written request to the department of administration, real estate management division, indicating the need to acquire property, specify the property to be acquired, and indicate the source and amount of money needed for the acquisition. The board shall proceed

with the acquisition consistent with the policies and rules established by the department of administration. Before taking action, the state university board shall consult with the chairs of the senate finance committee and the house appropriations committee about the proposed action. Should either chair object to the proposed purchase, then further action must be suspended pending presentation of the proposal to the legislature for consideration.

During the biennium, the state university board must not prepare final plans and specifications for any construction or major remodeling authorized by this act until it has presented the program and schematic plans and cost estimates for all elements necessary to complete the project to the chairs of the house appropriations committee and the chair of the senate finance committee and the chairs have made their recommendations. The recommendations are advisory only. "Construction or major remodeling" means construction of a new building, or modifications of a building whose exterior dimension or interior configuration is altered in a material way. Reports on construction or major remodeling must summarize the current status of the individual project, the budget plan, and describe any conditions that are not consistent with the initial request, legislative testimony, or the appropriation. If applicable, schematic design documents must accompany the reports. Reports on projects that are not included in the above definition must be made before awarding bids. The reports must summarize the status of the individual projects, the budget plan, and any departure that may need to be made from the system's initial request. Architectural and design work may continue in accordance with the project schedule unless objections are raised by the chairs. If a unique situation arises during the planning process that may require a significant departure from the initial request or the appropriation, the agency or university must notify the chairs and await their responses before authorizing further work on the plans.

Subd. 2. Bemidji Campus		12,509,000
(a) Remodel Sattgast Hall	5,039,000	
(b) Construction fitness/recreation building	7,470,000	
Subd. 3. Mankato Campus		2,468,700
(a) Remodel Wiecking Center	1,390,500	

(b) Planning for Trafton Hall addition	455,000	
(c) Planning for Memorial Library	623,200	
Subd. 4. Moorhead Campus		5,093,800
(a) Plan and remodel Hagen Hall, and upgrade the electrical distribution system	1,431,700	
(b) Construction of Regional Science Center	1,102,100	
(c) Plan and construct a vehicle parking deck	2,560,000	
Subd. 5. Saint Cloud Campus		19,395,900
(a) Remodel Stewart Hall	8,168,900	
(b) Construct and relocate greenhouse	927,000	
(c) Acquisition of recreation fields land	800,000	
This appropriation is the maximum state share for acquisition.		
(d) Ice hockey center	9,500,000	
This appropriation is contingent upon designation of the facility as an official training site by the national governing body member of the United States Olympic Committee and upon issuance of the necessary general obligation special tax bonds.		
Subd. 6. Southwest Campus		1,903,800
(a) Waterproof tunnels	442,900	
(b) Tuck pointing	273,000	
(c) Planning for athletic building	139,000	
(d) Construction of classrooms and labs	648,900	
(e) 2 telecommunication towers and equipment for the Southwest Regional microwave backbone	400,000	
Subd. 7. Winona Campus		1,500,000
Planning and land acquisition for a health and applied science building.	1,500,000	
Subd. 8. Statewide		9,620,000
(a) Abate asbestos materials and PCB's in transformers	5,000,000	

The agency spending this appropriation must prepare a survey and report to the legislature by January 1, 1988, on the asbestos and PCB's that were found and removed, and what PCB's remain.

(b) Roof repair for the following campuses: Bemidji, Mankato, Moorhead, St. Cloud, Southwest, and Winona 4,120,000

(c) Facilities planning and technical assistance 500,000

The report compiled with this appropriation must address capital needs and building concerns. The report must be presented to the legislature by January 1, 1988.

Sec. 20. UNIVERSITY OF MINNESOTA

Subdivision 1. To the regents of the University of Minnesota for the purposes specified in the following subdivisions 47,779,700

Subd. 2. Crookston Campus 1,565,400

(a) Plan agriculture operations management center 200,000

(b) Construct linkages between various buildings 752,400

(c) Watermain and sanitary sewer rehabilitation 167,000

(d) Construct grain and feed handling facility 446,000

Subd. 3. Duluth Campus 3,030,000

(a) Replace boiler 1,752,000

(b) Planning for additional classroom space for math/geology/education building and student center addition 390,000

(c) Plan Freshwater Research Laboratory 90,000

(d) Replace plumbing, phase I 640,000

(e) Medical school planning 158,000

Subd. 4. Grand Rapids land purchases 75,000

Subd. 5. Morris Campus 509,700

(a) Repair roof and renovate Old Music Building 82,000

(b) Plan student union renovation 209,900

(c) Construct grain and feed handling facility 217,800

Subd. 6. Rosemount Research Center 2,000,000

This appropriation is to clean up waste at the Rosemount Research Center.

Subd. 7. Twin Cities Campuses 37,433,300

(a) Remodel Green Hall, phase II 4,747,000

(b) Develop comprehensive capital improvement plan for biological and related sciences	250,000	
(c) Remodel Amundson Hall phase II, part 2	5,440,000	
(d) Plan renovation of vacated hospital space	891,000	
(e) Plan veterinary diagnostic lab renovation and construction	481,100	
(f) Humphrey Center Exhibit	1,500,000	
(g) Construct phase I of a recreational sports/physical education facility. Construction may not begin until the state appropriation has been matched by \$4,000,000 from student fees and \$5,200,000 from private funds.	8,500,000	
(h) Upgrade general purpose classrooms	2,827,400	
(i) Construct animal waste processing and utilization unit on St. Paul Campus	615,800	
(j) St. Paul boiler replacement	2,000,000	
(k) Plan electrical engineering building renovation	819,000	
(l) Remodel Folwell Hall, phase II	2,088,000	
(m) Addition and remodeling of Appleby Hall	6,567,000	
(n) Architecture building renovation and construction planning	707,000	
Subd. 8. Waseca Campus		1,166,300
(a) Renovate agriculture laboratories	1,002,900	
(b) Construct a truck, tractor, and equipment storage building	163,400	
Subd. 9. Systemwide		2,000,000

This appropriation is for fire and life safety; Phase II of PCB removal; asbestos treatment and removal; upgrade for the physically handicapped.

It is requested that the University report to the legislature by January 15, 1988, on the status of the projects for which appropriations were made in subdivisions 6 and 9.

Sec. 21. CORRECTIONS

Subdivision 1. To the commissioner of administration for the purposes specified in the following subdivisions

2,274,400

Subd. 2. Minnesota correctional facility - Lino Lakes "Q" building addition	206,000
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Subd. 3. Minnesota Correctional Facility - Red Wing Boiler retrofit	25,000
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Subd. 4. Minnesota Correctional Facility - Saint Cloud	250,800
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(a) Fire and life safety projects	154,500
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(b) Retrofit boiler with high efficiency burner	96,300
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This appropriation is to convert high pressure boilers to year-round low pressure operation.

Subd. 5. Minnesota Correctional Facility - Sauk Centre Sullivan Cottage Remodeling - Phase 3	194,100
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Subd. 6. Minnesota Correctional Facility - Stillwater	458,000
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This appropriation is for cell hall window screens.

Subd. 7. Systemwide Roof repair and tuck pointing	1,000,000
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Subd. 8. Thistledeew Camp Program Activities Center	140,500
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Sec. 22. HUMAN SERVICES

Subdivision 1. To the commissioner of administration or others for the purposes specified in the following subdivisions	5,403,000
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Subd. 2. Red Lake Nursing Home	2,500,000
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This appropriation enables the Red Lake Indian people to receive skilled and intermediate convalescent health care without being forced to leave their environment, culture, and families. This is of direct financial benefit to the state because the federal medical assistance percentage is 100 percent for nursing home care provided to Indians through an Indian health service facility operated by an Indian tribe.

This appropriation is from the state building fund to the commissioner of administration to plan, design, and construct a nursing home attached to the Red Lake hospital on the Red Lake Indian reservation. The nursing home construction is not subject to the competitive bidding requirements of Minnesota Statutes, chapter 16B, and the commissioner of administration may contract directly with the Red Lake Band of Chippewa Indians to complete

the facility. The nursing home must meet nursing home licensure and medical assistance certification requirements. The appropriation is not available until the Red Lake Band of Chippewa Indians has agreed to lease the nursing home from the state for a period at least as long as the life of the bonds sold to finance the project and for a lease payment sufficient to cover the cost to the state of borrowing the money, in accordance with allowable reimbursement costs under the medical assistance program as specified under state plan requirements under Minnesota Statutes, section 246.50. The initial deposit to the state bond fund required by Minnesota Statutes, section 16A.65, subdivision 1, must be made by the commissioner of finance with money appropriated from the general fund. Interest attributable to the deferred repayment of the initial deposit and any other deferred payments of principal or interest provided for in the lease agreement must be amortized in equal periodic payments over the remainder of the term of the lease. The Red Lake Band of Chippewa Indians must submit cost reports and monthly financial statements in a format prescribed by the commissioner of human services in accordance with section 246.50. Lease payments must be deducted from medical assistance remittances to the tribe for cost of care provided at the Red Lake nursing home on a monthly basis. The commissioner of human services must verify the lease payment deducted from each claim on a monthly basis. The lease must provide that, when the bonds sold to finance the project have been retired and the cost to the state of borrowing the money has been paid, the state may convey all of its interest in the nursing home to the Red Lake Band of Chippewa Indians.

Subd. 3. Brainerd Regional Treatment Center

700,000

This appropriation is to replace water and condensate lines at the hospital administration building.

Subd. 4. Faribault Regional Treatment Center

500,000

This appropriation is to upgrade the primary electrical system.

Subd. 5. Mash-Ka-Wisen juvenile chemical dependency treatment center

400,000

This appropriation is to the department of

human services for a grant to a nonprofit organization located within Minnesota that is designated by the federal government to receive federal funds to construct a regional American Indian youth chemical dependency treatment center. If a nonprofit organization in Minnesota is not selected to receive federal funds by June 30, 1989, the appropriation is canceled. The appropriation is to help defray the costs of construction of the treatment center.

Subd. 6. Systemwide	3,025,000
(a) Life safety	550,000
(b) Residential building heating, ventilation, and air quality control	800,000
(c) Remodel program space	500,000
(d) Laundry equipment	400,000
(e) Roof repair	775,000

Subd. 7. Vinland National Center 553,000

This appropriation is for payment of mortgage costs and is from the general fund.

Subd. 8. Cambridge Regional Treatment Center 750,000

This appropriation is to improve cottage number five at the Cambridge regional treatment center for use by Isanti county. The appropriation is not available until Isanti county has agreed to lease the facility from the state for a period at least as long as the life of the bonds sold to finance the project and at a rental rate at least sufficient to cover the cost to the state of borrowing the money. The initial deposit to the state bond fund required by Minnesota Statutes, section 16A.65, subdivision 1, must be made by the commissioner of finance with money appropriated from the general fund. Interest attributable to the deferred repayment of the initial deposit and any other deferred payments of principal or interest provided for in the lease agreement may be amortized in equal periodic payments over the remainder of the term of the lease or paid in a lump sum. The portion of each rental payment that is intended to cover the debt service on the bonds must be deposited in the state treasury and credited to the state bond fund.

Sec. 23. BOND SALE EXPENSES

To the commissioner of finance for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8

452,000

Sec. 24. DEBT SERVICE

The commissioner of finance shall schedule the sale of state general obligation bonds so that, during the biennium ending June 30, 1989, no more than \$274,000,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on outstanding state general obligation bonds. Before each sale of state general obligation bonds, the commissioner of finance shall calculate the amount of debt service payments needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

Sec. 25. [BOND SALE.]

Subdivision 1. [BUILDING FUND.] To provide the money appropriated in this act from the state building fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$370,972,200 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 2. [REINVEST IN MINNESOTA FUND.] To provide the money appropriated in this act from the reinvest in Minnesota fund, the commissioner of finance, on request of the governor, shall sell and issue bonds of the state in an amount up to \$19,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the reinvest in Minnesota resources fund.

Subd. 3. [TRANSPORTATION FUND.] To provide the money appropriated in this act from the state transportation fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$8,800,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the state transportation fund.

Subd. 4. [WASTE MANAGEMENT FUND.] To provide the money appropriated in this act from the state waste management fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$4,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds

of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the state waste management fund.

Subd. 5. [WATER POLLUTION CONTROL FUND.] *To provide the money appropriated in this act from the water pollution control fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to \$66,747,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the water pollution control fund.*

Subd. 6. [GENERAL OBLIGATION SPECIAL TAX BONDS.] *Any of the bonds authorized by this section may be general obligation special tax bonds issued and sold in the manner, upon the terms, and with the effect provided in section 31. For each bond sale, the commissioner of finance shall determine which of the bonds will be general obligation special tax bonds.*

Sec. 26. [CONSULTATION REQUIRED.]

Land must not be purchased and a building must not be purchased, constructed, or erected on land of the University of Minnesota until the regents have first consulted with the chair of the senate finance committee and the chair of the house appropriations committee and obtained their advisory recommendations.

Sec. 27. [REVIEW OF PLANS.]

An agency to whom an appropriation is made in this act must not prepare final plans and specifications for any construction or major remodeling authorized by this act until the agency that will use the project has presented the program and schematic plans and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house appropriations committee and the chairs have made their recommendations. The recommendations are advisory only. Failure or refusal to make a recommendation promptly is considered a negative recommendation.

Sec. 28. [APPROPRIATIONS FOR CONSTRUCTION; TRANSFER.]

Upon the awarding of final contracts for the completion of a project for construction or other permanent improvement authorized by this act, or upon the abandonment of the project, the agency to whom the appropriation is made in this act may transfer the unencumbered balance in the project account to another project enumerated in the same section. The transfer must be made only to cover bids for the other project that were higher than was estimated when the appropriation for the other project was made and not to cover an expansion of the other project. The money transferred under this section is appropriated for the purposes for which transferred. For transfers by the state board of vocational technical education, the total cost of both projects and the required local share for both projects are adjusted accordingly. The commissioners and boards shall report to the chair of the senate finance committee and the chair of the house appropriations committee before a transfer is made under this section.

Sec. 29. [APPROPRIATIONS FOR CONSTRUCTION; FEDERAL

MONEY; EXCEEDING AUTHORIZED COST.]

An agency that receives an appropriation in this act shall apply for the maximum federal share for each capital improvement project for which money is appropriated by this act. Encumbrance or expenditure of money in excess of the project authorization may be made only after the agency has consulted with the chair of the senate finance committee and the chair of the house appropriations committee and the chairs have made their recommendations. The recommendations are advisory only. Failure or refusal to make a recommendation promptly is considered a negative recommendation.

Sec. 30. [METHODS OF ACQUISITION.]

If money has been appropriated by this act to the commissioner of administration to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under Minnesota Statutes, chapter 117.

Sec. 31. [16A.661] [GENERAL OBLIGATION SPECIAL TAX BONDS.]

Subdivision 1. [AUTHORITY.] When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue general obligation special tax bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are payable primarily from the proceeds of special taxes appropriated to special tax bond debt service accounts established in subdivision 3 and other money on hand in that fund from time to time; however, the bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Subd. 2. [MANNER OF ISSUANCE; MATURITIES.] The bonds must be issued and sold in accordance with section 16A.641, except that the maturities of the bonds and the interest rates applicable to the bonds must be fixed so that the principal and interest coming due in the 1987-1989 biennium on all bonds outstanding at any time does not exceed \$46,750,000. Sections 16A.672 and 16A.675 apply to the bonds.

Subd. 3. [ESTABLISHMENT OF DEBT SERVICE FUND; APPROPRIATION OF DEBT SERVICE FUND MONEY.] (a) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the tobacco tax revenue fund established in section 297.13 an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

(b) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the sports and health club sale tax revenue fund established in section 49 an amount sufficient to increase the balance on hand in the

debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Subd. 4. [APPROPRIATION FROM GENERAL FUND.] There is annually appropriated to the general obligation special tax bond debt service accounts from the general fund the amount that, added to the amount in the general obligation special tax bond debt service accounts on December 1 each year, after giving effect to subdivision 3, is equal to the full amount of principal and interest to come due on all bonds to and including July 1 in the second ensuing year.

Subd. 5. [CONSTITUTIONAL TAX LEVY.] Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the general obligation special tax bond debt service accounts, to pay all principal and interest on the bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limit as to rate or amount. However, the amount of money appropriated from other sources as provided in subdivisions 3 and 4, and actually received and on hand before the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the appropriate general obligation special tax bond debt service account.

Subd. 6. [TAXABILITY; CERTIFICATION.] The commissioner shall ascertain from state records and certify to the initial purchasers of each series of bonds, subject to the approval of the attorney general, that all conditions exist and all actions have been taken that are needed to make the series of bonds valid and binding general obligations of the state in accordance with their terms. The bonds may be issued without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes. However, if it is intended that the interest on the bonds be exempt from federal income taxes, the commissioner shall also certify for the state on the date of issue the facts, estimates, and circumstances that lead the commissioner reasonably to expect that the proceeds of the bonds and the projects financed by them will not be used in a way that would cause the interest on the bonds to be subject to federal income taxes; the commissioner may covenant and agree with the holders of the bonds that the state will comply with the provisions of the United States Internal Revenue Code now or hereafter enacted that are or may be applicable to the bonds and that establish conditions under which the interest to be paid on the bonds will not be subject to federal income taxes; and the commissioner and all other state officers shall take the actions or refrain from taking the actions necessary to comply with the covenants. Money required to be spent for compliance is appropriated to the commissioner from the general fund.

Subd. 7. [APPLICATION AND APPROPRIATION OF PROCEEDS.] The proceeds of the bonds must be deposited and spent as provided in this subdivision and are appropriated for those purposes. Any accrued interest and any premium received on the sale of the bonds, and any amount of bond proceeds determined by the commissioner to be needed to pay interest payable on the bonds up to 18 months following their issuance, must be

credited to the appropriate general obligation special tax bond debt service account. Except as otherwise required by law, the balance of the bond proceeds shall be credited to the state building fund and spent for the purposes specified in the law authorizing the issuance of the bonds. So much of the proceeds as is necessary must be used to pay costs incurred in issuing and selling the bonds.

Sec. 32. [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 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.

Subd. 3. [APPROPRIATION.] \$162,000 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. 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 |

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

Sec. 33. [124.491] [CITATION.]

Sections 34 to 38 may be cited as the "cooperative secondary facilities grant act."

Sec. 34. [124.492] [POLICY AND PURPOSE.]

Because of the rates of decline in school-aged population, population shifts and economic changes that the state has experienced in recent years and anticipates in future years, and because in some instances local school districts have not, and will not be able to provide the required construction funds through local property taxes, the purpose of the cooperative secondary facilities grant program is to provide an incentive to encourage cooperation in making available to all secondary students those educational programs, services and facilities that are most efficiently and effectively provided by a cooperative effort of several school districts. The policy and purpose of sections 35 to 37 is to use the credit of the state, to a limited degree, to provide grants to cooperating groups of school districts to improve and expand the educational opportunities and facilities available to their secondary students.

Sec. 35. [124.493] [APPROVAL AUTHORITY; APPLICATION FORMS.]

Subdivision 1. [APPROVAL BY COMMISSIONER.] To the extent money is available, the commissioner of education may approve not more than two pilot projects from applications submitted under section 36. The grant money must be used only to acquire, construct, remodel or improve the building or site of a cooperative secondary facility under contracts to be entered into within 15 months after the date on which each grant is awarded.

Subd. 2. [APPLICATION FORMS; RULES.] The commissioner of education shall prepare application forms. The state board of education shall adopt rules under chapter 14 to govern the application process set out in section 36.

Sec. 36. [124.494] [GRANT APPLICATION PROCESS.]

Subdivision 1. [QUALIFICATION.] Any group of school districts that meets the criteria required under subdivision 2 may apply for an incentive grant in an amount up to 75 percent of the approved construction costs of a cooperative secondary education facility.

Subd. 2. [REVIEW BY COMMISSIONER.] (a) Any group of districts that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to acquire, construct, remodel or improve the secondary facility. The commissioner must not approve an application for an incentive grant for any secondary

facility unless the facility receives a favorable review and comment under section 121.15 and the following criteria are met:

(1) a minimum of three or more districts, with kindergarten to grade twelve enrollments in each district of no more than 1,000 pupils, enter into a joint powers agreement;

(2) a joint powers board representing all participating districts is established under section 471.59 to govern the cooperative secondary facility;

(3) the planned secondary facility will result in the joint powers district meeting the requirements of Minnesota Rules, parts 3500.2010 and 3500.2110;

(4) at least 240 pupils would be served in grades 10 to 12, 320 pupils would be served in grades 9 to 12, or 480 pupils would be served in grades 7 to 12;

(5) no more than one superintendent is employed by the joint powers board as a result of the cooperative secondary facility agreement;

(6) a statement of need is submitted, that may include reasons why the current secondary facilities are inadequate, unsafe or inaccessible to the handicapped;

(7) an educational plan is prepared, that includes input from both community and professional staff;

(8) a combined seniority list for all participating districts is developed by the joint powers board;

(9) an education program is developed that provides for more learning opportunities and course offerings for students than is currently available in any single member district; and

(10) a plan is developed for providing instruction of any resident students in other districts when distance to the secondary education facility makes attendance at the facility unreasonably difficult or impractical.

(b) To the extent possible, the joint powers board is encouraged to provide for severance pay or for early retirement incentives under section 125.611, for any teacher or administrator, as defined under section 125.12, subdivision 1, who is placed on unrequested leave as a result of the cooperative secondary facility agreement.

Subd. 3. [DISTRICT PROCEDURES.] A joint powers board of a secondary district established under subdivision 2 that intends to apply for a grant shall adopt a resolution stating the proposed costs of the project, the purpose for which the debt is to be incurred, and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed. Applications for the state grants must be accompanied by (a) a copy of the resolution, (b) a certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district, and (c) a certificate by the county auditor of each county in which a portion of the joint powers district lies showing the information in the auditor's official records that is required to be used in computing the debt limit of the district under section 475.53, subdivision 4. The clerk's and treasurer's certificate shall show, as to each outstanding bond issue of each member district, the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution, and the interest rates and due dates and

amounts of principal thereon. Applications and necessary data must be in the form prescribed by the commissioner and the rules of the state board of education. When an application is received, the commissioner shall obtain from the commissioner of revenue, and from the public utilities commission when required, the information in their official records that is required to be used in computing the debt limit of the joint powers district under section 475.53, subdivision 4.

Subd. 4. [AWARD OF GRANTS.] The commissioner shall examine and consider all applications for grants, and if any joint powers district is found not qualified, the commissioner shall promptly notify that joint powers board. On January 1 and July 1 of each year, the commissioner shall make a determination on all pending applications that have been on file with the commissioner more than one month. If the applicants are determined to be qualified by the commissioner and the total amount of the grants applied for does not exceed the amount available or that can be made available in the incentive grant account, all grants so applied for shall be approved, subject to verification by the joint powers districts as specified in subdivision 6. If the total amount of the applications exceeds the amount that is or can be made available, the commissioner shall allot the available amount among the qualified applicant districts, according to the commissioner's judgment and discretion based upon their respective needs. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded to it.

Subd. 5. [REFERENDUM; BOND ISSUE.] Within 90 days after being awarded a grant under subdivision 4, the joint powers board shall submit the question of authorizing the borrowing of funds for the secondary facility to the voters of the joint powers district at a special election, which may be held in conjunction with the annual election of the school board members of the member districts. The question submitted shall state the total amount of funding needed from all sources. A majority of those voting in the affirmative on the question is sufficient to authorize the joint powers board to issue the bonds on public sale in accordance with chapter 475. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education. If the bonds are authorized by the voters, the commissioner shall notify the county auditor of each county in which the joint powers district is located that the grant amount certified under subdivision 4 is available and appropriated for payment of principal and interest on the bonds issued under this subdivision, and the auditor shall reduce the joint powers district's debt service levies accordingly. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

Subd. 6. [CONTRACT.] Each grant must be evidenced by a contract between the joint powers board and the state acting through the commissioner. It obligates the state to pay to the joint powers board an amount computed according to subdivision 4, upon receipt by the commissioner of a certified resolution of the joint powers board verifying that contracts have been entered into for construction or remodeling of the facilities for which the grant is awarded and that bonds of the joint powers district have been issued and sold in the amount necessary to pay all project costs in excess of the amount of the grant, and estimating the costs.

Sec. 37. [124.495] [STATE BOND AUTHORIZATION.]

To provide money for the cooperative secondary facilities grant program,

the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of \$8,000,000 in the manner, upon the terms and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 38. [124.496] [REPORT TO THE LEGISLATURE.]

By January 15, 1989, the commissioner of education shall report to the legislature on the implementation of the cooperative secondary facilities grant program established in this act.

Sec. 39. [129B.71] [CITATION.]

Sections 129B.71 to 129B.75 may be cited as the "desegregation capital improvement grant act."

Sec. 40. [129B.72] [APPROVAL AUTHORITY; APPLICATION FORMS.]

Subdivision 1. [APPROVAL BY COMMISSIONER.] *The commissioner of education may approve or disapprove applications under section 129B.73. The grant money must be used only to remodel or improve a building or site under contracts to be entered into within 15 months after the date each grant is awarded.*

Subd. 2. [APPLICATION FORMS; RULES.] *The commissioner of education shall prepare application forms. The state board of education shall adopt rules under chapter 14 to govern the application process set out in section 41.*

Sec. 41. [129B.73] [GRANT APPLICATION PROCESS.]

Subdivision 1. [QUALIFICATION.] *A school district that meets the criteria required under subdivision 2 may apply for a grant in an amount up to 50 percent of the approved costs of remodeling or improvement.*

Subd. 2. [REVIEW BY COMMISSIONER.] *(a) A school district that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to remodel or improve the building or site. The commissioner must not approve an application for a grant for a building or site unless the building or site receives a favorable review and comment under section 121.15 and is recommended by the commissioner as part of the district's approved desegregation plan.*

Subd. 3. [AWARD OF GRANTS.] *The commissioner shall examine and consider all applications for grants, and if a district is found not qualified, the commissioner shall promptly notify the district board. If the total amount of the applications exceeds the amount that is or can be made available, the commissioner shall prorate the available amount among the qualified applicant districts, according to the commissioner's judgment and discretion based upon their respective needs. The commissioner shall promptly certify to each district the amount, if any, of the grant awarded to it.*

Subd. 4. [MATCHING REVENUE.] *Upon being awarded a grant under subdivision 3, the board shall determine the need to bond for additional revenue. If the board determines that there is no need to bond, it shall certify to the commissioner of education that other funds are available for the purpose. If a bond issue is required, the board shall submit, within 90 days, the question of authorizing the borrowing of funds for remodeling*

or improvements to the voters of the district at a special election, that may be held in conjunction with the annual election of the school board members. If a majority of those voting on the question do not vote in the affirmative, the grant must be canceled.

Sec. 42. [129B.74] [STATE BOND AUTHORIZATION.]

To provide money for the desegregation capital improvement grant program, the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of \$900,000 in the manner, upon the terms and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 43. [129B.75] [REPORT TO THE LEGISLATURE.]

By January 15 of each year, the commissioner of education shall report to the legislature on the implementation of the desegregation capital improvement grant program established in sections 129B.71 to 129B.74.

Sec. 44. [240A.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] As used in sections 240A.01 to 240A.07, the words defined in this section have the meanings given them.

Subd. 2. [COMMISSION.] "Commission" means the Minnesota amateur sports commission.

Subd. 3. [LOCAL GOVERNMENTS.] "Local governments" means counties, towns, statutory or home rule charter cities, school districts, or any combination of them.

Subd. 4. [SPORTS FACILITY OR SPORTS FACILITIES.] "Sports facility" or "sports facilities" means real or personal property or both suitable for holding those amateur sports competitions determined by the commission.

Sec. 45. [240A.02] [MINNESOTA AMATEUR SPORTS COMMISSION.]

Subdivision 1. [MEMBERSHIP; COMPENSATION; CHAIR.] The Minnesota amateur sports commission consists of nine voting members, four of whom must be experienced in promoting amateur sports, appointed by the governor to three-year terms. Two legislators, one from each house appointed according to its rules, shall be nonvoting members. Compensation and removal of members and the filling of membership vacancies are as provided in section 15.0575. A member may be reappointed. The governor shall appoint the chair of the commission after consideration of the commission's recommendation.

Subd. 2. [MEETINGS.] The commission shall meet at least quarterly and at other times determined by the commission and shall adopt rules governing its proceedings.

Subd. 3. [STAFF] The commission shall appoint an executive director, who may hire other employees authorized by the commission. The executive director and any other employees are in the unclassified service under section 43A.08.

Sec. 46. [240A.03] [GENERAL POWERS OF THE COMMISSION.]

Subdivision 1. [GENERAL.] The commission has the powers necessary and convenient to discharge the duties imposed by law, including but not limited to those provided in this section.

Subd. 2. [ACTIONS.] The commission may sue and be sued and is a public body within the meaning of chapter 562.

Subd. 3. [PROPERTY.] The commission may acquire by lease, purchase, gift, or devise all necessary right, title, and interest in and to real or personal property or both necessary to the purposes of amateur sports facilities.

Subd. 4. [CONSTRUCTION AND OPERATION.] The commission may own, operate, construct, repair, or refurbish, and enter into contracts for the same purposes for real or personal property or both necessary for amateur sports facilities.

Subd. 5. [EXEMPTION OF PROPERTY.] Real or personal property acquired, owned, leased, controlled, used, or occupied by the commission for the purposes of amateur sports facilities is declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and is exempt from ad valorem taxation by the state or any political subdivision of the state, provided that the properties are subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any of the properties in any manner different from their use under sections 240A.01 to 240A.07 at the time may be considered in determining the special benefit received by the properties. Assessments are subject to confirmation by the commission, whose determination of the benefits is subject to court review. Notwithstanding the provisions of section 272.01, subdivision 2, or 273.19, real or personal property leased by the commission to another person for uses related to the purposes of sections 240A.01 to 240A.07 is exempt from taxation regardless of the length of the lease.

Subd. 6. [DISPOSITION OF PROPERTY.] The commission may sell or otherwise dispose of any real or personal property acquired by it that is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by section 458.196, insofar as practical and consistent with sections 473.551 to 473.595.

Subd. 7. [CONTRACTS.] The commission may contract for materials, supplies, and equipment with persons, firms, or corporations to perform one or more or all of the functions of architect, engineer, construction manager, project manager, or contractor for both design and construction, with respect to all or any part of a project to build or remodel sports facilities.

Subd. 8. [GIFTS AND GRANTS.] The commission may accept gifts of money, property, or services; may apply for and accept grants or loans of money or other property from the United States, the state, a subdivision of the state, or a person for any of its purposes; may enter into an agreement required in connection with it; and may hold, use, and dispose of the money, property, or services in accordance with the terms of the gift, grant, loan, or agreement relating to it. The commission may also make grants, gifts, and bequests of money, property, or services and enter into contracts to carry out the same. Money received under this subdivision is annually appropriated to the commission.

Subd. 9. [RESEARCH.] The commission may conduct research studies and programs; collect and analyze data; prepare reports, maps, charts,

and tables; and conduct necessary hearings and investigations in connection with its functions.

Subd. 10. [USE AGREEMENTS.] *The commission may lease, license, or enter into agreements and may fix, alter, charge, and collect rentals, fees, and charges to persons for the use, occupation, and availability of part or all of any premises, property, or facilities under its ownership, operation, or control. A use agreement may provide that the other contracting party has exclusive use of the premises at the times agreed upon.*

Subd. 11. [INSURANCE.] *The commission may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may obtain insurance in the amounts it considers necessary to protect it against the liability of the commission or its officers and employees for personal injury or death and property damage or destruction, with the effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property.*

Subd. 12. [RULES AND PROCEDURES.] *The commission may adopt rules and procedures to implement its authority under sections 240A.01 to 240A.07.*

Sec. 47. [240A.04] [PROMOTION AND DEVELOPMENT OF AMATEUR SPORTS.]

In addition to the powers and duties granted under section 3, the commission shall:

- (1) promote the development of olympic training centers;*
- (2) promote physical fitness by promoting participation in sports;*
- (3) develop, foster, and coordinate physical fitness services and programs;*
- (4) sponsor amateur sport workshops, clinics, and conferences;*
- (5) provide recognition for outstanding developments, achievements, and contributions to amateur sports;*
- (6) stimulate and promote amateur sport research;*
- (7) collect, disseminate, and communicate amateur sport information;*
- (8) promote amateur sport and physical fitness programs in schools and local communities;*
- (9) develop programs to promote personal health and physical fitness by participation in amateur sports in cooperation with medical, dental, sports medicine, and similar professional societies;*
- (10) promote the development of recreational amateur sport opportunities and activities in the state, including the means of facilitating acquisition, financing, construction, and rehabilitation of sports facilities for the holding of amateur sporting events;*
- (11) promote national and international amateur sport competitions and events;*
- (12) sanction or sponsor amateur sport competition;*
- (13) take membership in regional or national amateur sports associations or organizations; and*
- (14) promote the mainstreaming and normalization of people with phys-*

ical disabilities and visual and hearing impairments in amateur sports.

Sec. 48. [240A.05] [SANCTION OF CERTAIN EVENTS.]

The commission may sponsor or sanction amateur sporting events that include athletes who participate in events sponsored or sanctioned by the Minnesota state high school league or any other governing body of sport.

Sec. 49. [240A.06] [STATE AMATEUR ATHLETIC GAMES.]

Subdivision 1. [SPONSORSHIP REQUIRED.] The commission shall sponsor and sanction a series of statewide amateur athletic games patterned after the winter and summer Olympic Games, with variations as required by facilities, equipment, and expertise, and as necessary to include people with physical disabilities and visual and hearing impairments. The games may be held annually beginning in 1989, if money and facilities are available, unless the time of the games would conflict with other sporting events as the commission determines.

Subd. 2. [LIMITATIONS.] The games must be designed to encourage the participation of athletes representing a broad range of age groups, skill levels, Minnesota communities, and people with physical disabilities and visual and hearing impairments. Primary participants must be residents of Minnesota. Regional competitions to determine participants in the games may be held throughout the state, and the top qualifiers in each sport or the regional competitions are qualified to participate in the state amateur athletic games. The games must be held at an appropriate site in the state.

Sec. 50. [240A.07] [COOPERATION REQUIRED.]

Local governments shall cooperate with the commission to the greatest extent practical in providing facilities for use in amateur sports and olympic training.

Sec. 51. [INITIAL APPOINTMENTS.]

Notwithstanding section 240A.02, the governor shall appoint the initial members of the commission as follows:

- (1) three members to one-year terms;*
- (2) three members to two-year terms; and*
- (3) three members to three-year terms.*

Sec. 52. 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 consid-

ered 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. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under. The provisions of this paragraph do not apply to an association incorporated under section 315.44.

Sec. 53. Minnesota Statutes 1986, section 297A.44, subdivision 1, is amended to read:

Subdivision 1. *(a) Except as provided in paragraphs (b) and (c) 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) All revenues, including interest and penalties, derived from the excise and use taxes imposed on sales and purchases included in section 48, paragraph (i), clauses (1) and (2), must be deposited by the commissioner of revenue in a separate and special fund, designated as the sports and health club sales tax revenue fund in the state treasury and credited as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 31, subdivision 3, paragraph (b); and

(2) after the requirements of paragraph (a) of this section have been met:

(i) no more than the amounts specifically appropriated to operate and maintain facilities financed under section 8, subdivision 3; must be credited to an amateur athletic facilities account set up for this purpose; and

(ii) the balance must be credited to the general fund.

Sec. 54. [LOCAL BONDING AUTHORITY.]

Subdivision 1. [BONDING AUTHORITY.] In addition to bonds authorized by other law, independent school district No. 625 may issue \$400,000 in general obligation bonds of the school district in 1987 or 1988 for capital repairs and improvements. The bonds issued under this section are not subject to Minnesota Statutes, sections 475.58, 475.59, or the first sentence of 475.53, subdivision 5. The bonds must otherwise be issued as provided in Minnesota Statutes, chapter 475. The authority to issue bonds under this section is in addition to any bonding authority authorized by Minnesota Statutes, chapter 124, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding limit of chapter 124 or any other law other than Minnesota Statutes, chapter 475.

The bonds must not be issued until the school district has conveyed to the city of Saint Paul, by recordable deed, all of the interest of independent school district No. 625 in property legally described as King's Park View, Block 2. The property is otherwise known as the Edgcombe school site and is bounded by Hamline Avenue, Pinehurst Avenue, Syndicate Street, and Ford Parkway. The school district may accept contributions, direct or indirect, related to the conveyance, from any source, provided that the amount of bonds authorized under this section must be reduced by the amount of contributions accepted except for contributions associated with the costs of issuing the bonds.

Subd. 2. [TAX LEVY FOR DEBT SERVICE.] To pay for the principal of and interest on bonds issued under subdivision 1, independent school district No. 625 must levy a tax annually in an amount sufficient under Minnesota Statutes, section 475.61, subdivisions 1 and 3, to pay the principal of and interest on the bonds. The tax authorized under this section is in addition to the taxes authorized to be levied under Minnesota Statutes, chapter 124A or 275, or other law. The tax authorized under this section is not subject to and must be disregarded in the calculation of any levies subject to limits on levies provided in Minnesota Statutes, chapter 124A or 275, or other law.

Sec. 55. [PLANNING.]

In its planning for new program offerings, at a particular institution, each public post-secondary governing board shall consider the availability of physical space and the adequacy of facilities at that institution. If the board determines that new space or facilities are required, it shall examine the feasibility of developing the program at a different institution within its system.

Sec. 56. [GREAT RIVER ROAD BONDS.]

The city of Minneapolis may issue \$3,000,000 in general obligation bonds of the city for land acquisition by the Minneapolis park and recreation board in connection with the great river road project. The bonds

must be issued before December 31, 1987. The bonds issued under this subdivision are not included in the net indebtedness of the city as defined in Minnesota Statutes, section 475.51, subdivision 4.

Sec. 57. [EXPANDING USE OF RED RIVER DIKE FUNDS.]

The unobligated balance of the appropriations made in Laws 1981, chapter 361, section 3, subdivision 3, and Laws 1985, First Special Session chapter 15, section 4, subdivision 5, does not cancel pursuant to Minnesota Statutes, section 16A.28 or other law, but is available for grants for flood management projects or to evaluate the practicality and feasibility of establishing a coordinated diking system along both sides of the Red River of the North beginning at East Grand Forks and Grand Forks and extending north for the Minnesota counties of Polk, Marshall, and Kittson, and the North Dakota counties of Grand Forks, Walsh, and Pembina. The commissioner of natural resources shall make the grants available to the Lower Red River watershed management board to cooperate and work with the Minnesota counties and the North Dakota counties and local water management organizations.

Sec. 58. [FACILITIES; COSTS.]

The requirements of Laws 1983, chapter 344, section 13; Laws 1984, chapter 597, section 5, subdivision 4; and Laws 1985, First Special Session chapter 13, section 28, subdivision 6, that certain appropriations for various facilities be repaid by the facilities or other responsible bodies are canceled.

Sec. 59. [REPEALER.]

Sections 33 to 38 are repealed June 30, 1989.

Sec. 60. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

Sec. 61. MINNESOTA LEARNING CENTER FOR THE ARTS

To the commissioner of administration
to plan and prepare working drawings,
acquire land, and prepare a site for the
Minnesota learning center for the arts

4,000,000

The plan must separately list the total proposed expenditures for the interdisciplinary academic and arts program for pupils in the 11th and 12th grade. The plan shall also separately identify total proposed expenditures for at least four alternative methods of providing residential facilities including the use of existing facilities by contracting with public or private organizations, such as school districts, post-secondary institutions, or other organizations. The cost of providing a residential high school program and the costs of providing an arts learning center must be separate and identifiable."

Delete the title and insert:

"A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state and local bonds; authorizing levies; imposing taxes; appropriating money; amending Minnesota Statutes 1986, sections 297A.01, subdivision 3; and 297A.44, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16A, 124, and 129B; proposing coding for new law as Minnesota Statutes, chapter 240A."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Glen H. Anderson, Lyndon R. Carlson, Willard Munger, Joseph Quinn, David T. Bishop

Senate Conferees: (Signed) Gene Merriam, Michael O. Freeman, Sam G. Solon, Dean E. Johnson, Roger D. Moe

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 919 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the balance of the proceedings on H.F. No. 919. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 919 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

Mr. Freeman moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 46 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Davis	Kroening	Novak	Solon
Berg	DeCramer	Langseth	Pehler	Stumpf
Berglin	Dicklich	Lantry	Peterson, D.C.	Taylor
Bernhagen	Diessner	Luther	Peterson, R.W.	Vickerman
Bertram	Frederickson, D.J.	Marty	Piper	Wegscheid
Brandl	Frederickson, D.R.	Merriam	Pogemiller	Willer
Brataas	Freeman	Metzen	Purfeerst	
Chmielewski	Gustafson	Moe, D.M.	Reichgott	
Cohen	Hughes	Moe, R.D.	Renneke	
Dahl	Johnson, D.E.	Morse	Samuelson	

Those who voted in the negative were:

Adkins	Frank	Knutson	Mehrkens	Waldorf
Beckman	Johnson, D.J.	Laidig	Ramstad	
Belanger	Jude	Larson	Spear	
Benson	Knaak	McQuaid	Storm	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 534, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 534 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 534

A bill for an act relating to the collection and dissemination of data; classifying data; proposing classifications of data as private, nonpublic, and protected nonpublic; clarifying issues relating to the administration of data; amending Minnesota Statutes 1986, sections 13.03, subdivision 3; 13.04, subdivision 2; 13.05, subdivision 4; 13.38; 13.39, subdivision 3; 13.41, subdivision 4; 13.43, by adding a subdivision; 13.46, subdivision 7, and by adding a subdivision; and 13.76; proposing coding for new law in Minnesota Statutes, chapter 13.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 534, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 534 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 13.03, subdivision 3, is amended to read:

Subd. 3. [REQUEST FOR ACCESS TO DATA.] Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. *If a person requests access for the purpose of inspection*, the responsible authority may not *assess a charge or* require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public government data upon request. *If a person requests copies*, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data and for making, certifying and compiling the copies of the data but may not charge for separating public from not public data. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Sec. 2. Minnesota Statutes 1986, section 13.04, subdivision 2, is amended to read:

Subd. 2. [INFORMATION REQUIRED TO BE GIVEN INDIVIDUAL.] An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision, or statewide system; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data, pursuant to section 13.82, subdivision 5, to a law enforcement officer.

~~The commissioner of revenue may place the notice required under this subdivision in the individual income tax or property tax refund instructions instead of on those forms.~~

Sec. 3. Minnesota Statutes 1986, section 13.05, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.] Private or confidential data on an individual shall not be collected, stored, used or disseminated by political subdivisions, statewide systems or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to indi-

viduals or agencies specifically authorized access to that data by state, local, or federal law ~~subsequent to enacted or promulgated after~~ the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. Informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

(1) In plain language;

(2) Dated;

(3) Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

(4) Specific as to the nature of the information the subject is authorizing to be disclosed;

(5) Specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

(6) Specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;

(7) Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

Sec. 4. Minnesota Statutes 1986, section 13.38, is amended to read:

13.38 [HEALTH DATA.]

Subdivision 1. [PRIVATE DATA DEFINITIONS.] The following data ~~created, collected and maintained by the department of health, political subdivisions, or statewide systems are classified as private, pursuant to section 13.02, subdivision 12: data on individual patients pertaining to the investigation and study of nonsexually transmitted diseases, except that the data may be made public to diminish a threat to the public health As used in this section:~~

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

(b) "Health data" means data on individuals created, collected, received, or maintained by the department of health, political subdivisions, or statewide systems relating to the identification, description, prevention, and control of disease or as part of an epidemiologic investigation the commissioner designates as necessary to analyze, describe, or protect the

public health.

Subd. 2. [CONFIDENTIAL DATA ON INDIVIDUALS.] The following data created, collected and maintained by a department of health operated by the state or a political subdivision are classified as confidential, pursuant to section 13.02, subdivision 3: investigative files on individuals maintained by the department in connection with the epidemiologic investigation of sexually transmitted diseases, provided that information may be released to the individual's personal physician and to a health officer, as defined in section 145.01, for the purposes of treatment, continued medical evaluation and control of the disease (a) Health data are private data on individuals. Notwithstanding section 13.05, subdivision 9, health data may not be disclosed except as provided in this subdivision and section 13.04.

(b) The commissioner or a local board of health may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify persons at risk of illness, or to conduct an epidemiologic investigation.

(c) With the approval of the commissioner, health data may be disclosed to the extent necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to alert persons who may be threatened by illness as evidenced by epidemiologic data, to control or prevent the spread of serious disease, or to diminish an imminent threat to the public health.

Subd. 3. [HEALTH SUMMARY DATA.] Summary data derived from data collected under section 145.413 may be provided under section 13.05, subdivision 7.

Sec. 5. Minnesota Statutes 1986, section 13.39, subdivision 3, is amended to read:

Subd. 3. [INACTIVE INVESTIGATIVE DATA.] Inactive civil investigative data are public, unless the release of the data would jeopardize another pending civil legal action, and except for those portions of a civil investigative file that are classified as not public data by this chapter or other law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. Civil investigative data become inactive upon the occurrence of any of the following events:

(1) a decision by the state agency, political subdivision, or statewide system or by the chief attorney acting for the state agency, political subdivision, or statewide system not to pursue the civil action;

(2) expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil action; or

(3) exhaustion of or expiration of rights of appeal by either party to the civil action.

Data determined to be inactive under clause (1) may become active if the state agency, political subdivision, statewide system, or its attorney decides to renew the civil action.

Sec. 6. Minnesota Statutes 1986, section 13.41, subdivision 4, is amended to read:

Subd. 4. [PUBLIC DATA.] Licensing agency minutes, application data on licensees, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action contained in the record of the

disciplinary action are classified as public, pursuant to section 13.02, subdivision 15. The entire record concerning the disciplinary proceeding is public data pursuant to section 13.02, subdivision 15, in those instances where there is a public hearing concerning the disciplinary action. *The license numbers, the license status, and continuing education records issued or maintained by the board of peace officer standards and training are classified as public data, pursuant to section 13.02, subdivision 15.*

Sec. 7. Minnesota Statutes 1986, section 13.43, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a state agency, statewide system or political subdivision or is a member of an advisory board or commission. *"Personnel data" includes data on individuals who apply for or are enrolled in employment and training programs funded with federal, state, or local resources unless the data are welfare data under section 13.46.*

Sec. 8. Minnesota Statutes 1986, section 13.46, subdivision 3, is amended to read:

Subd. 3. [INVESTIGATIVE DATA.] Data on persons, including data on vendors of services and data on licensees, that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

- (a) pursuant to section 13.05;
- (b) pursuant to statute or valid court order;
- (c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (d) to provide the notices required and or permitted by ~~sections 626.556, subdivisions 10b and 10d, and 626.557, subdivision 10a statute.~~

The data referred to in this subdivision shall be classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

Sec. 9. Minnesota Statutes 1986, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) *As used in this subdivision:*

(1) *"licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration under the authority of the commissioner of human services, except for;*

(2) *"client" means a person who is receiving services from a licensee or from an applicant for licensure; and*

(3) *"personal and personal financial data about applicants and licensees under the family day care program and the family foster care program and*

data generated in the course of licensing investigations that are in response to a complaint of a rule or statutory violation, are public data. Personal and personal financial data on family day care program and family foster care program applicants and licensees are private data pursuant to section 13.02, subdivision 12." means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b) Except as provided in paragraph (c), the following data are public: name, address, telephone number of licensees, licensed capacity, type of children preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, the nature and content of complaints after resolution when the information is not maintained in anticipation of legal action, record of informal resolutions of licensing violations, orders of hearing, findings of fact, and conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12.

(e) Data classified as private, confidential, or nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

(f) Data generated in the course of licensing investigations that are in response relate to a complaint an alleged violation of a rule or statutory violation law are investigative data pursuant to under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, are subject to the destruction provisions of section 626.556, subdivision 11.

Sec. 10. Minnesota Statutes 1986, section 13.46, subdivision 7, is amended to read:

Subd. 7. [MENTAL HEALTH CENTER DATA.] (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

Sec. 11. Minnesota Statutes 1986, section 13.46, is amended by adding a subdivision to read:

Subd. 11. [NURSING HOME APPRAISALS.] Names, addresses, and other data that could identify nursing homes selected as part of a random sample to be appraised by the department of human services in its rate setting process are classified as protected nonpublic data until the sample has been completed.

Sec. 12. Minnesota Statutes 1986, section 13.50, subdivision 1, is amended to read:

Subdivision 1. [CONFIDENTIAL OR PROTECTED NONPUBLIC DATA.] Estimated or appraised values of individual parcels of real property which are made by personnel of the state, its agencies and departments, or a political subdivision or by independent appraisers acting for the state, its agencies and departments, or a political subdivision for the purpose of selling or acquiring land through purchase or condemnation are classified as confidential data on individuals pursuant to section 13.02, subdivision 3 or protected nonpublic data.

Sec. 13. [13.531] [FARM ASSISTANCE DATA.]

The following data collected and maintained by counties that provide assistance to individual farmers who are experiencing economic or emotional distress are classified as private data: financial history, including listings of assets and debts, and personal and emotional status information.

Sec. 14. [13.551] [CLASSIFICATION OF SAINT PAUL PORT AUTHORITY DATA.]

The following data not on individuals collected and maintained by the Saint Paul port authority are classified as protected nonpublic, until 30 days before the date of a hearing on a proposed sale pursuant to section 458.196: financial studies and reports that are part of appraisers' estimates of value of or concerning projects as defined in chapter 474, prepared by personnel of the port authority or independent accountants, consultants, and appraisers for the purpose of marketing by sale or lease a project which the port authority has acquired or repossessed as the result of the default under and the termination of a revenue agreement as defined in chapter 474.

Sec. 15. [13.691] [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION DATA.]

The following data on individual beneficiaries and survivors of public employment retirement association members are classified as private: home address, date of birth, direct deposit account number, and tax withholding data.

Sec. 16. [13.692] [DEPARTMENT OF PUBLIC SERVICE DATA.]

Data collected by the department of public service that reveals the iden-

tity of a tenant who makes a complaint regarding energy efficiency standards for rental housing are private data on individuals.

Sec. 17. Minnesota Statutes 1986, section 13.76, is amended to read:

13.76 [DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT DATA.]

Subdivision 1. [DEVELOPMENT LOAN DATA.] All financial information on individuals and business entities including, but not limited to, credit reports, financial statements, and net worth calculations, that are contained in applications received by the department of energy and economic development in its administration of the certified state development loan program are classified as private data with regard to data on individuals, and as nonpublic data with regard to data not on individuals.

Subd. 2. [FINANCIAL INCENTIVE DATA.] Data collected by the department of energy and economic development relating to financial incentives offered by private businesses and organizations, other than state government, to companies for locating their proposed business operations in Minnesota are classified as nonpublic data.

Sec. 18. [13.771] [HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD DATA.]

The following data on individuals filing claims for compensation with the hazardous substance injury compensation board for injury from hazardous substances are classified as confidential while the claim is being investigated and private after a decision is made by the board about the claim: the name, address, and all other information that may identify an individual filing a claim; all medical data provided to the board by the claimant or providers of health care to the claimant, including reports of physical examinations, mental health treatment, hospital care, physical therapy, laboratory testing, X-ray studies, and prescriptions; and all financial data provided to the board by the claimant or the claimant's employer, insurance carrier, or other provider of benefits, including state or federal tax forms, W-2 forms, salary records, records of insurance payments, unemployment or disability benefits.

Sec. 19. [241.441] [ACCESS BY OMBUDSMAN TO DATA.]

Notwithstanding section 13.42 or 13.85, the ombudsman has access to corrections and detention data and medical data maintained by an agency and classified as private data on individuals or confidential data on individuals when access to the data is necessary for the ombudsman to perform the powers under section 241.44.

Sec. 20. [EFFECTIVE DATE.]

Sections 7; 9, subdivision 4, paragraph (g); 11; 12; 13; and 15 to 18; are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the collection and dissemination of data; classifying data; proposing classifications of data as private, nonpublic, and protected nonpublic; clarifying issues relating to the administration of data; amending Minnesota Statutes 1986, sections 13.03, subdivision 3; 13.04, subdivision 2; 13.05, subdivision 4; 13.38; 13.39, subdivision 3; 13.41, subdivision 4; 13.43, subdivision 1; 13.46, subdivisions 3, 4, 7, and by adding a subdivision; 13.50, subdivision 1; and 13.76; proposing

coding for new law in Minnesota Statutes, chapters 13 and 241."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Darby Nelson, Randy C. Kelly, Bert McKasy

Senate Conferees: (Signed) Randolph W. Peterson, Gene Merriam, Donald M. Moe

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 534 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 534 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1170, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1170 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1170

A bill for an act relating to state government; prohibiting certain mandated leaves of absence for state employees; amending Minnesota Statutes 1986, section 43A.32, subdivision 2, and by adding a subdivision.

May 15, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1170, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1170 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 43A.32, subdivision 2, is amended to read:

Subd. 2. [LEAVES OF ABSENCE FOR ELECTED PUBLIC OFFICIALS, CANDIDATES.] Except as herein provided any officer or employee in the classified service shall:

(a) Take leave of absence upon assuming an elected federal ~~or state public office, including elected state legislative office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session;~~

(b) Take leave of absence upon assuming any elected public office other than enumerated in clause (a), if, in the opinion of the commissioner, the holding of the office conflicts with regular state employment; *and*

(c) Upon request, be granted leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office; *and*

~~(d) Take leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office if, in the opinion of the commissioner, the candidacy conflicts with regular state employment.~~

All requests for opinions of the commissioner and all opinions from the commissioner under the provisions of ~~clauses clause~~ (b) ~~and (d)~~ shall be in writing and shall be delivered by certified mail.

The commissioner shall issue an opinion under the provisions of ~~clauses clause~~ (b) ~~and (d)~~ within seven calendar days of receipt of the request.

Sec. 2. Minnesota Statutes 1986, section 43A.32, is amended by adding a subdivision to read:

Subd. 3. [LEAVE OF ABSENCE.] *No executive branch officer or employee in the unclassified service who is covered by a collective bargaining agreement, and no executive branch officer or employee in the classified service, may be required to take a leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office. Said officers and employees shall take leave of absence upon assuming an elected federal office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session.*

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1987."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Alan W. Welle, Tom Osthoff, Jerry

Knickerbocker

Senate Conferees: (Signed) Tad Jude, Donald M. Moe, Darril Wegscheid

Mr. Jude moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1170 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1170 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1041: A bill for an act relating to health; providing for a local public health act; defining the powers and duties of boards of health; providing discretionary county ordianancing power; authorizing the community health service subsidy; authorizing grants; providing penalties; amending Minnesota Statutes 1986, sections 35.67; 35.68; 144.36; 144.37; 145.075; and 145.923; and Laws 1969, chapter 235, section 3, subdivisions 2 and 4; proposing coding for new law as Minnesota Statutes, chapter 145A; repealing Minnesota Statutes 1986, sections 145.01 to 145.07; 145.08 to 145.125; 145.17 to 145.23; 145.24, subdivisions 1 and 2; 145.47 to 145.55; 145.911; 145.912, subdivisions 1 to 8, 10 to 15, 19, and 20; 145.913 to 145.92; and 145.922.

Senate File No. 1041 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

CONCURRENCE AND REPASSAGE

Mr. Samuelson moved that the Senate concur in the amendments by the House to S.F. No. 1041 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1041 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 44 and nays 7, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knaak	Merriam	Samuelson
Anderson	Davis	Knutson	Metzen	Storm
Beckman	DeCramer	Laidig	Morse	Stumpf
Belanger	Frank	Langseth	Novak	Taylor
Berg	Frederickson, D.J.	Lantry	Olson	Vickerman
Bernhagen	Frederickson, D.R.	Larson	Pehler	Waldorf
Bertram	Hughes	Luther	Ramstad	Wegscheid
Brataas	Johnson, D.E.	McQuaid	Reichgott	Willet
Chmielewski	Jude	Mehrkens	Renneke	

Those who voted in the negative were:

Berglin	Cohen	Peterson, D.C.	Piper	Spear
Brandl	Diessner			

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1203 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1203

A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; changing the membership of the world trade center board; establishing the world trade center institute; authorizing the board to contract for certain services and programs; appropriating money; amending Minnesota Statutes 1986, sections 17.03, by adding a subdivision; 17.101, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.031; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 44A; 116J; 236A; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.07; 116J.404; and 116J.405.

May 18, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 1203, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1203 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ENERGY

Section 1. Minnesota Statutes 1986, section 18.023, subdivision 11, is amended to read:

Subd. 11. [REPORT TO THE LEGISLATURE.] On or before January 31 of each year, the commissioner shall report to the legislature on the preceding year's approved disease control programs and any experimental programs conducted pursuant to subdivision 10a. The commissioner, with the assistance of the commissioner of *energy trade* and economic development and *the director of public service*, shall investigate and evaluate the potential uses of wood infected with shade tree disease, including the uses as an alternative energy source and as a component in the construction or manufacture of new products.

Sec. 2. Minnesota Statutes 1986, section 18.024, subdivision 1, is amended to read:

Subdivision 1. The department of agriculture, in cooperation with the commissioner of *energy trade* and economic development, *the director of public service*, and the Minnesota shade tree advisory committee, shall draft recommendations for wood utilization or disposal systems as defined in section 18.023. These recommendations shall encourage maximum utilization of diseased shade trees. In addition to insuring maximum utilization, the recommendations ~~shall~~ *must* be designed to insure public safety and to assure compliance with approved disease control programs.

Sec. 3. Minnesota Statutes 1986, section 104.35, subdivision 2, is amended to read:

Subd. 2. The commissioner shall make the proposed management plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, the commissioner of *energy trade* and economic development, *the director of public service*, the governor, and the general public. The commissioner of *energy trade* and economic development, *the director of public service*, and the governor shall review the proposed management plan ~~pursuant to~~ *in accordance with* the criteria ~~specified~~ in section 86A.09, subdivision 3, and submit any written comments to the commissioner within 60 days after receipt of the proposed management plan. Not less than 60 days after making such information available, the commissioner shall conduct a public hearing on the proposed management plan in the county seat of each county ~~which that~~ contains a portion of the designated area, in the manner provided in chapter 14.

Sec. 4. Minnesota Statutes 1986, section 104.35, subdivision 3, is amended to read:

Subd. 3. Upon receipt of the administrative law judge's report, the com-

missioner shall immediately forward the proposed management plan and the administrative law judge's report to the commissioner of ~~energy trade~~ and economic development *and the director of public service* for review ~~pursuant to~~ *under* section 86A.09, subdivision 3; except that the review by the commissioner of ~~energy trade~~ and economic development ~~shall~~ *and the director of public service must* be completed or be deemed completed within 30 days after receiving the administrative law judge's report, and the review by the governor ~~shall~~ *must* be completed or be deemed completed within 15 days after receipt. Within 60 days after receipt of the administrative law judge's report, the commissioner shall decide whether to designate by order the river or a segment ~~thereof~~ *of the river* as a wild, scenic, or recreational river and, if so designated, shall adopt a management plan to govern the area. The commissioner shall notify and inform public agencies and private landowners of the plan and its purposes so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and its purposes.

Sec. 5. Minnesota Statutes 1986, section 115A.12, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ADVISORY COUNCIL.] The chair of the board shall establish an interagency technical advisory council to advise the board and the chair on matters the board, through its chair, deems necessary. The members of the council ~~shall be~~ *are* the commissioner of health; the commissioner of agriculture; the commissioner of natural resources; the director of the pollution control agency; the commissioner of ~~energy trade~~ and economic development; *the director of public service*; other heads of agency the chair of the board deems necessary; or their designees. The council shall meet at the call of the chair of the board, who shall serve as chair of the council. The members, collectively and individually shall advise the board and the chair on matters within their various areas of expertise and shall provide technical assistance and information as requested by the board through its chair.

Sec. 6. Minnesota Statutes 1986, section 116C.03, subdivision 2, is amended to read:

Subd. 2. The board ~~shall include~~ *as members of the board are* the director of the state planning agency, *the director of public service*, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members ~~shall~~ *must* have knowledge of and be conversant in water management issues in the state.

Sec. 7. [216C.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to section 8 and those sections renumbered by section 10.

Subd. 2. [DIRECTOR.] "Director" means the director of the department of public service.

Subd. 3. [DEPARTMENT.] "Department" means the department of public service.

Sec. 8. [216C.02] [POWERS AND DUTIES OF DIRECTOR; RULES.]

Subdivision 1. [POWERS.] The director may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

(2) apply for, accept, and disburse grants and other aids from public and private sources;

(3) contract for professional services if work or services required or authorized to be carried out by the director cannot be satisfactorily performed by employees of the department or by another state agency;

(4) enter into interstate compacts to carry out research and planning jointly with other states or the federal government when appropriate;

(5) upon reasonable request, distribute informational material at no cost to the public; and

(6) enter into contracts for the performance of the director's duties with federal, state, regional, metropolitan, local, and other agencies or units of government and educational institutions; including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16B.

Subd. 2. [APPROPRIATION.] Money received by the director under this section must be deposited in the state treasury and is appropriated to the director for the purpose for which the money has been received. The money appropriated by this subdivision does not cancel and is available until expended. This appropriation does not apply to money resulting from litigation or settlements of alleged violations of federal petroleum pricing regulations.

Subd. 3. [RULES.] The director may adopt rules under chapter 14 to carry out the director's duties and responsibilities under this section and those sections renumbered by section 10.

Sec. 9. [FUNCTIONS TRANSFERRED; ENERGY DIVISION ESTABLISHED.]

The functions of the department of energy and economic development energy division are transferred from that division to the public service department and are placed under the jurisdiction and control of the director of public service. The energy division is established within the department of public service. The division shall administer the duties and functions assigned to it by law.

Sec. 10. [INSTRUCTION TO REVISOR.]

Subdivision 1. The revisor of statutes shall renumber the section of Minnesota Statutes specified in column A with the corresponding number in column B. The revisor shall make necessary cross-reference changes consistent with the renumbering.

In the statutes listed below, the revisor of statutes shall also change all references to "commissioner" or "commissioner of the department of energy and economic development" in the statutes specified in column A to "director" and all references to "department of energy and economic development" to "department."

Column A

116J.04

Column B

216C.04

116J.05	216C.05
116J.06	216C.06
116J.07	216C.07
116J.08	216C.08
116J.09	216C.09
116J.10	216C.10
116J.11	216C.11
116J.12	216C.12
116J.13	216C.13
116J.14	216C.14
116J.15	216C.15
116J.16	216C.16
116J.17	216C.17
116J.18	216C.18
116J.19	216C.19
116J.20	216C.20
116J.21	216C.21
116J.22	216C.22
116J.23	216C.23
116J.24	216C.24
116J.25	216C.25
116J.26	216C.26
116J.261	216C.261
116J.262	216C.262
116J.27	216C.27
116J.29	216C.29
116J.30	216C.30
116J.31	216C.31
116J.315	216C.315
116J.32	216C.32
116J.33	216C.33
116J.34	216C.34
116J.35	216C.35
116J.373	216C.373
116J.38	216C.38
116J.381	216C.381

Subd. 2. The revisor of statutes shall change all references to the "commissioner of energy and economic development" or the "commissioner" (meaning the commissioner of energy and economic development) to the "director of public service" or the "director" in the statutes listed below:

13.68

325F19

325F20

325F21

325F22

325F23

325F24

16B.56, subd. 1

115A.15

126.111

174.03, subd. 7

Sec. 11. Minnesota Statutes 1986, section 17.03, is amended by adding a subdivision to read:

Subd. 6. [COOPERATION WITH MINNESOTA TRADE DIVISION.] The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

Sec. 12. Minnesota Statutes 1986, section 17.101, subdivision 1, is amended to read:

~~Subdivision 1. [DEPARTMENTAL DUTIES.]~~ For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner shall encourage and promote the marketing of these products by means of:

- (a) advertising Minnesota agricultural products;
- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;
- (f) assessing and developing national and international markets for Minnesota agricultural products;
- (g) studying the conversion of raw agricultural products to manufactured products including ethanol;
- (h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
- (i) assisting Minnesota agricultural businesses desiring to sell their products ~~in national and international markets~~; and
- (j) other activities the commissioner deems appropriate to promote Minnesota agricultural products ~~in national and international markets~~, *provided that the activities do not duplicate programs or services provided by the Minnesota trade division or the Minnesota world trade center corporation.*

Sec. 13. Minnesota Statutes 1986, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(a) Chosen by election or appointed to fill an elective office;

(b) Heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions and institutions specifically established by law in the unclassified service;

(c) Deputy and assistant agency heads, and one confidential secretary in the agencies listed in subdivision 1a;

(d) The confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;

(e) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(f) Employees in the offices of the governor and of the lieutenant governor, and one confidential employee for the governor in the office of the adjutant general;

(g) *Employees of the Washington, D.C., office of the state of Minnesota;*

(h) Employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

~~(h)~~ (i) Presidents, vice presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants and student employees eligible under terms of the federal economic opportunity act work study program in the state universities and community colleges. ~~This paragraph shall, but not be construed to include~~ the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions.

~~(j)~~ (j) Officers and enlisted persons in the national guard;

~~(k)~~ (k) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

~~(k)~~ (l) Judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

~~(m)~~ (m) Members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

~~(m)~~ (n) Chaplains employed by the state;

~~(n)~~ (o) Examination monitors and intermittent training instructors employed by the departments of employee relations and commerce;

~~(o)~~ (p) Student workers; and

(p) (q) Employees unclassified pursuant to other statutory authority.

Sec. 14. Minnesota Statutes 1986, section 116J.01, is amended to read:

116J.01 [DEPARTMENT OF ~~ENERGY~~ TRADE AND ECONOMIC DEVELOPMENT.]

Subdivision 1. [APPOINTMENT.] The department of ~~energy trade~~ and economic development ~~shall be~~ is supervised and controlled by the commissioner of ~~energy trade~~ and economic development, who ~~shall be~~ is appointed by the governor and ~~serve~~ serves under the provisions of section 15.06.

Subd. 2. [CONFIDENTIAL SECRETARY.] The commissioner may appoint a confidential secretary in the unclassified service.

Subd. 3. [DEPARTMENTAL ORGANIZATION.] The commissioner shall organize the department as provided in section 15.06. The department ~~shall~~ must be organized into ~~four~~ three divisions, ~~which shall be~~ designated as the ~~energy business promotion and marketing division, the community development division, the economic development division, and the financial management division; and the Minnesota trade division, and two offices, the office of tourism and the policy analysis office.~~ Each division and office is responsible for administering shall administer 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~~ is under the direction of a deputy commissioner in the unclassified service. ~~The deputy commissioner of the Minnesota trade division must be experienced and knowledgeable in matters of international trade. The Each office of tourism is under the direction of a director of tourism in the unclassified service. The governor shall appoint the director of tourism.~~

Sec. 15. Minnesota Statutes 1986, section 116J.03, is amended to read:

116J.03 [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in chapter 116J, the terms defined in this section have the meaning given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of ~~energy trade~~ and economic development.

Subd. 3. [DEPARTMENT.] "Department" means the department of ~~energy trade~~ and economic development.

Sec. 16. Minnesota Statutes 1986, section 116J.58, subdivision 2, is amended to read:

Subd. 2. [PROMOTIONAL CONTRACTS.] In order to best carry out duties and responsibilities and to serve the people of the state in the promotion of tourism, trade, and economic development, the commissioner may engage in programs and projects jointly with a private person, firm, corporation or association and may enter into contracts under terms to be mutually agreed upon to carry out such programs and projects not including acquisition of land or buildings. Such Contracts may be negotiated and ~~shall are~~ not be subject to the provisions of chapter 16, insofar as such provisions relate 16B relating to competitive bidding.

Sec. 17. Minnesota Statutes 1986, section 116J.60, is amended to read:

116J.60 [PROMOTIONAL EXPENSES.]

In the promotion of tourism, *trade*, and economic development of the state, the commissioner of ~~energy trade~~ and economic development may expend money appropriated by the legislature for these purposes in the same manner as private persons, firms, corporations, and associations make expenditures for these purposes. An expenditure for food, lodging, or travel is not governed by the travel rules of the commissioner of employee relations. No money shall be expended for the appearance in radio or television broadcasts by an elected public official.

Sec. 18. [116J.613] [WASHINGTON OFFICE.]

The commissioner may appoint employees in the Washington, D.C., office of the state of Minnesota in accordance with chapter 43A, and prescribe their duties.

In the operation of the Washington, D.C., office of the state of Minnesota, the commissioner may expend money appropriated by the legislature for promotional purposes in the same manner as private persons, firms, corporations, and associations expend money for promotional purposes. Promotional expenditures for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

Sec. 19. Minnesota Statutes 1986, section 116J.63, subdivision 2, is amended to read:

Subd. 2. ~~The commissioner shall recommend a schedule of fees pursuant to section 16A.128 to be charged for these materials and for services rendered by the department in furnishing them. Fees for reports, publications, or related publicity or promotional material are not subject to the rulemaking requirements of chapter 14 and are not subject to sections 16A.128 and 16A.1281.~~ The fees prescribed by the commissioner shall must be commensurate with the distribution objective of the department for the material produced or with the cost of furnishing the services. All fees for materials and services shall must be deposited in the general fund.

Sec. 20. [116J.966] [COMMISSIONER'S TRADE PROMOTION DUTIES.]

Subdivision 1. [GENERALLY.] (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at domestic and international trade shows;

(4) organize, promote, and present domestic and international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with interna-

tional trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services;

(11) undertake activities to support the world trade center; and

(12) enter into contracts or other agreements with private persons and public entities to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to sections 16B.07 and 16B.09.

(b) The programs and activities of the commissioner of trade and economic development and the Minnesota trade division may not duplicate programs and activities of the commissioner of agriculture or the Minnesota world trade center corporation.

Subd. 2. [AGRICULTURAL PROMOTION.] The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

Sec. 21. [236A.02] [ADMINISTRATIVE SUPPORT.]

The commissioner of agriculture in consultation with the director of the Minnesota trade division shall provide administrative staff and support to the Interstate Agricultural Grain Marketing Commission members from this state.

JUVENILE JUSTICE AND YOUTH INTERVENTION

Sec. 22. [268.29] [JUVENILE JUSTICE PROGRAM.]

The governor shall designate the department of jobs and training as the sole agency responsible for supervising the preparation and administration of the state plan for juvenile justice required by the Juvenile Justice and

Delinquency Prevention Act of 1974, as amended.

The governor shall designate the juvenile justice advisory committee as the supervisory board for the department of jobs and training with respect to preparation and administration of the state plan and award of grants.

The governor shall appoint members to the juvenile justice advisory committee in accordance with the membership requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Sec. 23. [268.30] [GRANTS-IN-AID TO YOUTH INTERVENTION PROGRAMS.]

Subdivision 1. [GRANTS.] The commissioner may make grants to non-profit agencies administering youth intervention programs in communities where the programs are or may be established.

"Youth intervention program" means a nonresidential community-based program providing advocacy, education, counseling, and referral services to youth and their families experiencing personal, familial, school, legal, or chemical problems with the goal of resolving the present problems and preventing the occurrence of the problems in the future.

Subd. 2. [APPLICATIONS.] Applications for a grant-in-aid shall be made by the administering agency to the commissioner. The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought.

The commissioner shall provide by rule the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency shall exceed \$25,000.

Sec. 24. [REORGANIZATION.]

The divisions and offices established within the department of trade and economic development by section 14 include the following divisions and offices in existence within and without the department before the effective date of this article:

- (1) the business promotion and marketing division;*
- (2) the community development division includes the community development division and the financial management division;*
- (3) the office of tourism includes the office of tourism;*
- (4) the Minnesota trade division includes the Minnesota trade office in the department of agriculture relating to international trade, but does not include the functions and positions of the office relating solely to domestic agricultural promotion; and*
- (5) the policy analysis office includes the division of policy analysis.*

Sec. 25. [REPEALER.]

Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 116J.404; and 116J.405 are repealed.

Sec. 26. [INSTRUCTION TO REVISOR.]

Subdivision 1. The revisor of statutes shall renumber each section of

Minnesota Statutes in column A with the corresponding number in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering and change the words "commissioner of agriculture" or similar words to "commissioner of the department of trade and economic development" or similar words.

Column A

17.103

17.104

17.105

Column B

116J.970

116J.971

116J.972

Subd. 2. The revisor of statutes shall, except in those sections listed in section 10, change all references to the commissioner or the department of energy and economic development to the commissioner or department of trade and economic development, as appropriate, whenever those words appear in Minnesota Statutes.

Sec. 27. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 2

WORLD TRADE CENTER

Section 1. [44A.001] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of this chapter, the following terms have the meaning given them in this section.

Subd. 2. [BOARD.] "Board" means the governing board of the Minnesota world trade center corporation.

Subd. 3. [CONFERENCE AND SERVICE CENTER.] "Conference and service center" means the approximately 20,000 square feet of space on the third and fourth floors of the Minnesota world trade center that the state of Minnesota has the right to possess, occupy, and use subject to the terms and conditions of the development agreement.

Subd. 4. [CORPORATION.] "Corporation" means the Minnesota world trade center corporation established by section 44A.01.

Subd. 5. [DEVELOPMENT AGREEMENT.] "Development agreement" means the agreement entered into by and between the world trade center board, as agent of the state of Minnesota, and Oxford Development Minnesota, Inc., dated July 27, 1984, and the amendments to that agreement, for development and construction of a world trade center at a designated site in Minnesota.

Subd. 6. [MINNESOTA WORLD TRADE CENTER.] "Minnesota world trade center" means the facility constructed in accordance with the development agreement.

Sec. 2. Minnesota Statutes 1986, section 44A.01, is amended to read:

44A.01 [WORLD TRADE CENTER BOARD CORPORATION.]

Subdivision 1. [MEMBERSHIP ESTABLISHMENT.] (a) A world trade center board is created to facilitate and support Minnesota world trade center programs and services and promote the growth of international trade in Minnesota. The world trade center board consists of nine voting members and four legislators serving as nonvoting members. Three members are representatives of the membership of the Minnesota world trade center;

one member is a representative of the international business community, and one member is a representative of the agricultural community.

(b) The initial voting members are appointed by the governor with the advice and consent of the senate. The terms of five of the initial voting members shall expire the first Monday in January 1987. The terms of the remaining four initial voting members shall expire the first Monday in January 1989. A vacancy is filled in the same manner as the appointment. *The Minnesota world trade center corporation is a public corporation established to facilitate and support Minnesota world trade center programs and services and to promote the Minnesota world trade center. The corporation is a state agency, but is not subject to chapters 14, 16A, 16B, 43A, and 179A.*

Subd. 2. [BOARD MEMBERSHIP.] (a) *The corporation is governed by a board of directors consisting of:*

(1) *six members, representing the international business community, elected to six-year terms by the association of members established under section 4, subdivision 2, clause (5);*

(2) *three members appointed by the governor, with the advice and consent of the senate, to six-year terms; and*

(3) *six legislators appointed under paragraph (b).*

Members appointed by the governor must be knowledgeable or experienced in international trade in products or services.

(c) (b) *Legislator members are ~~two~~ three members of the senate appointed under the rules of the senate and ~~two~~ three members of the house of representatives appointed by the speaker. One member from each house must be appointed from the minority party of that house. Except for the initial members, who are to be appointed following enactment, they are appointed at the beginning of each regular session of the legislature for two-year terms. A legislator who remains a member of the body from which the legislator was appointed may serve until a successor is appointed and qualifies. A vacancy in a legislator member's term is filled for the unexpired portion of the term in the same manner as the original appointment.*

Subd. 2- 3. [TERMS; COMPENSATION; REMOVAL.] *Except as provided in this section, terms, compensation, and removal of members who are not legislators are as provided in section 15.059.*

Subd. 3- 4. [ORGANIZATION.] *The chair of the world trade center board is selected by the board members. The board shall elect a chair and an executive committee from its members.*

Sec. 3. Minnesota Statutes 1986, section 44A.02, is amended to read:

44A.02 [PRESIDENT.]

Subdivision 1. [SELECTION.] *The president of the world trade center ~~board~~ corporation is selected by a majority of the board and serves at the pleasure of the board. The president must be familiar with the international business community, and have demonstrated proficiency in communication skills, administration, and management. The salary of the president is set by the board ~~within the limit set by sections, but may not exceed the salary set for the commissioner of finance under section 15A.081, subdivision 1, and 43A.17.~~*

Subd. 2. [DUTIES.] The president is the chief administrative officer of the ~~board corporation~~ and is responsible for performing the executive duties of the ~~board corporation~~. The president is not a member of the board.

Subd. 3. [EMPLOYEES.] The president may appoint ~~unclassified~~ employees in accordance with chapter 43A and prescribe their duties. *Employees and officers of the corporation are not state employees, but at the option of the board may participate in the following plans for employees in the unclassified service: the state retirement plan, the state deferred compensation plan, and the health insurance and life insurance plans.* The president may delegate to a subordinate the exercise of specified statutory powers or duties as the president deems advisable, subject to the control of the president.

Sec. 4. [44A.023] [POWERS.]

Subdivision 1. [LEGAL ACTION.] The corporation may sue and be sued in the manner and subject to the limitations of other state agencies.

Subd. 2. [OTHER POWERS.] The board may:

(1) define, formulate, administer, and deliver programs and services through the world trade center;

(2) establish satellite operations of the Minnesota world trade center within the continental United States;

(3) accept gifts and grants from other sources;

(4) set and collect fees for services and programs;

(5) adopt membership requirements for an association of members of the Minnesota world trade center;

(6) participate jointly with private persons, firms, corporations, or organizations or with public entities in appropriate programs or projects and enter into contracts to spend money to carry out those programs or projects;

(7) have a seal and alter it at will;

(8) acquire and dispose of personal property, including inchoate and intellectual property, royalties, stock, and stock warrants;

(9) enter into contracts or agreements with a federal or state agency, individual, business entity, or other organization;

(10) acquire and dispose of real property or an interest in real property;

(11) purchase insurance;

(12) spend money appropriated to it for its purposes, including expenditures for the food, lodging, and travel of consultants and speakers hired by the board, and for publications, advertising, and promotional activities; and

(13) hold and maintain membership for the Minnesota world trade center in the world trade centers association.

Sec. 5. [44A.025] [DUTIES.]

The board shall:

(1) promote and market the Minnesota world trade center;

(2) sponsor conferences or other promotional events in the conference

and service center;

(3) adopt bylaws governing operation of the corporation by November 1, 1987;

(4) establish a Minnesota world trade center club program in accordance with the development agreement;

(5) conduct public relations and liaison activities between the corporation and the international business community;

(6) establish and maintain an office in the Minnesota world trade center; and

(7) not duplicate programs or services provided by the commissioner of trade and economic development, the Minnesota trade division, or the commissioner of agriculture.

Sec. 6. Minnesota Statutes 1986, section 44A.031, is amended to read:
44A.031 [PROMOTIONAL EXPENSES.]

The world trade center board may expend money in the world trade center fund, and any other money appropriated by the legislature, for the purpose of promotion of world trade in Minnesota to carry out sections 4 and 5. Promotional expenses include, but are not limited to, expenses for the food, lodging and travel of consultants and, speakers, and employees hired by the board, and publications and other forms of advertising. Promotional expenditures may be made in the same manner as expenditures made by private persons, firms, corporations, or associations for similar purposes, and are not subject to regulation by the commissioner of employee relations.

Sec. 7. [44A.0311] [WORLD TRADE CENTER CORPORATION FUND.]

The world trade center corporation fund is an account in the state treasury. All money received by the corporation, including money generated from the use of the conference and service center, except money generated from the use of the center by the Minnesota trade division, must be deposited in the fund. Money in the fund including interest earned is appropriated to the board and must be used exclusively for corporation purposes.

Sec. 8. [44A.11] [USE OF CONFERENCE AND SERVICE CENTER.]

The board shall operate or provide for the operation of the conference and service center. Priority use of the conference and service center must be given to programs and activities related to international trade. The board may permit use of the center for public benefits and other revenue raising purposes only after all requests for use of the center for international business have been accommodated.

Sec. 9. [TRANSITION.]

(a) The nine voting members of the Minnesota world trade center board on the effective date of this section shall serve as the first nonlegislative members of the first Minnesota world trade center corporation board of directors. The governor shall designate three of the nine as the governor's appointees and shall designate one of those members to serve a term of two years, one a term of four years, and one a term of six years. At the conclusion of the terms of the three members designated by the governor as the governor's appointees, their successors must be appointed under

section 2, subdivision 2, paragraph (a), clause (2). Of the remaining six members of the first world trade center corporation board, two shall serve terms of two years, two shall serve terms of four years, and two shall serve terms of six years. The determination of members who serve these terms must be made by the governor. On expiration of these six members' terms, successors must be elected under section 2, subdivision 2, paragraph (a), clause (1). If the association fails to elect successors within 90 days of the expiration of a term, the governor shall fill that term by appointment.

Sec. 10. [MEMBERSHIP AGREEMENT.]

The Minnesota world trade center corporation shall request the executive board of the world trade centers association to transfer the membership of the Minnesota world trade center board in the world trade centers association to the corporation.

Sec. 11. [TRANSFERS; APPROPRIATIONS; COMPLEMENT.]

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

Subd. 2. [TRANSFER.] All of the state of Minnesota's rights and obligations under the development agreement and all existing contracts related to the approximately 20,000 square feet to which the world trade center board is a party or beneficiary is transferred to the corporation. All other property of the world trade center board, including any unexpended balance of the world trade center board 1987 appropriation and matching funds, is transferred and appropriated to the corporation.

Subd. 3. [OPERATING EXPENSES APPROPRIATION.] \$135,000 the first year and \$180,000 the second year is appropriated from the general fund to the commissioner of administration to pay the operating expenses of the Minnesota world trade center conference and service center as required by the development agreement, to be available until June 30, 1989. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 4. [APPROPRIATIONS AND COMPLEMENT.] The approved complement of the Minnesota trade division of the department of trade and economic development is increased by four positions. The commissioner of trade and economic development shall fund these positions with money appropriated to the department of trade and economic development by other law.

Sec. 12. [REPEALER.]

Minnesota Statutes 1986, sections 44A.03; 44A.04; 44A.05; and 44A.07, are repealed.

Sec. 13. [TOURISM APPOINTMENT.]

Notwithstanding section 14 of article 1, the governor shall appoint the director of tourism until January 1, 1989.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 12 are effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to state government; reorganizing the depart-

ment of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; creating the Minnesota world trade center corporation and providing for its powers and duties; changing the membership of the world trade center board; authorizing the board to contract for certain services and programs; establishing the conference and service facility fund; appropriating money; amending Minnesota Statutes 1986, sections 17.03, by adding a subdivision; 17.101, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.02; 44A.031; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 44A; 116J; 236A; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.07; 116J.404; and 116J.405."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) William P. Luther, Donald M. Moe, Carl W. Kroening

House Conferees: (Signed) Glen H. Anderson, James I. Rice, Bert McKasy

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1203 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1203 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 38 and nays 17, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Langseth	Novak	Spear
Beckman	Dicklich	Lantry	Pehler	Stumpf
Belanger	Frederickson, D.J.	Lessard	Peterson, D.C.	Taylor
Berglin	Hughes	Luther	Peterson, R.W.	Vickerman
Bernhagen	Johnson, D.E.	Marty	Piper	Wegscheid
Bertram	Johnson, D.J.	Moe, D.M.	Reichgott	Willet
Brandl	Kroening	Moe, R.D.	Renneke	
Cohen	Laidig	Morse	Schmitz	

Those who voted in the negative were:

Anderson	Frank	Knutson	Merriam	Storm
Berg	Frederickson, D.R.	Larson	Metzen	
Brataas	Jude	McQuaid	Olson	
Davis	Knaak	Mehrkens	Rainstad	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 841 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 841

A bill for an act relating to natural resources; amending requirements for eligibility, applications, agreements, payments, and other terms and conditions of the conservation reserve program; changing requirements to drain privately owned inventoried wetlands and public waters; amending and changing requirements for the waterbank program; changing requirements for persons selling land under a waterbank agreement; establishing a native prairie bank program; providing for prairie management applications, agreements, payments, and other terms and conditions; appropriating funds; amending Minnesota Statutes 1986, sections 40.41; 40.42, subdivision 5, and by adding subdivisions; 40.43, subdivisions 2, 5, 6, and 7; 40.44, subdivision 2; 84.943, subdivisions 1, 3, and 5; 84.944, subdivision 1; 84.95, subdivision 2, and by adding a subdivision; 105.391, subdivision 3; 105.392, subdivisions 1, 2, 3, 4, 5, and 6; proposing coding for new law in Minnesota Statutes, chapter 84.

May 18, 1987

The Honorable Jerome M. Hughes
President of the Senate

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

We, the undersigned conferees for S.F. No. 841, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 841 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 40.41, is amended to read:
40.41 [PURPOSE AND POLICY.]

It is the purposes of sections 40.41 to 40.45 to keep certain marginal agricultural land out of crop production ~~or pasture~~ to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodable land, particularly land adjacent to public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

Sec. 2. Minnesota Statutes 1986, section 40.42, subdivision 5, is amended to read:

Subd. 5. [LANDOWNER.] "Landowner" means a ~~Minnesota resident who owns or is a buyer under a contract for deed, of land that qualifies as a family farm, a family farm corporation or an authorized farm corporation under section 500.24, subdivision 2 individuals, family farm, family farm corporations as defined under section 500.24, subdivision 2, paragraph (c), and authorized farm corporations as defined under section 500.24, subdivision 2, paragraph (d), which either own eligible land or are purchasing eligible land under a contract for deed.~~

Sec. 3. Minnesota Statutes 1986, section 40.42, is amended by adding a subdivision to read:

Subd. 7. [WETLAND.] "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions.

Sec. 4. Minnesota Statutes 1986, section 40.42, is amended by adding a subdivision to read:

Subd. 8. [WINDBREAK.] "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

Sec. 5. Minnesota Statutes 1986, section 40.43, subdivision 2, is amended to read:

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

(1) is marginal agricultural land, or is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description, or consists of a drained wetland, or is land that with a windbreak would be beneficial to resource protection. Cropland adjacent to the restored wetland may also be enrolled to the extent of up to four acres of cropland for each acre of wetland restored;

(2) was owned by the ~~applicant~~ landowner on January 1, 1985, or for ~~an application made on or after January 1, 1988,~~ was owned by the ~~applicant~~ landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

(3) is at least five acres in size, *except for a windbreak*, or is a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

(4) is not set aside, enrolled or diverted under another federal or state government program; and

(5) was in agricultural crop production ~~or pasture~~ for at least two years during the period 1981 to 1985.

The ~~eligible~~ enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, *if the landowner owns at least 200 acres of agricultural land as defined by section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land the amount that may be enrolled in the conservation reserve is:*

(a) all agricultural land owned, if 20 acres or less; or

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 40.41.

Sec. 6. Minnesota Statutes 1986, section 40.43, subdivision 3, is amended to read:

Subd. 3. [CONSERVATION EASEMENTS.] The commissioner may acquire conservation easements on eligible land. An easement may be permanent or of limited duration. An easement of limited duration may not be acquired if it is for a period less than ~~ten~~ 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapter 16B.

Sec. 7. Minnesota Statutes 1986, section 40.43, subdivision 5, is amended to read:

Subd. 5. [AGREEMENTS BY LANDOWNER.] The commissioner may enroll eligible land in the conservation reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the commissioner; or to plant trees or carry out other long-term capital improvements approved by the commissioner for soil and water conservation or wildlife management;

(3) *to restore any drained wetland and to convey to the state a permanent easement for the wetland;*

(4) that other land supporting natural vegetation owned or leased as part of the same farm operation ~~during at the term of the easement time of application~~, if it supports natural vegetation or has not been used in agricultural crop production or pasture, will not be converted to agricultural crop production or pasture; ~~and~~

(4) (5) to the enforcement of the *terms of the easement and* agreements in this subdivision by an action for specific performance, a mandatory injunction, or for damages in an amount not to exceed the total amount paid by the state to the landowner under subdivision 6, with interest from the date of each default under the agreement; *and*

(6) *that the easement duration may be lengthened through mutual agreement with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or to facilitate its administration.*

Sec. 8. Minnesota Statutes 1986, section 40.43, subdivision 6, is amended to read:

Subd. 6. [PAYMENTS FOR CONSERVATION EASEMENTS AND ESTABLISHMENT OF COVER.] The commissioner must make the following payments to the landowner for the conservation easement and agreement:

(1) to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed \$75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$100 per acre for perpetual easements;

(2) for the cost of planting trees required by the agreement, up to \$75 75 percent of the total eligible cost not to exceed \$200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed

\$300 per acre for perpetual easements;

(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time ~~the~~ of easement is ~~conveyed~~ *applied*; and

(4) for an easement of limited duration, 90 percent of the present value of the average of the ~~acceptable~~ *accepted* bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids ~~made immediately prior to when accepted at the time of easement is conveyed. If federal bid figures have not been determined for the area, or the federal program has been discontinued, the rate paid shall~~ *applied*; or

(5) *an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.*

The commissioner may not pay more than \$50,000 to a landowner for all the landowner's conservation easements and agreements.

Sec. 9. Minnesota Statutes 1986, section 40.43, subdivision 7, is amended to read:

Subd. 7. [EASEMENT RENEWAL.] When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of ~~ten~~ *not less than 20* years may be acquired by agreement of the commissioner and the landowner, under the terms of this section. The commissioner may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

Sec. 10. Minnesota Statutes 1986, section 40.44, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioners of agriculture and natural resources must provide necessary technical assistance to landowners enrolled in the conservation reserve program. The commissioner of natural resources must provide technical advice and assistance to the commissioner on (1) the form and content of the conservation easement and agreement; ~~and on~~; (2) *forestry and agronomic practices; and (3) hydrologic and hydraulic design* relating to the establishment and maintenance of permanent cover, or other conservation improvements. *The commissioner of transportation must provide technical advice and assistance to the commissioners of agriculture and natural resources on the planting of windbreaks adjacent to highways.* The commissioners of agriculture and natural resources shall jointly prepare an informational booklet on the conservation reserve program and other state and federal programs for land acquisition, conservation, and retirement to be made available to eligible landowners and the general public.

Sec. 11. Minnesota Statutes 1986, section 40.44, subdivision 3, is amended to read:

Subd. 3. [SUPPLEMENTAL CONSERVATION PAYMENTS.] The commissioner may supplement ~~cost-share~~ payments made under ~~other federal land retirement programs, up to \$75 an acre,~~ to the extent of available appropriations other than bond proceeds. The supplemental ~~cost-share~~ payments must be used to establish perennial cover on land enrolled *or increase payments for land enrollment* in programs approved by the commissioner,

including the federal conservation reserve program and federal and state waterbank ~~programs~~ program.

Sec. 12. Minnesota Statutes 1986, section 40.45, is amended to read:
40.45 [RULEMAKING.]

The commissioner ~~shall may~~ adopt emergency rules ~~and is authorized to adopt to implement this act.~~ The emergency rules ~~in order to implement sections 40.41 to 40.45 adopted on August 27, 1986,~~ shall remain in effect until December 31, 1987, or until amended or replaced by emergency or permanent rules. The rules must include standards for tree planting so that planting does not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage ditches.

Sec. 13. Minnesota Statutes 1986, section 84.943, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The Minnesota critical habitat private sector matching account is established as a separate account in the ~~state treasury reinvest in Minnesota resources fund established under section 84.95.~~ The account shall be administered by the commissioner of natural resources as provided in this section.

Sec. 14. Minnesota Statutes 1986, section 84.943, subdivision 3, is amended to read:

Subd. 3. [APPROPRIATIONS MUST BE MATCHED BY PRIVATE FUNDS.] Appropriations ~~transferred~~ to the critical habitat private sector matching account may be expended only to the extent that they are matched equally with contributions to the account from private sources or by funds contributed to the nongame wildlife management account. The private contributions may be made in cash or in contributions of land or interests in land that are designated by the commissioner of natural resources as program acquisitions. Appropriations ~~transferred~~ to the account that are not matched within three years from the date of the appropriation shall cancel to the source of the appropriation. For the purposes of this section, the private contributions of land or interests in land shall be valued in accordance with their appraised value.

Sec. 15. Minnesota Statutes 1986, section 84.943, subdivision 5, is amended to read:

Subd. 5. [PLEDGES AND CONTRIBUTIONS.] The commissioner of natural resources may accept contributions and pledges to the critical habitat private sector matching account. A pledge that is made contingent on an appropriation is acceptable and shall be reported with other pledges as required in this section. In the budget request for each biennium, the commissioner shall report the balance of contributions in the account and the amount that has been pledged for payment in the succeeding two calendar years.

Money in the account ~~may be expended~~ is appropriated to the commissioner of natural resources only for the direct acquisition or improvement of land or interests in land as provided in section 84.944. To the extent of available appropriations other than bond proceeds, the money matched to the nongame wildlife management account may be used for the management of nongame wildlife projects as specified in section 290.431. Acquisition includes: (1) purchase of land or an interest in land by the commissioner; or (2) acceptance by the commissioner of gifts of land or interests in land

as program projects.

Sec. 16. Minnesota Statutes 1986, section 84.944, subdivision 1, is amended to read:

Subdivision 1. [ACQUISITION CONSIDERATIONS.] In determining what critical natural habitat shall be acquired or improved, the commissioner shall consider:

- (1) the significance of the land or water as existing or potential habitat for fish and wildlife and providing fish and wildlife oriented recreation;
- (2) the significance of the land, water, or habitat improvement to maintain or enhance native plant, fish, or wildlife species designated as endangered or threatened under section 97.488;
- (3) the presence of native ecological communities that are now uncommon or diminishing; and
- (4) the significance of the land, water or habitat improvement to protect or enhance natural features within or contiguous to natural areas including fish spawning areas, wildlife management areas, scientific and natural areas, riparian habitat and fish and wildlife management projects.

Based on the above clauses, the commissioner by order promulgated under section 97A.051, subdivision 3, must establish a process to prioritize what critical habitat shall be acquired or improved.

Sec. 17. Minnesota Statutes 1986, section 84.95, subdivision 2, is amended to read:

Subd. 2. [PURPOSES AND EXPENDITURES.] Money from the reinvest in Minnesota resources fund may only be spent for the following fish and wildlife conservation enhancement purposes:

- (1) development and implementation of the comprehensive fish and wildlife management plan under section 84.942;
- (2) implementation of the conservation reserve program established by section 40.43;
- (3) soil and water conservation practices to improve water quality, reduce soil erosion and crop surpluses;
- (4) enhancement of fish and wildlife habitat on lakes, streams, wetlands, and public and private forest lands;
- (5) acquisition and development of public access sites and recreation easements to lakes, streams, and rivers for fish and wildlife oriented recreation;
- (6) matching funds with government agencies, *federally recognized Indian tribes and bands*, and the private sector for acquisition and improvement of fish and wildlife habitat;
- (7) research and surveys of fish and wildlife species and habitat;
- (8) enforcement of natural resource laws and rules;
- (9) information and education;
- (10) implementing the aspen recycling program under section 88.80; and
- (11) necessary support services to carry out these purposes.

Sec. 18. Minnesota Statutes 1986, section 84.95, is amended by adding

a subdivision to read:

Subd. 3. [WORK PLAN.] By February 1 of each year the commissioner of natural resources, in consultation with the commissioner of agriculture, must present a written work plan for expenditure of money from the reinvest in Minnesota resources fund for the next fiscal year to the senate and house committees on agriculture and environment and natural resources for their review and comment. Any recommendations to the commissioners by the committees must be returned to the commissioners by March 15. By April 30 of each year the commissioner must make the work plan, with any revisions, available to the public for comment. In so doing, the commissioner must hold at least three public meetings to inform the public of the work plan; one meeting to be held in the Twin Cities metropolitan area, the others at non-Twin Cities locations, one each in northern and southern Minnesota. By January 15 of each year, the commissioner must prepare a written progress report on projects undertaken and money encumbered during the fiscal year just ended, and must transmit the report to the above committees and make the report available to the public.

Sec. 19. [84.96] [NATIVE PRAIRIE BANK.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall establish a native prairie bank, determine where native prairie land is located in the state, and prescribe eligibility requirements for inclusion of land in the native prairie bank.

Subd. 2. [DEFINITION.] For the purposes of this section, "native prairie" means land that has never been plowed, with less than ten percent tree cover and with predominantly native prairie vegetation.

Subd. 3. [EASEMENT ACQUISITION.] (a) The commissioner may acquire native prairie for conservation purposes by entering into easements with landowners. The easements must be conservation easements as defined in section 84C.01, clause (1), except the easements may be made possessory as well as nonpossessory if agreed upon by the landowner and the commissioner.

(b) The easements may be permanent or of limited duration. Highest priority must be given to permanent easements consistent with the purposes of this section. Easements of limited duration must be for at least 20 years, with provision for renewal for at least another 20-year period. For easements of limited duration, the commissioner may reexamine and adjust the payment rates at the beginning of any renewal period after considering current land and crop values.

Subd. 4. [EASEMENT AGREEMENT.] (a) In the easement between the commissioner and an owner, the owner must agree:

(1) to place in the program for the period of the easement eligible native prairie areas designated by the owner, including prairie covered by a federal or state easement that allows agricultural use and desirable land adjacent to the prairie as determined by the commissioner;

(2) not to alter the native prairie by plowing, heavy grazing, seeding to nonnative grasses or legumes, spraying with large amounts of herbicides, or otherwise destroying the native prairie character of the easement area, except mowing the native prairie tract for wild hay may qualify for easement as determined by the commissioner;

(3) to implement the native prairie conservation and development plan as provided in the easement agreement, unless a requirement in the easement agreement is waived or modified by the commissioner;

(4) to forfeit all rights to further payments under the terms of the easement and to refund to the state all payments received under the easement if the easement is violated at any time when the owner has control of the land subject to the easement, if the commissioner determines that the violation warrants termination of the easement, or if the commissioner determines that the violation does not warrant termination of the easement, the commissioner may determine refunds or payment adjustments to be paid by the commissioner;

(5) not to adopt a practice specified by the commissioner in the easement as a practice that would tend to defeat the purposes of the easement; and

(6) to additional provisions included in the easement that the commissioner determines are desirable.

(b) In return for the easement of the owner, the commissioner shall make payments as provided in subdivision 5 and may provide advice on conservation and development practices on the native prairie in the easement and adjacent areas.

Subd. 5. [PAYMENTS.] (a) The commissioner must make payments to the landowner under this subdivision for the easement.

(b) For a permanent easement, the commissioner must pay 50 percent of the average equalized estimated market value of cropland in the township as established by the commissioner of revenue for the time period when the application is made.

(c) For an easement of limited duration, the landowner shall receive a lump sum payment equal to the present value of the annual payments for the term of the easement based on 50 percent of the mean adjusted cash rental for cropland in the county as established by the commissioner of revenue for the time period when the application is made.

(d) To maintain and protect native prairies, the commissioner may enter into easements that allow selected agricultural practices. Payment must be based on paragraph (b) or (c) but may be reduced due to the agricultural practices allowed after negotiation with the landowner.

Subd. 6. [RENEWAL.] A limited-term easement may be converted to a permanent easement or renewed at the end of the easement period by mutual agreement of the commissioner and the owner, subject to any rate re-determination by the commissioner.

Subd. 7. [EASEMENT RUNS WITH LAND.] If during the easement period the owner sells or otherwise disposes of the ownership or right of occupancy of the land, the new owner must continue the easement under the same terms or conditions.

Subd. 8. [MODIFICATION AND TERMINATION BY AGREEMENT.] The commissioner may terminate an easement by mutual agreement with the owner if the commissioner determines that the termination would be in the public interest. The commissioner may agree to modifications of agreements if the commissioner determines the modification is desirable to implement the native prairie program.

Subd. 9. [RULES.] The commissioner of natural resources may adopt

rules that include the procedures and payment rates to implement this section.

Sec. 20. Minnesota Statutes 1986, section 105.391, subdivision 3, is amended to read:

Subd. 3. Except as provided below, no public waters or wetlands shall be drained, and no permit authorizing drainage of public waters or wetlands shall be issued, unless the public waters or wetlands being drained are replaced by public waters or wetlands ~~which that~~ will have equal or greater public value. ~~However, after a state waterbank program has been established, Wetlands which are eligible for inclusion in that program, the drainage of which is lawful, feasible, and practical and would provide high quality cropland and that is the projected land use, as determined by the commissioner, may be drained without a permit and without replacement of wetlands of equal or greater public value if the commissioner does not elect, within 60 days of the receipt of an application for a permit to drain the wetlands, to either (1) place the wetlands in the state waterbank program under section 105.392, or (2) acquire it in fee pursuant to section 97A.145, or (3) indemnify the landowner through any other appropriate means, including but not limited to conservation restrictions, easements, leases, or any applicable federal program. The applicant, if not offered a choice of the above alternatives, is entitled to drain the wetlands involved.~~

In addition, the owner or owners of lands underlying wetlands situated on privately owned lands may apply to the commissioner for a permit to drain the wetlands at any time after the expiration of ten years following the original designation thereof. Upon receipt of an application, the commissioner shall review the current status and conditions of the wetlands. If the commissioner finds that the current status or conditions are such that it appears likely that the economic or other benefits *from agricultural use* to the owner or owners which would result from drainage would exceed the public benefits of maintaining the wetlands, the commissioner shall grant the application and issue a drainage permit. If the application is denied, no additional application shall be made until the expiration of an additional ten years.

Sec. 21. Minnesota Statutes 1986, section 105.392, subdivision 1, is amended to read:

Subdivision 1. The legislature finds that it is in the public interest to preserve the wetlands of the state and thereby to conserve surface waters, ~~to maintain and improve water quality,~~ preserve wildlife habitat, ~~to reduce runoff, to provide for floodwater retention, to reduce stream sedimentation, to contribute to improved subsurface moisture, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning.~~ Therefore, the commissioner of natural resources is authorized to promulgate rules, which shall include the procedures and payment rates designed to effectuate the terms of this section. ~~This program is intended to supplement and complement the federal water bank program and the payment rates established shall be at least equal to the federal rates existing at the time any agreements are entered into.~~

Sec. 22. Minnesota Statutes 1986, section 105.392, subdivision 2, is amended to read:

Subd. 2. *For the conservation of wetlands, whether or not included in the definition contained in section 105.37, subdivision 15, the commis-*

sioner shall have authority to may acquire wetlands in fee pursuant to section 97A.145, or may enter into easement agreements with landowners for the conservation of wetlands and other waters. These easement agreements shall be conservation easements, as defined in section 84C.01, paragraph (1), but, in addition, may be made possessory as well as nonpossessory if agreed upon by the landowner and the commissioner. These agreements easements shall be entered into for a period of ~~ten~~ not less than 20 years, with provision for renewal for ~~additional ten year~~ not less than 20-year periods, or the agreements may provide that the easement will be permanent in duration. Highest priority must be given to the selection of permanent easements. The commissioner may reexamine the payment rates at the beginning of any ~~ten year~~ 20-year renewal period in the light of the ~~then~~ giving consideration to current land and crop values and make needed adjustments in rates for any renewal period.

Wetlands eligible for inclusion in the waterbank program shall have all the following characteristics as determined by the commissioner: (a) type 3, 4, or 5 as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition); (b) its drainage is lawful, feasible, and practical; and (c) its drainage would provide high quality cropland and that is the projected land use. Waters which have the foregoing characteristics but are less than ten acres in size in unincorporated areas or less than 2-1/2 acres in size in incorporated areas shall also be eligible for inclusion in the waterbank program, at the discretion of the commissioner.

Sec. 23. Minnesota Statutes 1986, section 105.392, subdivision 3, is amended to read:

Subd. 3. In the agreement easement between the commissioner and an owner, the owner shall agree:

(1) to place in the program for the period of the agreement eligible wetland areas the owner designates, which areas may include wetlands covered by a federal or state government easement ~~which that~~ permits agricultural use, together with such adjacent areas as determined desirable by the commissioner;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the commissioner;

(3) to effectuate the wetland conservation and development plan for the land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the commissioner;

(4) to forfeit all rights to further payments or grants under the agreement and to refund to the state all payments or grants received thereunder upon violating the agreement at any stage during the time the owner has control of the land subject to the agreement if the commissioner determines that the violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the commissioner may deem appropriate if the commissioner determines that the violation by the owner does not warrant termination of the agreement;

(5) upon transfer of right and interest in the land subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the state all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the commissioner to assume all obligations of

the agreement;

(6) not to adopt any practice specified by the commissioner in the ~~agreement easement~~ as a practice which would tend to defeat the purposes of the ~~agreement easement~~; and

(7) (6) to additional provisions which the commissioner determines are desirable and includes in the ~~agreement easement~~ to effectuate the purposes of the program or to facilitate its administration.

Sec. 24. Minnesota Statutes 1986, section 105.392, subdivision 4, is amended to read:

Subd. 4. In return for the ~~agreement easement~~ of the owner, the commissioner shall (1) make an annual payment to the owner for the period of the agreement at the rate as the commissioner determines to be fair and reasonable in consideration of the obligations undertaken by the owner; and (2) must provide advice on conservation and development practices on the wetlands and adjacent areas for the purposes of this section as the commissioner determines to be appropriate. In making the determination, the commissioner shall consider, among other things, the rate of compensation necessary to encourage owners of wetlands to participate in the waterbank program. The commissioner must make the following payments to the landowner for the easement: (1) for a permanent easement, 50 percent of the average equalized estimated market value of cropland in the township as established by the commissioner of revenue for the time period when the application is made; (2) for an easement of limited duration, a lump sum payment equal to the present value of the annual payments for the term of the easement based on 50 percent of the mean adjusted cash rental for cropland in the county as established by the commissioner of revenue for the time period when the application is made.

Sec. 25. Minnesota Statutes 1986, section 105.392, subdivision 5, is amended to read:

Subd. 5. ~~Any agreement~~ A limited-term easement may be converted to a permanent easement or renewed or extended at the end of the ~~agreement easement~~ period for an additional period of ten 20 years by mutual agreement of the commissioner and the owner, subject to any rate redetermination by the commissioner. If during the ~~agreement easement~~ period the owner sells or otherwise disposes of the ownership or right of occupancy of the land, the new owner may must continue such agreement the easement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this section, including the provisions for renewal and adjustment of payment rates, or may choose not to participate in the program, except any water designated as wetlands shall not be drained.

Sec. 26. Minnesota Statutes 1986, section 105.392, subdivision 6, is amended to read:

Subd. 6. The commissioner may terminate any ~~agreement easement~~ by mutual agreement with the owner if the commissioner determines that the termination would be in the public interest, and may agree to any modification of agreements the commissioner may determine to be desirable to carry out the purposes of the program or facilitate its administration.

Sec. 27. [APPROPRIATION.]

Subdivision 1. [COMMISSIONER OF AGRICULTURE.] \$1,800,000 is

appropriated from the general fund to the commissioner of agriculture for technical services and implementation of the conservation reserve program, to be available until June 30, 1989. \$1,500,000 of this appropriation must be distributed to soil and water conservation districts. The approved complement of the department of agriculture is increased by three positions in the classified service.

Subd. 2. [COMMISSIONER OF NATURAL RESOURCES.] \$1,200,000 is appropriated from the general fund to the commissioner of natural resources to implement components of the comprehensive fish and wildlife plan under Minnesota Statutes, section 84.942. \$480,000 of this appropriation is to assist both public and private landowners to improve wildlife habitat. The approved complement of the department of natural resources is increased by eight positions in the classified service."

Amend the title:

"A bill for an act relating to natural resources; conservation reserve program; definitions, eligibility for inclusion, applications, agreements, payments, and other terms and conditions; establishing a native prairie bank program; appropriating funds; amending and changing requirements for the waterbank programs; amending Minnesota Statutes 1986, sections 40.41; 40.42, subdivision 5, and by adding subdivisions; 40.43, subdivisions 2, 3, 5, 6, and 7; 40.44, subdivisions 2 and 3; 40.45; 84.943, subdivisions 1, 3, and 5; 84.944, subdivision 1; 84.95, subdivision 2 and by adding a subdivision; 105.391, subdivision 3; and 105.392, subdivisions 1, 2, 3, 4, 5, and 6; proposing coding for new law in Minnesota Statutes, chapter 84."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Steven G. Novak, Gene Merriam, Gerald L. Willet

House Conferees: (Signed) Willard Munger, Edgar L. Olson, John T. Rose

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on S.F. No. 841 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 841 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1315, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1315 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1315

A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; providing for a study of the Minnesota veterans' home; providing for information systems management; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; amending Minnesota Statutes 1986, sections 2.722, subdivision 1; 3.099, subdivision 3; 3.30, subdivision 2; 3.85, subdivision 12; 3C.11, subdivision 2; 3C.12, subdivision 7; 8.15; 14.07, subdivisions 1 and 2; 14.08; 14.47, subdivision 8; 15.01; 15.06, subdivision 1; 15A.081, subdivision 1; 16A.127, subdivision 8; 16A.85, by adding a subdivision; 16B.20, subdivision 2; 16B.41; 16B.42, subdivision 4; 69.021, subdivision 5; 84.01, subdivision 3; 84.0272; 84.091, subdivision 3; 84.83, subdivision 3; 85.30; 85.41; 85.42; 85.43; 85.45; 85A.04, subdivision 1; 88.065; 88.17, subdivision 2; 88.75, subdivision 1; 88.76; 88.79, subdivision 2; 89.04; 92.46, subdivision 1; 92.67, subdivisions 1, 4, and by adding a subdivision; 93.335, subdivision 4; 97A.061, subdivision 1; 97A.065, subdivision 2; 97A.105, subdivision 1; 97A.415, subdivision 1; 97A.445, subdivision 1; 97A.451, subdivision 4; 97A.475, subdivisions 2, 3, 6, 7, 8, 9, 11, 12, 13, and 20; 97A.485, subdivision 6; 97C.211, by adding a subdivision; 115A.15, subdivision 6; 115A.42; 115A.44; 115A.45; 115A.46, subdivision 1; 115A.49; 115A.51; 115A.52; 115A.53; 115A.917; 116.41, subdivision 2; 116J.615, by adding a subdivision; 161.1419, subdivision 4; 175A.07, subdivision 2; 176.611, subdivisions 2, 6a, and by adding a subdivision; 179A.03, subdivision 17; 179A.04, subdivision 3; 179A.13; 179A.16; 179A.21; 179A.25; 197.481, subdivision 5; 204B.11, subdivision 1; 221.67; 271.01, by adding a sub-

division; 273.1314, subdivision 16a; 296.16, subdivision 1; 296.421, subdivision 5; 302A.011, subdivision 11; 302A.153; 303.13, subdivision 1; 303.21, subdivision 3; 317.67, subdivision 2; 322A.16; 322A.71; 330.11, subdivision 3; 333.055, subdivision 3; 363.05, subdivision 1; 363.071, subdivision 2; 363.14, subdivision 1; 403.11, subdivision 1; 462A.05, by adding a subdivision; 462A.21, by adding a subdivision; 473.351, by adding a subdivision; 480.241; 480A.08, subdivision 3; 540.152; 543.08; 609.101; 626.861, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 3; 5; 43A; 84; 86; 88; 89; 93; 97A; 97C; 115A; 480; 481; repealing Minnesota Statutes 1986, sections 3.9226, subdivision 8; 3C.035, subdivision 2; 3C.055; 3C.056; 3C.057; 6.495, subdivision 2; 92.67, subdivision 6; 116J.87; 179A.03, subdivision 3; 179A.05; 296.421, subdivision 5a; 363.01, subdivisions 14 and 26; 363.04, subdivisions 1, 2, 9, and 10; 363.12, subdivision 3; 363.121; 473.351, subdivision 5.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1315, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1315 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [STATE DEPARTMENTS; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1987," "1988," and "1989," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1987, June 30, 1988, or June 30, 1989, respectively.

SUMMARY BY FUND

	1987	1988	1989	TOTAL
General	\$3,325,900	\$327,120,700	\$341,020,700	\$671,467,300
Special Revenue	395,000	57,391,400	57,060,300	114,846,700
Game and Fish		37,832,700	39,108,200	76,940,900
Trunk Highway	284,800	6,240,000	6,035,000	12,559,800
Highway User		1,887,100	1,787,100	3,674,200
Workers' Comp.	18,300	11,826,800	11,561,400	23,388,200
Environmental		4,078,900	4,071,100	8,150,000
Metro Landfill Abatement		1,134,000	1,134,000	2,268,000

Metro Landfill Contingency	670,000	170,000	840,000
Minnesota Resources	7,951,700	7,964,500	15,916,200
Motor Vehicle Transfer	1,675,400	1,210,400	2,885,800
Water Pollution Control	5,386,800	6,694,800	12,081,600
Transfers to Other			
Direct (395,000)	(5,068,300)	(4,765,200)	(9,833,500)
TOTAL	\$3,629,000	\$458,127,200	\$473,052,300
			\$934,808,500

APPROPRIATIONS
Available for the Year
Ending June 30
1988 1989

Sec. 2. LEGISLATURE

Subdivision 1. Total for this section \$33,556,500 \$36,004,800

Summary by Fund

General	\$33,529,000	\$35,982,100	
Trunk Highway	\$27,500	\$22,700	
Subd. 2. Senate		11,647,000	12,600,800
Subd. 3. House of Representatives		14,737,000	16,036,000
Subd. 4. Legislative Coordinating Commission		4,230,200	4,399,700

Summary by Fund

General	\$4,202,700	\$4,377,000
Trunk Highway	\$27,500	\$22,700

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Legislative Reference Library

1988	1989
\$727,700	\$757,000

(b) Revisor of Statutes

\$1,982,900	\$2,036,200
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In addition to the appropriations in this section, the commissioner of finance shall transfer money from the general fund salary supplement appropriation to the revisor's account for employees of the revisor's office. The amount transferred must be for the same percentage of the revisor's total payroll as for similar agencies in the executive branch.

The revisor of statutes must reindex Minnesota Statutes over a period of about eight years.

(c) Legislative Commission on the Economic

Status of Women

\$123,500	\$130,300
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(d) Legislative Commission on Employee Relations

\$95,800	\$96,200
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(e) Great Lakes Commission

\$37,200	\$42,200
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(f) Legislative Commission on Pensions and Retirement

\$555,600	\$563,700
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(g) Legislative Commission to Review Administrative Rules

\$117,800	\$122,700
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(h) Legislative Commission on Waste Management

\$113,500	\$118,600
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(i) Legislative Committee on Planning and Fiscal Policy

\$100,000	\$100,000
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(j) Mississippi River Parkway Commission

\$27,500	\$22,700
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This appropriation is from the trunk highway fund.

(k) Legislative Coordinating Commission - General Support

\$348,700	\$410,100
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\$50,000 the first year and \$50,000 the second year are reserved for unanticipated costs of agencies in this subdivision and subdivision 5. The legislative coordinating commission may transfer necessary amounts from this appropriation to the appropriations of the agencies concerned, and the amounts transferred are appropriated to those agencies to be spent by them. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$70,200 the first year and \$74,400 the second year are for the state contribution to the national conference of state legislatures.

\$61,600 the first year and \$65,300 the second year are for the state contribution to the Council of State Governments.

Subd. 5. Legislative Audit Commission	2,942,200	2,968,300
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The amounts that may be spent from this appropriation for each activity are as follows:

(a) Legislative Audit Commission
\$15,000 \$15,500

(b) Legislative Auditor
\$2,927,200 \$2,952,800

Sec. 3. SUPREME COURT

Subdivision 1. Total Appropriation 8,862,700 9,003,600

Summary by Fund

General \$6,299,900 \$6,308,000

Special Revenue \$2,562,800 \$2,695,600

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Supreme Court Operations

Total Appropriation

\$2,594,900 \$2,552,400

\$2,100 the first year and \$2,200 the second year are for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

\$50,000 is available to the supreme court to study gender bias throughout the state judicial system and to prepare a report for the chair of the house appropriations committee and the chair of the senate finance committee by June 30, 1989.

Subd. 3. Legal Services Surcharge Grant

\$2,562,800 \$2,695,600

These appropriations are from the legal services account in the special revenue fund for legal services to low-income clients, family farm legal assistance, and improvement of court information systems. Any unencumbered balance remaining of the legal services appropriation in the first year does not cancel but is available for the second year of the biennium.

Of the filing fee surcharge collected under Minnesota Statutes, section 480.241, one-half of the amount is available for legal services programs and clients under Minnesota Statutes, sections 480.242 and 480.243. Of the other half of the surcharge collected, \$850,000 in fiscal year 1988 and \$850,000 in fiscal year 1989 is available for family farm legal assistance under Minnesota Statutes, section 480.250, and the remaining balance must be transferred to the software sales account.

Subd. 4. State Court Administrator

\$2,981,800

\$3,007,300

\$22,400 the first year and \$53,700 the second year are for allocated costs of the revisor of statutes. If these amounts are to be unallotted or otherwise reduced for reasons relating to budget shortfalls, the reduction may not exceed the average of the reduction for all state agencies.

Subd. 5. State Law Library

\$723,200

\$748,300

Sec. 4. COURT OF APPEALS

3,469,200

3,434,000

Sec. 5. TRIAL COURTS

17,935,400

18,244,200

Sec. 6. BOARD ON JUDICIAL STANDARDS

154,800

154,700

Approved Complement - 2

Sec. 7. BOARD OF PUBLIC DEFENSE

2,261,200

2,510,400

Approved Complement - 29

Of this appropriation, \$239,300 the first year and \$478,700 the second year are for the purpose of providing legal services to the indigent residents of distressed counties as defined under Minnesota Statutes, section 297A.257.

During the biennium, legal assistance to Minnesota prisoners shall serve the civil legal needs of persons confined to state institutions.

None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

Sec. 8. GOVERNOR

2,365,500

2,374,100

The amounts that may be spent for each activity are as follows:

\$20,000 the first year and \$20,000 the second year are for personal expenses connected with the office of the governor.

\$78,800 the first year and \$84,300 the second year are for membership dues of the national governors association.

Sec. 9. LIEUTENANT GOVERNOR

275,900

276,600

Sec. 10. SECRETARY OF STATE

Subdivision 1. Total Appropriation

1988 1989

1,916,700

2,088,100

Approved Complement - 52.5 47.5

The appropriations in this section are from the special revenue fund.

The amounts that may be spent from this appropriation for each activity are specified in the following subdivisions.

Subd. 2. Elections and Publications
\$264,300 \$540,900

Subd. 3. Uniform Commercial Code
\$182,000 \$168,500

Subd. 4. Business Services
\$780,500 \$768,400

Subd. 5. Administration
\$ 354,500 \$ 357,300

Subd. 6. Fiscal Operations
\$141,600 \$140,500

Subd. 7. Data Services
\$193,800 \$112,500

Sec. 11. STATE AUDITOR 547,500 547,100

Approved Complement - 124.0

General - 9.5

Revolving - 114.5

\$77,300 the first year and \$77,300 the second year are for an account the auditor may bill for costs associated with conducting single audits of federal funds. During the biennium, this account may be used only when no other billing mechanism is feasible.

During the biennium ending June 30, 1989, the commissioner of finance shall not approve any rate increase for the state auditor beyond those in effect on January 1, 1987, except for adjustments necessitated by salary increases, indirect cost assessments, and other verifiably escalating expenses associated with performing their reimbursable audits.

\$218,100 the first year and \$217,900 the second year must be subtracted from the amount that would otherwise be payable as local government aid under Minnesota Statutes, chapter 477A, in order to fund the government information division, and the parts of the constitutional office that are related to the government information function.

\$80,000 the first year and \$80,000 the second year must be subtracted from the total police and fire state aid otherwise payable to police and fire relief associations pursuant to Minnesota Statutes, sections 69.011 to 69.051 and deposited into the state auditor's revolving fund for the costs and expenses incurred by the state

auditor in making review of the audits and examinations of relief associations. The amount of \$80,000 the first year and \$80,000 the second year to be subtracted out of the police state aid and the firefighters' state aid shall be divided proportionally according to the total estimated costs of the audits or examinations of the police and firefighters' relief associations as determined by the state auditor.

\$22,500 the first year and \$22,500 the second year for the costs and expenses of the central office staff attached to the constitutional office function shall be paid for from the audit practice revolving fund.

Sec. 12. STATE TREASURER	513,900	512,600
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Approved Complement - 12

Sec. 13. ATTORNEY GENERAL

Subdivision 1. Total Appropriation	17,944,700	17,836,900
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Approved Complement - 347.5

General - 313.8

Federal - 6.7

Special Revenue - 18

Environmental - 9

Summary by Fund

General	\$15,354,500	\$15,246,700
Special Revenue	\$840,000	\$840,000
Environmental	\$1,500,000	\$1,500,000

The amounts that may be spent from this appropriation for each activity are specified in the following subdivisions.

Subd. 2. Public Administration

\$1,366,600	\$1,354,300
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Subd. 3. Public Resources

\$4,988,300	\$5,000,600
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Summary by Fund

General	\$3,488,300	\$3,500,600
Environmental	\$1,500,000	\$1,500,000

\$500,000 the first year is appropriated from the environmental response, compensation, and compliance fund for the regional groundwater contamination litigation at the Twin Cities Army Ammunition Plant (TCAAP). The pollution control agency shall make transfers from the

unencumbered balances of its environmental fund appropriations to reimburse the attorney general's litigation account when obligations to the account have been paid. \$1,000,000 the first year and \$1,500,000 the second year are available to reimburse the attorney general litigation account. This appropriation is available until the state reaches a signed agreement with the defendants and closes the case or until the appropriation is spent. When the case is closed, unliquidated balances from the attorney general's appropriation must be transferred back to the pollution control agency for all other activities authorized in Minnesota Statutes, section 115B.20, subdivision 2. The complement of the attorney general is increased by nine positions for the purpose of this lawsuit. These are not permanent complement positions of the agency; when the lawsuit is over, the complement is reduced.

Subd. 4. Public Assistance

\$2,620,400 \$2,621,300

Summary by Fund

	1988	1989
General	\$1,780,400	\$1,781,300
Special Revenue	\$840,000	840,000

Subd. 5. Public Protection

\$4,697,200 \$4,690,000

Subd. 6. Legal Policy and Administration

\$4,272,200 \$4,170,700

\$50,000 the first year and \$50,000 the second year are for a special account for unanticipated legal expenses. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 7. Base Adjustment

\$(250,200) \$(250,200)

The adjustment in the budgetary base from the "same" level may be reallocated among the department's general fund appropriations as determined by the department head.

Sec. 14. INVESTMENT BOARD

1,602,300

1,600,600

Approved Complement - 25

Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

The state board of investment shall conduct a study and report to the legislature by January

15, 1988, on how to improve the selection of the state's external stock and bond managers in order to reduce management costs and improve the net return on the state's invested funds.

Sec. 15. ADMINISTRATIVE HEARINGS

2,940,700 2,782,400

Approved Complement - 70.5

Revolving - 18.5

Workers' Compensation - 52

This appropriation is from the workers' compensation special compensation fund for considering workers' compensation claims.

The approved complement of the office shall be reduced by four workers' compensation judges and two workers' compensation support staff when the commissioner of finance determines that the office can reasonably hold a hearing within six months of the date when a claim petition is filed with the department of labor and industry.

Sec. 16. ADMINISTRATION

Subdivision 1. Total Appropriation 21,413,200 20,997,700

1988 1989

Approved Complement - 843.1 842.1

General - 196.6 195.6

Special Revenue - 43.6 43.6

Gift - 1 1

Revolving - 601.9 601.9

Summary by Fund

General \$16,193,100 \$15,844,100

Special Revenue \$5,220,100 \$5,153,600

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Operations Management
\$3,665,400 \$3,483,000

The commissioner shall report to the legislature by January 1, 1988, on whether bonding requirements applicable to small businesses are an impediment to those businesses in obtaining state contracts. If the bonding requirements are found to be impediments to obtaining state contracts, the commissioner shall also include in the report proposals for

altering the bonding requirements to alleviate the impediments.

\$7,200 the first year is for transfer to the central motor pool fund for the commissioner of administration to conduct a test of the use of permanent synthetic motor oil in state vehicles.

Subd. 3. Information Management

\$6,166,300 \$6,060,200

Summary by Fund

General	\$2,399,400	\$2,381,500
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Special Revenue	\$ 3,766,900	\$ 3,668,700
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The appropriation from the special revenue fund is for recurring costs of 911 emergency telephone service.

The commissioner shall study the placement of the office of information systems management within the executive branch and make recommendations to the legislature. The recommendations must be submitted by January 15, 1988.

\$201,100 the first year and \$205,800 the second year must be subtracted from the amount that would otherwise be payable to local government aid under Minnesota Statutes, chapter 477A, in order to fund the local government records program and the intergovernmental information systems activity.

The commissioner shall use the authority under Minnesota Statutes, section 16B.48, subdivision 2, clause (5) to charge local units of government assessments equal to the department's costs for helping local governments manage records and implement records retention schedules.

In those instances where state agencies have need for the same or similar computer data, the commissioner shall ensure that the most efficient and cost effective method of producing and storing data for or sharing data between those agencies is used.

Subd. 4. Property Management

\$6,483,300 \$6,709,400

Summary by Fund

General	\$5,030,100	\$5,224,500
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Special Revenue	\$1,453,200	\$1,484,900
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Of the total appropriation for this program \$175,000 is made available in fiscal year 1988

and \$175,000 in fiscal year 1989 to fund capitol area repairs and replacements. Any unencumbered balance at the end of fiscal year 1988 shall not cancel to the general fund but shall be made available for use in fiscal year 1989.

The commissioner shall study and prepare a report for the legislature by January 1, 1988, on the competing policies and the costs of leasing space in privately-owned buildings versus constructing new state buildings to house state departments and agencies.

\$3,387,900 the first year and \$3,581,500 the second year are for office space costs of the legislature and veterans organizations for ceremonial space, and for statutorily free space.

The commissioner shall contract with a private organization to do a needs assessment and prepare a report for the legislature by January 1, 1988, on the feasibility of providing in the capitol complex area a privately-run child day care and latch-key center for children of state employees and visitors to the state capitol. If the report indicates that such a center is feasible, the commissioner shall submit to the legislature by March 1, 1988, a list of recommended sites within the capitol complex area for locating the center.

Subd. 5. Administrative Management
\$5,098,200 \$4,745,100

\$2,000 the first year and \$2,000 the second year are for the state employees' band.

\$715,600 the first year and \$750,900 the second year are for allocated costs of the revisor of statutes. If these amounts are to be unallotted or otherwise reduced for reasons relating to budget shortfalls, the reduction may not exceed the average of the reduction for all state agencies.

\$75,000 of the fiscal year 1988 appropriation is to fund a management study of veterans affairs. Any unencumbered balance at the end of fiscal year 1988 shall not cancel to the general fund but instead shall be made available in fiscal year 1989 for the study.

\$229,300 the first year and \$229,300 the second year is for block grants to public television stations.

\$404,100 the first year and \$404,100 the second year is for matching grants to public tel-

evision stations.

\$1,135,900 the first year and \$1,135,900 the second year is for public television equipment needs. Equipment grant allocations shall be made after consideration of the recommendations of the Minnesota Public Television Association.

\$211,100 the first year and \$211,100 the second year is for operational grants to public educational radio stations, which must be allocated after consideration of the recommendations of the Association of Minnesota Public Educational Radio Stations under Minnesota Statutes, section 139.19.

\$115,900 the first year and \$115,900 the second year is for public educational radio stations, which must be allocated after consideration of the recommendations of the Association of Minnesota Public Educational Radio Stations for equipment needs.

\$15,000 in the first year is for KAWE-TV to conduct an engineering study for the placement of a remote transmitter in a portion of northwestern Minnesota. This appropriation is available the day after final enactment.

\$21,400 the first year is to conduct a survey to determine the number and listening pattern of listeners to stations that are members of the Association of Minnesota Public Educational Radio Stations. The results of the survey must be submitted to the senate finance committee and house of representatives appropriations committee.

If an appropriation for either year for grants to public television or radio stations is not sufficient, the appropriation for the other year is available for it.

\$100,000 the first year is for equipment grants to affiliate stations of Minnesota Public Radio, Incorporated. Equipment grant allocations must be made after consideration of the recommendations of Minnesota Public Radio, Incorporated.

If the amounts allocated to public broadcasting are to be reduced for reasons relating to budget shortfalls, the reduction shall not exceed the average of the reduction for all state agencies.

The commissioner, in consultation with representatives of public broadcasting stations, must prepare a report for the legislature by

August 1, 1988, recommending specific criteria for awarding operational and equipment grants to public broadcasting stations.

\$200,000 the first year is for a grant to the World Theater Corporation of Minnesota, to be paid only if the following criteria are met: no state money will be allocated unless matched by payment of verified private nontax-generated contributions made after January 1, 1987, and the World Theater Corporation must document to the commissioner it is a nonprofit corporation. The World Theater Corporation of Minnesota may use this grant money for the costs of renovation of the World Theater in St. Paul. Furthermore, the World Theater Corporation must document that this grant money was used on renovation expenses and not operating expenses.

Sec. 17. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

172,000

167,000

1988 1989

Approved Complement - 3 3

Sec. 18. FINANCE

Subdivision 1. Total Appropriation

8,009,500

7,585,900

Approved Complement - 124

General - 124 124

Rural Finance - 0 2

The amounts that may be spent from this appropriation for each activity are specified below.

\$141,000 the first year to cover costs associated with modifying the state's personnel/payroll systems. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

The department of finance shall reflect the reimbursement of statewide indirect costs and human services federal reimbursement costs as expenditure reductions in the general fund budgeted fund balance as they would be reported in conformity with generally accepted accounting principles.

Amounts paid to the department of finance pursuant to Minnesota Statutes, section 13.03, subdivision 3, for the costs of searching for and retrieving government data and for making, certifying and compiling the copies of the

data, are appropriated to the department of finance to be added to the appropriations from which the costs were paid.

The governor's budget recommendations submitted to the legislature in January, 1989 must include as general fund revenue and appropriations for fiscal years 1990 and 1991 all revenues and expenditures previously accounted for in the statewide accounting system in other operating funds. This requirement does not apply (1) to revenues and expenditures which, under the constitution, must be accounted for in funds other than the general fund; or (2) to revenues and expenditures which are related to specific user fees that provide a primary benefit to individual fee payers, as opposed to the general community.

Notwithstanding the provision of Minnesota Statutes, section 16A.11, the commissioner of finance shall consult with and seek the recommendations of the chair of the House Appropriations committee and the chair of the Senate Finance committee as well as their respective division and subcommittee chairs prior to adopting a format for the 1989-1991 biennial budget document. The commissioner of finance shall not adopt a format for the 1989-1991 biennial budget until the commissioner has received the recommendations of the chair of the house appropriations committee and the chair of the senate finance committee. Appropriations provided to the department of finance to upgrade the current biennial budget system shall only be expended upon receipt of the recommendations of the chair of the house appropriations committee and the chair of the senate finance committee. These recommendations are advisory only.

Subd. 2. Fiscal Management and Administration

\$1,125,900	\$1,137,000
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Subd. 3. Accounting Operations

\$4,827,500	\$4,721,200
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Subd. 4. Budget Analysis and Operations

\$1,845,600	\$1,572,800
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Subd. 5. Cash and Debt Management

\$ 210,500	\$ 154,900
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Sec. 19. EMPLOYEE RELATIONS

Subdivision 1. Total Appropriation	5,174,200	5,471,000
1988 1989		

Approved Complement -	121	122
General -	106	107
Special Revenue -	6	6
Revolving -	9	9

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Administration

\$1,872,100 \$1,997,000

Subd. 3. Equal Opportunity

\$ 205,100 \$ 204,900

Subd. 4. Labor Relations

\$ 464,800 \$ 464,100

Subd. 5. Personnel

\$2,632,200 \$2,805,000

\$250,000 the first year and \$250,000 the second year is appropriated to begin to establish the statewide fringe benefit plan. Benefit coverage for employees of school districts, educational cooperative service units, intermediate districts, cooperative centers for vocational education, regional management information centers and education units organized under the joint powers act begins September 1, 1989, and benefit coverage for all other employees begins January 1, 1991. This appropriation is available in either year. This appropriation is to be repaid to the general fund by the fringe benefit fund over a period of five years. The repayment period commences upon an actuarial determination that the fund can support the repayment.

Sec. 20. REVENUE

Subdivision 1. Total Appropriation	57,333,100	54,930,800
1988	1989	
Approved Complement -	1,142.2	1,178.2
General -	1,006.2	1,042.2
Highway User -	39	39
Special Revenue -	97	97

Summary by Fund

General	\$51,222,500	\$48,847,200
Special Revenue	\$4,617,800	\$4,588,200
Highway User	\$1,492,800	\$1,495,400

The amounts that may be spent from this

appropriation for each program are specified in the following subdivisions.

Subd. 2. Revenue Administration
\$13,768,000 \$10,222,000

\$7,391,000 the first year and \$3,594,700 the second year are for development and operation of new integrated computer systems. After the commissioner of revenue begins to spend the appropriation, the commissioner shall report every three months describing the progress made and the money spent in the development and operation of new integrated computer systems. The report must be submitted to the committee on finance of the senate and the committee on appropriations of the house of representatives. Any unencumbered balance on this appropriation remaining in the first year does not cancel and is available for the second year.

\$39,800 the first year and \$39,700 the second year are from the special revenue fund.

Subd. 3. Tax Policy
\$ 2,848,400 \$ 2,841,100

\$131,500 for the first year and \$131,300 for the second year is from the special revenue fund.

Subd. 4. Taxpayer Service
\$ 7,580,300 \$ 7,565,800

Summary by Fund

General	\$5,794,400	\$5,784,900
Highway User	\$1,492,800	\$1,495,400
Special Revenue	\$293,100	\$285,500

\$30,000 the first year and \$30,000 the second year are for state-paid tuition for required assessor training.

Subd. 5. Operations
\$11,106,100 \$11,125,400

Subd. 6. Tax Compliance
\$22,030,300 \$23,176,500

Notwithstanding any contrary provisions, \$1,900,000 of the amount appropriated to the commissioner of revenue must be used by the department of revenue for compliance initiatives. Of this amount, \$570,000 the first year is for the automated collection system. If this system is not fully operational by August 1, 1988, the general fund appropriation for the department shall be reduced by \$570,000.

Notwithstanding any law to the contrary, and to accomplish this purpose, the agency may transfer up to \$1,900,000 of unencumbered balances among programs after getting the approval of the commissioner of finance. The transfer must follow the general procedures for transfers contained in this act.

Summary by Fund

General	\$17,876,900	\$19,044,800
Special Revenue	\$4,153,400	\$4,131,700

The first \$4,617,800 of corporate income tax receipts in the first year and the first \$4,588,200 of corporate income tax receipts in the second year must be credited to the special revenue fund.

Sec. 21. TAX COURT	402,400	401,900
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Approved Complement - 6

Sec. 22. NATURAL RESOURCES

Subdivision 1. Total Appropriation	108,850,200	108,784,600
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	1988	1989
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Approved Complement -	1,660	1,660
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General -	962	962
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Special Revenue -	53	53
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Game and Fish -	540	540
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Federal -	43	43
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Water Recreation -	62	62
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Summary by Fund

General	\$48,212,500	\$47,436,400
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Con. Con.	\$250,000	\$250,000
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Forest Management	\$5,697,200	\$5,697,300
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Nongame Wildlife	\$1,224,800	\$1,228,600
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Snowmobile	\$3,800,800	\$3,926,200
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State Park M. & O.	\$3,944,400	\$3,944,400
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All Terrain	\$650,000	\$650,000
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Water Recreation	\$7,265,200	\$7,348,700
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Wildlife Acquis.	\$1,086,500	\$1,086,500
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Game and Fish	\$36,177,700	\$36,872,500
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Water Pollution Control	\$200,000	\$125,000
Wild Rice	\$30,000	\$30,000
Trust Suspense	\$311,100	\$189,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Mineral Resources Management
\$3,851,000 \$3,704,600

The commissioner is authorized one complement position in the unclassified service from the mineral lease account.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Metallic Minerals
\$2,959,400 \$2,964,700

\$200,000 the first year and \$200,000 the second year are for copper-nickel test drilling. One position for this purpose is in the unclassified civil service and its continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, the position shall be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons is authorized.

\$160,000 the first year and \$160,000 the second year are for minerals research. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

\$300,000 the first year and \$300,000 the second year are for iron ore cooperative research, of which \$200,000 the first year and \$200,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

(b) Industrial Minerals
\$514,100 \$363,500

\$150,000 the first year is for peat development. The commissioner may match this state money with money from nonstate sources. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

\$100,000 is available until June 30, 1989 for

the purpose of horticultural peat marketing and promotion in cooperation with the department of agriculture and the natural resources research institute.

(c) Mineland Reclamation

\$377,500 \$376,400

Subd. 3. Water Resources Management

\$4,413,900 \$4,343,200

Summary by Fund

General	\$4,140,000	\$4,144,400
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Water Pollution Control	\$200,000	\$125,000
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Water Recreation	\$73,900	\$73,800
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\$85,000 the first year and \$85,000 the second year from the flood damage reduction program is for a grant to the counties of Cook, Lake, and the town of Duluth for the development of a comprehensive shoreland management plan along the shoreline of Lake Superior. This grant is not subject to the \$75,000 limit in Minnesota Statutes, section 104.11. The study must be sent by the commissioner of natural resources to the chairs of the house appropriations and senate finance committees by December 1, 1989.

\$125,000 each year is appropriated from the water pollution control fund for groundwater exploration and data automation.

\$75,000 is appropriated from the water pollution control fund for a grant to the city of Waseca for the purpose of rehabilitating Clear Lake in and about the city. This appropriation is available until expended.

Subd. 4. Forest Management

\$20,616,500 \$20,780,500

Summary by Fund

General	\$14,839,300	\$15,003,200
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Con. Con.	\$250,000	\$250,000
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Forest Management	\$5,527,200	\$5,527,300
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The divisions of forestry and fish and wildlife must coordinate the harvesting of trees in order to ensure optimum wildlife habitat benefits and water quality of adjacent streams or lakes.

\$750,000 the first year and \$750,000 the second year are for emergency fire fighting and

are not subject to transfer. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. The unencumbered balance of any other appropriation from the general fund to the commissioner of natural resources remaining in the first year must not be canceled but must be transferred and added to this appropriation for the second year. No more than \$400,000 the first year and \$410,000 the second year are available for pre-suppression costs.

Up to \$120,000 per year from the general fund under Minnesota Statutes, section 89.04 may be used for grants to the soil and water conservation board for cost-sharing with landowners in the state forest improvement program.

\$500,000 the first year and \$500,000 the second year are for grants to counties or groups of counties for county forestry assistance programs.

The commissioners of natural resources, revenue, and transportation shall jointly study and determine the amount of unrefunded gas tax attributable to forest logging trucks that use forest roads under the authority of the commissioner. Their findings and determinations must be reported to the chairs of the house appropriations and senate finance committees by December 1, 1988, along with proposed changes to Minnesota Statutes, section 296.421, that reflect their determinations.

Subd. 5. Parks and Recreation Management
\$14,062,000 \$14,122,500

Summary by Fund

General	\$9,450,900	\$9,511,400
State Park Maintenance and Operation	\$3,944,400	\$3,944,400
Water Recreation	\$666,700	\$666,700

If a bill is signed into law in 1987 that allows a second state park motor vehicle permit at a reduced price, the commissioner of natural resources must keep a record of resident and nonresident second permits that are sold.

\$666,700 is appropriated each year of the biennium from the water recreation account for state park development projects. Should the appropriation in either year be insufficient, the appropriation for the other year shall be available.

The department of natural resources may not subcontract the operation of the Douglas Lodge facilities at Itasca State Park so long as revenues are at least equal to the cost of operation. A management plan must be prepared by the commissioner that outlines specific steps and timelines to achieve self-sufficiency of the Douglas Lodge facilities. The management plan must incorporate recommendations concerning the best utilization of management, labor and other resources to achieve self-sufficiency. The commissioner must send the management plan to the Legislature by March 1, 1988.

\$20,000 the first year and \$20,000 the second year are for payments in lieu of taxes on lands in Voyageurs National Park and St. Croix Wild River State Park. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 6. Trails and Waterways
\$7,807,300 \$8,218,700

Summary by Fund

General	\$751,500	\$753,300
Snowmobile	\$3,258,700	\$3,379,400
All Terrain	\$475,000	\$475,000
Water Recreation	\$3,112,100	\$3,196,000
Game and Fish	\$210,000	\$415,000

\$1,698,000 the first year and \$1,748,000 the second year are for snowmobile grants-in-aid.

An accounting report for the 1986 and 1987 cross country ski seasons is to be submitted to the chair of the senate finance committee and the house appropriations committee.

Subd. 7. Fish and Wildlife Management
\$25,734,700 \$25,985,500

Summary by Fund

General	\$788,600	\$795,900
Nongame Wildlife	\$1,179,800	\$1,183,600
Water Recreation	\$150,000	\$150,000
Wildlife Acquis.	\$961,500	\$836,500
Game and Fish	\$22,624,800	\$22,989,500
Wild Rice Management	\$30,000	\$30,000

\$685,700 in the first year and \$685,700 the

second year are appropriated from the game and fish fund for payments to counties in lieu of taxes on acquired wildlife lands and is not subject to transfer.

\$1,179,800 the first year and \$1,183,600 the second year are from the nongame wildlife management account in the special revenue fund for the purpose of nongame wildlife management. Any unencumbered balance remaining in the first year does not cancel but is available the second year.

\$54,400 in the first year and \$54,200 the second year are for acid rain research.

\$40,000 the first year and \$40,000 the second year is from the general fund for one complement position to serve as a native prairie biologist.

\$127,900 the first year and \$127,900 the second year are for emergency deer feeding. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$30,000 is appropriated each year from the wild rice management account project to improve natural wild rice production on public waters pursuant to Minnesota Statutes, section 97A.065, subdivision 4.

\$40,000 for the first year and \$40,000 for the second year is from the general fund to be transferred to the commissioner of agriculture to compensate landowners for agricultural crops damaged by elk.

\$10,000 each year is appropriated from the general fund to be used as an additional payment to the Leech Lake Indian Reservation for enforcement activities. The reservation may also use \$40,000 of the increased annual payment that it receives as a result of the fee increases in this act for enforcement. The department of natural resources shall also make surplus equipment available to the reservation.

Effective July 1, 1987, aquatic plant control permit fees established under Minnesota Statutes, section 84.092, subdivision 1, are doubled. Notice of the revised fees must be published in the State Register as soon as practical.

Subd. 8. Enforcement

\$10,983,000 \$11,107,200

Summary by Fund

General	\$1,206,500	\$1,227,500
Snowmobile	\$240,800	\$240,800
Water Recreation	\$1,888,900	\$1,887,800
Game and Fish	\$7,505,900	\$7,610,200
All Terrain	\$140,900	\$140,900

The appropriation from the game and fish fund includes \$20,000 the first year and \$20,000 the second year for the purpose of controlling smelt fishing activities on the north shore, including development of parking facilities, traffic control, coordination of regulatory agencies, control of trespass and vandalism, control of littering and sanitation, and public information and education. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

\$1,124,300 the first year and \$1,124,300 the second year are from the water recreation account for grants to counties for boat and water safety.

The commissioner must seek maximum participation from federal agencies in removing nuisance beaver. A competitive bid process must be used to select beaver trappers.

Conservation officers must maintain their residence, on an all weather road, within 15 miles of their assigned station location. The director of the division of enforcement may permit valid exceptions as is deemed appropriate.

\$70,000 the first year and \$35,000 the second year are from the game and fish fund to create one additional conservation officer position. The commissioner shall create three additional conservation officer positions in the water recreation account.

Subd. 9. Field Operations Support
\$8,709,100 \$7,712,300

Summary by Fund

General	\$4,735,700	\$3,848,200
Game and Fish	\$3,393,100	\$3,406,200
Water Recreation	\$243,200	\$242,900
Trust Suspense	\$311,100	\$189,000
Snowmobile	\$26,000	\$26,000

For the biennium \$350,000 is for the purpose of surveys of lots offered for sale under Minnesota Statutes, section 92.67, subdivision 3.

The two complement positions for the department of natural resources lakeshore lease sale program shall be funded only until June 30, 1991.

If the appropriation made under Minnesota Statutes, section 92.46, subdivision 1, paragraph (d), for fiscal year 1988 is not expended, it is available for use in fiscal year 1989.

Subd. 10. Regional Operations Support

\$3,487,700 \$3,474,200

Summary by Fund

General Fund	\$2,919,400	\$2,903,500
Game and Fish	\$510,000	\$512,400
Water Recreation	\$58,300	\$58,300

Subd. 11. Special Services and Programs

\$4,294,600 \$4,430,500

Summary by Fund

General	\$3,184,300	\$3,194,400
Forest Management	\$170,000	\$170,000
Nongame Wildlife	\$45,000	\$45,000
Snowmobile	\$132,600	\$132,600
Water Recreation	\$560,500	\$561,000
Wildlife Acquis.	\$125,000	\$250,000
Game and Fish	\$77,200	\$77,500

The commissioner of natural resources shall develop, in consultation with the commissioners of jobs and training and education, a coordinated plan for enhanced youth education, employment, and service opportunities. This plan shall consider the current programming of the Minnesota Conservation Corps, the Minnesota Youth Program, the Summer Youth Employment and Training Program, Community and Secondary Vocational Education, and other appropriate programs in designing a coordinated model which would enhance opportunities for youth. The plan may also recommend coordinated funding. The commissioner shall present the plan to the house appropriation and senate finance committees by January 1, 1988.

\$201,500 the first year and \$326,500 the second year of this appropriation are from the following funds for an expansion of the youth

programs activity:

Summary by Fund

	1988	1989
Wildlife Acquisition		\$125,000
Snowmobile	\$66,300	\$66,300
Water Recreation	\$27,700	\$27,700
Forest Management	\$85,000	\$85,000
Nongame Wildlife	\$22,500	\$22,500
Total	\$201,500	\$326,500

This appropriation shall not be made available until a work plan for use of the funds is prepared and approved by the commissioner of natural resources.

\$84,800 the first year and \$84,800 the second year are for a grant to the Mississippi headwaters board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under its jurisdiction.

\$21,400 the first year and \$21,300 the second year are for department operating and administrative expenses associated with the Mississippi headwaters board grant and the implementation of the plan in areas along the river that are not included within the jurisdiction of the Mississippi headwaters board.

Subd. 12. Administrative Management Services

\$5,521,000 \$5,536,100

Summary by Fund

General	\$2,975,900	\$2,980,700
Snowmobile	\$142,700	\$147,400
Water Recreation	\$511,600	\$512,200
Game and Fish	\$1,856,700	\$1,861,700
All Terrain Vehicles	\$34,100	\$34,100

The commissioner of employee relations shall transfer persons occupying unclassified seasonal, part-time, or full-time positions in the department of natural resources that are converted to full-time classified positions by the state departments appropriation act of 1987 to

the same classification and pay step in the classified civil service without competitive examination as of June 30, 1987.

Subd. 13. Base Adjustment

\$(630,600) \$(630,700)

The adjustment in the budgetary base from the "same" level may be reallocated among the department's general fund appropriations as determined by the department head.

Sec. 23. ZOOLOGICAL BOARD 4,548,600 4,754,000

Approved Complement - 162

This appropriation is for transfer by the commissioner of finance to the zoo fund.

The Minnesota Zoological Garden is eligible for a salary supplement in the same manner as other state agencies. The commissioner of finance will determine the amount of salary supplement based on appropriated funds, and will transfer the amount to the Zoo Fund.

\$500,000 the second year is for a grant to the Minnesota zoo as a one-for-one matching grant for funds donated through fund raising activities.

Sec. 24. POLLUTION CONTROL AGENCY

Subdivision 1. Total Appropriation 19,725,700 20,288,400

	1988	1989
Approved Complement -	493	494
General -	142.5	142.5
Special Revenue -	46	46
Public Health -	5	5
Federal -	214.5	214.5
Environmental -	50	50
Metro Landfill Contingency -	2	2
Motor Vehicle Transfer -	6	7
Water Pollution Control -	15	15
Building -	12	12

Summary by Fund

General	\$5,819,900	\$6,009,400
Special Revenue	\$2,688,900	\$2,651,900
Public Health	\$218,000	\$218,000
Environmental	\$2,578,900	\$2,571,100
Metro Landfill Abatement	\$1,134,000	\$1,134,000

Metro Landfill Contingency	\$670,000	\$170,000
Motor Vehicle Transfer	\$1,479,200	\$1,014,200
Water Pollution Control	\$5,136,800	\$6,519,800

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Water Pollution Control
\$2,699,200 \$2,693,600

Summary by Fund

General	\$1,399,800	\$1,394,200
Special Revenue	\$806,100	\$806,100
Water Pollution Control	\$493,300	\$493,300

Subd. 3. Air Pollution Control
\$1,710,000 \$1,936,700

Summary by Fund

General	\$1,273,100	\$1,500,200
Special Revenue	\$360,800	\$360,400
Public Health	\$76,100	\$76,100

\$304,300 the first year and \$303,900 the second year are to study acid rain.

The metropolitan airports commission established by Minnesota Statutes, chapter 473 and the pollution control agency shall continue to consider the feasibility of a system of differential landing or user fees for aircraft using the Minneapolis-St. Paul International Airport with a rate structure based on the level of noise produced by aircraft, so that the fee imposed on an aircraft is in direct relation to the noise produced by the aircraft and shall report to the legislature the results of the study.

Subd. 4. Solid Waste and Hazardous Waste Pollution Control
\$13,074,500 \$13,350,700

Summary by Fund

General	\$1,828,200	\$1,723,000
Special Revenue	\$988,300	\$951,700
Public Health	\$131,900	\$131,900
Environmental	\$2,233,400	\$2,233,400

Metro Landfill Abatement	\$1,134,000	\$1,134,000
Metro Landfill Contingency	\$662,000	\$162,000
Motor Vehicle Transfer	\$1,473,200	\$1,008,200
Water Pollution Control	\$4,623,500	\$6,006,500

(a) All money in the environmental response, compensation and compliance fund not otherwise appropriated, is appropriated to the pollution control agency for the purposes described in the environmental response and liability act, Minnesota Statutes, section 115B.20, subdivision 2, clauses (a), (b), (c), and (d). This appropriation is available until June 30, 1989.

(b) All money in the metropolitan landfill abatement fund not otherwise appropriated is appropriated to the pollution control agency for payment to the metropolitan council and may be used by the council for the purposes of Minnesota Statutes, section 473.844. The council may not spend the money until the legislative commission on waste management has made its recommendations on the budget and work program submitted by the council.

(c) Any unencumbered balance from the metropolitan landfill contingency fund remaining in fiscal year 1988 does not cancel but is available for fiscal year 1989.

(d) A solid and hazardous waste account is created as a separate fund in the state treasury. The commissioner of finance shall transfer \$919,000 from the motor vehicle transfer fund and \$680,000 from the water pollution control fund over the biennium to the solid and hazardous waste fund.

(e) \$100,000 is appropriated for the household hazardous waste program created in the law styled as H.F. No. 794 of the 1987 legislative session. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

(f) \$1,973,200 the first year and \$2,008,200 the second year are from the motor vehicle transfer fund for use in cleanup of waste tire dumps, as prioritized by the agency. Any unencumbered balance remaining in the first year does not cancel but is available for the

second year.

\$4,500,000 the first year and \$5,900,000 the second year are appropriated from the water pollution control fund for transfer to the environmental response, compensation, and compliance fund.

Subd. 5. General Support

\$2,242,000 \$2,307,400

Summary by Fund

General	\$1,318,800	\$1,392,000
Environmental	\$345,500	\$337,700
Metro Landfill Contingency	\$8,000	\$8,000
Motor Vehicle Transfer	\$6,000	\$6,000
Water Pollution Control	\$20,000	\$20,000
Special Revenue	\$533,700	\$533,700
Public Health	\$10,000	\$10,000

The program permit and assessment fees of the pollution control agency shall equal as nearly as possible the amount appropriated from the special revenue fund for the biennium and may not include any amounts to cover the cost items in Minnesota Statutes, section 16A.128, subdivision 1a, except to the extent that the cost items are included in the appropriations.

Subd. 6. Balances Canceled

\$6,235,800 the first year and \$6,117,200 the second year of the balance in the water pollution control fund must be canceled and transferred to the general fund on July 1, 1987, and July 1, 1988, respectively.

\$2,425,200 the first year and \$2,925,200 the second year of the balance in the motor vehicle transfer fund must be canceled and transferred to the general fund on July 1, 1987, and July 1, 1988, respectively.

Sec. 25. WASTE MANAGEMENT BOARD

2,162,900 2,162,900

Summary by Fund

General	\$2,112,900	\$2,112,000
Water Pollution Control	\$50,000	\$50,000

1988 1989

Approved Complement -	43	43
General -	32	32
Building -	11	11

The nonregulatory waste management programs of the pollution control agency are transferred to the waste management board under Minnesota Statutes, section 15.039.

If the appropriation for grants for either year is insufficient, the appropriation for the other year is available for it.

Sec. 26. ENERGY AND ECONOMIC DEVELOPMENT

Subdivision 1. Total Appropriation	22,178,700	22,134,600
Approved Complement -	177.7	
General -	159.7	
Economic Development -	4	
Federal -	14	

Summary by Fund

General	\$17,836,700	\$17,763,600
Economic Development	4,342,000	\$4,371,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Minnesota Trade Office

\$1,830,300	\$1,826,400
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Up to \$10,000 the first year and up to \$10,000 the second year of money appropriated to the commissioner of agriculture by other law for the Minnesota grown promotion campaign may be used for promotion of cheeses made from goat's and sheep milk and specialty yogurts.

Subd. 3. Economic Development

\$3,057,800	\$3,053,400
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\$250,000 the first year and \$250,000 the second year are for community development corporations. This appropriation is available for expenditure only to the extent that it is matched by a community development corporation with \$2 of nonstate money for each \$3 of state money.

Of this appropriation, up to \$120,000 each year is for the Minnesota motion picture board. This appropriation is available only upon receipt of a dollar-for-dollar match by the board from nonstate sources.

All money in the business license revolving fund on June 30, 1987, shall be canceled to the special revenue fund.

Subd. 4. Tourism

\$5,851,700

\$5,852,800

\$75,000 of this appropriation is to the office of tourism for promoting the cross country ski trails program and providing the public with information about the importance of the program to tourism in Minnesota and the importance of maintenance and development of cross country ski trails.

During the biennium, the office of tourism may market tourism related publications and media promotional materials to businesses and organizations. The proceeds from the marketing are to be placed in a fund to be used for the preparation and distribution of the office's publications and media promotional materials. This fund shall not cancel to the general fund at the end of the biennium. The director shall report to the legislature by January 15, 1989 on this fund.

Of the general fund appropriation, up to \$15,000 must be made available to Travel America, Inc., a nonprofit corporation established for promoting and expanding education and tourism in Pine county. The appropriation is to be made available on a dollar-to-dollar match for purposes of studying the feasibility of establishing an environmental learning center on county lands near the Kettle river. Travel America, Inc., may enter into a contract to conduct the study with a private party consultant and the study must involve information from local and statewide environmental groups and local school district representatives regarding the impact of establishing an environmental learning center. The site may include land on both sides of the Kettle river about one mile south of Sandstone and the old United States government road. Travel America, Inc. must report to the department of natural resources and to the environment and natural resources committees of both the house and the senate on the findings of the study no later than June 30, 1989. The appropriation is available until it is expended.

In order to develop maximum private sector involvement in tourism marketing activities, \$1,750,000 the first year and \$1,750,000 the second year shall be placed in a separate account for tourism marketing activities by the office

of tourism. Expenditure of the money in the account is contingent upon receipt of an equal match with nonstate contributions that have been verified and documented to the commissioner of finance. Up to one-third of the required nonstate match may be given in in-kind contributions.

\$50,000 the first year and \$50,000 the second year are to make a grant to a private nonprofit organization to develop an effort coordinated with other private nonprofit promotional groups to identify and create tourist attractions in northern Minnesota. This appropriation is available only as matched by \$1 of nonstate money for each \$1 of state money. The organization shall report to the legislature by January 15, 1988, and January 15, 1989, on the expenditure of the grant.

Subd. 5. Administration

\$901,800	\$839,500
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The commissioner shall refund to the city of Hastings any remaining application deposit received during calendar year 1984 from the city of Hastings in connection with the Hastings hydroelectric project pursuant to Minnesota Statutes, section 474.19 and retained by the department. \$60,000 is appropriated from the general fund to the commissioner to refund the industrial development bond allocation application deposit to the city of Hastings.

Subd. 6. Community Development

\$8,642,800	\$8,640,900
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Summary by fund

General Fund	\$5,142,800	\$5,140,900
Economic Development	\$3,500,000	\$3,500,000

The commissioner, in consultation with the chair of the LCMR, or the chair's designee, shall prepare a report for the chairs of the environment and appropriations committees in the house and the chairs of the environment and finance committees in the senate by January 1, 1989 examining the feasibility of designating county parks in the seven county metropolitan area as state parks. The report shall include analysis of the operation and maintenance costs and the extent of the public's use of the parks, and a comparison of the efficiency and cost effectiveness of county management versus state management of the parks.

\$2,164,700 the first year and \$2,164,700 the second year are for economic recovery grants.

\$2,000,000 the first year and \$2,000,000 the second year are for payment of a grant to the metropolitan council for metropolitan area regional parks maintenance and operation money.

The approved complement for community development includes five positions in the unclassified service to administer outdoor recreation grants. At the request of the commissioner of energy and economic development, the commissioner of employee relations shall transfer the incumbents of these positions on June 30, 1987, to probationary status in the same classification and pay step in the classified civil service without competitive examination.

Subd. 7. Science and Technology

\$892,000 \$921,000

Summary by fund

General	\$100,000	\$100,000
Economic Development	\$792,000	\$821,000

\$60,000 the first year and \$60,000 the second year is appropriated from the economic development fund for a grant to the Minnesota High Technology Corridor Corporation.

\$75,000 the first year and \$75,000 the second year is appropriated from the economic development fund for a grant to the Minnesota Inventors' Congress. The purposes of this grant include establishment of a focal point for development of an invention support system including an advisory council comprised of representatives from the public and private sectors; coordination of an invention support system, primarily in the form of semi-autonomous regional centers, while protecting, enriching, and promoting existing activities such as the Minnesota Inventors' Congress, the Minnesota Inventors' Hall of Fame, the Inventions and Technology Transfer Corporation, the Inventors' Club, and the Young Inventors' Fair; promotion of invention research, with resultant knowledge to be disseminated to Minnesota educational systems; and development of a fiscal design for the statewide invention support system. The Inventors' Congress shall report to the commissioner of energy and economic development by June 30 of each year

on its activities in carrying out the purposes of this grant.

\$137,000 the first year and \$166,000 the second year is appropriated from the economic development fund for payment of dues to the Midwest Technology Development Institute.

\$120,000 the first year and \$120,000 the second year is appropriated from the economic development fund for a grant to Minnesota Project Innovation. The Minnesota project innovation shall report quarterly to the house committee on future and technology and to the senate finance committee.

Subd. 8. Financial Management
\$50,000 \$50,000

This appropriation is from the economic development fund.

Notwithstanding Minnesota Statutes, section 116J.873, the city of Babbitt may request, and the commissioner may approve, an economic recovery grant in excess of \$500,000 for the purpose of completing a waste tire recycling plant.

\$3,500,000 the first year and \$3,500,000 the second year is appropriated from the economic development fund for economic recovery grants under Minnesota Statutes, section 116J.873.

Subd. 9. Policy Analysis
\$852,300 \$850,600

\$150,000 the first year and \$150,000 the second year is available to the commissioner to contract for consultant services for the development of a trade model.

Subd. 10. Productivity and Quality
\$100,000 \$100,000

This appropriation is for the Minnesota council on productivity and quality. \$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.

Sec. 27. WORLD TRADE CENTER BOARD

The unexpended balance of the appropriation in Laws 1985, First Special Session chapter 13, section 29, for the world trade center board is available until June 30, 1989.

Sec. 28. HOUSING FINANCE AGENCY

Subdivision 1. Total Appropriation	\$9,526,700	\$9,526,700
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Approved Complement - 129

Spending limit on cost of general administration of agency programs:

1988	1989
\$6,235,000	\$6,547,000

This appropriation is for transfer to the housing development fund for the programs specified.

\$150,000 the first year and \$150,000 the second year are for home sharing programs under Minnesota Statutes, section 462A.05, subdivision 24.

\$990,000 the first year and \$990,000 the second year are for home ownership assistance under Minnesota Statutes, section 462A.21, subdivision 8.

\$2,225,000 the first year and \$2,225,000 the second year are for home ownership, home improvement, and multifamily bond leveraging interest rate writedowns under Minnesota Statutes, sections 462A.21, subdivisions 4b and 8a.

\$1,885,000 the first year and \$1,885,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which \$125,000 the first year and \$125,000 the second year are for a demonstration program to make off-reservation loans in combination with bond proceeds from the agency.

\$235,000 the first year and \$235,000 the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

\$3,716,700 the first year and \$3,716,700 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, sections 462A.05, subdivisions 14a and 15a.

\$500,000 is appropriated to the housing development fund created in section 462A.20 for grants for residential housing for low income persons living alone. The agency may pay the

costs and expenses for the development and operation of this program out of this appropriation.

\$75,000 the first year and \$75,000 the second year are for temporary housing programs under Minnesota Statutes, section 462A.05, subdivision 20.

Sec. 29. STATE PLANNING AGENCY	5,283,500	5,221,500
	1988	1989
Approved Complement -	112	112
General -	78.5	78.5
Special Revenue -	4.5	4.5
Motor Vehicle Transfer -	3	3
Revolving -	22	22
Federal -	4	4
Summary by Fund		
General	\$4,729,800	\$4,568,100
Special Revenue	\$357,500	\$457,200
Motor Vehicle Transfer	\$196,200	\$196,200

Two positions paid from the motor vehicle transfer fund are in the unclassified service.

\$377,000 the first year and \$377,000 the second year are for regional planning grants to regional development commissions organized under Minnesota Statutes, sections 462.381 to 462.396.

Until June 30, 1989, for state and federal grants distributed by state agencies to regions of the state not having a regional development commission, the state agency administering the grant program may assess the program for administrative costs incurred by the agency that normally are incurred by the commission.

\$22,000 the first year and \$22,000 the second year are for the Council of Great Lakes Governors.

The state planning director shall coordinate state policy related to children. The director shall periodically issue reports related to the status and needs of Minnesota children.

Sec. 30. MINNESOTA RESOURCES FUND

Subdivision 1. Total Appropriation	8,114,000	8,127,000
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Approved complement - 37

The appropriations in this section are from the Minnesota resources fund.

The commissioner of finance shall transfer \$162,300 the first year and \$162,500 the second year of this appropriation to the general fund.

The commissioner of finance, upon recommendation of the legislative commission on Minnesota resources, shall allocate this reduction among the programs and activities in this section.

As the cash flow of the Minnesota resources fund permits, the commissioner of finance shall transfer from the unencumbered balance in the Minnesota resources fund and credit it to the general fund.

The amounts that may be spent from this appropriation for each activity are more specifically described in the following subdivisions.

For all appropriations in this section, if the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 2. Legislative Commission on Minnesota Resources

250,000

250,000

For the biennium ending June 30, 1989, the commission shall review the work programs and progress reports required under this section and report its findings and recommendations to the committee on finance of the senate, committee on appropriations of the house of representatives, and other appropriate committees. During the biennium, the commission shall establish oversight committees to continue review of a variety of natural resource subject areas as it believes necessary to carry out its legislative charge.

Subd. 3. Department of Natural Resources

2,867,000

2,870,000

Approved complement - 28

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Groundwater Management

\$300,000

\$300,000

Approved complement - 1

The appropriation is to determine the relationship between ground and surface water use, flow, and quality impacts near rivers.

- (b) Water Allocation and Conservation
\$200,000 \$200,000

Approved complement - 6

The appropriation is to develop an instream flow program including hydrologic and biologic components and to determine specific protected flow requirements for allocation and development decisions.

- (c) Accelerated Land Exchange
\$125,000 \$125,000

Approved complement - 3

The appropriation is to accelerate land exchange transactions so larger amounts of land change hands, including multiple public agency exchanges and state park trust land title transfers. This includes accelerated improvement of land records and development of a submerged land management program.

- (d) Marketing Department Services
\$135,000 \$135,000

Approved complement - 3

The appropriation is to examine the information expectations and needs of the public regarding natural resource management and outdoor recreation use, and to develop a marketing plan to insure that DNR facilities and programs offer services that reflect market interest.

- (e) Ridgeline Trail
\$190,000 \$190,000

Approved complement - 1

The appropriation is for a grant to the Superior hiking trail association for planning, development, and limited easement acquisition of a trail that follows the ridgeline overlooking Lake Superior. Local contributions of donated perpetual easements, volunteer labor, materials, and ongoing operations and maintenance responsibility will supplement the grant. The use of conservation corps resources is strongly encouraged. Up to \$60,000 is available to the department for planning and administrative assistance.

- (f) Mississippi River Management
\$135,000 \$136,000

Approved complement - 4

The appropriation is to provide an interdisciplinary management team to better coordinate planning and implementation of state and federal initiatives on the Minnesota, St. Croix, and Mississippi rivers.

- (g) Brighton Beach Breakwater
\$235,000 \$235,000

The appropriation is for development of a breakwater in conjunction with a state public access on locally-owned land to meet increased recreation demand and provide safer fishing and boating opportunities.

- (h) Fish and Wildlife Comprehensive Planning
\$130,000 \$130,000

Approved complement - 3

The appropriation is to continue development of the long range fish and wildlife comprehensive plan, develop and implement a cost accounting performance reporting process, refine public involvement, implement action planning, work planning, and budgeting for all work and funds of the division of fish and wildlife. The commissioner shall pursue 75 percent reimbursement and deposit the receipts into the Minnesota resources fund federal reimbursement account, if permissible under federal law.

- (i) Forest Wildlife Habitat Intensification
\$80,000 \$80,000

Approved complement - 2

The appropriation provides staff to assist with forestry unit planning to insure fish and wildlife considerations are fully addressed.

- (j) Swan Lake Area Wildlife Project
\$975,000 \$976,000

Approved complement - 1

The appropriation is for an initial project to dramatically increase wildlife populations by focusing on private land cost sharing, acquisition and development of diverse lands, and application of innovative management techniques, thereby bolstering the local economy through increased wildlife based recreation.

All gifts, match reimbursements, or other receipts are appropriated for this purpose.

All acquisition of land may be no greater than 100 percent of the appraised value.

(k) County Biological Survey
\$87,000 \$88,000

Approved complement - 2

The appropriation is for a survey of rare plants, animals, and habitats using combinations of existing forestry, soils, and habitat data on a county-by-county basis. Private match is appropriated.

(l) Glacial Drift Geochemistry
\$100,000 \$100,000

Approved complement - 2

The appropriation is to extend geochemical techniques to additional areas in order to evaluate the potential existence of strategic minerals, using the aeromagnetic survey as a guide for targeting efforts.

(m) Regeneration Growth Inventory
\$25,000 \$25,000

The appropriation is for a grant to Beltrami county to inventory young timber stands and develop revised growth models that will indicate the feasibility of increased or decreased harvesting.

(n) Conservation Corps
\$150,000 \$150,000

The appropriation is for acceleration of the corps work with a new emphasis on county forest and recreation projects.

The appropriation must be equally matched from the county and local units of government where the conservation corps work takes place.

Subd. 4. Pollution Control Agency	491,000	492,000
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Approved complement - 3

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Handbooks of Best Management Practices
\$30,000 \$30,000

Approved complement - 1

The appropriation is to develop a catalogue of structural and nonstructured nonpoint source pollution best management practices and training programs for primary users. Federal match

is appropriated.

(b) Nonpoint Source Pollution Model
\$40,000 \$40,000

The appropriation is for additional development of the AGNPS model in order to emphasize analyses of watershed pollutants in the areas of off-site erosion impacts, pesticides, groundwater, economic analysis, urban compatibility, and annualization. Federal match is appropriated.

(c) Garvin Brook Final Evaluation
\$75,000 \$75,000

Approved complement - 1

The appropriation is to conduct follow-up monitoring, testing, and evaluation and to report on the practices installed since the 1981 initiation of the project. Federal money available is appropriated.

(d) Lake Runoff Management Evaluation
\$196,000 \$197,000

The appropriation is for a grant to the metropolitan council for evaluation, documentation, and reporting on the effectiveness of various runoff management practices on lake protection.

(e) Mercury Toxicity
\$150,000 \$150,000

Approved complement - 1

The appropriation is to examine lakes, streams, and fish in order to determine the source of and mitigation measures for mercury contamination. Federal money available is appropriated.

Subd. 5. State Planning Agency

512,000

513,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Pilot Comprehensive Local Water Planning
\$450,000 \$450,000

The appropriation is for the environmental quality board for a water planning project to make up to eight grants to local units of government with the required nonstate one-to-one match. This includes up to \$70,000 for information services to be provided by the land management information center. All state agencies shall provide information and assist these county efforts as appropriate. The rule-making provisions of Minnesota Statutes,

chapter 14, do not apply to the award of grants under this paragraph.

- (b) Support for Soil and Water Management
\$62,000 \$63,000

The appropriation is for the environmental quality board to make a grant to the international coalition to provide an understandable basin-wide perspective on soils and waters for improved public knowledge and enhancement of local planning efforts in the Red River basin. The freshwater foundation is requested to assist the project as feasible.

Subd. 6. Department of Agriculture 245,000 245,000

- (a) Biological Control of Pests

Approved complement - 5

The appropriation is for research to develop the natural enemies needed to control several plant and animal pests as an alternative to pesticides. Seasonal staffing as needed is anticipated.

Subd. 7. Minnesota Historical Society 173,000 177,000

The amounts that may be spent from this appropriation for each activity are as follows:

- (a) Historical Data Base
\$50,000 \$50,000

The appropriation is to organize and automate the collections, increase public awareness, and significantly improve management of these rare materials. Available private money is appropriated.

- (b) Environmental Oral History
\$22,000 \$23,000

The appropriation is to complete the project initiated in 1985 while people who are important to environmental history are still available.

- (c) Geographic Resource Marketing
\$22,000 \$23,000

The appropriation is to accelerate marketing and interpretation of important geographic resources for purposes of preservation, tourism, and public use.

- (d) Heritage Trails
\$22,000 \$23,000

The appropriation is for a project to interpret and preserve historic trails for public use tourism.

(e) Indian History Grants in Aid
\$35,000 \$35,000

The appropriation is for grants to preserve and develop the Battle Point and Kathio sites on an equal match basis with the reservations.

(f) Farm Economy Record
\$22,000 \$23,000

The appropriation is for a project to record the changes in the farm economy and the effects on the social fabric and general economy.

Subd. 8. University of Minnesota 3,026,000 3,030,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Optimize Winter Lake Aeration
\$49,000 \$49,000

The appropriation is for the St. Anthony Falls Hydraulics laboratory to determine optimum selection, sizing, and operation of lake aeration equipment and techniques.

(b) Gas Permeable Membrane Water Treatment
\$87,000 \$88,000

The appropriation is for the civil and mineral engineering department to research and develop novel technologies for removal of contaminants from water. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota resources fund.

(c) Dioxins in Bleached Kraft Pulp
\$150,000 \$150,000

The appropriation is for the natural resources research institute to develop biodegradation techniques for decontamination of soils and sludge containing dioxins produced through bleached kraft pulp manufacture and to improve the data base on dioxin contamination. Federal and private moneys are appropriated.

(d) Engineering Solutions to Water Problems
\$350,000 \$350,000

The appropriation is for the St. Anthony Falls Hydraulics laboratory to develop engineering methods for pollutant transport, river erosion and sedimentation, selection of lake management techniques, and evaluation of effects of ice on flooding.

(e) Groundwater Quality Impacts from

Agriculture**\$155,000****\$156,000**

The appropriation is for the soils department to quantify the nitrogen and pesticides that move through soil under the effects of various agricultural practices and to determine the effects of transformation and breakdown products.

(f) Simple Water Assay**\$25,000****\$25,000**

The appropriation is for the Gray freshwater biological institute to develop a low cost and readily useable test to detect various water pollutants. The appropriation is contingent upon at least an equal private match from the freshwater foundation, which is appropriated. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota resources fund.

(g) Accelerated Soil Survey**\$700,000****\$700,000**

The appropriation is for the agricultural experiment station for the sixth biennium of a seven biennium effort to provide the appropriate detailed survey based on the adopted federal, state, and local cost share. It may be spent only in counties where the survey was underway or the agreement signed and survey scheduled by July 1, 1988.

(h) Biomass Cash Crop Nursery Establishment**\$92,000****\$92,000**

The appropriation is for the Crookston campus to establish poplar nurseries with local growers and small demonstration plots at Waseca and Lamberton.

(i) Undrained Peatlands for Short Rotation Forestry**\$58,000****\$58,000**

The appropriation is for the natural resources research institute to determine the feasibility of using undrained peat for poplar and willow plantations as an alternative to the environmental impacts from conventional drainage land preparation techniques.

(j) Compost and CoCompost Research**\$87,000****\$88,000**

The appropriation is for the soils department to identify methods that optimize produce

quality and to determine management practices and application rates for use of compost.

(k) Gamefish Growth Enhancement
\$321,000 \$322,000

The appropriation is for the fish and wildlife department to produce fish with increased growth rates using genetic engineering. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota resources fund.

(l) Evaluation of Mosquito Control Activities on Waterfowl
\$60,000 \$60,000

The appropriation is for the department of fish and wildlife to study impacts on the food resources of marshes related to waterfowl reproduction and duckling survival. The university must attempt to secure an equal funding match from the metropolitan mosquito control commission. The freshwater foundation is requested to assist by coordinating this work with other related studies on waterfowl.

(m) Ash as a Lime or Fertilizer Source
\$35,000 \$35,000

The appropriation is for the extension service to determine the potential of wood and related ash as a soil amendment that is environmentally safe and economically viable for alfalfa and other crops.

(n) Aeromagnetic Mapping
\$400,000 \$400,000

The appropriation is to the state geological survey for the fifth biennium of a six biennium effort to electronically acquire and interpret geophysical data, including groundtruth drilling.

(o) Industrial Minerals: Clay
\$200,000 \$200,000

The appropriation is for the mineral resources research center to test known clay resources for potential industrial resources and test the feasibility of producing high grade kaolin products from Redwood Falls area clay.

(p) Future Timber Supply Scheduling Techniques
\$73,000 \$73,000

The appropriation is for the college of forestry to link strategic and operational planning by

refining growth projection and planning models and to thereby help capture greater economic and biologic potentials from forests.

(q) Biotechnology Applications in Forestry
\$84,000 \$84,000

The appropriation is for the college of forestry to complete the basic research on regeneration, emphasizing tissue culture, and on bioprocessing of lignin.

(r) Sludge Ash Pilot Project
\$100,000 \$100,000

The appropriation is to the mineral resources research center for a pilot plant test of new processing techniques for the ash from incinerated sewage sludge, and to assess the potential of total disposal through a route to a commercial product. The match from the metropolitan waste control commission is appropriated. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota resources fund.

Subd. 9. State University Board	50,000	50,000
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(a) Nonenergy Peat Development

The appropriation is for Bemidji state university to accelerate the investigation of extracting high value commercial products from peat.

Subd. 10. Appropriation Adjustment

The commissioner of finance, upon recommendation of the legislative commission on Minnesota resources, shall reduce the appropriations for the projects funded by this section by \$100,000 in fiscal year 1988 and \$100,000 in fiscal year 1989. This reduction shall be reappropriated to the commissioner of natural resources to establish a control program for the weed lythrum salicaria (purple loosestrife) in cooperation with the department of agriculture.

Subd. 11. Appropriation Adjustment

The commissioner of finance, upon recommendation of the legislative commission on Minnesota resources, shall adjust the appropriations for the projects funded by this section by \$40,000 in fiscal year 1988 and \$40,000 in fiscal year 1989. The reduction shall be reappropriated to the commissioner of natural resources to fund a land and water conserva-

tion fund coordination position. The commissioner is authorized one complement position.

Subd. 12. Compatible Data

During the biennium, the data collected by projects funded under this section that has common value for natural resource planning must be provided and integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by the activity receiving funding under this section. This requirement applies to all projects funded under this section, including but not limited to projects under subdivision 3, clauses (a), (b), (c), (h), (k), (l), and (m), subdivision 4, clause (b), subdivision 5, clause (a), and subdivision 8, clauses (e), (g), and (n).

Subd. 13. Work Programs

It is a condition of acceptance of the appropriations made by this section that the agency or entity receiving the appropriation must submit work programs and semi-annual progress reports in the form determined by the legislative commission on Minnesota resources. None of the money provided in this subdivision may be spent unless the commission has approved the pertinent work program. Upon request from the commission, the agency head shall submit an evaluation by July 1, 1988, as to whether the program should be incorporated in the next agency budget.

Subd. 14. Complement Temporary

Persons employed by a state agency and paid by an appropriation in this section are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons is authorized.

Subd. 15. Federal Reimbursement

Account

500,000

500,000

This appropriation is for the spending purposes in the natural resources federal reimbursement account in Minnesota Statutes, section 86.72.

Sec. 31. LABOR AND INDUSTRY

Subdivision 1. Total Appropriation	16,673,000	16,505,500
	1988	1989
Approved Complement -	373	373
General -	69	69.0
Special Revenue -	65	65
Federal -	42.5	42.5
Workers' Compensation -	196.5	196.5

Summary by Fund		
General	\$7,491,000	\$7,540,900
Worker's Comp.	\$7,722,700	\$7,619,100
Special Revenue	\$1,459,300	\$1,345,500

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Employment Standards
\$909,900 \$907,400

Subd. 3. Workers' Compensation Regulation and Enforcement
\$4,065,300 \$4,019,900

This appropriation is from the special compensation fund.

Until June 30, 1989, the commissioner of labor and industry may provide a workers' compensation insurer or self-insured employer direct computer access to public workers' compensation data on file with the commissioner, upon receipt of a fee in an amount determined by the commissioner to be sufficient to cover the direct and indirect costs of providing the access. Fee receipts must be deposited in the state treasury and credited to a special account and are appropriated to the commissioner to pay the costs of providing the access.

Subd. 4. Workers' Compensation State Claims Management
\$1,714,600 \$1,771,300

\$310,500 the first year and \$322,900 the second year are for payment of peace officer survivor benefits under Minnesota Statutes, section 176B.04. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 5. Workers' Compensation Special Compensation Fund
\$3,904,800 \$3,903,800

Of this appropriation \$1,404,800 the first year and \$1,403,800 the second year are from the special compensation fund.

\$2,500,000 the first year and \$2,500,000 the second year are for reimbursement of the special compensation fund under Minnesota Statutes, section 176.183, subdivision 2.

\$197,000 the first year and \$197,000 the second year is from the special compensation fund for enforcement of the mandatory insurance requirements contained in Minnesota Statutes, chapter 176. This appropriation includes money to pay for an investigator to assist the department in its insurance enforcement efforts.

Subd. 6. Code Enforcement

\$1,409,600	\$1,295,800
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This appropriation is from the special revenue fund.

Subd. 7. OSHA

\$1,237,900	\$1,234,700
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Summary by Fund

General	\$1,188,200	\$1,185,000
Special Revenue	\$49,700	\$49,700

\$49,700 the first year and \$49,700 the second year are from the special revenue fund for passenger elevator inspection.

Subd. 8. General Support

\$2,234,300	\$2,232,200
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Summary by Fund

General	\$853,000	\$852,400
Workers' Comp.	\$1,381,300	\$1,379,800

Subd. 9. Information Management Services

\$1,196,600	\$1,140,400
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Summary by Fund

General	\$325,300	\$324,800
Workers' Comp.	\$871,300	\$815,600

Sec. 32. WORKERS' COMPENSATION COURT OF APPEALS

755,200	738,500
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Approved Complement - 15

This appropriation is from the workers' compensation special compensation fund.

Sec. 33. MEDIATION SERVICES

1,570,100	1,618,600
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Approved Complement - 26

\$237,500 the first year and \$287,500 the second year are for grants to area labor-management committees. The unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 34. PUBLIC EMPLOYMENT
RELATIONS BOARD

60,600

60,500

Approved Complement - 1

Sec. 35. MILITARY AFFAIRS

Subdivision 1. Total Appropriation

6,301,100

6,303,400

Approved Complement - 322.8

General - 136.8

Federal - 186.0

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Maintenance of Training Facilities

\$4,990,900

\$4,981,900

\$100,000 the first year and \$100,000 the second year are for six general fund positions to support the federal construction program.

\$100,000 the first year and \$100,000 the second year is for repairs and renovations. If the appropriation for either year is insufficient the appropriation for the other year is available for it.

Subd. 3. General Support

\$1,310,200

\$1,321,500

\$75,000 the first year and \$75,000 the second year are for expenses of military forces ordered to active duty under Minnesota Statutes, chapter 192. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 36. VETERANS AFFAIRS

Subdivision 1. Total Appropriation

15,554,300

15,250,800

Approved Complement - 408.5

General - 41.0

Special - 367.5

Summary by Fund

General	\$7,554,300	\$7,250,800
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Transfers to Other		
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Direct	(\$5,068,300)	(\$4,765,200)
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Special Revenue	\$13,068,300	\$12,765,200
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Veterans Benefits and Services
\$2,486,000 \$2,485,600

During the biennium, in administering veterans benefits programs the commissioner shall ensure that veterans participate in all federally funded benefit programs to the maximum extent possible before receiving assistance under state funded programs.

\$988,100 the first year and \$988,100 the second year are for emergency financial and medical needs of veterans. For the biennium ending June 30, 1989, the commissioner shall limit financial assistance to veterans and dependents to six months, unless recipients have been certified as ineligible for other benefit programs. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 3. Veterans Homes
\$13,068,300 \$12,765,200

Summary by Fund

General	\$5,068,300	\$4,765,200
Transfers to Other		
Direct	(\$5,068,300)	(\$4,765,200)
Special Revenue	\$13,068,300	\$12,765,200

The appropriation from the general fund is for transfer by the commissioner of finance to the special revenue fund to support appropriations from the special revenue fund that are not fully supported by income from the federal government and charges to residents.

\$200,000 of unencumbered balances in the appropriations in Laws 1985, First Special Session chapter 13, section 37, subdivision 2, specified for emergency financial and medical needs of veterans is transferred to the fiscal year 1987 Minneapolis Veterans Home program budget for emergency repairs and equipment needed to correct cited deficiencies at the home.

Sec. 37. HUMAN RIGHTS	2,574,700	2,593,100
Approved Complement - 65		
Sec. 38. INDIAN AFFAIRS COUNCIL	329,300	308,900
Approved Complement - 9		

General - 7

Federal - 2

\$25,000 the first year and \$25,000 the second year is for the purpose of enabling the council to carry out the tasks of identifying, relocating or preserving the Indian burial grounds as required by Minnesota Statutes, section 307.08. The council is to work cooperatively with the Minnesota state historical society in performing these tasks.

During the biennium, the data collected by this activity that has common value for natural resource planning must be provided and integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by this activity.

An additional \$20,000 from the general fund is available for allotment by the commissioner of finance to the council during the biennium upon demonstration of a dollar-for-dollar match with nonpublic contributions. Up to one-quarter of the nonpublic match requirement may be met with in-kind contributions. Nonpublic contributions may be raised by the council in either year of the biennium. All funds not receiving a nonpublic match shall cancel to the general fund at the end of the biennium.

Sec. 39. COUNCIL ON AFFAIRS OF
SPANISH-SPEAKING PEOPLE

154,300

134,500

Approved Complement - 3

An additional \$20,000 from the general fund is available for allotment by the commissioner of finance to the council during the biennium only upon demonstration of a dollar-for-dollar match with nonpublic contributions. Up to one-quarter of the nonpublic match requirement may be met with in-kind contributions. Nonpublic contributions may be raised by the council in either year of the biennium. All funds not receiving a nonpublic match shall cancel to the general fund at the end of the biennium.

Sec. 40. COUNCIL ON BLACK
MINNESOTANS

168,700

148,700

Approved Complement - 3.5

An additional \$20,000 from the general fund is available for allotment by the commissioner of finance to the council during the biennium

only upon demonstration of a dollar-for-dollar match with nonpublic contributions. Up to one-quarter of the nonpublic match requirement may be met with in-kind contributions. Nonpublic contributions may be raised by the council in either year of the biennium. All funds not receiving a nonpublic match shall cancel to the general fund at the end of the biennium.

Sec. 41. COUNCIL ON ASIAN-PACIFIC MINNESOTANS

150,000

130,000

Approved Complement - 3

An additional \$20,000 from the general fund is available for allotment by the commissioner of finance to the council during the biennium only upon demonstration of a dollar-for-dollar match with nonpublic contributions. Up to one-quarter of the nonpublic match requirement may be met with in-kind contributions. Nonpublic contributions may be raised by the council in either year of the biennium. All funds not receiving a nonpublic match shall cancel to the general fund at the end of the biennium.

Sec. 42. COUNCIL FOR THE HANDICAPPED

438,900

419,500

Approved Complement - 10

An additional \$20,000 from the general fund is available for allotment by the commissioner of finance to the council during the biennium only upon demonstration of a dollar-for-dollar match with nonpublic contributions. Up to one-quarter of the nonpublic match requirement may be met with in-kind contributions. Nonpublic contributions may be raised by the council in either year of the biennium. All funds not receiving a nonpublic match shall cancel to the general fund at the end of the biennium.

Sec. 43. SALARY SUPPLEMENT

19,699,600

42,569,100

Subdivision 1. Appropriations

Except as limited by the direct appropriations made in this section, the amounts necessary to pay compensation and economic benefit increases covered by this section are appropriated from the various funds in the state treasury from which salaries are paid to the commissioner of finance for the fiscal years ending June 30, 1988, and June 30, 1989. In the case of salaries that are paid from one fund, but

that fund is reimbursed by another fund, the amounts necessary to make these reimbursements are also appropriated.

- (a) General Fund
\$14,453,000 \$30,358,000
- (b) Game and Fish Fund
\$568,500 \$1,149,200
- (c) Trunk Highway Fund
\$5,118,900 \$10,348,800
- (d) Highway User Tax Distribution Fund
\$144,300 \$291,700
- (e) Workers' Compensation
\$208,200 \$421,400

Subd. 2. Increases Covered

The compensation and economic benefit increases covered by this section are those paid to classified and unclassified employees and officers in the executive, judicial, and legislative branches of state government, and to employees of the Minnesota historical society who are paid from state appropriations, if the increases are required by existing law or authorized by law during the 1987 session of the legislature or by appropriate resolutions for employees of the legislature, or are given interim approval by the legislative commission on employee relations under Minnesota Statutes, sections 3.855 and 43A.18 or 179A.22, subdivision 4.

The salary increases recommended by the compensation council on December 18, 1986, for legislators, judges, and constitutional officers are modified, so that the rate of increase that goes into effect on January 1, 1989, and January 1, 1990, must be five percent each year.

The commissioner of finance shall transfer to the appropriations for agencies in the legislative and judicial branches and for the constitutional officers the amounts certified as necessary for each agency by its chief financial officer. For the purposes of this paragraph, the secretary of the senate is the chief financial officer for the senate, the chairman of the legislative coordinating commission for legislative commissions, the chief justice of the supreme court for agencies in the judicial branch, and the elected constitutional officer for each constitutional office.

The salaries for positions listed in Minnesota

Statutes, section 15A.081, subdivision 1, which were given interim approval by the legislative commission on employee relations on March 31, 1987, are ratified, retroactive to January 16, 1987.

The salary increase for a position listed in Minnesota Statutes, section 15A.081, subdivision 1, must not be more than five percent for each year of the biennium ending June 30, 1989.

Within the provisions of the managerial plan approved under Minnesota Statutes, section 43A.18, an agency may not authorize aggregate performance increases for its managers that exceed an average of three percent in each year of the biennium ending June 30, 1989. A salary increase given in a lump sum is included within this limit. If an agency has fewer than three managers, it may exceed this average by one percent.

By January 1, 1989, the commissioner of employee relations must assess managerial pay practices among the categories of agencies as grouped in Minnesota Statutes, section 15A.081, and among the metropolitan council and metropolitan commissions and boards. Managers within agencies of the executive branch not listed in section 15A.081 must also be compared. This assessment must be reported to the chairs of the committees of house appropriations, senate finance, and the legislative commission on employee relations.

The metropolitan council or a metropolitan commission or board may not authorize aggregate performance increases for its managers that exceed an average of three percent in each year of the biennium ending June 30, 1989. A salary increase given in a lump sum is included within this limit. If an agency has fewer than three managers, it may exceed this average by one percent.

Subd. 3. Notice

During the biennium, the commissioner of finance shall transfer the necessary amounts to the proper accounts and shall promptly notify the committee on finance of the senate and the committee on appropriations of the house of representatives of the amount transferred to each appropriation account.

Sec. 44. GENERAL CONTINGENT ACCOUNTS

1,450,000

750,000

The appropriations in this section must be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

General	\$750,000	\$750,000
Special Revenue	\$500,000	\$0
Workers' Comp.	\$200,000	\$0

The appropriation from the general fund is only available to the extent that the unreserved fund balance of the general fund on July 1, 1987, is greater than was estimated at the time this act was enacted.

Sec. 45. TORT CLAIMS	318,500	318,500
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To be spent by the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

General	\$303,000	\$303,000
Game and Fish	\$15,500	\$15,500

Sec. 46. MINNESOTA STATE RETIREMENT SYSTEM	4,970,000	5,216,000
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The amounts estimated to be needed for each program are as follows:

(a) Legislators
\$2,155,000 \$2,161,000

Under Minnesota Statutes, sections 3A.03, subdivision 2; 3A.04, subdivisions 3 and 4; and 3A.11.

(b) Judges
\$2,650,000 \$2,875,000

Under Minnesota Statutes, sections 490.106; and 490.123, subdivision 1.

(c) Constitutional Officers
\$142,000 \$157,000

Under Minnesota Statutes, sections 352C.031, subdivision 5; 352C.04, subdivision 3; and 352C.09, subdivision 2.

(d) State Employee Supplemental Benefits
\$23,000 \$23,000

Under Minnesota Statutes, section 352.73.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

**Sec. 47. PUBLIC EMPLOYEES
RETIREMENT ASSOCIATION**

30,000

30,000

This appropriation is for supplemental benefits under Minnesota Statutes, section 353.83.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

**Sec. 48. MINNEAPOLIS EMPLOY-
EES RETIREMENT FUND**

10,654,000

11,375,000

The appropriation is to the commissioner of finance for payment to the Minneapolis employees retirement fund under Minnesota Statutes, section 422A.101, subdivision 3.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

**Sec. 49. POLICE AND FIRE AMOR-
TIZATION AID**

7,537,000

7,537,000

The appropriation is to the commissioner of finance for state aid to amortize the unfunded liability of local police and salaried firefighters' relief associations, under Minnesota Statutes, section 423A.02. If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

**Sec. 50. UNIVERSITY OF
MINNESOTA**

372,900

372,400

This appropriation is for use by the St. Anthony Falls hydraulics laboratory.

This appropriation must not be allocated by the commissioner of finance to the University of Minnesota until the commissioner has made an annual determination that the federal money available each fiscal year is less than the amount that was available in fiscal year 1987. The amount of the allocation, when added to the federal money available, must not exceed the amount of federal money received in fiscal year 1987.

**Sec. 51. FISCAL YEAR 1987
APPROPRIATIONS**

Subdivision 1. Appropriations

The sums set forth in columns designated "APPROPRIATIONS" are appropriated from the General Fund, or any other fund designated, to the agencies and for the purposes specified in this section, to be available for fiscal year 1987.

Summary by Fund

	1987
General	\$3,325,900
Special Revenue	395,000
Trunk Highway	284,800
Workers' Compensation	18,300

APPROPRIATION 1987

Subd. 2. Trial Courts \$413,900

This appropriation is added to the appropriation in Laws 1985, First Special Session chapter 13, section 5, subdivision 2, for district and county judges.

Subd. 3. Attorney General 584,800

\$300,000 is added to the appropriation in Laws 1985, First Special Session chapter 13, section 14, subdivision 5, and remains available until the bankruptcy proceeding involving LTV Corporation and Reserve Mining is resolved.

\$284,800 is appropriated from the trunk highway fund for transfer by the commissioner of finance to the general fund on June 30, 1987, in order to reimburse the general fund for legal services to trunk highway fund purposes in fiscal years 1985, 1986, and 1987.

Subd. 4. Pollution Control Agency 490,000

This appropriation is for environmental impact statements and is available until June 30, 1988. Koch Refining Company shall reimburse the general fund for the cost of conducting the environmental impact statement on their land farm project.

Subd. 5. Labor and Industry 1,032,000

This appropriation is to pay the reinsurance premium for the workers' compensation state employee claims management program and is added to the appropriation in Laws 1985, First Special Session chapter 13, section 32.

Subd. 6. Workers' Compensation Court of Appeals 18,300

This appropriation is from the workers' compensation special compensation fund and is added to the appropriation in Laws 1985, First Special Session chapter 13, section 33.

Subd. 7. Veterans Affairs.

395,000

This appropriation from the special revenue fund is to provide salaries for nursing staff, patients' food, and workers' compensation payments and is added to the appropriation in Laws 1985, First Special Session chapter 13, section 37.

Subd. 8. Transfer of Lands

790,000

To be disbursed by the commissioner of finance and to remain available until the transfer of lands authorized by Laws 1984, chapter 539, and Laws 1986, chapter 429 is completed.

Of this amount, up to \$650,000 is for condemnation awards related to reimbursement of the permanent school fund for up to 1,500 acres of school and other trust fund lands that must be condemned in order to complete the transfer authorized by Laws 1984, chapter 539 and Laws 1986, chapter 429. The remaining amount may be used for costs and other expenses associated with the condemnation and transfer.

Payment or reimbursement must not be made from this appropriation until the state of Minnesota and the United States have entered into a land transfer agreement under the terms of the White Earth Land Settlement Act of 1985, Public Law Number 99-264, Statutes at Large, volume 100, page 61.

\$50,000 is to reimburse the White Earth Band of Chippewa Indians for actual costs incurred in developing, supporting, and implementing the White Earth Land Claim Settlement Act, Public Law 99-264. Payments must be made by the commissioner of finance upon submission of invoices, bills, or statements certified by the chairman of the White Earth tribal council to be actual costs incurred in developing, supporting, and implementing the settlement act, and upon review and approval of the submissions by the attorney general.

Subd. 9. Firefighting

The amount necessary to pay for emergency firefighting expenses is added to the appropriation in Laws 1985, First Special Session chapter 13, section 23, subdivision 7, for the purposes of firefighting.

Subd. 10. Superconducting Supercollider

\$300,000 is appropriated from the general fund for fiscal year 1987 to a contingency account in the governor's office for the purpose of preparing an application to the Department of Energy for Minnesota to become the site of the superconducting supercollider. The governor's office shall seek out private funding and shall make use of the full services of the state planning agency in preparing the application. This appropriation is available until January 1, 1988.

Sec. 52. [POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.]

Subdivision 1. [COVERED RETIREMENT FUNDS.] The following retirement funds shall pay the postretirement adjustment provided for in this section:

- (1) public employees retirement fund;*
- (2) public employees police and fire fund;*
- (3) teachers retirement fund;*
- (4) state patrol retirement fund;*
- (5) state employees retirement fund of the Minnesota state retirement system; and*
- (6) Minneapolis employees retirement fund.*

Subd. 2. [ENTITLEMENT.] A person receiving a retirement annuity, disability benefit, or surviving spouse's annuity or benefit from a retirement fund named in subdivision 1 is entitled to receive the postretirement adjustment provided for in this section if the annuity or benefit the person is receiving is:

- (1) an annuity or benefit from the fund named in subdivision 1, clause (4), computed under the laws in effect before June 1, 1973;*
- (2) an annuity or benefit from the funds named in subdivision 1, clause (1), (2), (3), or (5), computed under the laws in effect before July 1, 1973;*
- (3) an annuity from the fund named in subdivision 1, clause (6), computed under the laws in effect before March 5, 1974;*
- (4) a "\$2 bill and annuity" annuity from the fund named in subdivision 1, clause (6); or*
- (5) an annuity or benefit from the fund named in subdivision 1, clause (5), computed under the metropolitan transit commission-transit operating division employees retirement fund document in effect before January 1, 1978.*

Subd. 3. [AMOUNT OF ADJUSTMENT.] Each retirement fund named in subdivision 1 shall pay the postretirement adjustments provided for in this section to each person eligible for an annuity or benefit on November 30, 1987, or November 30, 1988, and entitled to an adjustment under subdivision 2. An adjustment for an individual recipient must be a lump sum payment in an amount equal to \$20 in 1987 and \$20 in 1988 for each

full year of allowable service credited to the recipient by the fund. Adjustments are payable on December 1, 1987, to recipients eligible for an annuity or benefit on November 30, 1987, and on December 1, 1988, to recipients eligible for an annuity or benefit on November 30, 1988. Nothing in this section authorizes a fund to pay an adjustment to an estate. Notwithstanding Minnesota Statutes, section 356.18, a fund shall pay the adjustments provided for in this section without being requested to do so unless an intended recipient files a written notice with the fund requesting that the adjustment not be paid.

Subd. 4. [TERMINAL AUDIT.] Each retirement fund named in subdivision 1, as soon as practical after payment of the December 1, 1988, postretirement adjustment, shall calculate the amount of any appropriation apportioned to it in excess of the amount required to pay the adjustments, report its calculation in writing to the commissioner of finance, and return any excess amount to the general fund. The commissioner of finance shall verify the calculation reported by each fund.

Subd. 5. [APPROPRIATION.] \$10,899,000 is appropriated from the general fund to the retirement funds named in subdivision 1, to pay the postretirement adjustments provided for in subdivision 3. The appropriation is apportioned as follows:

	Fiscal Year 1988	Fiscal Year 1989
Public employees retirement fund	\$1,822,000	\$1,713,000
Public employees police and fire fund	78,000	73,000
Teachers retirement fund	1,532,000	1,443,000
State patrol retirement fund	67,000	63,000
State employees retirement fund	1,280,000	1,230,000
Minneapolis employees retirement fund	820,000	778,000

Sec. 53. [TRANSFERS.]

Subdivision 1. [GENERAL PROCEDURE.] If the appropriation in this act to an agency in the executive branch is specified by program, the agency may transfer unencumbered balances among the programs specified in that section after getting the approval of the commissioner of finance. The commissioner shall not approve a transfer unless the commissioner believes that it will carry out the intent of the legislature. The transfer must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives. If the appropriation in this act to an agency in the executive branch is specified by activity, the agency may transfer unencumbered balances among the activities specified in that section using the same procedure as for transfers among programs.

Subd. 2. [CONSTITUTIONAL OFFICERS.] A constitutional officer need not get the approval of the commissioner of finance but must notify the committee on finance of the senate and the committee on appropriations of the house of representatives before making a transfer under subdivision 1.

Subd. 3. [TRANSFER PROHIBITED.] If an amount is specified in this act for an item within an activity, that amount must not be transferred or

used for any other purpose.

Sec. 54. [MASTER LEASE.]

During the biennium ending June 30, 1989, for agencies to whom appropriations are made in this act, the master lease, as authorized in Minnesota Statutes, section 16A.85, may only be used to finance large equipment with a capital value of more than \$100,000 and a useful life of more than ten years, and for equipment already purchased under an existing lease-purchase agreement. The commissioner of finance must consult with the chairs of the senate finance committee and house appropriations committee before entering into a lease-purchase of equipment by a state agency in this act. This requirement does not apply to purchases by the commissioner of administration made with money from an internal services fund.

Sec. 55. [STUDY OF MANAGEMENT OF VETERANS HOMES.]

Subdivision 1. [STUDY ESTABLISHED.] The commissioner of administration shall conduct or arrange for a study of the management and operation of the Minnesota Veterans Homes. The purpose of the study is to provide the legislature with an accurate assessment of the management of the home and a comprehensive appraisal of any deficiencies or problems that need to be addressed. It is the intent of the legislature to assure that the care and services provided to the veterans in these homes is of high quality and that the quality of life for the veterans is enhanced and maintained while residing in the home.

Subd. 2. [STUDY GUIDELINES.] The study shall evaluate the following: the role and responsibilities of the governing body, administrator, and management staff at the home; the relationships between the governing body, administrator and management staff located in each home; the span of control and authority delegated to the management staff at the home; the effectiveness of the management practices at the home; the direct care and other support personnel staffing patterns and assignments throughout all units in the home; the admission criteria and practices; the assessment of the care and service needs of the residents; the utilization of state operated veterans homes compared to the utilization of community based and operated long-term care facilities for the veteran population; the relationship of the home with the federal Veterans Administration regulatory programs; the relationship with the federal regulatory programs with the state regulatory programs; the programmatic and fiscal advantages or disadvantages of medical assistance certification for the veterans home; the utilization of a preadmission screening program for the home; and any other factors that are necessary for an accurate and complete assessment of the role, operation, and management of the home.

Subd. 3. [REPORT.] The commissioner of administration may contract with a person or organization knowledgeable in long-term health care facility management. The commissioners of health and human services shall assist the commissioner of administration in conducting this study. The commissioner of administration shall report to the legislature with specific findings and recommendations by February 1, 1988.

Subd. 4. [ASSESSMENTS.] The commissioner of veterans affairs shall complete an assessment of the care and services needed by all residents of all units in the homes. These assessments shall be conducted in accordance with the procedures used by the department of health for the assignment of resident case mix reimbursement classifications. These assessments

shall be completed for all residents by September 1, 1987, and for all residents admitted after that date or the date of completion of the assessments whichever comes first. The commissioner of health shall provide the commissioner of veterans affairs with any necessary assistance required to train staff to perform these assessments. The assessments shall be available to the commissioners of health, human services, and administration for the purpose of completing the management study of the veterans home.

Sec. 56. [INCREASED RENTAL COSTS OR SPACE.]

An agency or department head must consult with the chairs of the house appropriations and senate finance committees before entering into any agreement that would cause an agency's rental costs to increase by ten percent or more per square foot or would increase the number of square feet of office space rented by the agency by 25 percent or more in any fiscal year.

Sec. 57. [BUILDING FUND APPROPRIATION; TRANSFER.]

Subdivision 1. Notwithstanding any other law, the commissioner of administration may transfer unencumbered balances existing on May 15, 1987, in a project account for the building fund appropriations listed in subdivision 2 to the project enumerated in Laws 1983, chapter 344, section 2(j). The money transferred under this section is appropriated for the purposes for which it is transferred and may be used for the retention of outside technical and legal expertise in the matter of the resolution of any claims that arose out of the project to which the original appropriation was made. The commissioner must report to the chairs of the house appropriations committee and the senate finance committee on any transfer made under this section.

Subd. 2. Subdivision 1 applies to appropriations made by the following laws: Laws 1973, chapter 777, section 14(c); Laws 1973, chapter 778, section 5(1); Laws 1976, chapter 348, section 2, subdivision 2; Laws 1978, chapter 791, section 2(k); Laws 1978, chapter 791, section 2(t); Laws 1978, chapter 792, section 4(a) and 4(f) and 15(a); Laws 1979, chapter 338, section 6; and Laws 1981, chapter 4, section 2, subdivision 8 and section 6; and Laws 1981, chapter 361, section 2(a); and Laws 1981, chapter 362, section 3; and Laws 1982, chapter 639, section 7.

Sec. 58. [INVESTIGATIVE ACTIVITIES.]

A six-member joint legislative committee shall investigate the investigative activities of the department of natural resources and the bureau of criminal apprehension. The committee consists of three house members, including one member of the minority caucus, appointed by the speaker of the house, and three senate members, including one member of the minority caucus, appointed pursuant to the rules of the senate. The committee shall review the manner in which the investigative activities are carried out and the budget for the activities. The committee shall conclude its work by December 31, 1988.

Sec. 59. Minnesota Statutes 1986, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter

specified:

1. Goodhue, Dakota, Carver, LeSueur, McLeod, Scott, and Sibley; ~~nine~~ 13 judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; 13 judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 22 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; 24 53 judges;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; five judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; ~~six~~ 15 judges;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; ~~19~~ 20 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; three judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnommen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; six judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls;

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; 24 30 judges; and permanent chambers shall be maintained in Anoka, Stillwater, and other places designated by the chief judge of the district.

Sec. 60. Minnesota Statutes 1986, section 3.30, subdivision 2, is amended to read:

Subd. 2. [MEMBERS; DUTIES.] ~~The chair of the senate committee on taxes and tax laws, the chair of the senate committee on finance, the chair of the house committee on taxes and tax laws, and the chair of the house committee on appropriations shall constitute the legislative advisory commission. The governor shall preside over the meetings of the commission but shall not be a member thereof. The majority leader of the senate or a designee, the chair of the senate committee on finance, and the chair of the senate division of finance responsible for overseeing the items being considered by the commission, the speaker of the house of representatives or a designee, the chair of the house committee on appropriations, and the chair of the division of the house appropriations committee responsible for overseeing the items being considered by the commissioner constitute the legislative advisory commission. The division chair of the finance committee in the senate and the division chair of the appropriations committee in the house shall rotate according to the items being considered~~

by the commission. If any of the legislative members elect not to serve on the commission, the house of which they are members, if in session, shall select some other member for such vacancy. If the legislature is not in session, vacancies in the legislative membership of the commission shall be filled by the last speaker of the house or, if the speaker be not available, by the last chair of the house rules committee, in case of a house vacancy, and by the last senate committee on committees or other appointing authority designated by the senate rules in case of a senate vacancy. The commissioner of finance shall act as secretary of the commission and shall keep a permanent record and minutes of its proceedings, which shall be public records. The commissioner of finance shall transmit, under the provisions of section 3.195, a report to the next legislature of all actions of said commission. The members of the commission shall receive traveling and subsistence expenses in attending meetings of the commission. The commission shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

Sec. 61. Minnesota Statutes 1986, section 3.303, subdivision 5, is amended to read:

Subd. 5. The commission shall *represent the legislature and* assist state agencies in making arrangements for the accommodation and appropriate recognition of individuals or groups visiting Minnesota as direct or indirect representatives of foreign governments, other states, or any of the subdivisions or agencies of foreign governments or other states; and provide other services determined by the commission. The commission may make grants, employ staff and obtain office space, equipment, and supplies necessary to perform the designated duties.

Sec. 62. Minnesota Statutes 1986, section 3.85, subdivision 12, is amended to read:

Subd. 12. [VALUATIONS AND REPORTS TO LEGISLATURE.] (a) The commission shall contract with an established actuarial consulting firm to conduct annual valuations and financial adequacy studies for the funds specified in (b). The contract shall also include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The plans which shall be included in the contract for valuation and analysis are:

- (1) the Statewide Teachers Retirement Association;
- (2) the General Plan, Minnesota State Retirement System;
- (3) the Correctional Plan, Minnesota State Retirement System;
- (4) the State Patrol Plan, Minnesota State Retirement System;
- (5) the Judges Plan, Minnesota State Retirement System;
- (6) the Minneapolis Employees Retirement Fund;
- (7) the General Plan, Public Employees Retirement Association;
- (8) the Police and Fire Plan, Public Employees Retirement Association;
- (9) the Duluth Teachers Retirement Association;
- (10) the Minneapolis Teachers Retirement Association;
- (11) the St. Paul Teachers Retirement Association; and

- (12) the Legislator's Retirement Plan; and
(13) the Elective State Officers Retirement Plan.

(c) The contract shall include the following:

(1) Every year beginning in fiscal year 1986, the contract shall specify completion of standard valuations for the preceding fiscal year with contents as described in section 356.215, subdivisions 4 to 4k; and cash flow forecasts through the amortization target date. For funds using a calendar year valuation period the first valuation shall be for the period ending December 31, 1985.

(2) Every four years, beginning in fiscal year 1988, the contract shall specify completion of an experience study for the four-year period ending June 30 of the preceding fiscal year. The experience study shall evaluate the appropriateness of continuing to use for future valuations the assumptions relating to: individual salary progression; rate of return on investments; payroll growth; mortality; withdrawal; disability; retirement; and any other experience-related factor that could impact the future financial condition of the retirement funds.

(d) The commission shall annually prepare a report to the legislature summarizing the results of the valuations and cash flow projections and shall include with its report recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. It shall also, within two months of the completion of the quadrennial experience studies, prepare a report to the legislature on the appropriateness of the valuation assumptions listed in paragraph (c), clause (2).

(e) The commission shall assess the retirement plans specified in paragraph (b) other than clauses (12) and (13) the cost of their actuarial valuations and of their experience studies. The assessment shall be that part of the amount of contract compensation with the actuarial consulting firm retained by the commission specified for these functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total active, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b). The assessment shall be made upon the completion of the actuarial valuations and the experience studies. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments shall be deposited in the state treasury and credited to the general fund.

Sec. 63. [3.885] [LEGISLATIVE COMMITTEE ON PLANNING AND FISCAL POLICY.]

Subdivision 1. [MEMBERSHIP.] The legislative committee on planning and fiscal policy consists of 18 members of the senate and the house of representatives appointed by the legislative coordinating commission. Vacancies on the committee are filled in the same manner as original appointments. The committee shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year.

Subd. 2. [COMPENSATION.] Members of the committee are compensated in the manner provided by section 3.101.

Subd. 3. [STAFF.] The committee may hire staff necessary to carry out

its duties and may also use other legislative staff. The legislative coordinating commission shall provide office space and administrative support to the committee. The commissioners of finance and revenue shall supply the committee with information upon request of the chair. The state planning agency shall report to the committee, and the committee may make recommendations to the state planning agency.

Subd. 4. [DUTIES.] The committee shall study and evaluate the actual and projected expenditures by state government, the actual and projected sources of revenue that support these expenditures, and the various options available to meet the state's future fiscal needs. In performing this duty the committee shall consider, among other things:

(1) the relative dependence on state tax revenues, federal funds, and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate, given the purposes of the programs;

(2) the relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions, and debt service; and

(3) the role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general fund, legislative appropriation of money from funds other than the general fund, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds, and state agency expenditure of federal funds.

As necessary, the committee shall recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures. The committee may also make recommendations for changes in the design or continuing operation of programs. The committee's recommendations must consider the long-term needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

The committee shall report to the legislature on its activities and recommendations by January 15 of each odd-numbered year.

Sec. 64. Minnesota Statutes 1986, section 3C.035, subdivision 1, is amended to read:

Subdivision 1. [DEADLINES.] A department or agency intending to urge the legislature to adopt a bill shall deliver the drafting request for the bill to the revisor of statutes by ~~December~~ November 1 before the regular session of the legislature at which adoption will be urged. A commissioner or agency head, however, may deliver a drafting request later by certifying to the revisor, with supporting facts, that the request is an emergency, relates to a matter that could not reasonably have been foreseen before ~~December~~ November 1, or for which there is other reasonable justification for delay. The completed bill draft, in a form ready for introduction, must be delivered by the revisor to a senator or representative as directed by the department or agency. If the draft was requested after ~~December~~ November 1, it must be accompanied by a copy of the commissioner's certification to the revisor.

Sec. 65. Minnesota Statutes 1986, section 3C.035, subdivision 2, is amended to read:

Subd. 2. [COSTS.] Agencies shall include in their budgets amounts to

pay for bill drafting services provided by the revisor of statutes. The revisor shall assess agencies for the actual cost of bill drafting services rendered to them on requests delivered to the revisor by ~~December~~ November 1. The revisor shall assess agencies for ~~120 percent of double~~ the actual cost of bill drafting services rendered to them on requests delivered to the revisor after ~~December~~ November 1. The revisor shall also assess an agency for the actual cost or ~~120 percent of double the~~ actual cost, as appropriate, for drafting a request that a senator or representative submits to the revisor's office on behalf of the agency. The revisor may not assess a department or agency for the costs related to drafting affecting an agency if the request for drafting originated from within the legislature. Receipts from the assessment must be deposited in the state treasury and credited to the revisor's account.

Sec. 66. Minnesota Statutes 1986, section 3C.11, subdivision 2, is amended to read:

Subd. 2. [PAMPHLETS.] The revisor's office shall compose, print, and deliver pamphlets containing parts of Minnesota Statutes, parts of Minnesota Rules, or combinations of parts of the statutes and rules as may be necessary for the use of public officers and departments. The revisor's office shall use a standard form for the pamphlets. The cost of composition, printing, and delivery of the pamphlets, *together with a reasonable fee for the revisor's services*, is to be borne by the office or department requesting them. The printing must be limited to actual needs as shown by experience or other competent proof. *Revenue from the revisor's fee must be deposited in the revisor's account.*

Sec. 67. Minnesota Statutes 1986, section 3C.12, subdivision 7, is amended to read:

Subd. 7. [SALE PRICE.] The revisor shall fix ~~the~~ *a reasonable* sale price of an edition of Minnesota Statutes, supplement to Minnesota Statutes, or edition of Laws of Minnesota ~~according to the limits of this subdivision.~~ *The sale price for a newly published edition of Minnesota Statutes is the actual cost of composition, printing, binding, and distribution of all books ordered; but not less than \$75. The sale prices of each newly published edition of the Laws of Minnesota and supplement to Minnesota Statutes are not less than the actual cost of composition, printing, binding, and distribution of all books ordered; but not less than \$10.* Revenue from the sale of the Minnesota Statutes, supplements to Minnesota Statutes, and Laws of Minnesota must be deposited in the revisor's account.

Sec. 68. [5.13] [TRANSACTION SURCHARGE.]

The secretary of state may impose a surcharge of \$5 on each transaction involving over-the-counter expedited service, other than simple copying requests, that takes place at the office of the secretary of state.

Sec. 69. Minnesota Statutes 1986, section 8.15, is amended to read:

8.15 [ATTORNEY GENERAL COSTS.]

The attorney general in consultation with the commissioner of finance shall assess executive branch agencies ~~the cost of a fee for~~ legal services rendered to them. The assessment against appropriations from other than the general fund must be the full amount of the ~~cost fee~~. The assessment against appropriations supported by fees must be included in the fee calculation. Unless appropriations are made for ~~these fee supported~~ costs, no

payment by the agency is required. The assessment against appropriations from the general fund not supported by fees must be ~~one-fourth~~ *one-half* of the ~~cost~~ *fee*. Receipts from assessments must be deposited in the state treasury and credited to the general fund.

Sec. 70. Minnesota Statutes 1986, section 14.08, is amended to read:

14.08 [REVISOR OF STATUTE'S APPROVAL OF RULE FORM.]

(a) Two copies of a rule adopted pursuant to the provisions of section 14.26 or 14.32 shall be submitted by the agency to the attorney general. The attorney general shall send one copy of the rule to the revisor on the same day as it is submitted by the agency under section 14.26 or 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

If the attorney general disapproves a rule, the agency may modify it and the agency shall submit two copies of the modified rule to the attorney general who shall send a copy to the revisor for approval as to form as described in this paragraph.

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor for approval of the form of the rule. Within five working days after receipt of the rule, the revisor shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice shall revise the rule so it is in the correct form.

(d) The attorney general and the revisor of statutes shall assess an agency for the actual cost of processing rules under this section. The agency shall pay the revisor's assessments using the procedures of section 3C.056. *The agency shall pay the attorney general's assessments using the procedures of section 8.15.* Each agency shall include in its budget money to pay the revisor's and the attorney general's assessments. Receipts from the assessment must be deposited in the state treasury and credited to the revisor's account or the general fund as appropriate.

Sec. 71. Minnesota Statutes 1986, section 14.26, is amended to read:

14.26 [ADOPTION OF PROPOSED RULE; SUBMISSION TO ATTORNEY GENERAL.]

If no hearing is required, the agency shall submit to the attorney general the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the attorney general. This notice shall be given on the same day that the record is submitted. If the proposed rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials shall be submitted to the attorney general within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency shall report its failure to adopt the rules and the reasons for that failure to the legislative commission to review administrative rules, other appropriate legislative committees, and the governor.

Even if the 180-day period expires while the attorney general reviews the rule, if the attorney general rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections 14.14 to 14.28, or 14.29 to 14.36.

The attorney general shall approve or disapprove the rule as to its legality and its form to the extent the form relates to legality, including the issue of substantial change, and determine whether the agency has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule within 14 days. If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule to the revisor of statutes. If the rule is disapproved, the attorney general shall state in writing the reasons and make recommendations to overcome the deficiencies, and the rule shall not be filed in the office of the secretary of state, nor published until the deficiencies have been overcome. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief administrative law judge, the legislative commission to review administrative rules, and to the revisor of statutes.

The attorney general shall assess an agency for the actual cost of processing rules under this section. *The agency shall pay the attorney general's assessments using the procedures of section 8.15.* Each agency shall include in its budget money to pay the attorney general's assessment. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.

Sec. 72. Minnesota Statutes 1986, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

	Salary Range Effective July 1, 1983 1987
Commissioner of education;	\$57,500-\$70,000
Commissioner of finance;	\$57,500-\$78,500
Commissioner of finance education;	
Commissioner of transportation;	
Commissioner of human services;	
Commissioner of revenue;	
Executive director, state board of investment;	
Commissioner of administration;	\$50,000-\$60,000 \$67,500

Commissioner of agriculture;
Commissioner of commerce;
Commissioner of corrections;
Commissioner of jobs and training;
Commissioner of employee relations;
Commissioner of energy and economic development;
Commissioner of health;
Commissioner of labor and industry;
Commissioner of natural resources;
~~Commissioner of revenue;~~
Commissioner of public safety;
Chair, waste management board;
Chief administrative law judge; office of administrative hearings;
Director, pollution control agency;
Director, state planning agency;
Executive director, housing finance agency;
Executive director, public employees retirement association;
Executive director, teacher's retirement association;
Executive director, state retirement system;
Chair, metropolitan council;
Chair, regional transit board;
Coordinator of full productivity and opportunity;
Commissioner of human rights; ~~\$40,000-\$52,500~~ \$42,500-\$60,000
Director, department of public service;
Commissioner of veterans' affairs;
Director, bureau of mediation services;
Commissioner, public utilities commission;
Member, transportation regulation board.

Sec. 73. Minnesota Statutes 1986, section 15A.081, subdivision 7, is amended to read:

Subd. 7. [PART-TIME METROPOLITAN OFFICERS.] The governor shall set the salary rate within the range set forth below for the following part-time positions, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Effective
July 1, 1985
1987

Chair, metropolitan airports commission \$15,000-\$25,000

Chair, metropolitan waste control commission \$25,000-\$35,000

Fringe benefits for unclassified employees of the metropolitan waste control commission shall not exceed those fringe benefits received by unclassified employees of the metropolitan council.

Sec. 74. Minnesota Statutes 1986, section 15A.081, subdivision 7b, is amended to read:

Subd. 7b. [HIGHER EDUCATION OFFICERS.] The state university board, the state board for community colleges, the state board of vocational technical education, and the higher education coordinating board shall set the salary rates for, respectively, the chancellor of the state universities, the chancellor of the community colleges, the state director of vocational technical education, and the executive director of the higher education coordinating board. At least 30 days before the respective board adopts a salary increase according to this subdivision, the board shall submit the proposed salary increase to the legislative commission on employee relations for its review approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2. Salary rates for the positions specified in this subdivision may not exceed 95 percent of the salary set for the governor under subdivision 6.

Sec. 75. Minnesota Statutes 1986, section 15A.083, subdivision 4, is amended to read:

Subd. 4. [RANGES FOR OTHER JUDICIAL POSITIONS.] Salaries or salary ranges are provided for the following positions in the judicial branch of government. The appointing authority of any position for which a salary range has been provided shall fix the individual salary within the prescribed range, considering the qualifications and overall performance of the employee. The supreme court shall set the salary of the state court administrator and the salaries of district court administrators. The salary of the state court administrator or a district court administrator may not exceed the salary of a district court judge. If district court administrators die, the amounts of their unpaid salaries for the months in which their deaths occur must be paid to their estates. The salaries of the district administrators of the second, fourth, and sixth judicial districts may be supplemented by the appropriate county board in an amount not to exceed \$10,000 per year. The salary supplement may be made effective only until January 1, 1988. The salary of the state public defender shall be 95 percent of the salary of the attorney general.

Salary or Range
Effective
July 1,
1983
1987

Board on judicial standards
executive director 32,000-44,000 \$34,000-\$48,000

Sec. 76. Minnesota Statutes 1986, section 16A.127, subdivision 8, is amended to read:

Subd. 8. [EXEMPTION.] This section does not apply to the community college system, state universities, or the state board of vocational technical education. *Except for federal funds, this section does not apply to the department of natural resources for agency indirect costs.*

Sec. 77. [16A.284] [APPROPRIATIONS TO CONSTITUTIONAL OFFICERS.]

If an appropriation for a constitutional officer for either fiscal year of a biennium is insufficient, the appropriation for the other fiscal year of the biennium is available for it.

Sec. 78. Minnesota Statutes 1986, section 16A.85, is amended by adding a subdivision to read:

Subd. 6. [BUDGET OFFSET.] *The commissioner of finance shall reduce the operating budgets of state agencies that use the master lease program. The amount of the reduction is the difference between the budgeted purchase price of the equipment and the actual master lease payments.*

Sec. 79. Minnesota Statutes 1986, section 16B.20, subdivision 2, is amended to read:

Subd. 2. [ADVISORY COUNCIL.] A small business procurement advisory council is created. The council consists of 13 members appointed by the commissioner of administration. A chair of the advisory council shall be elected from among the members. The appointments are subject to the appointments program provided by section 15.0597. The terms and removal of members are as provided in section 15.059, but members do not receive per diem or expenses.

Sec. 80. Minnesota Statutes 1986, section 16B.41, is amended to read:

16B.41 [STATE INFORMATION SYSTEMS ADVISORY TASK FORCE MANAGEMENT OFFICE.]

~~The commissioner may appoint a state information systems advisory task force to help the department develop and coordinate a state information services master plan and make recommendations to the commissioner concerning the progress, direction, and needs of the state's computerization effort. The task force expires and the terms, compensation, and removal of members are as provided in section 15.059.~~

Subdivision 1. [ESTABLISHMENT AND PURPOSE.] *An office of information systems management is created. The office shall develop and establish a policy and standards for state agencies to follow for the development, purchase, and training for information systems. The purpose of the office is to develop, promote, and coordinate a state technology, architecture, standards and guidelines, information needs analysis techniques, contracts for the purchase of equipment and services, and training of state agency personnel on these issues.*

Subd. 2. [RESPONSIBILITIES.] *The office has the following duties:*

(a) *The office must develop and establish a state information architecture to ensure that further state agency development and purchase of information systems equipment and software is directed in such a manner that individual agency information systems complement and do not needlessly duplicate or needlessly conflict with the systems of other agencies. The development of this information architecture must include the establishment of standards and guidelines to be followed by state agencies. The com-*

missioner of administration must establish interim standards and guidelines by August 1, 1987. The office must establish permanent standards and guidelines by July 1, 1988. On January 1, 1988, and every six months thereafter, any state agency that has purchased information systems equipment or software in the past six months, or that is contemplating purchasing this equipment or software in the next six months, must report to the office and to the chairs of the house appropriations committee and the senate finance committee on how the purchases or proposed purchases comply with the applicable standards and guidelines.

(b) The office shall assist state agencies in the planning and management of information systems so that an individual information system reflects and supports the state agency's and the state's mission, requirements, and functions.

(c) Beginning July 1, 1988, the office must review and approve all agency requests for legislative appropriations for the development or purchase of information systems equipment or software. Requests may not be included in the governor's budget submitted to the legislature, beginning with the budget submitted in January 1989, unless the office has approved the request.

(d) Each biennium the office must rank in order of priority agency requests for new appropriations for development or purchase of information systems equipment or software. The office must submit this ranking to the legislature at the same time, or no later than 14 days after, the governor submits the budget message to the legislature.

(e) Beginning July 1, 1989, the office must define, review, and approve major purchases of information systems equipment to (1) ensure that the equipment follows the standards and guidelines of the state information architecture; (2) ensure that the equipment is consistent with the information management principles adopted by the information policy council; (3) evaluate whether or not the agency's proposed purchase reflects a cost-effective policy regarding volume purchasing; and (4) ensure the equipment is consistent with other systems in other state agencies so that data can be shared among agencies, unless the office determines that the agency purchasing the equipment has special needs justifying the inconsistency. The commissioner of finance may not allot funds appropriated for major purchases of information systems equipment until the office reviews and approves the proposed purchase.

(f) The office shall review the operation of information systems by state agencies and provide advice and assistance so that these systems are operated efficiently and continually meet the standards and guidelines established by the office.

Subd. 3. The office shall function as a division of the department of administration. The commissioner of administration shall appoint an interim office director and other interim staff and provide the necessary administrative support to the office. The employees and director shall serve in the unclassified service through June 30, 1988. On July 1, 1988, the employee positions established by this section, except the position of director, shall be placed in the classified service. The position of director shall remain in the unclassified service.

Subd. 4. [ADVISORY TASK FORCE.] The commissioner ~~may~~ must appoint a state information systems advisory task force to help the depart-

ment develop and coordinate a state information services master plan architecture that is consistent with the information management direction developed by the information policy council, and make recommendations to the commissioner concerning the progress, direction, and needs of the state's computerization effort information systems. The task force must include representatives of state agencies, the supreme court, higher education systems, librarians, and private industry. The task force must also have two members of the house of representatives appointed by the speaker of the house and two members of the senate appointed by the senate committee on committees. No more than one member from the house of representatives and one from the senate shall be chosen from the same political party. The task force expires and the terms, compensation, and removal of non-legislative members are as provided in section 15.059.

Sec. 81. Minnesota Statutes 1986, section 16B.42, subdivision 4, is amended to read:

Subd. 4. [FUNDING.] Appropriations and other funds made available to the council for staff, operational expenses, and grants must be administered through the department of administration. Fees charged to local units of government for the administrative costs of the council and revenues derived from royalties, reimbursements, or other fees from software programs, systems, or technical services arising out of activities funded by current or prior state appropriations must be credited to an account in the special revenue fund and are appropriated to the council for the purposes enumerated in subdivision 2. General fund appropriations for the council may also be credited by the commissioner of administration to the account in the special revenue fund. The unencumbered balance of an appropriation for grants in the first year of a biennium does not cancel but is available for the second year of the biennium.

Sec. 82. 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. 83. 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. 84. Minnesota Statutes 1986, section 18.171, is amended by adding a subdivision to read:

Subd. 8. [LAND.] "Land" includes wetlands and public waters.

Sec. 85. [18.182] [PENALTY FOR SALE OF PURPLE LOOSESTRIFE.]

A person who sells purple loosestrife, *lythrum salicaria*, is guilty of a misdemeanor.

Sec. 86. Minnesota Statutes 1986, section 18.241, subdivision 2, is amended to read:

Subd. 2. [RULES REGARDING TRANSPORTATION.] Except as pro-

vided 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. 87. 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 commissioner 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. 88. 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 land-owner 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. 89. [43A.316] [PUBLIC EMPLOYEES INSURANCE PLAN.]

Subdivision 1. [INTENT.] The legislature finds that the creation of a statewide plan to provide public employees and other eligible persons with life insurance and hospital, medical, and dental benefit coverage through provider organizations would result in a greater utilization of government resources and would advance the health and welfare of the citizens of the state.

Subd. 2. [DEFINITIONS.] For the purpose of this section, the terms defined in this subdivision have the meaning given them.

(a) [COMMISSIONER.] "Commissioner" means the commissioner of employee relations.

(b) [EMPLOYEE.] "Employee" means (1) a person who is a public employee within the definition of section 179A.03, subdivision 14, and is employed by an eligible employer or (2) a person employed by a labor organization or employee association certified as an exclusive representative of employees of an eligible employer or by another public employer approved by the commissioner.

(c) [ELIGIBLE EMPLOYER.] "Eligible employer" means

(1) a public employer within the definition of section 179A.03, subdivision 15, that is a town, county, city, school district as defined in section 120.02, educational cooperative service unit as defined in section 123.58, intermediate district as defined in section 136C.02, subdivision 7, cooperative center for vocational education as defined in section 123.351, regional management information center as defined in section 121.935, or an education unit organized under the joint powers action, section 471.59; or

(2) an exclusive representative of employees, as defined in paragraph (b); or

(3) another public employer approved by the commissioner.

(d) [EXCLUSIVE REPRESENTATIVE.] "Exclusive representative" means an exclusive representative as defined in section 179A.03, subdivision 8.

(e) [LABOR-MANAGEMENT COMMITTEE.] "Labor-management

committee" means the committee established by subdivision 4.

(f) [PLAN.] "Plan" means the statewide public employees insurance plan created by subdivision 3.

Subd. 3. [PUBLIC EMPLOYEE INSURANCE PLAN.] There is created the "public employee insurance plan." The commissioner shall be the administrator of the plan. The commissioner shall model the plan after the plan established in section 43A.18, subdivision 2, but may modify that plan, in consultation with the labor management committee.

Subd. 4. [LABOR-MANAGEMENT COMMITTEE.] There is created a labor-management committee of ten members appointed by the commissioner. The labor-management committee shall consist of five members who represent employees, including at least one retired employee, and five members who represent eligible employers. The commissioner shall consult with the labor-management committee in major decisions that affect the plan. The committee shall study issues relating to the insurance plan including, but not limited to, flexible benefits, utilization review, quality assessment, and cost efficiency.

Subd. 5. [PUBLIC EMPLOYEE PARTICIPATION.] Participation in the plan is subject to the conditions in this subdivision.

(a) Each exclusive representative for an eligible employer determines whether the employees it represents shall participate in the plan. The exclusive representative must give the employer notice of intent to participate at least 90 days before the expiration date of the collective bargaining agreement preceding the collective bargaining agreement that covers the date of entry into the plan. The exclusive representative and the eligible employer shall give notice to the commissioner of the determination to participate in the plan at least 90 days prior to entry into the plan. Entry into the plan shall be according to a schedule established by the commissioner.

(b) Employees not represented by exclusive representatives may become members of the plan upon a determination of an eligible employer to include these employees in the plan. Either all or none of the employer's unrepresented employees must participate. The eligible employer shall give at least 90 days' notice to the commissioner prior to entering the plan. Entry into the plan shall be according to a schedule established by the commissioner.

(c) Participation in the plan shall be for a three-year term if coverage begins in an even-numbered year and a four-year term if coverage begins in an odd-numbered year. Participation is automatically renewed for an additional four-year term unless the exclusive representative, or the employer for unrepresented employees, gives the commissioner notice of withdrawal at least 90 days prior to expiration of the participation period. A group that withdraws must wait two years before rejoining. An exclusive representative, or employer for unrepresented employees, may also withdraw if premiums increase 50 percent or more from one insurance year to the next.

(d) The exclusive representative shall give the employer notice of intent to withdraw to the commissioner at least 90 days before the expiration date of a collective bargaining agreement that includes the date on which the term of participation expires.

(e) Each participating eligible employer shall notify the commissioner of names of individuals who will be participating within two weeks of the

commissioner receiving notice of the parties' intent to participate. The employer must also submit other information as required by the commissioner for administration of the plan.

Subd. 6. [COVERAGE.] By January 1, 1989, the commissioner shall announce the benefits of the plan. The plan shall include employee hospital, medical, dental, and life insurance for employees and hospital and medical benefits for dependents. Health maintenance organization options and other delivery system options shall be provided if they are available, cost effective, and capable of servicing the number of people covered in the plan. Participation in optional coverages may be provided by collective bargaining agreements. For employees not represented by an exclusive representative, the employer may offer the optional coverages to eligible employees and their dependents provided in the plan.

Subd. 7. [PREMIUMS.] The proportion of premium paid by the employer and employee is subject to collective bargaining. If, at the beginning of the coverage period, no collective bargaining agreement has been finalized, the increased dollar costs, if any, from the previous year is the sole responsibility of the individual participant until a collective bargaining agreement states otherwise. Premiums, including an administration fee, shall be established by the commissioner. Each eligible employer shall pay monthly the amounts due for employee benefits including the amounts under subdivision 8 to the commissioner on or before the dates established by the commissioner. Failure to pay may result in cancellation of the benefits.

Subd. 8. [CONTINUATION OF COVERAGE.] (a) A participating employee who is laid off or is on unrequested leave may elect to continue the plan coverage. This coverage is at the expense of the employee unless otherwise provided by a collective bargaining agreement. Premiums for these employees shall be established by the commissioner. Coverage continues until one of the following occurs:

- (1) the employee is reemployed and eligible for health care coverage under a group policy; or
- (2) the insurance continuation periods required by state and federal laws expire.

(b) A participating employee who retires and is receiving an annuity or is eligible for and has applied for an annuity under chapter 352, 352B, 352C, 352D, 353, 354, 354A, 356, 422A, 423, 423A, 424, or 490 is eligible to continue participation in the plan. Any employer's contribution must cease when the retiree reaches age 65. These employees, and employees who have already retired prior to the group from which they retired entering the plan, are eligible to participate as long as their group continues to participate. This participation is at the retiree's expense unless a collective bargaining agreement provides otherwise. An employer shall notify an employee of this option no later than the effective date of retirement. The retired employee shall notify the employer within 30 days of the effective date of retirement of intent to exercise this option.

The spouse of a deceased retired employee may purchase the benefits provided at premiums established by the commissioner if the deceased retired employee received an annuity under chapter 352, 353, 354, 354A, 356, 422A, 423, 423A, or 424 and if the spouse was a dependent under the retired employee's coverage under this section at the time of the death of the retired employee. Coverage under this clause shall be coordinated

with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The plan benefits shall continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

(d) A person who desires to participate under paragraphs (a) to (c) shall notify the eligible employer or former employer of intent to participate according to rules established by the commissioner. The eligible employer shall notify the commissioner, and coverage shall begin as soon as the commissioner permits.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Subd. 9. [INSURANCE TRUST FUND.] An insurance trust fund is established in the state treasury. The deposits consist of the premiums received from employers participating in the plan. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund shall be credited to the fund.

Sec. 90. Minnesota Statutes 1986, section 69.021, subdivision 5, is amended to read:

Subd. 5. [CALCULATION OF STATE AID.] The amount of state aid available for apportionment shall be two percent of the fire, lightning, sprinkler leakage and extended coverage premiums reported to the commissioner by insurers on the Minnesota Firetown Premium Report and two percent of the premiums reported to the commissioner by insurers on the Minnesota Aid to Police Premium Report. The amount for apportionment in respect to firefighter's state aid shall not be greater or lesser than the amount of premium taxes paid to the state upon the premiums reported to the commissioner by insurers on the Minnesota Firetown Premium Report after subtracting the amount required to pay the state auditor's costs and expenses of the audits or exams of the firefighters relief associations. The total amount for apportionment in respect to police state aid shall not be greater or lesser than the amount of premium taxes paid to the state upon the premiums reported to the commissioner by insurers on the Minnesota Aid to Police Premium Report after subtracting the amount required to pay the state auditor's costs and expenses of the audits or exams of the police relief associations. The amount for apportionment in respect to police state aid shall be distributed to the municipalities maintaining police departments and to the county on the basis of the number of active peace officers, as certified pursuant to section 69.011, subdivision 2, clause (b). The commissioner shall calculate the percentage of increase or decrease reflected in the apportionment over or under the previous year's available state aid using the same premiums as a basis for comparison.

Sec. 91. Minnesota Statutes 1986, section 84.01, subdivision 3, is amended to read:

Subd. 3. Subject to the provisions of Laws 1969, chapter 1129, and to other applicable laws the commissioner shall organize the department and employ two three assistant commissioners, both each of whom shall serve

at the pleasure of the commissioner in the unclassified service, one of whom shall have responsibility for coordinating and directing the planning of every division within the agency, and such other officers, employees, and agents as the commissioner may deem necessary to discharge the functions of the department, define the duties of such officers, employees, and agents and to delegate to them any of the commissioner's powers, duties, and responsibilities subject to the control of, and under the conditions prescribed by, the commissioner. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

Sec. 92. Minnesota Statutes 1986, section 84.0272, is amended to read:

84.0272 [PROCEDURE IN ACQUIRING LANDS.]

When the commissioner of natural resources is authorized to acquire lands or interests in lands the procedure set forth in this section shall apply. The commissioner of natural resources shall first prepare a fact sheet showing the lands to be acquired, the legal authority for their acquisition, and the qualities of the land that make it a desirable acquisition. The commissioner of natural resources shall cause the lands to be appraised. An appraiser shall before entering upon the duties of office take and subscribe an oath to faithfully and impartially discharge the duties as appraiser according to the best of the appraiser's ability and that the appraiser is not interested directly or indirectly in any of the lands to be appraised or the timber or improvements thereon or in the sale thereof and has entered into no agreement or combination to purchase the same or any part thereof, which oath shall be attached to the report of the appraisal. The commissioner of natural resources shall not agree to pay more than ~~ten percent~~ above the appraised value. New appraisals may be made at the discretion of the commissioner of natural resources.

Sec. 93. [84.0855] [SPECIAL RECEIPTS; APPROPRIATION.]

Money received by the commissioner of natural resources as fees for seminars or workshops, for the sale of publications, maps, or to buy supplies for the use of volunteers, may be credited to one or more special accounts in the state treasury and is appropriated to the commissioner for the purposes for which the money was received.

Sec. 94. [84.0856] [FLEET MANAGEMENT ACCOUNT.]

The commissioner of natural resources may bill organizational units within the department of natural resources for the costs of providing them with equipment. Costs billed may include acquisition, licensing, insurance, maintenance, repair, and other direct costs as determined by the commissioner. Receipts and interest earned on the receipts shall be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.

Sec. 95. [TRANSFER OF TRANSACTIONS.]

All transactions related to the equipment purchased by the commissioner of natural resources under the installment plan for fiscal year 1987 may be transferred to the fleet management account.

Sec. 96. Minnesota Statutes 1986, section 84.091, subdivision 3, is amended to read:

Subd. 3. [LICENSE FEES.] (a) The fees for the following licenses, to be issued to residents only, are:

- (1) for harvesting wild rice, ~~\$10~~ \$12.50;
- (2) for buying and selling wild ginseng, \$5;
- (3) for a wild rice dealer's license to buy and sell 50,000 pounds or less, \$70; and
- (4) for a wild rice dealer's license to buy and sell more than 50,000 pounds, \$250.

(b) The weight of the wild rice shall be determined in its raw state.

Sec. 97. Minnesota Statutes 1986, section 84.83, subdivision 3, is amended to read:

Subd. 3. [PURPOSES FOR THE ACCOUNT.] The money deposited in the account *and interest earned on that money* may be expended only as appropriated by law for the following purposes:

- (1) For a grant-in-aid program to counties and municipalities for construction and maintenance of snowmobile trails;
- (2) For acquisition, development and maintenance of state recreational snowmobile trails;
- (3) For snowmobile safety programs; and
- (4) For the administration and enforcement of sections 84.81 to 84.90.

Sec. 98. [84.961] [PRAIRIE LAND MANAGEMENT.]

Subdivision 1. [NATIVE PRAIRIE VALUES.] The commissioner of natural resources must recognize the value of native prairie land by taking into consideration the wildlife, scientific, erosion control, educational, and recreational benefits of native prairie.

Subd. 2. [PLANNING.] The commissioner must plan for management, development, and restoration of:

- (1) prairie land under the commissioner's jurisdiction; and
- (2) prairie landscape reserves, comprised of an integrated network of protected prairie lands, prairie restoration sites, and private prairie lands.

Subd. 3. [PRAIRIE LANDSCAPE RESERVES.] The commissioner must develop and manage permanent prairie landscape reserves to maintain the native plant and animal populations, landscape features, and habitat types that are characteristic of intact native prairie ecosystems. Management practices may include haying and grazing.

Subd. 4. [PRAIRIE BIOLOGIST.] The position of prairie biologist is established in the department of natural resources to plan, develop, and manage native prairie reserves and prairie land under this section. The prairie biologist shall be located within the central part of the prairie region and be under the supervision of the scientific and natural areas program.

Sec. 99. [84.963] [PRAIRIE PLANT SEED PRODUCTION AREAS.]

The commissioner of natural resources shall study the feasibility of establishing private or public prairie plant seed production areas within prairie land locations. If prairie plant seed production is feasible, the commissioner may aid the establishment of production areas. The commissioner may enter cost-share or sharecrop agreements with landowners

having easements for conservation purposes of ten or more years on their land to commercially produce prairie plant seed of Minnesota origin. The commissioner may only aid prairie plant seed production areas on agricultural land used to produce crops before December 23, 1985, and cropped three out of five years between 1981 and 1985.

Sec. 100. Minnesota Statutes 1986, section 85.30, is amended to read:
85.30 [STATE PARK MAINTENANCE FUND.]

Any balance remaining in the state park finance fund after all the obligations and appropriations hereinbefore made payable therefrom have been met shall be transferred to the state park maintenance fund. *Interest earned on money in the state park maintenance fund accrues to the fund and is available for expenditure upon appropriation.*

Sec. 101. Minnesota Statutes 1986, section 85.41, is amended to read:
85.41 [USER FEES.]

Subdivision 1. [ON PERSON.] While skiing on cross country ski trails, a person between the ages of 16 and 64 years shall carry in immediate possession a valid cross country ski ~~license~~ *pass*. A landowner who grants an easement for a grant-in-aid ski trail is not required to have a ~~license~~ *pass* when skiing on the landowner's property.

Subd. 2. [LICENSE AGENTS.] County auditors are appointed agents of the commissioner for the sale of ~~annual~~ cross country ski ~~licenses and daily permits passes~~. A county auditor may appoint subagents within the county or within adjacent counties to sell ~~licenses and permits passes~~. Upon appointment the auditor shall notify the commissioner of the name and address of the subagent. The auditor may revoke the appointment of a subagent at any time. Upon demand of the commissioner, the auditor shall revoke a subagent's appointment. The auditor shall furnish ~~license and permit pass~~ blanks on consignment to any subagent who furnishes a surety bond in favor of the county in an amount at least equal to the value of the blanks to be consigned to that subagent. The county auditor shall be responsible for all blanks issued to, and user fees received by agents, except in St. Louis county or in a county where the county auditor does not retain fees paid for license purposes. In these counties, the responsibilities imposed upon the county auditor are imposed upon the county. The commissioner may promulgate additional rules pursuant to section ~~98.50~~ 97A.485, subdivision 2 ~~11~~.

Any resident desiring to sell ~~annual~~ cross country ski ~~licenses and daily permits passes~~ may either purchase for cash or obtain on consignment ~~license and permit pass~~ blanks from a county auditor in groups of not less than ten individual blanks. In selling ~~licenses passes~~, the resident shall be deemed a subagent of the county auditor and the commissioner, and shall observe all rules promulgated by the commissioner for the accounting and handling of licenses pursuant to section ~~98.50~~ 97A.485, subdivision 4 ~~11~~.

The county auditor shall promptly deposit all monies received from the sale of ~~licenses and permits passes~~ with the county treasurer, and shall promptly transmit any reports required by the commissioner, plus 96 percent of the price to each ~~annual license~~ *pass holder*, exclusive of the issuing fee, for each ~~annual license pass~~ sold or consigned by the auditor and subsequently sold to a ~~licensee~~ *pass holder* during the accounting

period. The county auditor shall retain as a commission four percent of all ~~annual license pass~~ fees, excluding the issuing fee for ~~licenses passes~~ consigned to subagents ~~and the issuing fee on passes sold by the auditor to pass holders~~.

Unsold blanks in the hands of any subagent shall be redeemed by the commissioner if presented for redemption within the time prescribed by the commissioner. Any blanks not presented for redemption within the period prescribed shall be conclusively presumed to have been sold, and the subagent possessing the same or to whom they are charged shall be accountable.

Subd. 3. [EXEMPTIONS.] Participants in cross country ski races and official school activities and residents of a state or local government operated correctional facility are exempt from the ~~license pass~~ requirement in subdivision 1 if a special use permit has been obtained by the organizers of the event or those in an official capacity in advance from the agency with jurisdiction over the cross country ski trail. Permits shall require that permit holders return the trail and any associated facility to its original condition if any damage is done by the permittee. Limited permits for special events may be issued and shall require the removal of any trail markers, banners, and other material used in connection with the special event.

Subd. 4. [FORM.] The department shall provide forms and blanks to all agents authorized to issue ~~licenses and daily permits passes~~ by the commissioner. ~~The daily permit shall attach to the skier's clothing to visibly identify the holder as a licensed skier, and be easily transferable from garment to garment by means of a device prescribed by the commissioner in consultation with the advisory task force.~~ The ~~annual license pass~~ shall be with the skier and a sticker shall be placed on the skier's ski poles to identify the holder as a ~~licensed skier available for inspection by any peace or conservation officer~~. The ~~license and permit pass~~ shall include the applicant's name and other information deemed necessary by the commissioner.

Subd. 5. [AGENT'S FEE.] The fee for an ~~annual a~~ cross country ski ~~license and a daily permit pass~~ shall be increased by the amount of an issuing fee of 50 cents per ~~license pass~~. The issuing fee may be retained by the seller of the ~~license or permit pass~~. A ~~license or permit pass~~ shall indicate the amount of the fee that is retained by the seller. This subdivision does not apply to any ~~license or permit pass~~ sold by the state.

Sec. 102. Minnesota Statutes 1986, section 85.42, is amended to read:

85.42 [USER FEE.]

The fee for an annual cross country ski ~~license pass~~ is \$5 for an individual ~~license pass~~, or \$7.50 for a combination husband and wife ~~license pass~~. ~~The fee for a three-year pass is \$14 for an individual pass or \$21 for a combination husband and wife pass.~~ This fee shall be collected at the time the ~~license pass~~ is purchased. ~~Three-year passes are valid for three years beginning the previous July 1. Annual licenses passes are valid from for one year beginning the previous July 1 through June 30 of the following year. Licenses Passes are not transferable.~~

The cost for a daily cross country skier ~~permit pass~~ is \$1. This fee shall be collected at the time the ~~permit pass~~ is purchased. The daily ~~permit pass~~ is valid only for the date designated on the ~~permit pass~~ form.

Sec. 103. Minnesota Statutes 1986, section 85.43, is amended to read:

85.43 [DISPOSITION OF RECEIPTS; PURPOSE.]

Fees from cross country ski licenses and permits *passes* shall be deposited in the state treasury and credited to a cross country ski account and ~~may be expended only as are appropriated by law to the commissioner of natural resources for:~~

(a) grants-in-aid for cross country ski trails sponsored by local units of government and special park districts as provided in section 85.44; and

(b) maintenance, winter grooming, and associated administrative costs for cross country ski trails under the jurisdiction of the commissioner.

Sec. 104. Minnesota Statutes 1986, section 85.45, is amended to read:

85.45 [PENALTY.]

No person may ski on a public cross country ski trail, including a grant-in-aid cross country ski trail, without a valid ~~annual~~ cross country ski license or daily permit *pass*. Effective July 1, 1984, any person who violates the provision of this section is guilty of a petty misdemeanor. ~~Any person who violates the provisions of this section before July, 1984, shall be issued a warning statement.~~

Sec. 105. Minnesota Statutes 1986, section 85A.02, subdivision 5a, is amended to read:

Subd. 5a. [EMPLOYEES.] (a) The board shall appoint an administrator who shall serve as the executive secretary and principal administrative officer of the board and, subject to its approval, the administrator shall operate the Minnesota zoological garden and enforce all rules and policy decisions of the board. The administrator must be chosen solely on the basis of training, experience, and other qualifications appropriate to the field of zoo management and development. The board shall set the compensation for the administrator within the limits established for the commissioner of ~~human rights~~ *agriculture* in section 15A.081, subdivision 1. The administrator shall perform duties assigned by the board and shall serve in the unclassified service at the pleasure of the board. The board, with the participation of the private sector, shall appoint a development director in the unclassified service or contract with a development consultant to establish mechanisms to foster community participation in and community support for the Minnesota zoological garden. The board may employ other necessary professional, technical, and clerical personnel.

(b) The board may contract with individuals to perform professional services and may contract for the purchases of necessary species exhibits, supplies, services, and equipment.

Sec. 106. Minnesota Statutes 1986, section 85A.04, subdivision 1, is amended to read:

Subdivision 1. [DEPOSIT.] All receipts from the operation of the Minnesota zoological garden shall be deposited in the state treasury and credited to a zoo fund; ~~and are~~. *Investment income and investment losses attributable to investment of the zoo fund must be credited to the zoo fund. Money in the zoo fund is appropriated to the board for the operation of the Minnesota zoological garden.*

Sec. 107. [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. 108. Minnesota Statutes 1986, section 88.065, is amended to read:

88.065 [EQUIPMENT FURNISHED.]

Subject to applicable provisions of state laws respecting purchases, the commissioner of natural resources may purchase for and furnish to any governmental subdivisions of the state authorized to engage in forest fire prevention or suppression materials or equipment therefor, and may *transport*, repair and renovate forest fire prevention and suppression materials and equipment for governmental subdivisions of the state. The commissioner may use any funds available for the purchase of forest fire prevention or suppression equipment or for its repair, *transportation* and renovation under federal grants, if permitted by the terms thereof, or under state appropriations, unless otherwise expressly provided. Except as otherwise authorized or permitted by federal or state laws or regulations, the governmental subdivision receiving any such materials or ~~equipment or repair or renovation~~ services shall reimburse the state for the cost. All moneys received in reimbursement shall be credited to the fund from which the purchase, *transportation*, repair, or renovation was made, and are hereby reappropriated annually and shall be available for the same purpose as the original appropriation.

Sec. 109. [89.016] [FOREST CAMPGROUNDS.]

The commissioner must hold a public meeting before closing a campground in a state forest for a camping season. The public meeting must be held near the state forest where the campground is to be closed.

Sec. 110. Minnesota Statutes 1986, section 92.46, subdivision 1, is amended to read:

92.46 [LANDS AS CAMPGROUNDS.]

Subdivision 1. [PUBLIC CAMPGROUNDS.] (a) The director may designate suitable portions of the state lands withdrawn from sale and not reserved, as provided in section 92.45, as permanent state public campgrounds. The director may have the land surveyed and platted into lots of convenient size, and lease them for cottage and camp purposes under terms and conditions the director prescribes, subject to the provisions of this section.

(b) A lease may not be made for a term more than 20 years. The lease may allow renewal, from time to time, for additional terms of no longer than 20 years each. The lease may be canceled by the commissioner 90 days after giving the person leasing the land written notice of violation of lease conditions. The lease rate shall be based on the appraised value of leased land as determined by the commissioner of natural resources. The appraised value shall be the value of the leased land without any private improvements and must be comparable to similar land without any improvements within the same county.

(c) By July 1, 1986, the commissioner of natural resources shall adopt rules under chapter 14 to establish procedures for leasing land under this section. The rules shall be subject to review and approval by the commissioners of revenue and administration prior to the initial publication pursuant to chapter 14 and prior to their final adoption. The rules must address at least the following:

- (1) method of appraising the property;
- (2) determination of lease rates; and
- (3) an appeal procedure for both the appraised values and lease rates.

(d) All money received from these leases must be credited to the fund to which the proceeds of the land belong.

Notwithstanding section 16A.125 or any other law to the contrary, 50 percent of the money received from the lease of permanent school fund lands leased pursuant to this subdivision shall be deposited into the permanent school trust fund. However, in fiscal years 1986, 1987, 1988, and 1989 up to 50 percent of, 1990, 1991, and 1992, the money received from the lease of permanent school fund lands that would otherwise be deposited into the permanent school trust fund ~~may be used~~ *is hereby appropriated* to survey, appraise, and pay associated selling costs of lots as required in section 92.67, subdivision 3. ~~The money appropriated may not be used to pay the cost of surveying lots not scheduled for sale.~~ Any money designated for deposit in the permanent school fund that is not needed to survey, appraise, and pay associated selling costs of lots, as required in section 92.67, shall be deposited in the permanent school trust fund. ~~The commissioner shall add to the appraised value of any lot offered for sale the costs of surveying, appraising, and selling the lot, and shall deposit the costs recovered in the permanent school fund and any other contributing funds in proportion to the contribution from each fund. In no case may the commissioner add to the appraised value of any lot offered for sale an amount more than \$700 for the costs of surveying and appraising the lot.~~ Notwithstanding section 92.67, subdivision 4, ~~as to requests for sale of lakeshore lots received before January 1, 1987, the commissioner shall hold the sale before October 31, 1987, if possible, and, if not possible, the lots shall be offered for sale at the next sale in the succeeding year.~~

Sec. 111. Minnesota Statutes 1986, section 92.67, subdivision 1, is amended to read:

Subdivision 1. [SALE REQUIREMENT.] Notwithstanding section 92.45 or any other law, at the request of a lessee the commissioner of natural resources shall sell state property bordering public waters that is leased for the purpose of a private cabin under section 92.46 ~~and recommended to be sold under the inventory prepared pursuant to Laws 1985, First Special Session chapter 14, article 17, section 4.~~ Requests for sale must be made prior to July 1, 1991, and the commissioner shall complete all requested sales by July 1, 1992. The lessee making the request may designate the lesser of \$500 or the lease payment in the year the request is made to be used as part of the down payment. The sale shall be made in accordance with laws providing for the sale of trust fund land except as modified by the provisions of this section.

Sec. 112. Minnesota Statutes 1986, section 92.67, subdivision 3, is amended to read:

Subd. 3. [APPOINTMENT OF APPRAISERS; ALLOCATION OF APPRAISAL AND SURVEY COSTS.] (a) ~~The commissioner of natural resources shall provide the lessee requesting the sale with a list of all appraisers approved by the commissioner of administration for the appraisal of property for the state. The lessee requesting the sale may select a person from the list who meets the minimum appraisal standards established by the federal farmers home administration or the federal veterans administration to appraise the property to be sold. If more than one lessee of a cabin site lot leased by the commissioner under section 92.46 within a platted area requests the sale of a leased lot, all requesting lessees may jointly agree upon an appraiser from the list. If the lessee or lessees do not select an appraiser, the commissioner of natural resources shall select the appraiser.~~

(b) The costs of appraisal shall be allocated by the commissioner to the lots offered for sale and the successful bidder on each lot shall reimburse the commissioner for the appraisal costs allocated to the lot bid upon *up to \$700 for each lot appraised*. If there are no successful bidders on a lot, the commissioner is responsible for the appraisal cost allocated to that lot.

(c) The commissioner shall survey a lot prior to offering it for sale. The commissioner is responsible for the survey cost.

(d) The lessee may stop the sale process after the appraisal but before the sale. The lessee must reimburse the commissioner for the cost of the appraisal if the sale is stopped.

Sec. 113. Minnesota Statutes 1986, section 92.67, subdivision 4, is amended to read:

Subd. 4. [TIMING OF SALES.] (a) The commissioner shall offer lake-shore cabin site lots for sale pursuant to written request and in accordance with the following schedule:

(1) as to requests received before January 1, 1987, the sale shall be held in June, July, or August 1987;

(2) as to requests received each calendar year after December 31, 1986, the sale shall be held in June, July, or August of the year after the request is received-;

(3) notwithstanding clause (2), the commissioner may offer a lot for sale in the year the request is received if the commissioner will offer for sale in that year other lots platted with the late requested lot.

(b) The last sales shall be held in 1992. Lots not sold the first year offered may be reoffered in a succeeding year, following reappraisal if it is determined necessary by the commissioner.

(c) If a person other than the lessee purchases the leased lakeshore cabin site, the purchaser must make payment in full to the lessee at the time of the sale for the appraised value of any improvements. Failure of a successful bidder to comply with this provision voids the sale and the property must be rebid, if possible, at the same sale.

Sec. 114. Minnesota Statutes 1986, section 92.67, is amended by adding a subdivision to read:

Subd. 5a. [ADDING LANDS; ZONING CONFORMANCE.] *Whenever possible, the commissioner may add trust fund lands to the lots offered for sale to provide conformance with zoning requirements. The added lands*

must be included in the appraised value of the lot.

Sec. 115. [93.221] [MINERAL LEASE ACCOUNT.]

The mineral lease account is created as an account in the state treasury for disposal of certain mineral lease money. Interest accruing from investment of the account remains with the account. Money in the mineral lease account is appropriated to the commissioner of natural resources for mineral diversification.

Sec. 116. Minnesota Statutes 1986, section 93.335, subdivision 4, is amended to read:

Subd. 4. [RENTAL AND ROYALTIES, ANNUAL DISTRIBUTION; APPROPRIATION.] If the lands or minerals and mineral rights covered by any such permit or lease are held by the state in trust for the taxing districts, the rentals and royalties paid under any such permit or lease shall be distributed annually by the commissioner of finance on the first day of September as follows: 20 percent to the ~~general fund of the state mineral lease account established in the state treasury under section 93.221~~, and 80 percent to the respective counties in which the lands lie, to be apportioned among the taxing districts interested therein as follows: county, three-ninths; town, or city, two-ninths; and school district, four-ninths.

There is hereby appropriated from such moneys in the state treasury not otherwise appropriated to such persons or political subdivisions as are entitled to payment herein, an amount sufficient to make the payment.

Sec. 117. Minnesota Statutes 1986, section 97A.061, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY; AMOUNT.] (a) The commissioner shall annually make a payment from the ~~general game and fish fund~~ to each county having public hunting areas and game refuges. This section does not apply to state trust fund land and other state land not purchased for game refuge or public hunting purposes. The payment shall be the greatest of:

(1) 35 percent of the gross receipts from all special use permits and leases of land acquired for public hunting and game refuges;

(2) 50 cents per acre on land purchased actually used for public hunting or game refuges; or

(3) three-fourths of one percent of the appraised value of purchased land actually used for public hunting and game refuges.

(b) The payment must be reduced by the amount paid under subdivision 3 for croplands managed for wild geese.

(c) The appraised value is the purchase price for five years after acquisition. The appraised value shall be determined by the county assessor every five years after acquisition.

Sec. 118. 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. 119. Minnesota Statutes 1986, section 97A.105, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIREMENTS.] A person may breed and propagate fur-bearing animals, game birds, bear, *moose, elk, caribou*, or deer only on privately owned or leased land and after obtaining a license. *Any of the permitted animals on a game farm may be sold to other licensed game farms.* "Privately owned or leased land" includes waters that are shallow or marshy, are not actually navigable, and are not of substantial beneficial public use. Before an application for a license is considered, the applicant must enclose the area to sufficiently confine the animals to be raised in a manner approved by the commissioner. A license may be granted only if the commissioner finds the application is made in good faith with intention to actually carry on the business described in the application and the commissioner determines that the facilities are adequate for the business.

Sec. 120. Minnesota Statutes 1986, section 97A.445, subdivision 1, is amended to read:

Subdivision 1. [ANGLING; TAKE A KID FISHING WEEKEND.] A resident over age 18 may take fish by angling without a license during the ~~second one~~ Saturday and Sunday of the angling season *designated by order of the commissioner* if accompanied by a child who is under age 16. The commissioner shall publicize the Saturday and Sunday as "Take a Kid Fishing Weekend."

Sec. 121. [97A.472] [PLACE OF SALE OF NONRESIDENT LICENSES; RESTRICTION.]

The commissioner shall not sell or issue in any place outside this state a nonresident license to take fish in this state.

Sec. 122. Minnesota Statutes 1986, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to be issued to residents only, are:

- (1) for persons under age 65 to take small game, ~~\$7~~ \$9;
- (2) for persons age 65 or over, ~~\$3-50~~ \$4.50;
- (3) to take turkey, ~~\$10~~ \$12.50;

- (4) to take deer with firearms, ~~\$15~~ \$20;
- (5) to take deer by archery, ~~\$15~~ \$20;
- (6) to take moose, for a party of not more than four persons, ~~\$200~~ \$250;
and
- (7) to take bear, ~~\$25~~ \$30.

Sec. 123. Minnesota Statutes 1986, section 97A.475, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT HUNTING.] Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take small game, ~~\$46~~ \$51;
- (2) to take deer with firearms, \$100;
- (3) to take deer by archery, \$100;
- (4) to take bear, \$150;
- (5) to take turkey, \$30; and
- (6) to take raccoon, bobcat, fox, coyote, or lynx, ~~\$100~~ \$125.

Sec. 124. Minnesota Statutes 1986, section 97A.475, subdivision 6, is amended to read:

Subd. 6. [RESIDENT FISHING.] Fees for the following licenses, to be issued to residents only, are:

- (1) to take fish by angling, *for persons under age 65*, ~~\$6.50~~ \$9.50;
- (2) *to take fish by angling, for persons age 65 and over*, \$4;
- (3) to take fish by angling, for a combined license for a married couple, ~~\$10.50~~ \$13.50; and
- ~~(3)~~ (4) to take fish by spearing from a dark house, ~~\$7.50~~ \$12; and
- (5) *to take fish by angling for a period of 24 hours from the time of issuance, \$4.50. No trout stamp is required when angling for trout or salmon under this 24-hour angling license.*

Sec. 125. Minnesota Statutes 1986, section 97A.475, subdivision 7, is amended to read:

Subd. 7. [NONRESIDENT FISHING.] Fees for the following licenses, to be issued to nonresidents, ~~shall be~~ are:

- (1) to take fish by angling, ~~\$16~~ \$18;
- (2) to take fish by angling limited to seven consecutive days, ~~\$13~~ \$15;
- (3) to take fish by angling for three days, ~~\$10~~ \$12; and
- (4) to take fish by angling for a combined license for a family, ~~\$27.50~~ \$30.50;
- (5) *to take fish by angling for a period of 24 hours from the time of issuance, \$4.50. No trout stamp is required when angling for trout or salmon under this 24-hour angling license; and*
- (6) *to take fish by angling for a combined license for a married couple, limited to 14 consecutive days; \$22.50.*

Sec. 126. Minnesota Statutes 1986, section 97A.475, subdivision 8, is amended to read:

Subd. 8. [MINNESOTA SPORTING.] The commissioner shall issue Minnesota sporting licenses to residents only. The licensee may take fish by angling and small game. The fee for the license is:

- (1) for an individual, ~~\$12~~ ~~\$13.50~~; and
- (2) for a combined license for a married couple to take fish and for one spouse to take small game, ~~\$16~~ ~~\$19.50~~.

Sec. 127. Minnesota Statutes 1986, section 97A.475, subdivision 9, is amended to read:

Subd. 9. [FISHING SURCHARGE.] The fees for the following licenses must be increased by a surcharge of \$2.50:

- (1) resident angling, under subdivision 6, clauses (1) ~~and~~ (2), (3), ~~and~~ (5);
- (2) nonresident angling, under subdivision 7;
- (3) Minnesota sporting, under subdivision 8;
- (4) nonresident fish houses, under subdivision 12; and
- (5) to net fish for domestic use, under subdivision 13.

Sec. 128. Minnesota Statutes 1986, section 97A.475, subdivision 11, is amended to read:

Subd. 11. [FISH HOUSES AND DARK HOUSES; RESIDENTS.] Fees for the following licenses are:

- (1) for a fish house or dark house that is not rented, ~~\$5~~ ~~\$8~~; and
- (2) for a fish house or dark house that is rented, ~~\$15~~ ~~\$18~~.

Sec. 129. Minnesota Statutes 1986, section 97A.475, subdivision 12, is amended to read:

Subd. 12. [FISH HOUSES; NONRESIDENT.] The fee for a fish house license for a nonresident is ~~\$15~~ ~~\$19.50~~.

Sec. 130. Minnesota Statutes 1986, section 97A.475, subdivision 13, is amended to read:

Subd. 13. [NETTING WHITEFISH AND CISCOES FOR PERSONAL CONSUMPTION.] The fee for a license to net whitefish and ciscoes in inland lakes and international waters for personal consumption is, for each net, ~~\$3~~ ~~\$5~~.

Sec. 131. Minnesota Statutes 1986, section 97A.475, subdivision 20, is amended to read:

Subd. 20. [TRAPPING LICENSE.] The fee for a license to trap fur-bearing animals is:

- (1) for persons over age 13 and under age 18, ~~\$3.50~~ ~~\$5~~; and
- (2) for persons age 18 and older, ~~\$13~~ ~~\$16~~.

Sec. 132. Minnesota Statutes 1986, section 97A.485, subdivision 6, is amended to read:

Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a) Persons

authorized to sell licenses under this section must sell the following licenses for the license fee and the following issuing fees:

- (1) to take deer with firearms and by archery, the issuing fee is \$1;
- (2) Minnesota sporting, the issuing fee is \$1; and
- (3) to take bear and small game, *for a person under age 65 to take fish by angling or for a person of any age to take fish by spearing, and to trap furbearing animals, the issuing fee is 75 cents \$1.*

(b) ~~An issuing fee for a stamp may not be collected when for a stamp is issued simultaneously with the related small game, fishing, or sporting license. Only one issuing fee may be collected when selling more than one stamp in the same transaction after the end of the season for which the stamp was issued.~~

(c) The auditor or subagent shall keep the issuing fee as a commission for selling the licenses.

(d) The commissioner shall collect the issuing fee on licenses sold by the commissioner.

(e) A license, except stamps, must state the amount of the issuing fee and that the issuing fee is kept by the seller as a commission for selling the licenses.

(f) *The fee for an angling license paid by a resident 65 years of age or over must be refunded to the licensee upon request to the commissioner, if the request is made within 30 days of the sale. The commissioner shall design a system on the license for this purpose.*

Sec. 133. [97A.502] [DEER KILLED BY MOTOR VEHICLES.]

Notwithstanding section 97A.055, any deer killed by a motor vehicle on a public road must be removed by the road authority, as defined by section 160.02, subdivision 9. The commissioner of natural resources must provide to all road authorities standard forms for statistical purposes and the tracking of wild animals.

Sec. 134. Minnesota Statutes 1986, section 97C.211, is amended by adding a subdivision to read:

Subd. 5. [PRICE OF WALLEYE FRY.] *The commissioner may not sell walleye fry for less than fair market value, defined as the average price charged by private walleye fry wholesalers located in Minnesota.*

Sec. 135. [97C.402] [RAINY RIVER SEASON.]

The fishing season on the Minnesota side of the Rainy River ends on February 28.

Sec. 136. [115A.41] [PURPOSE.]

The legislature recognizes the importance of maintaining the regulatory functions of the Minnesota pollution control agency in regard to solid waste management. The legislature also recognizes that in order to achieve the maximum benefit of state funding and funding from other sources that the technical and financial assistance involved in managing solid waste, including programs involving waste tires, including landfills and other methods of recycling, disposing, and storing solid wastes, should properly be transferred to the waste management board.

Sec. 137. Minnesota Statutes 1986, section 115A.42, is amended to read:

115A.42 [ESTABLISHMENT AND ADMINISTRATION.]

There is established a planning assistance program to provide technical and financial assistance to political subdivisions of the state for the purposes of encouraging and improving regional and local solid waste management planning activities and efforts and of furthering the state policies and purposes expressed in section 115A.02. The program shall be administered by the *agency board* pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program shall be administered by the metropolitan council pursuant to chapter 473. The *agency board* and the metropolitan council shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

Sec. 138. Minnesota Statutes 1986, section 115A.44, is amended to read:

115A.44 [FINANCIAL ASSISTANCE.]

Eligible recipients may receive grants for up to 50 percent of the cost of the planning activity, except that planning by a regional development commission and joint planning by two or more contiguous counties or political subdivisions located in two or more contiguous counties may receive grants for up to 100 percent of the cost of the planning activity. Financial assistance provided under the program may be used to employ staff, contract with other units of government or qualified consultants, and pay such other planning expenses as the *agency board* or metropolitan council may allow.

Sec. 139. Minnesota Statutes 1986, section 115A.45, is amended to read:

115A.45 [TECHNICAL ASSISTANCE.]

The *agency board* and metropolitan council shall provide for technical assistance for eligible recipients. The *agency board* and metropolitan council shall provide model plans for regional and local solid waste management. The *agency board* and metropolitan council may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, or private consultants. The *agency board* shall prepare and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

Sec. 140. Minnesota Statutes 1986, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans shall address other matters as the rules of the *agency board* may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collec-

tion, processing, and disposal services. Plans shall be approved by the ~~agency board~~, or the metropolitan council pursuant to section 473.803. After initial approval, each plan shall be updated every five years and revised as necessary for further approval.

Sec. 141. Minnesota Statutes 1986, section 115A.49, is amended to read:

115A.49 [ESTABLISHMENT; PURPOSES AND PRIORITIES.]

There is established a program to encourage and assist cities, counties, and solid waste management districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state. The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The program must be administered by the ~~agency and the board~~ in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated by the ~~agency and the board~~ pursuant to chapter 14. In administering the program, the ~~agency and the board~~ shall give priority to areas where natural geologic and soil conditions are unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the ~~agency or the board~~ to be less than five years; and projects serving more than one local government unit.

Sec. 142. Minnesota Statutes 1986, section 115A.51, is amended to read:

115A.51 [APPLICATION REQUIREMENTS.]

Applications for assistance under the program shall demonstrate: (a) that the project is conceptually and technically feasible; (b) that affected political subdivisions are committed to implement the project, to provide necessary local financing, and to accept and exercise the government powers necessary to the project; (c) that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project; (d) that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators. The ~~agency or the board~~ may require completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, before accepting an application.

Sec. 143. Minnesota Statutes 1986, section 115A.52, is amended to read:

115A.52 [TECHNICAL ASSISTANCE FOR PROJECTS.]

The ~~agency and the board~~ shall ensure the delivery of the technical assistance necessary for proper implementation of each project funded under the program. The ~~agency and the board~~ may contract for the delivery of technical assistance by any state or federal agency, a regional development commission, the metropolitan council, or private consultants and may use program funds to reimburse the agency, commission, council, or consultants. The ~~agency and the board~~ shall prepare and publish an inven-

tory of sources of technical assistance, including studies, publications, agencies, and persons available. The ~~agency and the~~ board shall ensure statewide benefit from projects assisted under the program by developing exchange and training programs for local officials and employees and by using the experience gained in projects to provide technical assistance and education for other solid waste management projects in the state.

Sec. 144. Minnesota Statutes 1986, section 115A.53, is amended to read:

115A.53 [WASTE REDUCTION AND SEPARATION PROJECTS.]

The ~~agency~~ board shall provide technical assistance and grants to projects which demonstrate waste reduction; waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs shall also be eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. The rules of the ~~agency~~ board shall prescribe the level or levels of local funding required for grants under this section.

Sec. 145. Minnesota Statutes 1986, section 115A.917, is amended to read:

115A.917 [CERTIFICATE OF NEED.]

No new capacity for disposal of mixed municipal solid waste may be permitted in counties outside the metropolitan area without a certificate of need issued by the ~~agency~~ board indicating the ~~agency's board's~~ determination that the additional disposal capacity is needed in the county. A certificate of need may not be issued until the county has a plan approved under section 115A.46. If the original plan was approved more than five years before, the ~~agency~~ board may require the plan to be revised before a certificate of need is issued under this section. The ~~agency~~ board shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural are not feasible and prudent. Economic considerations alone do not justify the certification of need or the rejection of alternatives.

Sec. 146. Minnesota Statutes 1986, section 116.41, subdivision 2, is amended to read:

Subd. 2. [TRAINING AND CERTIFICATION PROGRAMS.] The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and may charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to ~~the account created in section 115.03, subdivision 1, clause (j), for training water pollution control personnel, a separate waste disposal training account~~ and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for landspreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 147. Minnesota Statutes 1986, section 116C.712, is amended by adding a subdivision to read:

Subd. 5. [ASSESSMENT.] (a) A person, firm, corporation, or association in the business of owning or operating a nuclear fission electrical generating plant in this state shall pay an assessment to cover the cost of:

(1) monitoring the federal high-level radioactive waste program under the Nuclear Waste Policy Act, United States Code, title 42, sections 10101 to 10226;

(2) advising the governor and the legislature on policy issues relating to the federal high-level radioactive waste disposal program; and

(3) other general studies necessary to carry out the purposes of this subdivision.

The assessment must not be more than the appropriation to the state planning agency for these purposes.

(b) The state planning agency shall bill the owner or operator of the plant for the assessment at least 30 days before the start of each quarter. The assessment for the second quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the state planning agency for the preceding year were more or less than the estimated expenditures previously assessed. The billing may be made as an addition to the assessments made under section 116C.69. The owner or operator of the plant must pay the assessment within 30 days after receipt of the bill. The assessment must be deposited in the state treasury and credited to the special revenue fund.

(c) The authority for this assessment terminates when the department of energy eliminates Minnesota from further siting consideration for high-level radioactive waste. The assessment required for any quarter must be reduced by the amount of federal grant money received by the state planning agency for the purposes listed in this section.

Sec. 148. Minnesota Statutes 1986, section 161.1419, subdivision 4, is amended to read:

Subd. 4. Members of the commission shall serve without Compensation but shall be allowed and paid their actual traveling and other expenses necessarily incurred in the performance of their duties of legislative members of the commission is as provided in section 3.101. Compensation of the remaining members is as provided in section 15.0575. The commission may purchase supplies, employ part-time or full-time employees, and do all things reasonably necessary and convenient in carrying out the purposes of this section. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Sec. 149. Minnesota Statutes 1986, section 168.012, subdivision 1c, is amended to read:

Subd. 1c. ~~(a)~~ The annual administrative fee for a tax-exempt vehicle under this section is \$5. The license plate fee for a tax-exempt vehicle, except a trailer, is \$10 for two plates per vehicle, payable only on the first tax-exempt registration of the vehicle. The registration period for a tax-exempt vehicle is biennial. The administrative fee is due on March 1 biennially and payable the preceding January 1, with validating stickers issued at time of payment.

~~(b) The owner of a tax-exempt vehicle shall apply for tax-exempt license plates, and pay the administrative and plate fees, and the filing fee under section 168.33, subdivision 7, only to a deputy registrar in the county in which the vehicle is domiciled.~~

Sec. 150. Minnesota Statutes 1986, section 175A.07, subdivision 2, is amended to read:

Subd. 2. [PERSONNEL.] The judges of the workers' compensation court of appeals shall appoint in the manner provided by law all personnel required by the workers' compensation court of appeals. *Law clerks are in the unclassified service.* The commissioner of administration shall provide the court with necessary additional staff and administrative services, and the court shall reimburse the commissioner for the cost of these services.

Sec. 151. Minnesota Statutes 1986, section 176.611, subdivision 2, is amended to read:

Subd. 2. [STATE DEPARTMENTS.] Every department of the state, including the University of Minnesota, shall reimburse the fund for money paid for the administration of its claims and the costs of administering the revolving fund at such times and in such amounts as the commissioner of the department of labor and industry shall certify has been paid out of the fund on its behalf. The heads of the departments shall anticipate these payments by including them in their budgets. *In addition, the commissioner of labor and industry, with the approval of the commissioner of finance, may require an agency to make advance payments to the fund sufficient to cover the agency's estimated obligation for a period of at least 60 days. Reimbursements and other money received by the commissioner of labor and industry under this subdivision must be credited to the state compensation revolving fund.*

Sec. 152. Minnesota Statutes 1986, section 176.611, is amended by adding a subdivision to read:

Subd. 3a. [LOANS.] *To maintain an ongoing balance sufficient to pay sums currently due for benefits and administrative costs, the commissioner of finance, upon request of the commissioner of labor and industry, may transfer money from the general fund to the state compensation revolving fund. Before requesting the transfer, the commissioner of labor and industry must decide there is not enough money in the fund for an immediate, necessary expenditure. The amount necessary to make the transfer is appropriated from the general fund to the commissioner of finance. The commissioner of labor and industry shall make schedules to repay the transferred money to the general fund. The repayment may not extend beyond five years.*

Sec. 153. Minnesota Statutes 1986, section 176.611, subdivision 6a, is

amended to read:

Subd. 6a. [APPROPRIATIONS CONSTITUTING FUND.] There is hereby appropriated from the general fund in the state treasury to the state compensation revolving fund the sum of \$967,690 to be used to pay claims of employees of the state. This appropriation together with the sum of \$74,013.12 heretofore appropriated from the trunk highway fund and \$2,395,986.88 heretofore appropriated from the general fund totals \$3,437,690 and constitutes The revolving fund consists of \$3,437,690 appropriated from the general fund and other funds.

Sec. 154. Minnesota Statutes 1986, section 197.481, subdivision 5, is amended to read:

Subd. 5. [PERSONNEL.] The commissioner may appoint a hearing officer to act in the commissioner's place and to employ such other personnel as are necessary to investigate facts in cases brought under this section. *The affected political subdivision must bear all costs incurred by the commissioner under this section.*

Sec. 155. Minnesota Statutes 1986, section 204B.11, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] Except as provided by subdivision 2, a filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

(a) for the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, secretary of state, representative in congress, judge of the supreme court, judge of the court of appeals, judge of the district court, or judge of the county municipal court of Hennepin county, \$150 \$200;

(b) for the office of senator in congress, \$200 \$300;

(c) for office of senator or representative in the legislature, \$50 \$75;

(d) for a county office, \$50; and

(e) for the office of soil and water conservation district supervisor, \$20.

For the office of presidential elector, and for those offices for which no compensation is provided, no filing fee is required.

The filing fees received by the county auditor shall immediately be paid to the county treasurer. The filing fees received by the secretary of state shall immediately be paid to the state treasurer.

When an affidavit of candidacy has been filed with the appropriate filing officer and the requisite filing fee has been paid, the filing fee shall not be refunded.

Sec. 156. Minnesota Statutes 1986, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive secretary of each health-related and non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive secretaries and other employees of the following

boards shall be hired by the board, and the executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) dentistry;
- (2) medical examiners;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying and landscape architecture;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching; and
- (11) peace officer standards and training.

The board of medical examiners shall set the salary of its executive director, which may not exceed 95 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. *In June of the year in which a salary increase is to be adopted, and at least 30 days before the board of medical examiners adopts a salary increase for its executive director, the board shall submit the proposed salary increase to the legislative commission on employee relations for its review approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2.*

The executive secretaries serving the remaining boards shall be hired by those boards, and shall be in the unclassified civil service except for part-time executive secretaries, who are not required to be in the unclassified service. Boards not requiring a full-time executive secretary may employ such services on a part-time basis. To the extent practicable the sharing of part-time executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive secretaries of the boards and employees of the attorney general, shall be classified civil service employees of the department servicing the board. To the extent practicable the commissioner shall insure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 157. Minnesota Statutes 1986, section 221.67, is amended to read:
221.67 [SERVICE OF PROCESS.]

The use of any of the public highways of this state for the transportation of persons or property for compensation by a motor carrier in interstate commerce shall be deemed an irrevocable appointment by the carrier of the secretary of state to be the carrier's true and lawful attorney upon whom may be served all legal process in any action or proceeding brought under this chapter against the carrier or the carrier's executor, administrator, personal representative, heirs, successors or assigns. This use is a signification of agreement by the interstate motor carrier that any process in any action against the carrier or the carrier's executor, administrator, per-

sonal representative, heirs, successors, or assigns which is so served shall be of the same legal force and validity as if served upon the carrier personally. Service shall be made by serving a copy thereof upon the secretary of state or by filing a copy in the office of the secretary of state, together with payment of a fee of \$15 \$25, and the service shall be sufficient service upon the absent motor carrier if notice of the service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at the defendant's last known address and the plaintiff's affidavit of compliance with the provisions of this section and sections 221.60, 221.65, and 221.68 is attached to the summons.

Sec. 158. Minnesota Statutes 1986, section 271.01, is amended by adding a subdivision to read:

Subd. 1a. [RETIRED JUDGES.] Upon the retirement of a judge of the tax court or the district court, the chief judge of the tax court may, with the retired judge's consent, assign the retired judge to hear any case properly assignable to a judge of the tax court and to act on it with the full powers of a judge of the tax court. A retired judge performing this service shall receive pay and expenses in the amount and manner provided by law for judges serving on the court, less the amount of retirement pay the judge is receiving under chapter 352 or 490.

Sec. 159. Minnesota Statutes 1986, section 273.1314, subdivision 16a, is amended to read:

Subd. 16a. [ZONE BOUNDARY REALIGNMENT.] The commissioner may approve specific applications by a municipality to amend the boundaries of a zone or of an area or areas designated pursuant to subdivision 9, paragraph (c) at any time. Boundaries of a zone may not be amended to create noncontiguous subdivisions. If the commissioner approves the amended boundaries, the change is effective on the date of approval. Notwithstanding the area limitation under section 273.1312, subdivision 4, paragraph (b), the commissioner may approve a specific application to amend the boundaries of an enterprise zone which is located within five municipalities and was designated in 1984, to increase its area to not more than 800 acres, and may approve an additional specific application to amend the boundaries of that enterprise zone to include a sixth municipality or to further increase its area to include all or part of the territory of a town that surrounds one of the five municipalities, or both.

Notwithstanding the area limitation under section 273.1312, subdivision 4, paragraph (b), the commissioner may approve a specific application to amend the boundaries of an enterprise zone that is located within four municipalities to include a fifth municipality. The addition of the fifth municipality may only be approved after the existing municipalities, by adoption of a resolution by each municipality's governing board, agree to the addition of the fifth municipality.

Sec. 160. Minnesota Statutes 1986, section 296.16, subdivision 1, is amended to read:

Subdivision 1. [INTENT.] All gasoline received in this state and all gasoline produced in or brought into this state except aviation gasoline and marine gasoline shall be determined to be intended for use in motor vehicles in this state.

Approximately ~~three-fourths~~ of one and one-half percent of all gasoline

received in this state and ~~three-fourths of one and one-half~~ percent of all gasoline produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of motorboats on the waters of this state and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, ~~three-fourths of one and one-half~~ percent of such revenues is the amount of tax on fuel used in motorboats operated on the waters of this state.

Approximately three-fourths of one percent of all gasoline received in and produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of snowmobiles in this state, and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, three-fourths of one percent of such revenues is the amount of tax on fuel used in snowmobiles operated in this state.

Approximately 0.15 of one percent of all gasoline received in or produced or brought into this state, except gasoline used for aviation purposes, is being used for the operation of all-terrain vehicles in this state, and of the total revenue derived from the imposition of the gasoline fuel tax, 0.15 of one percent is the amount of tax on fuel used in all-terrain vehicles operated in this state.

Sec. 161. Minnesota Statutes 1986, section 296.421, subdivision 5, is amended to read:

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

Sec. 162. Minnesota Statutes 1986, section 298.22, subdivision 1, is amended to read:

Subdivision 1. (1) The office of commissioner of iron range resources and rehabilitation is created. The commissioner shall be appointed by the governor under the provisions of section 15.06.

(2) The commissioner may hold such other positions or appointments as are not incompatible with duties as commissioner of iron range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of such assistance as may be necessary, shall be paid out of the amounts appropriated by section 298.28. The compensation of the commissioner shall be set by the ~~governor~~ legislative coordinating commission and may not exceed the maximum salary set for the commissioner of administration under section 15A.081, subdivision 1.

(3) When the commissioner shall determine that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use thereof in the future and the decrease in employment resulting therefrom, now or hereafter, the commissioner may use such amounts of the appropriation made to the commissioner of revenue in section 298.28 as are determined to be nec-

essary and proper in the development of the remaining resources of said county and in the vocational training and rehabilitation of its residents. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.

Sec. 163. Minnesota Statutes 1986, section 302A.011, subdivision 11, is amended to read:

Subd. 11. [FILED WITH THE SECRETARY OF STATE.] "Filed with the secretary of state" means that an original of a document meeting the applicable requirements of this chapter, signed, and acknowledged or verified in the manner provided in chapter 358, and accompanied by a filing fee of ~~\$15~~ \$25, has been delivered to the secretary of state of this state. The secretary of state shall endorse on the original the word "Filed" and the month, day, year, and time of filing, record the document in the office of the secretary of state, and return the document to the person who delivered it for filing.

Sec. 164. Minnesota Statutes 1986, section 302A.153, is amended to read:

302A.153 [EFFECTIVE DATE OF ARTICLES.]

Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the secretary of state accompanied by a payment of ~~\$85~~ \$125, which includes a ~~\$70~~ \$100 incorporation fee in addition to the ~~\$15~~ \$25 filing fee required by section 302A.011, subdivision 11. Articles of amendment *and articles of merger* are effective when filed with the secretary of state or at another time within 30 days after filing if the articles of amendment so provide. *Articles of merger must be accompanied by a fee of \$50, which includes a \$25 merger fee in addition to the \$25 filing fee required by section 302A.011, subdivision 11.*

Sec. 165. Minnesota Statutes 1986, section 303.07, subdivision 2, is amended to read:

Subd. 2. [ANNUAL FEE.] The secretary of state shall collect an annual license fee from each foreign corporation holding a certificate of authority to transact business in this state. A foreign corporation shall pay ~~\$15~~ \$20 per \$100,000 or fraction thereof of its Minnesota taxable net income for the last taxable year ending prior to the payment of the fee. If the taxable year ended less than 75 days before the date the fee is received by the secretary of state, the taxable net income from the preceding taxable year shall determine the fee. In no event shall the annual license fee be less than ~~\$30~~ \$40. The corporation shall pay this fee by April 1 of each year.

Sec. 166. Minnesota Statutes 1986, section 303.13, subdivision 1, is amended to read:

Subdivision 1. [FOREIGN CORPORATION.] A foreign corporation shall be subject to service of process, as follows:

(1) By service on its registered agent;

(2) When any foreign corporation authorized to transact business in this state fails to appoint or maintain in this state a registered agent upon whom service of process may be had, or whenever any registered agent cannot be found at its registered office in this state, as shown by the return of the sheriff of the county in which the registered office is situated, or by an affidavit of attempted service by any person not a party, or whenever any

corporation withdraws from the state, or whenever the certificate of authority of any foreign corporation is revoked or canceled, service may be made by delivering to and leaving with the secretary of state, or with any deputy or clerk in the corporation department of the secretary of state's office, three copies thereof and a fee of \$15 \$25; provided, that after a foreign corporation withdraws from the state, pursuant to section 303.16, service upon the corporation may be made pursuant to the provisions of this section only when based upon a liability or obligation of the corporation incurred within this state or arising out of any business done in this state by the corporation prior to the issuance of a certificate of withdrawal.

(3) If a foreign corporation makes a contract with a resident of Minnesota to be performed in whole or in part by either party in Minnesota, or if a foreign corporation commits a tort in whole or in part in Minnesota against a resident of Minnesota, such acts shall be deemed to be doing business in Minnesota by the foreign corporation and shall be deemed equivalent to the appointment by the foreign corporation of the secretary of the state of Minnesota and successors to be its true and lawful attorney upon whom may be served all lawful process in any actions or proceedings against the foreign corporation arising from or growing out of the contract or tort. Process shall be served in duplicate upon the secretary of state, together with a fee of \$15 \$25 and the secretary of state shall mail one copy thereof to the corporation at its last known address, and the corporation shall have 30 days within which to answer from the date of the mailing, notwithstanding any other provision of the law. The making of the contract or the committing of the tort shall be deemed to be the agreement of the foreign corporation that any process against it which is so served upon the secretary of state shall be of the same legal force and effect as if served personally on it within the state of Minnesota.

Sec. 167. Minnesota Statutes 1986, section 303.21, subdivision 3, is amended to read:

Subd. 3. [OTHER INSTRUMENTS.] A fee of \$20 \$25 shall be paid to the secretary of state for filing any instrument, *other than the annual report required by section 303.14*, required or permitted to be filed under the provisions of this chapter. *For filing the annual report a fee of \$20 must be paid to the secretary of state.* The ~~fee~~ fees shall be paid at the time of the filing of the instrument.

Sec. 168. Minnesota Statutes 1986, section 317.67, subdivision 2, is amended to read:

Subd. 2. The secretary of state shall collect a fee of \$15 \$25 for filing any instrument that is required to be filed under this chapter.

Sec. 169. Minnesota Statutes 1986, section 317.67, subdivision 3, is amended to read:

Subd. 3. [FILING FEE.] The secretary of state shall collect a fee of \$25 \$35 from each new nonprofit corporation at the time of incorporation.

Sec. 170. Minnesota Statutes 1986, section 322A.16, is amended to read:

322A.16 [FILING IN OFFICE OF SECRETARY OF STATE.]

(a) A signed copy of the certificate of limited partnership, of any certificates of amendment or cancellation or of any judicial decree of amend-

ment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of the executor's authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of a \$40 \$25 filing fee and, in the case of a certificate of limited partnership, a \$50 \$60 initial fee, the secretary shall:

(1) endorse on the original the word "Filed" and the day, month and year of the filing; and

(2) return the original to the person who filed it or a representative.

(b) Upon the filing of a certificate of amendment or judicial decree of amendment in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth in the amendment, and upon the effective date of a certificate of cancellation or a judicial decree of it, the certificate of limited partnership is canceled.

Sec. 171. Minnesota Statutes 1986, section 322A.71, is amended to read:

322A.71 [ISSUANCE OF REGISTRATION.]

(a) If the secretary of state finds that an application for registration conforms to law and a \$40 \$25 filing fee and a \$50 \$60 initial registration fee has been paid, the secretary shall:

(1) endorse on the application the word "Filed," and the month, day and year of the filing thereof;

(2) file a duplicate original of the application; and

(3) issue a certificate of registration to transact business in this state.

(b) The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or a representative of that person.

Sec. 172. Minnesota Statutes 1986, section 330.11, subdivision 3, is amended to read:

Subd. 3. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of the state of Minnesota. This consent shall stipulate that the service of such process or pleadings on the secretary of state shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant in the state of Minnesota. In case any summons, process, or pleadings are served upon the secretary of state, it shall be by duplicate copies, one of which shall be retained in the office of the secretary of state, and the other to be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the secretary of state, against whom the summons, process, or pleadings may be divested. *A fee of \$25 must be paid to the secretary of state for each service.*

Sec. 173. Minnesota Statutes 1986, section 333.055, subdivision 3, is amended to read:

Subd. 3. The secretary of state shall charge and collect:

(a) For the filing of each certificate or amended certificate of an assumed

name - \$15.

(b) Certificate renewal fee - \$6 \$15.

Sec. 174. Minnesota Statutes 1986, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELEPHONE SERVICE FEE.] (a) Each customer of a local exchange company is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for minimum 911 emergency telephone service, plus administrative and staffing costs of the department of administration related to managing the 911 emergency telephone service program.

(b) The fee may not be less than eight cents nor more than 30 cents a month for each customer access line, including trunk equivalents as designated by the public utilities commission for access charge purposes. The fee must be the same for all customers.

(c) The fee must be collected by each utility providing local exchange telephone service. Fees are payable to and must be submitted to the commissioner of administration monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telephone service account in the special revenue fund.

(d) The commissioner of administration, with the approval of the commissioner of finance, shall establish the amount of the fee within the limits specified and inform the utilities of the amount to be collected. Utilities must be given a minimum of 45 days notice of fee changes.

Sec. 175. Minnesota Statutes 1986, section 462A.05, is amended by adding a subdivision to read:

Subd. 25. [GRANTS FOR HOUSING FOR LOW INCOME PERSONS LIVING ALONE.] *The agency may make grants for residential housing to be used by 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 cities, joint powers boards established by two or more 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 must not exceed 50 percent of the development costs for the residential housing, and must 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. 176. 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 low income persons under section 176 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. 177. Minnesota Statutes 1986, section 473.351, is amended by adding a subdivision to read:

Subd. 3. [RESTRICTION.] A metropolitan area regional park receiving grant money for maintenance and operation costs must agree:

(1) to sell or promote licenses, passes, or registrations required to engage in recreational activities appropriate to the park or the site of the park when a building on the park site is staffed and open to the public; and

(2) to provide drinking water supplies adequate for the recreational uses of the park. Each implementing agency must consult with groups representing users of its parks to determine the adequacy of drinking water supplies.

Sec. 178. Minnesota Statutes 1986, section 480.15, is amended by adding a subdivision to read:

Subd. 12. The court administrator shall review plans submitted by a judicial district for office equipment under section 484.68, subdivision 3, clause (e), and shall determine eligibility for state funding or reimbursement for the equipment.

Sec. 179. [480.236] [SOFTWARE SALES.]

The supreme court may sell or license self-developed or vendor custom-developed computer software products or systems through whatever sales method the supreme court, in its discretion, deems appropriate, in order to offset its software development costs. Prices for the software products or systems may be based on market considerations. Proceeds of the sale or licensing of software products or systems by the supreme court must be deposited in the state treasury and credited to a software sales account. Investment income and investment losses attributable to investment of the software sales account must be credited to the account. Money in the account is appropriated to the supreme court to operate and improve the trial court information system and other court information systems.

Sec. 180. Minnesota Statutes 1986, section 480.241, is amended to read:

480.241 [FILING FEE SURCHARGE IN CIVIL ACTIONS.]

Subdivision 1. [AMOUNT OF SURCHARGE; COLLECTION BY COURT ADMINISTRATORS.] A plaintiff, petitioner, defendant, respondent, intervenor or moving party in any district, county or municipal court civil action or civil proceeding in which an initial filing fee is payable by that party, except a marriage dissolution or conciliation court action, shall pay to the court administrator of district or county court or court administrator of the municipal courts of Hennepin county or Ramsey county a surcharge of \$10 in addition to the initial filing fee otherwise prescribed. For such a civil action or civil proceeding commenced on and after July 1, 1987, the surcharge is \$20. A plaintiff, defendant or moving party in any conciliation court action in which an initial filing fee is payable shall pay to the court administrator of conciliation court a surcharge of \$1 \$2 in addition to the initial filing fee otherwise prescribed. Notwithstanding any other law or rule to the contrary, no surcharge shall be paid by any governmental unit of the state of Minnesota, any local unit of government, or agency thereof, when the governmental unit, local government, or agency thereof is a party to any civil action or civil proceeding in the municipal courts of Hennepin or Ramsey counties, or in any county court.

Subd. 2. [TRANSMITTAL OF SURCHARGE TO SUPREME COURT.] Notwithstanding any other law or rule to the contrary, all surcharges collected pursuant to subdivision 1 shall be transmitted monthly by the district, county and conciliation court court administrators and municipal court administrators to the supreme court for deposit in a legal services account in the special revenue fund. *After June 30, 1989, two-thirds of the surcharge must be deposited in the legal services account in the special revenue fund and one-third must be deposited in the software sales account under section 480.236.*

Sec. 181. [480.245] [JUDICIAL FEE IN CIVIL ACTIONS AND CONCILIATION COURTS.]

Subdivision 1. [AMOUNT OF FEE; COLLECTION BY COURT ADMINISTRATORS.] A plaintiff, petitioner, defendant, respondent, intervenor, or moving party in a civil action or civil proceeding in which an initial filing fee is payable by that party, except a marriage dissolution or conciliation court action, shall pay to the court administrator a judicial fee of \$5 in addition to the civil surcharge and the initial filing fee otherwise prescribed under section 480.241. A plaintiff, defendant, or moving party in a conciliation court action in which an initial filing fee is payable shall pay to the court administrator a judicial fee of \$1 in addition to the civil surcharge and the initial filing fee otherwise prescribed. A fee need not be paid by a governmental unit of the state of Minnesota, a local unit of government, or an agency of those units, when the governmental unit, local government, or agency is a party to a civil action or civil proceeding.

Subd. 2. [TRANSMITTAL OF RECEIPTS.] Fees collected under subdivision 1 must be paid to the state treasurer, deposited in the state treasury, and credited to the general fund.

Sec. 182. Minnesota Statutes 1986, section 480A.08, subdivision 3, is amended to read:

Subd. 3. [DECISIONS.] A decision shall be rendered in every case within 90 days after oral argument or after the final submission of briefs or memoranda by the parties, whichever is later. The chief justice or the chief judge may waive the 90-day limitation for any proceeding before the court of appeals for good cause shown. In every case, the decision of the court, including any written opinion containing a summary of the case and a statement of the reasons for its decision, shall be indexed and made readily available. *The court of appeals may publish only those decisions that:*

- (1) establish a new rule of law;*
- (2) overrule a previous court of appeals' decision not reviewed by the supreme court;*
- (3) provide important procedural guidelines in interpreting statutes or administrative rules;*
- (4) involve a significant legal issue; or*
- (5) would significantly aid in the administration of justice.*

Unpublished opinions of the court of appeals are not precedential. Unpublished opinions must not be cited unless the party citing the unpublished opinion provides a full and correct copy to all other counsel at least 48 hours before its use in any pretrial conference, hearing, or trial. If cited in a brief or memorandum of law, a copy of the unpublished opinion must

be provided to all other counsel at the time the brief or memorandum is served, and other counsel may respond.

Sec. 183. [481.20] [CLIENT SECURITY ACCOUNT.]

Fees received under rules or orders adopted by the supreme court governing a client security fund or account must be deposited in the state treasury and credited to a client security account. Investment income and investment losses attributable to investment of the client security account must be credited to the account. Money in the account is appropriated to the supreme court to pay the expenses of the client security board and claims approved by the board.

Sec. 184. Minnesota Statutes 1986, section 484.68, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The district administrator shall:

- (a) Assist the chief judge in the performance of administrative duties;
- (b) Manage the administrative affairs of the courts of the judicial district;
- (c) Supervise the court administrators and other support personnel, except court reporters, who serve in the courts of the judicial district;

(d) Comply with the requests of the state court administrator for statistical or other information relating to the courts of the judicial district; ~~and~~

(e) *With the approval of the chief judge, determine the needs of the judges of the district for office equipment necessary for the effective administration of justice and develop a plan to make the equipment available to the judges of the district; the plan must be submitted to the state court administrator for approval and determination of eligibility for state funding under section 480.15, subdivision 12; and*

(f) Perform any additional duties that are assigned by law or by the rules of court.

Sec. 185. Minnesota Statutes 1986, section 484.68, subdivision 5, is amended to read:

Subd. 5. [BUDGET FOR OFFICE.] The office budget of the district administrator shall be set by the chief judge of the judicial district and apportioned among the counties of the district. *The budget must include sufficient money for the staff authorized by this section and other staff and expenses authorized under law.*

Sec. 186. [484.74] [ALTERNATIVE DISPUTE RESOLUTION.]

Subdivision 1. [AUTHORIZATION.] *In litigation involving an amount in excess of \$50,000 in controversy, the presiding judge may, by order, direct the parties to enter nonbinding alternative dispute resolution. Alternatives may include private trials, neutral expert fact-finding, mediation, mini-trials, and other forms of alternative dispute resolution. The guidelines for the various alternatives must be established by the presiding judge and must emphasize early and inexpensive exchange of information and case evaluation in order to facilitate settlement.*

Subd. 2. [NEUTRAL; APPOINTMENT; REMOVAL.] *The judge shall appoint an impartial third-party neutral to conduct all proceedings held under subdivision 1. A party may file with the judge within five days of the notice of appointment of a neutral and serve on all other parties to*

the action a notice to remove the neutral. Upon receipt of the notice to remove, the judge shall assign another neutral. After a party has once disqualified a neutral as a matter of right, a substitute neutral may be disqualified by the party only by making an affirmative showing of prejudice to the judge.

Subd. 3. [FEES.] Subject to chapter 563, the neutral's fees and expenses must be borne by the parties on a basis determined to be fair and equitable by the presiding judge.

Subd. 4. [APPLICATION.] This section applies only to the fourth judicial district, which will serve as a pilot project to evaluate the effectiveness of alternative forms of resolving commercial and personal injury disputes. The state court administrator shall evaluate the pilot project and report the findings to the chairs of the house and senate judiciary committees by January 15, 1989.

Sec. 187. Minnesota Statutes 1986, section 540.152, is amended to read:

540.152 [SERVICE OF PROCESS ON UNIONS, GROUPS OR ASSOCIATIONS.]

The transaction of any acts, business or activities within the state of Minnesota by any officer, agent, representative, employee or member of any union or other groups or associations having officers, agents, members or property without the state on behalf of the union or other groups or associations or any of its members or affiliated local unions shall be deemed an appointment by the union or other groups or associations of the secretary of state of the state of Minnesota to be the true and lawful attorney of the union or other groups or associations, upon whom may be served all legal processes or notices in any action or proceeding against or involving the union or other groups or associations growing out of any acts, business or activities within the state of Minnesota resulting in damage or loss to person or property or giving rise to any cause of action under the laws of the state of Minnesota or to any matters or proceedings arising under the Minnesota Labor Relations Act. Such acts, business or activities shall be a signification of the agreement of the union or other groups or associations and its members that any process or notice in any action, matter or proceeding against or involving it, which is so served, shall be of the same legal force and validity as if served upon the union or other groups or associations and its members personally. Service of process or notice shall be made by filing a copy thereof in the office of the secretary of state, together with payment of a fee of \$15 \$25 and together with an affidavit stating that no officer or managing agent of the union or other group or association has been found in this state and setting forth an address to which the service shall be forwarded. The service shall be sufficient service upon the union or other groups or associations and its members. Notice of service and a copy of the process or notice shall, within ten days thereafter, be sent by mail by the person who caused it to be served on the union or other groups or associations at its last known address and an affidavit of compliance with the provisions of this chapter shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending.

Sec. 188. Minnesota Statutes 1986, section 543.08, is amended to read:

543.08 [SUMMONS, SERVICE UPON CERTAIN CORPORATIONS.]

If a private domestic corporation has no officer at the registered office

of the corporation within the state upon whom service can be made, of which fact the return of the sheriff of the county in which that office is located, or the affidavit of a private person not a party, that none can be found in that county shall be conclusive evidence, service of the summons upon it may be made by depositing two copies, together with a fee of \$15 \$25 with the secretary of state, which shall be deemed personal service upon the corporation. One of the copies shall be filed by the secretary, and the other forthwith mailed by the secretary to the corporation by certified mail, if the place of its main office is known to the secretary or is disclosed by the files in the office.

If the defendant is a foreign insurance corporation, the summons may be served by two copies delivered to the commissioner of commerce, who shall file one in the commissioner's office and forthwith mail the other postage prepaid to the defendant at its home office.

Sec. 189. Minnesota Statutes 1986, section 609.101, is amended to read:

609.101 [SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES.]

Subdivision 1. [SURCHARGES AND 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,~~ not 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.~~ If the court fails to waive or impose an assessment required by this section, the court administrator shall correct the record to show imposition of an assessment of \$25 if the sentence does not include payment of a fine, or if the sentence includes a fine, to show an imposition of a surcharge of 10 percent of the fine.

Except for assessments and surcharges imposed on persons convicted of violations described 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.*

Subd. 2. [MINIMUM FINES.] Notwithstanding any other law:

(1) when a court sentences a person convicted of violating section 609.221, 609.267, or 609.342, it must impose a fine of not less than \$500 nor more than the maximum fine authorized by law;

(2) when a court sentences a person convicted of violating section 609.222, 609.223, 609.2671, 609.343, 609.344, or 609.345, it must impose a fine of not less than \$300 nor more than the maximum fine authorized by law; and

(3) when a court sentences a person convicted of violating section 609.2231, 609.224, or 609.2672, it must impose a fine of not less than \$100 nor more than the maximum fine authorized by law.

The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

The court shall collect the minimum fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the crime victim and witness account established in subdivision 1. If more than one victim assistance program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the crime victim and witness account. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims. Fine proceeds credited to the crime victim and witness account may be appropriated to the crime victim and witness advisory council, and the council may use all or part of the proceeds for the purpose of providing grants to establish new victim assistance programs.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1, and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs approved by the department of corrections: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Sec. 190. 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. 191. [REPEALERS.]

Subdivision 1. Minnesota Statutes 1986, sections 3.099, subdivision 2; 3.9226, subdivision 8; 6.495, subdivision 2; 15A.081, subdivision 6; 15A.082, subdivision 5; 15A.083, subdivision 1; 92.67, subdivision 6; 116J.87; and 296.421, subdivision 5a are repealed.

Subd. 2. Minnesota Statutes 1986, section 473.351, subdivision 5, is repealed effective the day following final enactment.

Sec. 192. [EFFECTIVE DATES.]

Subdivision 1. Section 89 is effective July 1, 1987, provided the commissioner shall not implement the program until the legislature appropriates the necessary funds.

Subd. 2. (a) The additional judgeships authorized for judicial districts in section 59 are established as follows:

(1) one judgeship in the first judicial district, three judgeships in the fourth judicial district, and one judgeship in the tenth judicial district are effective on July 1, 1987;

(2) one judgeship in the first judicial district, three judgeships in the fourth judicial district, and one judgeship in the tenth judicial district are effective on July 1, 1988;

(3) one judgeship in the sixth judicial district is effective on January 1, 1989, and one judicial officer position in the sixth judicial district is terminated upon the appointment of a judge to fill this judgeship;

(4) one judgeship in the first judicial district, three judgeships in the fourth judicial district, one judgeship in the seventh judicial district, and one judgeship in the tenth judicial district are effective on July 1, 1989, if an appropriation is made; and

(5) one judgeship in the first judicial district, two judgeships in the

fourth judicial district, and one judgeship in the tenth judicial district is effective on July 1, 1990, if an appropriation is made.

(b) Section 180 is effective on July 1, 1987.

Subd. 3. Except as provided in this section, sections 96, and 120 to 132 are effective for the licensing year beginning March 1, 1988, and for each licensing year after that date. The 24 hour resident and nonresident angling licenses and the nonresident married couple license are effective beginning June 1, 1987, and for each licensing year after that date.

Subd. 4. Sections 51, 63, 149, 178, 185, and 186 are effective the day following final enactment. The repeal of Minnesota Statutes 1986, section 473.351, subdivision 5, is effective the day following final enactment. Section 147 is effective June 1, 1988."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; amending Minnesota Statutes 1986, section 2.722, subdivision 1; 3.30, subdivision 2; 3.303, subdivision 5; 3.85, subdivision 12; 3C.035, subdivisions 1 and 2; 3C.11, subdivision 2; 3C.12, subdivision 7; 8.15; 14.08; 14.26; 15A.081, subdivisions 1, 7, and 7b; 15A.083, subdivision 4; 16A.127, subdivision 8; 16A.85, by adding a subdivision; 16B.20, subdivision 2; 16B.41; 16B.42, subdivision 4; 18.171, subdivisions 1, 5, and by adding a subdivision; 18.241, subdivision 2; 18.291; 18.311; 69.021, subdivision 5; 84.01, subdivision 3; 84.0272; 84.091, subdivision 3; 84.83, subdivision 3; 85.30; 85.41; 85.42; 85.43; 85.45; 85A.02, subdivision 5a; 85A.04, subdivision 1; 88.065; 92.46, subdivision 1; 92.67, subdivisions 1, 3, 4, and by adding a subdivision; 93.335, subdivision 4; 97A.061, subdivision 1; 97A.065, subdivision 2; 97A.105, subdivision 1; 97A.445, subdivision 1; 97A.475, subdivisions 2, 3, 6, 7, 8, 9, 11, 12, 13, and 20; 97A.485, subdivision 6; 97C.211, by adding a subdivision; 115A.42; 115A.44; 115A.45; 115A.46, subdivision 1; 115A.49; 115A.51; 115A.52; 115A.53; 115A.917; 116.41, subdivision 2; 116C.712, by adding a subdivision; 161.1419, subdivision 4; 168.012, subdivision 1c; 175A.07, subdivision 2; 176.611, subdivisions 2, 6a, and by adding a subdivision; 197.481, subdivision 5; 204B.11, subdivision 1; 214.04, subdivision 3; 221.67; 271.01, by adding a subdivision; 273.1314, subdivision 16a; 296.16, subdivision 1; 296.421, subdivision 5; 298.22, subdivision 1; 302A.011, subdivision 11; 302A.153; 303.07, subdivision 2; 303.13, subdivision 1; 303.21, subdivision 3; 317.67, subdivisions 2 and 3; 322A.16; 322A.71; 330.11, subdivision 3; 333.055, subdivision 3; 403.11, subdivision 1; 462A.05, by adding a subdivision; 462A.21, by adding a subdivision; 473.351, by adding a subdivision; 480.15, by adding a subdivision; 480.241; 480A.08, subdivision 3; 484.68, subdivisions 3 and 5; 540.152; 543.08; 609.101; 626.861, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 3; 5; 16A; 18; 43A; 84; 86; 89; 93; 97A; 97C; 115A; 480; 481; and 484; repealing Minnesota Statutes 1986, sections 3.099, subdivision 2; 3.9226, subdivision 8; 6.495, subdivision 2; 15A.081,

subdivision 6; 15A.082, subdivision 5; 15A.083, subdivision 1; 92.67, subdivision 6; 116J.87; 296.421, subdivision 5a; and 473.351, subdivision 5."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Phyllis Kahn, David P. Battaglia, Glen H. Anderson, Darby Nelson, Douglas W. Carlson

Senate Conferees: (Signed) Carl W. Kroening, William P. Luther, Gene Merriam, Donald M. Moe, Dennis R. Frederickson

Mr. Kroening moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1315 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1315 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 39 and nays 26, as follows:

Those who voted in the affirmative were:

Belanger	Diessner	Kroening	Moe, R.D.	Reichgott
Berglin	Frank	Langseth	Novak	Solon
Brandl	Frederickson, D.J.	Lantry	Pehler	Spear
Brataas	Frederickson, D.R.	Lessard	Peterson, D.C.	Stumpf
Cohen	Freeman	Luther	Peterson, R.W.	Waldorf
Dahl	Hughes	Marty	Piper	Wegscheid
DeCramer	Johnson, D.J.	Merriam	Pogemiller	Willet
Dicklich	Knaak	Moe, D.M.	Purfeerst	

Those who voted in the negative were:

Adkins	Bertram	Knutson	Morse	Taylor
Anderson	Davis	Laidig	Olson	Vickerman
Beckman	Frederick	Larson	Ramstad	
Benson	Gustafson	McQuaid	Renneke	
Berg	Johnson, D.E.	Mehrkens	Samuelson	
Bernhagen	Jude	Metzen	Storm	

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Lessard moved that the following members be excused for a Conference Committee on H.F. No. 169 from 6:00 to 10.00 p.m.:

Messrs. Lessard, Schmitz and Frederick. The motion prevailed.

RECESS

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 596.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 794, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 794 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 794

A bill for an act relating to waste management; regulating disposal of wastes; providing for a solid waste management policy; providing for recycling policy and marketing; managing household hazardous wastes; regulating the sale and disposal of motor oil and lead acid batteries; providing for waste pesticide collection; appropriating money; amending Minnesota Statutes 1986, sections 115A.03, subdivisions 9 and 21; 115A.06, subdivision 14; 115A.11, subdivision 2; 115A.15, subdivision 6; 115A.42; 115A.45; 115A.49; 115A.51; 115A.52; 115A.53; 115A.54, subdivision 2a; 115A.81, subdivision 2; 115A.921; 115A.95; 116.07, subdivision 4b; 116.41, subdivision 2; 116M.07, by adding a subdivision; 176.011, subdivision 9; 239.52; 325E.11; 473.149, subdivisions 2d and 6; 473.803, by adding a subdivision; 473.834, subdivision 2; 473.842, subdivision 2; 473.844, subdivisions 1 and 4; and 473.846; proposing coding for new law in Minnesota Statutes, chapters 115A; 239; 325E; and 473; repealing Minnesota Statutes 1986, sections 115A.13; 115A.43; 115A.44; 473.834, subdivision 3; and 473.844, subdivisions 2 and 5.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 794, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F. No. 794 be further amended as follows:

Pages 21 and 22 of the amendment adopted by the senate under Rule 49, delete sections 33 to 35.

Page 39 of the amendment adopted by the Senate under Rule 49, delete section 57

Correct internal references

Renumber sections in sequence

Amend the title accordingly

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Dee Long, Willard Munger, Sidney J. Pauly

Senate Conferees: (Signed) Gene Merriam, Gary W. Laidig, Steven G. Novak

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on H.F. No. 794 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 794 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 50 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Freeman	Lessard	Pogemiller
Anderson	Chmielewski	Gustafson	Luther	Ramstad
Beckman	Cohen	Hughes	Marty	Reichgott
Belanger	Dahl	Johnson, D.E.	Mehrkens	Renneke
Benson	Davis	Jude	Morse	Spear
Berg	DeCramer	Knaak	Olson	Storm
Berglin	Diessner	Knutson	Pehler	Stumpf
Bernhagen	Frank	Kroening	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.J.	Laidig	Peterson, R.W.	Waldorf
Brandl	Frederickson, D.R.	Larson	Piper	Wegscheid

Messrs. Metzen and Willet voted in the negative.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1112, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1112 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1112

A bill for an act relating to human services; defining directors, officers, and partners as vendors of medical care for the purpose of medical assistance; allowing the commissioner to charge interest on money recovered from certain medical assistance providers; allowing sanction authority; amending Minnesota Statutes 1986, sections 256B.02, subdivision 7; 256B.064, subdivision 1c; and 256B.27, subdivisions 3 and 4.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1112, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1112 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1986, section 214.06, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by health-related licensing boards must be credited to the special revenue fund. *Any balance remaining in the special revenue fund at the end of each fiscal year, after payment of health-related licensing board expenses including salaries, attorney general fees, and indirect costs, must be credited to the public health fund.*

Sec. 2. [252.33] [CLIENT ADVISORY COMMITTEES.]

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

(a) *"Client advisory committee" means a group of clients who represent client interests to supervisors and employers in vocational programs.*

(b) *"Consumer-controlled organization" means a self-advocacy organization which is controlled by a board having a majority of people with developmental disabilities.*

Subd. 2. [COMMITTEES DEVELOPED.] *The commissioner of jobs and*

training, through the division of rehabilitation resources, shall contract with a consumer-controlled organization to develop client advisory committees in vocational settings in developmental achievement centers, and state hospitals, and to allocate resources and technical assistance to client advisory committees in sheltered workshops as defined in section 129A.01.

Subd. 3. [PURPOSES.] A client advisory committee enables clients working in vocational settings to advocate for themselves with regard to matters of common interest. A client advisory committee may address any issue related to the vocational setting, including personnel policies, wages, hours of work, kinds of work, transportation to and from the workplace, and behavior problems. A client advisory committee may also meet to develop the skills and knowledge needed to represent fellow clients, such as decision-making skills, assertiveness, and awareness of public policies affecting people with developmental disabilities.

Subd. 4. [MEMBERSHIP.] Members of a client advisory committee must be elected by clients who work at the vocational setting.

Sec. 3. Minnesota Statutes 1986, section 256B.02, subdivision 7, is amended to read:

Subd. 7. "Vendor of medical care" means any person or persons furnishing, within the scope of the vendor's respective license, any or all of the following goods or services: medical, surgical, hospital, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses; health care services provided at the residence of the patient if the services are performed by a public health nurse and the nurse indicates in a statement submitted under oath that the services were actually provided; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies. The term includes, but is not limited to, directors and officers of corporations or members of partnerships who, either individually or jointly with another or others, have the legal control, supervision, or responsibility of submitting claims for reimbursement to the medical assistance program. The term only includes directors and officers of corporations who personally receive a portion of the distributed assets upon liquidation or dissolution, and their liability is limited to the portion of the claim that bears the same proportion to the total claim as their share of the distributed assets bears to the total distributed assets.

Sec. 4. Minnesota Statutes 1986, section 256B.064, subdivision 1c, is amended to read:

Subd. 1c. The commissioner may obtain monetary recovery for the conduct described in subdivision 1a by the following methods: assessing and recovering moneys erroneously paid and debiting from future payments any moneys erroneously paid, except that patterns need not be proven as a precondition to monetary recovery for false claims, duplicate claims, claims for services not medically necessary, or false statements. The commissioner may charge interest on money to be recovered if the recovery is to be made by installment payments or debits. The interest charged shall be the rate established by the commissioner of revenue under section 270.75.

Sec. 5. Minnesota Statutes 1986, section 256B.27, subdivision 3, is amended to read:

Subd. 3. The commissioner of human services, with the written consent of the recipient, on file with the local welfare agency, shall be allowed access to all personal medical records of medical assistance recipients solely for the purposes of investigating whether or not: (a) a vendor of medical care has submitted a claim for reimbursement, a cost report or a rate application which ~~the vendor knows to be is duplicative, erroneous, or false in whole or in part, or which results in the vendor obtaining greater compensation than the vendor is legally entitled to;~~ or (b) the medical care was medically necessary. The vendor of medical care shall receive notification from the commissioner at least 24 hours before the commissioner gains access to such records. The determination of provision of services not medically necessary shall be made by the commissioner in consultation with an advisory committee of vendors as appointed by the commissioner on the recommendation of appropriate professional organizations. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of human services pursuant to this section.

Sec. 6. Minnesota Statutes 1986, section 256B.27, subdivision 4, is amended to read:

Subd. 4. [AUTHORIZATION OF COMMISSIONER TO EXAMINE RECORDS.] A person determined to be eligible for medical assistance shall be deemed to have authorized the commissioner of human services in writing to examine, *for the investigative purposes identified in subdivision 3*, all personal medical records developed while receiving medical assistance ~~for the purpose of investigating whether or not a vendor has submitted a claim for reimbursement, a cost report or a rate application which the vendor knows to be false in whole or in part, or in order to determine whether or not the medical care provided was medically necessary.~~

Sec. 7. Minnesota Statutes 1986, section 259.40, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY PAYMENTS.] The commissioner of human services may make subsidy payments as necessary to an adoptive parent or parents who adopt a child who is a Minnesota resident and is under guardianship of the commissioner or of a licensed child placing agency after the final decree of adoption is issued. The subsidy payments and any subsequent modifications to the subsidy payments shall be based on the needs of the ~~child adopted person~~ that the commissioner has determined cannot be met using other resources including programs available to the ~~child adopted person~~ and the ~~child's~~ adoptive parent or parents.

Sec. 8. Minnesota Statutes 1986, section 259.40, subdivision 2, is amended to read:

Subd. 2. [SUBSIDY AGREEMENT.] The placing agency shall certify a child as eligible for a subsidy according to rules promulgated by the commissioner. When a parent or parents are found and approved for adoptive placement of a child certified as eligible for a subsidy, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the subsidy payments, and the payment terms. The subsidy agreement shall be subject to the commissioner's approval.

The commissioner shall provide adoption subsidies to the adoptive parent or parents according to the terms of the subsidy agreement. The subsidy may include payment for basic maintenance expenses of food, clothing, and shelter; ongoing supplemental maintenance expenses related to the ~~child's~~ *adopted person's* special needs; nonmedical expenses periodically necessary for purchase of services, items or equipment related to the ~~child's~~ special needs; and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support requests for subsidy payments. The commissioner may require periodic reevaluation of subsidy payments. The amount of the subsidy payment may in no case exceed that which would be allowable for the child under foster family care.

Sec. 9. Minnesota Statutes 1986, section 259.40, subdivision 3, is amended to read:

Subd. 3. [ANNUAL AFFIDAVIT.] When subsidies are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the ~~adopted child~~ *person* remains under their care and whether the need for subsidy continues to exist. The commissioner may verify the affidavit. The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the ~~child remains the legal dependent~~ *adopted person is under 22 years of age and is the legal or financial dependent* of the adoptive parent or parents or guardian or conservator. Termination or modification of the subsidy agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the commissioner shall modify the subsidy agreement in order to obtain the funds under that act.

Sec. 10. [FEASIBILITY STUDY.]

The director of the state planning agency in cooperation with the commissioner of health may study the feasibility of a Minnesota institute for health research. Among the factors to be considered in this study are: clinical and community resources now existing in the state, methodology for the development of a health research institute, and components toward which an institute would direct its resources. No state funds may be expended for this purpose. The director of the state planning agency is authorized to accept and expend nonstate funds for this purpose and shall report to the legislature by January 1, 1989, on any study undertaken.

Sec. 11. [COMMISSION ON HEALTH PLAN REGULATORY REFORM.]

Subdivision 1. [PURPOSE.] The legislature finds that the present rapid development of new health plan products and arrangements may result in a situation in which consumer protection and equitable competition may be inadvertently impaired by statutes or rules adopted to address previously existing market conditions. The legislature further finds that it is desirable that existing regulatory requirements for health plans be reviewed in the light of recent and potential future changes in the types of health plans available to purchasers.

Subd. 2. [CREATION AND MEMBERSHIP.] The governor shall create a commission on health plan regulatory reform for the purpose of reviewing and making recommendations for any necessary improvements in state policy relating to the regulation of health insurers, nonprofit health service

plans, health maintenance organizations, preferred provider organizations, and other arrangements that insure or finance the provision of health services.

The commission membership shall be as follows:

(1) *the director of the state planning agency, or the director's designee, who shall chair the commission;*

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

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

(4) *the commissioner of commerce, or the commissioner's designee;*

(5) *the commissioner of health, or the commissioner's designee;*

(6) *two members representing a health maintenance organization;*

(7) *one member representing a nonprofit health service plan;*

(8) *one member representing a health plan that is not a health maintenance organization or a nonprofit health service plan;*

(9) *one public employer;*

(10) *two private employers, one of whom self-insures for health benefits and one of whom offers health benefits to employees but does not bear risk;*

(11) *one member representing organized labor; and*

(12) *two natural persons who are consumers.*

Subd. 3. [REPORT.] The commission shall perform the review specified in subdivision 2 and report to the governor and the legislature by January 1, 1989.

Subd. 4. [APPROPRIATION.] \$25,000 is appropriated from the general fund to the commissioner of health for the purposes of this section. This appropriation is available only to the extent that it is matched on a dollar for dollar basis by contributions from the private sector. Pursuant to inter-agency agreement, the commissioner shall transfer appropriate portions of this amount to the state planning agency and the commerce department to support the staffing of the commission.

Sec. 12. [APPROPRIATION.]

\$70,000 is appropriated from the general fund to the commissioner of jobs and training for developing client advisory committees under section 2.

\$300,000 is appropriated to the commissioner of human services from federal reimbursement received as a result of the title IV-E foster care program to increase federal financial participation, to be distributed in fiscal year 1988 to counties that received Indian relief payments in fiscal year 1986 under section 245.76. The reimbursement must be allocated to the counties in the same proportion as the distribution of Indian relief payments in fiscal year 1986 under section 245.76.

Sec. 13. [EFFECTIVE DATE.]

Section 1 is effective June 30, 1987.

ARTICLE 2

Section 1. Minnesota Statutes 1986, section 62A.046, is amended to read:

62A.046 [COORDINATION OF BENEFITS.]

(1) No group contract providing coverage for hospital and medical treatment or expenses issued or renewed after August 1, 1984, which is responsible for secondary coverage for services provided, may deny coverage or payment of the amount it owes as a secondary payor solely on the basis of the failure of another group contract, which is responsible for primary coverage, to pay for those services.

(2) A group contract which provides coverage of a claimant as a dependent of a parent who has legal responsibility for the dependent's medical care ~~but who does not have custody of the dependent may, upon request of the custodial parent, pursuant to a court order under section 518.171 must~~ make payments directly to the provider of care. In such cases, liability to the insured is satisfied to the extent of benefit payments made to the provider.

(3) This section applies to an insurer, a vendor of risk management services regulated under section 60A.23, a nonprofit health service plan corporation regulated under chapter 62C and a health maintenance organization regulated under chapter 62D. Nothing in this section shall require a secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

Sec. 2. Minnesota Statutes 1986, section 176.191, subdivision 4, is amended to read:

Subd. 4. If the employee's medical expenses for a personal injury are paid pursuant to any program administered by the commissioner of human services, or ~~if the employee receives or spouse or dependents living with the employee receive~~ subsistence or other payments pursuant to such a program, and it is subsequently determined that the injury is compensable pursuant to this chapter, the workers' compensation insurer shall reimburse the commissioner of human services for the payments made, including interest at a rate of 12 percent a year.

Amounts paid to an injured employee ~~or spouse or dependents living with the employee~~ pursuant to such a program and attributable to the personal injury shall be deducted from any settlement or award of compensation or benefits under this chapter, ~~including, but not limited to, temporary and permanent disability benefits.~~

The insurer shall attempt, with due diligence, to ascertain whether payments have been made to an injured employee pursuant to such a program prior to any settlement or issuance of a binding award and shall notify the ~~commissioner~~ department of human services, benefit recovery section, when such payments have been made. ~~An employee who has received public assistance payments shall notify the department of human services, benefit recovery section, of its potential intervention claim prior to making or settling a claim for benefits under this chapter. Notice served on local human services agencies is not sufficient to meet the notification requirement in this subdivision.~~

Sec. 3. [256.015] [PUBLIC ASSISTANCE LIEN ON RECIPIENT'S

CAUSE OF ACTION.]

Subdivision 1. [STATE AGENCY HAS LIEN.] When the state agency provides, pays for, or becomes liable for medical care or furnishes subsistence or other payments to a person, the agency has a lien for the cost of the care and payments on all causes of action that accrue to the person to whom the care or payments were furnished, or to the person's legal representatives, as a result of the occurrence that necessitated the medical care, subsistence, or other payments.

Subd. 2. [PERFECTION; ENFORCEMENT.] The state agency may perfect and enforce its lien under sections 514.69, 514.70, and 514.71, and must file the verified lien statement with the appropriate court administrator in the county of financial responsibility. The verified lien statement must contain the following: the name and address of the person to whom medical care, subsistence, or other payment was furnished; the date of injury; the name and address of vendors furnishing medical care; the dates of the service or payment; the amount claimed to be due for the care or payment; and to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries.

This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is received under subdivision 4 to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Subd. 3. [PROSECUTOR.] The attorney general, or the appropriate county attorney acting at the direction of the attorney general, shall represent the state agency to enforce the lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on behalf of the state agency against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Subd. 4. [NOTICE.] The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages to the injured person when the state agency has paid for or become liable for the cost of medical care or payments related to the injury. Notice must be given as follows:

(a) Applicants for public assistance shall notify the state or local agency of any possible claims they may have against a person, firm, or corporation when they submit the application for assistance. Recipients of public assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of public assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is a party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim before filing a claim, commencing an action, or negotiating a settlement.

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Subd. 5. [COSTS DEDUCTED.] Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has filed its lien, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of public assistance paid to or on behalf of the person as a result of the injury must be deducted next, and paid to the state agency. The rest must be paid to the public assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and other collection costs.

Subd. 6. [WHEN EFFECTIVE.] The lien created under this section is effective with respect to any public assistance paid on or after August 1, 1987.

Subd. 7. [COOPERATION REQUIRED.] Upon the request of the department of human services, any state agency or third party payer shall cooperate with the department in furnishing information to help establish a third party liability. The department of human services shall limit its use of information gained from agencies and third party payers to purposes directly connected with the administration of its public assistance programs. The provision of information by agencies and third party payers to the department under this subdivision is not a violation of any right of confidentiality or data privacy.

Sec. 4. Minnesota Statutes 1986, section 256B.02, is amended by adding a subdivision to read:

Subd. 12. "Third party payer" means a person, entity, or agency or government program that has a probable obligation to pay all or part of the costs of a medical assistance recipient's health services.

Sec. 5. Minnesota Statutes 1986, section 256B.042, subdivision 2, is amended to read:

Subd. 2. The state agency may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, ~~except that it shall have one year from the date when the last item of medical care was furnished in which to file and its verified lien statement; and the statement shall be filed with the appropriate court administrator in the county of financial responsibility. The verified lien statement shall contain the following: the name and address of the person to whom medical care was furnished, the date of injury, the name and address of the vendor or vendors furnishing medical care, the dates of the service, the amount claimed to be due for the care, and, to the best of the state agency's knowledge, the names and addresses of all persons, firms or corporations claimed to be liable for damages arising from the injuries. This section shall not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is received by it under subdivision 4 to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice is received or (2) the date the recipient's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.~~

Sec. 6. Minnesota Statutes 1986, section 256B.042, subdivision 3, is amended to read:

Subd. 3. ~~To recover under this section~~ The attorney general, or the appropriate county attorney acting at the direction of the attorney general, shall represent the state agency to enforce the lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on behalf of the state agency against a person, firm, or corporation that may be liable to the person to whom the care was furnished.

Sec. 7. Minnesota Statutes 1986, section 256B.042, is amended by adding a subdivision to read:

Subd. 4. [NOTICE.] *The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable to pay part or all of the cost of medical care when the state agency has paid or become liable for the cost of that care. Notice must be given as follows:*

(a) *Applicants for medical assistance shall notify the state or local agency of any possible claims when they submit the application. Recipients of medical assistance shall notify the state or local agency of any possible claims when those claims arise.*

(b) *A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.*

(c) *A person who is a party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim before filing a claim, commencing an action, or negotiating a settlement.*

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Sec. 8. Minnesota Statutes 1986, section 256B.042, is amended by adding a subdivision to read:

Subd. 5. [COSTS DEDUCTED.] *Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has filed its lien, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of medical assistance paid to or on behalf of the person as a result of the injury must be deducted next, and paid to the state agency. The rest must be paid to the medical assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and other collection costs.*

Sec. 9. Minnesota Statutes 1986, section 256B.37, subdivision 1, is amended to read:

Subdivision 1. [SUBROGATION.] *Upon furnishing medical assistance to any person having private accident or health care coverage, or having a cause of action arising out of an occurrence that necessitated the payment of medical assistance, the state agency shall be subrogated, to the extent of the cost of medical care furnished, to any rights the person may have under the terms of any private health care the coverage or under the cause of action.*

The right of subrogation does not attach to benefits paid or provided under private health care coverage prior to the receipt of written notice of the exercise of subrogation rights by the carrier issuing the health care

coverage created in this section includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

Sec. 10. Minnesota Statutes 1986, section 256B.37, subdivision 2, is amended to read:

Subd. 2. [CIVIL ACTION FOR RECOVERY.] To recover under this section, the attorney general, or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action against the carrier of the private health care coverage to enforce the subrogation rights established under this section.

Sec. 11. Minnesota Statutes 1986, section 256B.37, is amended by adding a subdivision to read:

Subd. 3. [NOTICE.] The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the cost of medical care when the state agency has paid or become liable for the cost of care. Notice must be given as follows:

(a) Applicants for medical assistance shall notify the state or local agency of any possible claims when they submit the application. Recipients of medical assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation claim before filing a claim, commencing an action, or negotiating a settlement.

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Sec. 12. Minnesota Statutes 1986, section 256B.37, is amended by adding a subdivision to read:

Subd. 4. [RECOVERY.] Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has a subrogation right, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of medical assistance paid to or on behalf of the person as a result of the injury must be deducted next and paid to the state agency. The rest must be paid to the medical assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and collection costs.

Sec. 13. Minnesota Statutes 1986, section 256B.37, is amended by adding a subdivision to read:

Subd. 5. [PRIVATE BENEFITS TO BE USED FIRST.] Private accident and health care coverage for medical services is primary coverage and must be exhausted before medical assistance is paid. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including a prepaid health plan, the private health care

benefits available to the person must be used first and to the fullest extent. Supplemental payment may be made by medical assistance, but the combined total amount paid must not exceed the amount payable under medical assistance in the absence of other coverage. Medical assistance must not make supplemental payment for covered services rendered by a vendor who participates or contracts with a health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.

Sec. 14. Minnesota Statutes 1986, section 256B.37, is amended by adding a subdivision to read:

Subd. 6. [PARENT'S OR OBLIGEE'S HEALTH PLAN.] When a parent or a person with an obligation of support has enrolled in a prepaid health care plan under section 518.171, subdivision 1, the commissioner of human services shall limit the recipient of medical assistance to the benefits payable under that prepaid health care plan to the extent that services available under medical assistance are also available under the prepaid health care plan.

Sec. 15. Minnesota Statutes 1986, section 256D.03, is amended by adding a subdivision to read:

Subd. 8. [PRIVATE INSURANCE POLICIES.] (a) Private accident and health care coverage for medical services is primary coverage and must be exhausted before general assistance medical care is paid. When a person who is otherwise eligible for general assistance medical care has private accident or health care coverage, including a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. Supplemental payment may be made by general assistance medical care, but the combined total amount paid must not exceed the amount payable under general assistance medical care in the absence of other coverage. General assistance medical care must not make supplemental payment for covered services rendered by a vendor who participates or contracts with any health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.

(b) When a parent or a person with an obligation of support has enrolled in a prepaid health care plan under section 518.171, subdivision 1, the commissioner of human services shall limit the recipient of general assistance medical care to the benefits payable under that prepaid health care plan to the extent that services available under general assistance medical care are also available under the prepaid health care plan.

(c) Upon furnishing general assistance medical care or general assistance to any person having private accident or health care coverage, or having a cause of action arising out of an occurrence that necessitated the payment of assistance, the state agency shall be subrogated, to the extent of the cost of medical care, subsistence, or other payments furnished, to any rights the person may have under the terms of the coverage or under the cause of action.

This right of subrogation includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

(d) To recover under this section, the attorney general or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action to enforce the subrogation rights established under this section.

(e) The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the costs related to an injury when the state agency has paid or become liable for the cost of care or payments related to the injury. Notice must be given as follows:

(i) Applicants for general assistance or general assistance medical care shall notify the state or local agency of any possible claims when they submit the application. Recipients of general assistance or general assistance medical care shall notify the state or local agency of any possible claims when those claims arise.

(ii) A person providing medical care services to a recipient of general assistance medical care shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(iii) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation claim before filing a claim, commencing an action, or negotiating a settlement.

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

(f) Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has a subrogation right, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of general assistance or general assistance medical care paid to or on behalf of the person as a result of the injury must be deducted next and paid to the state agency. The rest must be paid to the public assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and collection costs.

Sec. 16. 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 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.~~

Sec. 17. Minnesota Statutes 1986, section 473.405, subdivision 13, is amended to read:

Subd. 13. [INSURANCE.] The commission may provide for self-insurance or otherwise provide for insurance relating to any of its property, rights, or revenue, workers' compensation, public liability, or any other risk or hazard arising from its activities, and may provide for insuring any of its officers or employees against the risk or hazard at the expense of the commission. If the commission provides for self-insurance, against its liability and the liability of its officers, employees, and agents for damages resulting from its torts and those of its officers, employees, and agents, including its obligation to pay basic economic loss benefits under sections 65B.41 to 65B.71, it shall be entitled to deduct from damages and basic

economic loss benefits all money paid or payable to the persons seeking damages and benefits from all governmental entities providing medical, hospital, and disability benefits *except for payments made under the aid to families with dependent children or medical assistance programs.*

Sec. 18. Minnesota Statutes 1986, section 514.69, is amended to read:

514.69 [FILE WITH COURT ADMINISTRATOR OF THE DISTRICT COURT.]

Subdivision 1. [PERFECTION OF HOSPITAL'S LIEN.] In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the court administrator of the district court of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by certified mail, to each person, firm, or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

Subd. 2. [PERFECTION OF PUBLIC ASSISTANCE LIEN.] In the case of public assistance liens filed under section 256.015 or 256B.042, the state agency may perfect its lien by filing its verified statement in the office of the court administrator in the county of financial responsibility for the public assistance paid. The court administrator shall record the lien in the same manner as provided in section 514.70."

Delete the title and insert:

"A bill for an act relating to human services; creating client advisory committees; defining the term "vendor of medical care" for medical assistance; authorizing the commissioner to examine records; providing for a study for a Minnesota institute of health; creating a commission on health plan regulatory reform; regulating public assistance liens; appropriating money; amending Minnesota Statutes 1986, sections 62A.046; 176.191, subdivision 4; 214.06, subdivision 1; 256B.02, subdivision 7, and by adding a subdivision; 256B.042, subdivisions 2, 3, and by adding subdivisions; 256B.064, subdivision 1c; 256B.27, subdivisions 3 and 4; 256B.37, subdivisions 1, 2, and by adding subdivisions; 256D.03, by adding a subdivision; 259.40, subdivisions 1, 2, and 3; 268.121; 473.405, subdivision 13; 514.69; proposing coding for new law in Minnesota Statutes, chapters 252 and 256."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Lee Greenfield, Peter McLaughlin, Wayne Simoneau

Senate Conferees: (Signed) Linda Berglin, Marilyn M. Lantry, Howard

A. Knutson

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1112 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1112 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1283, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1283 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1283

A bill for an act relating to health; prohibiting smoking in day care centers and health care facilities; amending Minnesota Statutes 1986, sections 144.412; and 144.414.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1283, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1283 be further amended as follows:

Page 2, line 10, before "*Smoking*" insert "(a)"

Page 2, line 14, before the period insert "*, except as allowed in this subdivision*" and after the period insert

"(b)"

Page 2, delete lines 21 to 24 and insert:

"(c) Smoking by a patient may be allowed if authorized in writing by the patient's attending physician.

Sec. 3. Minnesota Statutes 1986, section 325F77, is amended by adding a subdivision to read:

Subd. 3. [LEGISLATIVE INTENT.] Because the state prohibits both the use of tobacco products by minors and the furnishing of tobacco products to minors, and because the enforcement of an age-related restriction on the promotional distribution of tobacco products is impractical and ineffective, it is the intent of the legislature to control the distribution of these products and discourage illegal activity by prohibiting all promotional distribution, except as allowed in this section.

Sec. 4. Minnesota Statutes 1986, section 325F77, is amended by adding a subdivision to read:

Subd. 4. [PROHIBITION.] No person shall distribute smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco products suitable for smoking, except that single serving samples of tobacco may be distributed in tobacco stores.

Sec. 5. [REPEALER.]

Minnesota Statutes 1986, section 325F77, subdivisions 1 and 2, are repealed."

Page 2, line 25, delete "3" and insert "6"

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "prohibiting promotional distribution of tobacco products;"

Page 1, line 4, delete "and" and after "144.414" insert "; and 325F77, by adding subdivisions; repealing Minnesota Statutes 1986, section 325F77, subdivisions 1 and 2"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wes Skoglund, Stephen E. Dille, Darby Nelson

Senate Conferees: (Signed) John J. Marty, Dennis R. Frederickson, Gregory L. Dahl

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1283 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1283 was read the third time.

Mr. Frederick moved that the recommendations and Conference Com-

mittee Report on H.F. No. 1283 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion did not prevail.

CALL OF THE SENATE

Mr. Marty imposed a call of the Senate for the balance of the proceedings on H.F. No. 1283. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 1283 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 35 and nays 25, as follows:

Those who voted in the affirmative were:

Beckman	Davis	Kroening	Morse	Pogemiller
Berglin	Frank	Laidig	Novak	Ramstad
Bernhagen	Frederickson, D.J.	Luther	Olson	Reichgott
Brandl	Frederickson, D.R.	Marty	Pehler	Spear
Chmielewski	Freeman	Merriam	Peterson, D.C.	Waldorf
Cohen	Hughes	Moe, D.M.	Peterson, R.W.	Wegscheid
Dahl	Knaak	Moe, R.D.	Piper	Willet

Those who voted in the negative were:

Adkins	Bertram	Gustafson	Mehrkens	Schmitz
Anderson	Brataas	Johnson, D.E.	Metzen	Solon
Belanger	DeCramer	Knutson	Purfeerst	Storm
Benson	Diessner	Larson	Rennecke	Stumpf
Berg	Frederick	Lessard	Samuelson	Vickerman

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1542, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1542 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1542

A bill for an act relating to unemployment compensation; making various technical and housekeeping changes; defining "wages"; regulating benefits and contributions; providing for the administration of the unemployment compensation law; providing penalties; amending Minnesota Statutes 1986, sections 268.04, subdivisions 9, 12, 24, 25, 26, 29, and by adding subdivisions; 268.06, subdivisions 2, 3a, 5, 6, 8, 19, 20, 22, and 24; 268.07,

subdivision 3; 268.08, subdivisions 3, 3a, and by adding a subdivision; 268.09, subdivisions 1 and 3; 268.12, subdivision 8; 268.121; 268.15, subdivision 3; 268.16, subdivision 2, and by adding subdivisions; 268.161, subdivisions 1, 8, 9, and by adding a subdivision; 268.18, subdivisions 1, 2, 3, 4, 5, and by adding a subdivision; 268.65, subdivision 5; 270A.09, by adding a subdivision; and 508.25; proposing coding for new law in Minnesota Statutes, chapter 268; and repealing Minnesota Statutes 1986, section 268.24.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1542, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Richard "Rich" O'Connor, Joseph R. Begich, John Sarna

Senate Conferees: (Signed) Florian Chmielewski, Betty A. Adkins

Mr. Chmielewski moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1542 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1542 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Adkins	Davis	Kroening	Novak	Schmitz
Beckman	DeCramer	Larson	Olson	Spear
Berg	Diessner	Lessard	Peterson, D.C.	Stumpf
Berglin	Frank	Luther	Peterson, R.W.	Vickerman
Bertram	Frederickson, D.J.	Marty	Piper	Waldorf
Brandl	Frederickson, D.R.	Merriam	Pogemiller	Wegscheid
Chmielewski	Freeman	Metzen	Reichgott	Willet
Cohen	Hughes	Moe, R.D.	Renneke	
Dahl	Jude	Morse	Samuelson	

Those who voted in the negative were:

Anderson	Bernhagen	Gustafson	Knutson	Ramstad
Belanger	Brataas	Johnson, D.E.	Laidig	Storm
Benson	Frederick	Knaak	Mehrkens	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 69: A bill for an act relating to natural resources; establishing a commercial fish raising program; amending Minnesota Statutes 1986, sections 97A.475, by adding a subdivision; 97C.211, subdivisions 1 and 2; and by adding a subdivision; and 97C.391; proposing coding for new law in Minnesota Statutes, chapters 17 and 97C.

Senate File No. 69 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

CONCURRENCE AND REPASSAGE

Mr. Berg moved that the Senate concur in the amendments by the House to S.F. No. 69 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 69 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 169, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 169 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1987

CONFERENCE COMMITTEE REPORT ON H.F. NO. 169

A bill for an act relating to lawful gambling; including payment of taxes as a lawful purpose; increasing the percentage of profits that may be used for necessary expenses; changing requirements for distributors; authorizing the board to adopt rules restricting the amount of rent charged by organizations; prohibiting local units of government from requiring organizations to make certain expenditures; making various technical changes; regulating allowable expenses; amending Minnesota Statutes 1986, sections 349.12, subdivisions 11, 12, 13, and 15; 349.14; 349.15; 349.151, subdivision 3; 349.161, subdivisions 3, 5, and 7; 349.162, by adding subdivisions; 349.18, subdivisions 1 and 3; 349.19, subdivision 3; 349.21; and 349.213, subdivision 1.

May 18, 1987

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 169, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 169 be further 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.] (a) 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 for purses for races conducted by the licensee. The commission may by rule provide for the administration and enforcement of this subdivision.

(b) *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, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount 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 349.12, subdivision 11, is amended to read:

Subd. 11. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by

increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the improving, expanding, maintaining or repairing real property owned or leased by an organization; *or (e) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling.*

"Lawful purpose" does not include the erection or acquisition of any real property, unless the board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this clause.

Sec. 3. Minnesota Statutes 1986, section 349.12, subdivision 12, is amended to read:

Subd. 12. "Organization" means any fraternal, religious, veterans, or other nonprofit organization *which has been in existence for at least three years and has at least 15 active members.*

Sec. 4. Minnesota Statutes 1986, section 349.12, subdivision 13, is amended to read:

Subd. 13. "Profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes *and taxes imposed by this chapter.*

Sec. 5. Minnesota Statutes 1986, section 349.12, subdivision 15, is amended to read:

Subd. 15. "Gambling equipment" means: bingo cards and devices for selecting bingo numbers, pull-tabs, ~~ticket jars~~ *jar tickets*, paddlewheels, and tipboards.

Sec. 6. Minnesota Statutes 1986, section 349.14, is amended to read:

349.14 [ORGANIZATION MAY CONDUCT LAWFUL GAMBLING; LICENSE.]

An organization may conduct lawful gambling if it ~~has been in existence for at least three years, has at least 15 active members,~~ has a license to conduct lawful gambling from the board and complies with this chapter.

Sec. 7. Minnesota Statutes 1986, section 349.15, is amended to read:

349.15 [USE OF PROFITS.]

Profits from lawful gambling may be expended only for lawful purposes or expenses as authorized at a regular meeting of the conducting organization. Provided that no more than ~~50~~ 55 percent of profits from bingo, and no more than 40 45 percent for other forms of lawful gambling, may be expended for necessary expenses related to lawful gambling.

The board shall provide by rule for the administration of this section, including specifying allowable expenses. *The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule.* The

rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

Sec. 8. Minnesota Statutes 1986, section 349.151, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] The compensation of board members is ~~\$35 per day spent on commission activities, when authorized by the board, plus expenses in the same manner and amount as provided in the commissioner's plan adopted according to section 43A.18, subdivision 2 as provided in section 15.0575, subdivision 3.~~

Sec. 9. Minnesota Statutes 1986, section 349.151, is amended by adding a subdivision to read:

Subd. 4a. [ADDITIONAL POWERS.] *Whenever it appears to the board that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:*

(a) The board has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days of the date of the hearing the board shall issue a further 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.

(b) The board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The court may not require the board to post a bond.

Sec. 10. Minnesota Statutes 1986, section 349.161, subdivision 3, is amended to read:

Subd. 3. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor a person, who:

(1) has been convicted of a felony in a state or federal court within the past five years or who has a felony charge pending;

(2) has ~~ever~~ been convicted in a state or federal court of a gambling-related offense *within ten years of the date of license application*; or

(3) is or has ~~ever~~ been engaged in an illegal business.

Sec. 11. Minnesota Statutes 1986, section 349.161, subdivision 5, is amended to read:

Subd. 5. [PROHIBITION.] *(a) No distributor, or employee eligible to make sales on behalf of a distributor, may also be a wholesale distributor of liquor or alcoholic beverages.*

(b) No distributor, or employee authorized to make sales on behalf of a distributor, may be involved directly in the operation of lawful gambling conducted by an organization.

Sec. 12. Minnesota Statutes 1986, section 349.161, subdivision 7, is amended to read:

Subd. 7. [CRIMINAL HISTORY.] The board may request the assistance of the bureau of criminal apprehension in investigating the background of an applicant for a ~~supplier's~~ distributor's license and may reimburse the bureau for the costs thereof. The board has access to all criminal history data compiled by the bureau on licensees and applicants.

Sec. 13. Minnesota Statutes 1986, section 349.162, is amended by adding a subdivision to read:

Subd. 4. [PROHIBITION.] *No person other than a licensed organization or a licensed distributor may possess registration stamps issued by the board.*

Sec. 14. Minnesota Statutes 1986, section 349.162, is amended by adding a subdivision to read:

Subd. 5. [SALES FROM FACILITIES.] *All gambling equipment purchased by a licensed distributor for resale in Minnesota must prior to its resale be unloaded into a facility located in Minnesota which the distributor owns or leases.*

Sec. 15. Minnesota Statutes 1986, section 349.17, subdivision 1, is amended to read:

Subdivision 1. [BINGO OCCASIONS.] ~~Not more than 104 bingo occasions each year or two six bingo occasions each week may be conducted by an organization; except as provided in this subdivision. A bingo occasion may not continue for more than four consecutive hours.~~

~~The board may permit an organization to conduct more than two bingo occasions in a week and more than 104 bingo occasions in a year if the board determines that the additional occasions are consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:~~

~~(1) the organization applies for the additional occasions, stating the number of additional occasions applied for;~~

~~(2) the board notifies the governing body of the county or home rule or statutory city in which the applicant is located; and~~

~~(3) the governing body fails to adopt a resolution disapproving the additional occasions within 30 days of the notification.~~

Sec. 16. Minnesota Statutes 1986, section 349.17, subdivision 2, is amended to read:

Subd. 2. [BINGO ON LEASED PREMISES.] A person or corporation, other than an organization, which leases any premises that it owns to two or more organizations for purposes including the conduct of bingo occasions, may not allow more than ~~four~~ 18 bingo occasions to be conducted

on the premises in any week. The board may waive this restriction and permit a person or corporation to allow a specified member of bingo occasions on the premises in excess of four per week if it finds that the waiver is consistent with the purpose of sections 349.11 to 349.22 and if the following procedures are followed:

(1) the person or corporation applies for the waiver, stating the number of additional occasions sought per week;

(2) the board notifies the governing body of the county or home rule or statutory city in which the premises are located; and

(3) the governing body fails to adopt a resolution disapproving the waiver within 30 days of the notification.

Sec. 17. Minnesota Statutes 1986, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of at least one year and must be in writing. Copies of all leases must be made available to employees of the board on request. A lease may not provide for rental payments based on a percentage of receipts or profits from lawful gambling. *The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling.*

Sec. 18. Minnesota Statutes 1986, section 349.18, subdivision 3, is amended to read:

Subd. 3. [PROCEEDS FROM RENTAL.] A licensed organization which leases *Rental proceeds from premises it owns owned by a licensed organization and leased or subleased to one or more other licensed organizations for the purposes including the conduct of conducting lawful gambling may expend the rental proceeds, less reasonable deductions for maintenance, furnishings, and utilities, only for lawful purposes. The rental proceeds must be recorded and reported as proceeds from gambling under section 349.19 shall not be reported as gambling proceeds under this chapter.*

Sec. 19. Minnesota Statutes 1986, section 349.19, subdivision 3, is amended to read:

Subd. 3. [EXPENDITURES.] All expenditures of bingo profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment.

Sec. 20. Minnesota Statutes 1986, section 349.21, is amended to read:
349.21 [COMPENSATION.]

Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that nonmanagement assistants who are not active members or spouses may be hired to assist in the conduct of lawful gambling in nonmanagement positions if approved by a majority of the organization's members.

The amounts of compensation which may be paid under this section ~~must~~ *may* be provided for in a schedule of compensation adopted by the board by rule. In adopting ~~the~~ *a* schedule the board must consider the nature of the participation and the types of lawful gambling participated in.

A licensed organization may pay a percentage of the gross receipts from raffle ticket sales to a nonprofit organization which sells tickets for the licensed organization.

Sec. 21. Minnesota Statutes 1986, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. *The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or section 349.212.*

Sec. 22. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment. Sections 2 to 13 and 15 to 21 are effective June 1, 1987. Section 14 is effective January 1, 1988."

Delete the title and insert:

"A bill for an act relating to lawful gambling; providing for representation of horsepersons contracting with a licensee; including payment of taxes as a lawful purpose; increasing the percentage of profits that may be used for necessary expenses; changing requirements for distributors; allowing the board to summarily suspend licenses under certain conditions; providing for a limit on the number of bingo occasions which an organization may conduct in a week, and the number of occasions which may occur on any site in a week; authorizing the board to adopt rules restricting the amount of rent charged by organizations; prohibiting local units of government from requiring organizations to make certain expenditures; making various technical changes; amending Minnesota Statutes 1986, sections 240.13, subdivision 5; 349.12, subdivisions 11, 12, 13, and 15; 349.14; 349.15; 349.151, subdivision 3, and by adding a subdivision; 349.161, subdivisions 3, 5, and 7; 349.162, by adding a subdivision; 349.17, subdivisions 1 and 2; 349.18, subdivisions 1 and 3; 349.19, subdivision 3; 349.21; and 349.213, subdivision 1."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Leo J. Reding, Howard G. Miller, Gordon O. Voss

Senate Conferees: (Signed) Bob Lessard, Robert J. Schmitz, Mel Frederick

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on H.F. No. 169 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

So the recommendations and Conference Committee Report were adopted.

H.F. No. 169 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 6, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knutson	Morse	Schmitz
Anderson	DeCramer	Kroening	Olson	Storm
Beckman	Diessner	Laidig	Pehler	Stumpf
Belanger	Frederick	Larson	Peterson, D.C.	Vickerman
Benson	Frederickson, D.J.	Lessard	Piper	Wegscheid
Bernhagen	Frederickson, D.R.	Marty	Pogemiller	Willet
Bertram	Hughes	Mehrkens	Ramstad	
Brataas	Johnson, D.E.	Merriam	Reichgott	
Chmielewski	Jude	Metzen	Renneke	
Cohen	Knaak	Moe, R.D.	Samuelson	

Those who voted in the negative were:

Berglin	Frank	Luther	Peterson, R.W.	Spear
Brandl				

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1057: A bill for an act relating to education; requiring the University of Minnesota to study alternative methods for animal testing.

Senate File No. 1057 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

CONCURRENCE AND REPASSAGE

Ms. Piper moved that the Senate concur in the amendments by the House to S.F. No. 1057 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1057 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Hughes	Mehrkens	Reichgott
Anderson	Cohen	Johnson, D.E.	Metzen	Renneke
Beckman	Dahl	Jude	Moe, R.D.	Samuelson
Belanger	Davis	Knaak	Morse	Schmitz
Benson	DeCramer	Kroening	Olson	Spear
Berg	Diessner	Laidig	Pehler	Stumpf
Berglin	Frank	Larson	Peterson, D.C.	Vickerman
Bernhagen	Frederick	Lessard	Piper	Wegscheid
Bertram	Frederickson, D.J.	Luther	Pogemiller	Willet
Brandl	Frederickson, D.R.	Marty	Ramstad	

Mrs. Brataas, Messrs. Knutson, Merriam, and Peterson, R.W. voted in the negative.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 908, 946, 44, 131, 1479 and 1437.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 841, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 841: A bill for an act relating to natural resources; amending requirements for eligibility, applications, agreements, payments, and other terms and conditions of the conservation reserve program; changing requirements to drain privately owned inventoried wetlands and public waters; amending and changing requirements for the waterbank program; changing requirements for persons selling land under a waterbank agreement; establishing a native prairie bank program; providing for prairie management applications, agreements, payments, and other terms and conditions; appropriating funds; amending Minnesota Statutes 1986, sections 40.41; 40.42, subdivision 5, and by adding subdivisions; 40.43, subdivisions 2, 5, 6, and 7; 40.44, subdivision 2; 84.943, subdivisions 1, 3, and 5; 84.944, subdivision 1; 84.95, subdivision 2, and by adding a subdivision; 105.391, subdivision 3; 105.392, subdivisions 1, 2, 3, 4, 5, and 6; proposing coding for new law in Minnesota Statutes, chapter 84.

Senate File No. 841 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce that the House has adopted the recom-

mendation and report of the Conference Committee on Senate File No. 1203, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1203: A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; changing the membership of the world trade center board; establishing the world trade center institute; authorizing the board to contract for certain services and programs; appropriating money; amending Minnesota Statutes 1986, sections 17.03, by adding a subdivision; 17.101, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.031; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 44A; 116J; 236A; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.07; 116J.404; and 116J.405.

Senate File No. 1203 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 905.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1987

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

H.F. No. 713: A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, omitted, and obsolete references and text; eliminating certain redundant, conflicting, and superseded provisions; providing instructions to the revisor; amending Minnesota Statutes 1986, sections 1.135, subdivision 3; 8.31, subdivision 1; 13.43, subdivision 6; 14.02, subdivision 4; 15.61; 17.59, subdivision 5; 17A.04, subdivision 1; 28A.15, subdivision 4; 38.27, subdivision 3; 41A.05, subdivision 2; 48.13, subdivision 2; 48.26; 49.01, subdivision 3; 49.44; 60A.17, subdivision 12; 64B.18; 72A.41, subdivision 1; 79.38, subdivision 1; 84A.08; 97A.021, subdivision 2; 97A.065, subdivision 4; 97A.205; 97A.441, subdivision 5; 97A.445, subdivision 3; 97A.465, subdivision 4; 97A.501, subdivision 2;

97A.545, subdivision 4; 97B.315; 97B.921; 97B.925; 115A.07, subdivision 1; 115A.12, subdivision 1; 115A.14, subdivision 5; 115A.162; 116C.57, subdivision 3; 116E.03, subdivision 9; 116J.72; 120.17, subdivision 5a; 121.904, subdivisions 11a and 11b; 122.541, subdivision 2; 124.01, subdivision 1; 124.195, subdivisions 8 and 9; 124.2138, subdivisions 3 and 4; 124.32, subdivision 1c; 124.472; 126.39, subdivision 11; 136.44; 136A.04, subdivision 2; 136A.06; 136D.28, subdivision 2; 136D.89, subdivision 2; 147.09; 152.02, subdivision 12; 160.283, subdivision 1; 171.05, subdivision 3; 174.255, subdivisions 1 and 2; 174.29, subdivision 1; 176.83, subdivision 7; 177.24, subdivision 2; 179A.12, subdivision 1; 182.651, subdivision 18; 193.141, subdivision 2; 193.145, subdivision 2; 214.01, subdivision 3; 219.691; 219.692; 219.743; 219.755; 222.61; 241.31, subdivision 2; 243.24, subdivision 2; 246.51, subdivision 1; 246A.02; 246A.11, subdivision 1; 246A.12, subdivisions 1 and 7; 246A.13, subdivision 1; 250.05, subdivision 2; 256.12, subdivision 14; 256.462, subdivision 2; 256B.03, subdivision 2; 257.34, subdivision 1; 260.015, subdivision 3; 260.151, subdivision 1; 268.072, subdivision 6; 271.15; 273.13, subdivision 22; 275.125, subdivisions 6a, 8, and 11c; 278.06; 290.01, subdivision 20b; 295.34, subdivision 1; 296.14, subdivision 4; 297.03, subdivision 3; 297A.06; 297A.25, subdivision 10; 308.341; 317.03; 317.65, subdivision 6; 319A.03; 319A.05; 319A.12, subdivisions 1a and 2; 322A.70; 326.03, subdivision 2; 326.06; 327.18, subdivision 3; 327C.07, subdivision 3a; 349.2121, subdivision 3; 354.05, subdivision 2; 355.311, subdivision 1; 361.26, subdivision 2; 366.095, subdivision 1; 378.43, subdivision 1; 383A.404, subdivision 7; 383B.035, subdivision 1; 383B.237; 383C.76; 386.71; 393.13, subdivision 1; 412.381; 412.501; 447.42, subdivision 2; 453.53, subdivision 3; 458A.03, subdivision 8; 458C.17; 462.601; 462.605; 462A.04, subdivision 8; 462A.05, subdivision 18; 462A.20, subdivision 3; 462C.04, subdivision 2; 462C.12, subdivision 2; 471.467, subdivision 1; 471.74, subdivision 2; 471.993, subdivision 1; 471A.03, subdivision 2; 473.149, subdivision 4; 473.181, subdivision 3; 473.811, subdivisions 6, 7, 8, and 9; 473F.06; 473F.07, subdivision 1; 473F.09; 474A.09; 604.06; 609.53, subdivisions 1 and 1a; 609.687, subdivision 4; 611.14; 626A.05, subdivision 2; 645.02; amending Laws 1982, chapter 523, article 30, section 4, subdivision 1; and Laws 1986, chapter 399, article 1, section 17; repealing Minnesota Statutes 1986, sections 193.145, subdivision 3; and 325D.69, subdivision 1; repealing Laws 1986, chapter 463, section 3; and Laws 1986, First Special Session chapter 3, article 1, section 84.

Mr. Marty moved to amend H.F. No. 713 as follows:

Page 7, line 35, after "and" insert "*the taking*" and reinstate the stricken "is"

Page 7, line 36, delete "*are*"

Page 8, line 6, after "and" insert "*the taking*" and reinstate the stricken "is" and delete "*are*"

Page 107, after line 12, insert:

"ARTICLE 3

MISCELLANEOUS CORRECTIONS

Section 1. [CORRECTION.]

Subdivision 1. [OMITTED TEXT.] Minnesota Statutes 1986, section 32.394, subdivision 8, as amended by 1987 H.F. No. 303, article 11, section 11, is amended to read:

Subd. 8. [EXPLORATORY PRELIMINARY INSPECTIONS GRADE A INSPECTION FEES.] Any A processor or marketing organization of milk, milk products, sheep milk, or goat milk who wishes to learn about and acquaint producers with market Grade A requirements may make a request to the commissioner for exploratory inspections and meetings for this purpose. Upon receipt of such request, the commissioner at a convenient time shall cause such exploratory inspections to be made and such meetings to be held as are necessary to acquaint said processor and producers with such requirements. If, after such exploratory inspections are made and such meetings are held and when in the processor's opinion the processor's field service has brought producers into compliance with said requirements, said processor wishes further inspection service, the processor shall so milk or use the Grade A label must apply on a form furnished by for Grade A inspection service from the commissioner, stating the number of farms to be inspected. Such applications shall be accompanied by a fee payable to the state treasurer in an amount of not less than \$50 and not more than \$300, which fee is to be charged for preliminary inspection prior to continuous inspection, and assessments over \$50 are to be determined by charging \$1 for each farm over 50, but shall not exceed \$300 if more than 300 farms are inspected; provided that, if the plant and farms are accepted for continuous inspection, this charge shall be made only once. If the preliminary inspection discloses that the processor is eligible for use of the Grade A label on products and before the processor so labels said products, the processor shall apply for continuous inspection on a form furnished by the commissioner and shall hold a Grade A permit. Such application shall be accompanied by a fee of not less than \$100 nor more than \$500 per plant and of not less than \$15 nor more than \$50 per farm, said fee to be paid annually. A pasteurization plant requesting Grade A inspection service must hold a Grade A permit and pay an annual inspection fee of no more than \$500. For Grade A farm inspection service, the fee must be no more than \$66 per farm, paid annually by the processor or by the marketing organization on behalf of its patrons. For a farm requiring a reinspection in addition to the required biannual inspections, an additional fee of no more than \$33 per reinspection must be paid by the processor or by the marketing organization on behalf of its patrons. If the commissioner deems it necessary to more nearly meet the cost of the service, the commissioner may annually adjust the assessments within the limits set herein in this subdivision. *No fee increase may be implemented until after the commissioner has held three or more public hearings.*

Subd. 2. [OMITTED TEXT.] Minnesota Statutes 1986, section 32.394, subdivision 8b, as amended by 1987 H.F. No. 303, article 11, section 12, is amended to read:

Subd. 8b. [MANUFACTURING GRADE FARM CERTIFICATION.] A processor or marketing organization of milk, milk products, sheep milk, or goat milk, other than Grade A, who wishes to obtain market other than Grade A milk must apply for a manufacturing grade farm certification, shall make a request to inspection from the commissioner for a farm certification inspection. A processor who requests and receives a farm certification inspection shall pay a fee to the commissioner for the certification of the milk supply. A manufacturing plant that pasteurizes milk or milk byproducts must pay an annual fee based on the number of pasteurization units. This fee must not exceed \$140 per unit. The fee for farm certification inspection must not be more than \$33 per farm to be paid annually by the processor or by the marketing organization on behalf of its patrons. For a

farm requiring more than the one annual inspection required for certification, an additional fee of no more than \$33 must be paid by the processor or by the marketing organization on behalf of its patrons. The fee shall must be set by the commissioner in an amount necessary to meet the cost of the service for farm certification, which fee shall but must not exceed 50 percent of the fees charged for Grade A permits the limits in this subdivision. *No fee increase may be implemented until after the commissioner has held three or more public hearings.*

Subd. 3. [EFFECTIVE DATE.]

Subdivisions 1 and 2 are effective the day after final enactment.

Sec. 2. Minnesota Statutes 1986, section 161.1419, subdivision 4, is amended to read:

~~Subd. 4. Members of the commission shall serve without Compensation but shall be allowed and paid their actual traveling and other expenses necessarily incurred in the performance of their duties of legislative members of the commission is as provided in section 3.101. Compensation of the remaining members is as provided in section 15.0575.~~ The commission may purchase supplies, employ part-time or full-time employees, and do all things reasonably necessary and convenient in carrying out the purposes of this section. ~~Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.~~

Sec. 3. Minnesota Statutes 1986, section 176.442, as amended by 1987 H.F. No. 913, section 94, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section 176.102, 176.103, ~~36, 73~~ 25, 66, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 4. Minnesota Statutes 1986, section 176.83, subdivision 7, as amended by 1987 S.F. No. 913, is amended to read:

Subd. 7. [MISCELLANEOUS RULES.] Rules necessary for implementing and administering the provisions of sections 176.131, 176.132, 176.134, sections ~~52~~ 65 and ~~53~~ 66; sections 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111. Under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule.

Sec. 5. Minnesota Statutes 1986, section 256D.05, subdivision 1, as amended by 1987 H.F. No. 243, section 31, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the

commissioner shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a permanent or temporary illness, injury, or incapacity which is medically certified and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(6) a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;

(7) a person not described in clause (1) or (3) who is diagnosed by a licensed physician or licensed consulting psychologist as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(8) a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, or who has been terminated from either program and has an appeal from that termination pending;

(9) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(10) a person completing a secondary education program;

(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause;

(12) a person who has substantial barriers to employment, including but

not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;

(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner;

(14) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be ~~functionally illiterate or~~ learning disabled;

(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 32. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause, and (2) at the time the person is referred to literacy training; or

(16) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency.

(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:

(1) a person who has borderline mental retardation; and

(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a), because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.

In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.

Sec. 6. [HUMAN SERVICES.]

Minnesota Statutes 1986, section 256D.37, subdivision 1, as amended by 1987 H.F. No. 243, section 108, is amended to read:

Sec. 108. Minnesota Statutes 1986, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. (a) For all individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.

(b) When a recipient is an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the clothing and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed \$800. ~~Minnesota supplemental aid may not be used to pay a negotiated rate for adults with mental illness in a facility~~ *The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter.* The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or parts 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the consumer price

index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. In computing the amount of supplemental aid under this section, the local agency shall deduct from the gross amount of the individual's determined needs all income, subject to the criteria for income disregards in effect December 31, 1973, for the appropriate categorical aid program, except that the earned income disregard for disabled persons who are not residents of long-term care facilities must be the same as the earned income disregard available to disabled persons in the supplemental security income program and all actual work expenses must be deducted when determining the amount of income for the individual. From the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Sec. 7. [EFFECTIVE DATE.]

The amendments to Minnesota Statutes 1986, section 256D.03, subdivision 4, clause (a), by 1987 H.F. No. 243, article 2, section 105, take effect July 1, 1988.

Sec. 8. [EFFECTIVE DATE.]

1987 H.F. 243, article 2, section 165, is amended to read:

Sec. 165. [EFFECTIVE DATE.]

Sections 9 to 12, 61, 62, 81, 88, 90 to 94, are effective the day following final enactment. Sections 30, 31, and 42 43, are effective July 1, 1988.

Sec. 9. [CORRECTION.]

Minnesota Statutes 1986, section 270.075, subdivision 1, as amended by H.F. No. 529, article 14, section 10, 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, to generate revenues of \$7,600,000 \$7,500,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$8,400,000 \$7,900,000 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 airflight property.

Sec. 10. Minnesota Statutes 1986, section 273.11, subdivision 8, as amended by 1987 H.F. No. 529, article 5, section 1, is amended to read:

Subd. 8. [LIMITED EQUITY COOPERATIVE APARTMENTS.] For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter 308, which has as its primary purpose the provision of housing and related services to its members; whose income must not exceed 90 percent of the median St. Paul-Minneapolis metropolitan area income as determined by the United States Department of Housing and Urban Development at the time they purchase their membership; and which meets one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20

percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development. It must also meet the following requirements:

(a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:

(1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;

(2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;

(3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or fraction of a year the membership or share was owned; plus

(4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned by a limited equity cooperative.

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

Sec. 11. [CORRECTION.] Subdivision 1. [CARRYOVER.] Minnesota Statutes 1986, section 290.06, subdivision 21, as added by H. F. No. 529, article 1, section 34, is amended to read:

Subd. 21. [ALTERNATIVE MINIMUM TAX.] (a) A corporation is allowed a credit for alternative minimum tax previously paid for any taxable year in which the corporation has no tax liability under section 290.092, and has an alternative minimum tax credit carryover from a previous year. The credit shall be equal to the lesser of (1) the excess of the tax under section 290.06 for the taxable year over the amount computed under section 290.092, subdivision 1, clause (a), for the taxable year, or (2) the alternative minimum tax credit carryover to the taxable year.

(b) The tax imposed under section 290.092 for any taxable year is a credit for alternative minimum tax previously paid which is a carryover to each of the 15 *five* taxable years succeeding the taxable year. The entire amount of the alternative minimum tax credit must be carried to the earliest of the taxable years to which such amount may be carried. The portion of the alternative minimum tax credit which is carried to each of the other taxable years to which the credit may be carried is the excess, if any, of the credit over the amount allowable under paragraph (a) for each of the taxable years to which the credit may be carried. In each taxable year in which a credit is allowable under paragraph (a), the credit for alternative minimum tax previously paid must be used beginning with the earliest taxable year from which the credit may be carried.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective for taxable year beginning after December 31, 1986.*

Sec. 12. [INCORRECT DATES.]

Minnesota Statutes 1986, section 295.34, subdivision 1, as amended by 1987 H.F. No. 529, article 11, section 3, is amended to read:

Subdivision 1. Except as provided in subdivision 2 every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, including long distance access charges, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange

business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, 1988, 4 percent,

for calendar year 1989, 3 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of four percent,

for calendar year 1990, 1.5 percent,

for calendar year 1991, 1 percent, and

for calendar years beginning after December 31, ~~1992~~ 1991, exempt; and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, 1988, 7 percent,

for calendar year 1989, 5.5 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of seven percent,

for calendar year 1990, 3 percent,

for calendar year 1991, 2.5 percent, and

for calendar years beginning after December 31, ~~1992~~ 1991, exempt.

A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating outside of Minnesota, except that the gross earnings tax is imposed on all long distance access charges allocated to interstate service received in payment from a telephone company before December 31, 1989.

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in 1989, payable in 1990, and sales and use taxes imposed as a result of chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid. For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

Sec. 13. Subdivision 1. [CORRECTION.] Minnesota Statutes 1986, section 302A.727, subdivision 1, as amended by Laws 1987, chapter 104, section 40, is amended to read:

Subdivision 1. [WHEN PERMITTED; HOW GIVEN.] When a notice of intent to dissolve has been filed with the secretary of state, the corporation may give notice of the filing to each creditor of and claimant against the corporation known or unknown, present or future, and contingent ~~creditor~~ ~~and~~ or non-contingent. If notice to creditors and claimants is given, it must be given by publishing the notice once each week for four successive weeks in a legal newspaper in the county or counties where the registered office and the principal executive office of the corporation are located and by giving written notice to known creditors and claimants pursuant to section 302A.011, subdivision 17.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective on the same date as Laws 1987, chapter 104, section 40.*

Sec. 14. [REPEAL OF OBSOLETE TRANSITION.]

Minnesota Statutes 1986, section 326.2421, subdivision 7, is repealed.

Sec. 15. [EFFECTIVE DATE.]

Laws 1987, chapter 58, takes effect July 1, 1987.

Sec. 16. [CORRECTION.] Subdivision 1. [APPROPRIATION TOTALS CORRECTION.] 1987 S.F. No. 1516, section 1, is amended to read:

Section 1. [TRANSPORTATION AND OTHER AGENCIES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1987," "1988," and "1989," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1987, June 30, 1988, or June 30, 1989, respectively.

SUMMARY BY FUND

	1987	1988	1989	TOTAL
General	\$1,089,200	\$89,791,000 \$89,787,200	\$89,138,200	\$ 180,018,400 180,014,600
Special Revenue		4,310,400	4,660,400	8,970,800
Airports		10,910,800	11,707,000	22,617,800
M.S.A.S.		58,750,000	59,250,000	118,000,000
C.S.A.H.		183,550,000	184,915,000	368,465,000
Tr. Hwy.		648,724,900	646,769,000	1,295,493,900
Hwy. User		9,690,500	9,770,700	19,461,200
Transit Assistance		7,100,000	7,425,000	14,525,000
Motor Vehicle Transfer		868,800	868,800	1,737,600
Transfers to Other Direct		(1,600,400)	(1,638,800)	(3,239,200)
TOTAL	\$1,089,200	\$1,012,096,000 \$1,012,092,200	\$1,012,865,300	\$2,026,050,500 \$2,026,046,700

APPROPRIATIONS

Available for the Year
Ending June 30

1988 1989

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective July 1, 1987.*

Sec. 17. [CORRECTION.] Subdivision 1. [APPROPRIATION TOTALS.] 1987 S.F. No. 1516, section 10, subdivision 1, is amended to read:

Subdivision 1. Total Appropriation	9,833,600 9,829,800	9,571,000
---------------------------------------	-----------------------------------	-----------

General - 236

Special Revenue - 3

Summary by Fund

General	\$9,572,400	\$9,309,700
	9,568,600	

For 1987 - \$189,200

Special Revenue	\$ 261,200	\$ 261,300
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The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective July 1, 1987.*

Sec. 18. 1987 S.F. No. 1, article 1, section 10, subdivision 6, is amended to read:

Subd. 6. [REVOLVING FUND ADMINISTRATION.] (a) The board shall establish a minimum interest rate for loans to ensure that necessary management costs are covered.

(b) Loan repayment amounts equal to one-half of the principal and interest must be deposited in the rural rehabilitation revolving fund for challenge grants to the region from which the money was originally designated. The remaining amount of the loan repayment may be deposited in the regional revolving loan fund for further distribution by the regional organization, consistent with the loan criteria specified in subdivisions 4 and 5.

(c) The first \$1,000,000 of revolving loans for each region must be matched by nonstate sources. The matching requirement does not apply to loans made under subdivision 6, clause (b).

(d) ~~The first \$1,000,000 of revolving loans for each region must be matched by nonstate sources. The matching requirement does not apply to loans made under subdivision 6, clause (b).~~

(e) Administrative expenses of each organization may be paid out of the interest earned on loans.

Sec. 19. 1987 S.F. No. 1, article 1, section 14, is amended to read:

Sec. 14. [APPROPRIATION.]

\$600,000 is appropriated from the economic development fund to the commissioner of energy and economic development to administer programs under the rural development board. \$300,000 is for fiscal year 1988 and \$300,000 is for fiscal year 1989.

\$200,000 is ~~transferred~~ *appropriated* from the economic development fund to the commissioner of energy and economic development to provide grants to the regional organizations selected under section 10, subdivision 3, for technical assistance to businesses in each region. Technical assistance includes providing information to businesses regarding federal, state, and local government economic development programs.

\$1,000,000 is ~~transferred~~ *appropriated* from the general fund for transfer to the rural rehabilitation revolving fund, to be used for the challenge grant program.

Sec. 20. 1987 S.F. No. 1, article 2, section 11, is amended to read:

Sec. 11. [1160.11] [RESEARCH GRANTS TO EDUCATION UNITS.]

~~Subdivision 1. [GRANTS GENERALLY.]~~ The board may make matching grants to public and private post-secondary education institutions or units within those institutions, including the natural resource research institute, for applied research and development. Grants are to be made for projects which will likely result in assisting economic and employment development in greater Minnesota. The corporation board shall not give final approval to a research grant until it has received an evaluation and recommendation from the research advisory board established in section 10.

Sec. 21. 1987 S.F. No. 1, article 2, section 18, is amended to read:

Sec. 18. [NATURAL RESOURCES RESEARCH INSTITUTE.]

The Greater Minnesota Corporation board and the University of Minnesota board of regents may examine the feasibility of entering into a formal agreement for joint administration or transfer of the natural resources research institute from the University to the corporation. The corporation ~~and board of regents~~ shall report to the governor and ~~legislative legislature~~ by January 15, 1988. The report must include recommendations for the structure for administrating the institution, the potential use of university staff and facilities, funding sources and whether the institute should be transferred to the Greater Minnesota Corporation. The corporation may not establish a regional institute whose research focus is comparable to the present research undertaken at the natural resources research institute.

Sec. 22. 1987 S.F. No. 1, article 6, section 9, is amended to read:

Sec. 9. [HAZARDOUS BUILDING PENALTY.]

A city may assess a penalty equal to one percent of the assessed value of a building located in a targeted neighborhood defined in section 4 that the city determined to be hazardous as defined in section 463.15, subdivision 3. The city shall send a written notice to the address to which the property tax statement is sent at least 90 days before it may assess the penalty. If the owner of the building has not paid the penalty and fixed the property within 30 90 days after receiving notice of the penalty, the penalty is considered delinquent and is increased by 25 percent each 60 days the penalty is not paid and the property remains hazardous. For the purposes of this section, a penalty that is delinquent is considered a delinquent property tax and subject to Minnesota Statutes, chapters 279, 280, and 281, in the same manner as delinquent property taxes.

Sec. 23. 1987 S.F. No. 1, article 9, section 15, subdivision 2, is amended to read:

Sec. 15. Minnesota Statutes 1986, section 41A.05, subdivision 2, is amended to read:

Subd. 2. [ISSUANCE OF BONDS.] (a) The board by resolution may exercise the powers of a rural development authority under sections 362A.01 to 362A.05 and the powers of a municipality under chapter 474 for the purposes of financing ~~a project~~ *one or more projects*, including the issuance of bonds and the application of the bond proceeds *and investment income* pursuant to a lease, loan, loan guaranty, loan participation, or other agreement. The bonds must be issued, sold, and secured on the terms and

conditions and in the manner determined by resolution of the board. Section 16A.80 does not apply to the bonds. Notwithstanding subdivision 1, a reserve established for the bonds provided by the borrower, including out of bond proceeds, may be deposited and held in a separate account in the Minnesota agricultural and economic development fund and applied to the last installments of principal or interest on the bonds, subject to the reserves being withdrawn for any purpose permitted by subdivision 1. The board may by resolution or indenture pledge any or all amounts in the fund, including any reserves and investment income on amounts in the fund, to secure the payment of principal and interest on any or all series of bonds, upon the terms and conditions as provided in the resolution or indenture. To the extent the board deems necessary or desirable to prevent interest on bonds from becoming subject to federal income taxation, (1) the amounts in the fund shall be invested in obligations or securities with restricted yields and (2) the investment income on the amounts are released from the pledge securing the bonds or loan guaranty and appropriately applied to prevent taxation.

(b) Bonds issued pursuant to this chapter are not general obligations of the state or the board. The full faith and credit and taxing powers of the state and the board are not and may not be pledged for the payment of the bonds. No person may compel the levy of a tax for the payment or compel the appropriation of money of the state or the board for the payment of the bonds, except as specifically provided in this chapter.

(c) For purposes of sections 474A.01 to 474A.21, the board is a local issuer and may apply for allocations of authority to issue private activity obligations and may enter into an agreement for the issuance of obligations by another issuer.

Sec. 24. 1987 S.F. No. 1, article 9, section 18, subdivision 2, is amended to read:

Subd. 2. [POWERS CONTINUED.] To carry out the purposes specified in sections 9 and 19 20, the board may exercise the powers granted to the Minnesota energy and economic development authority under Minnesota Statutes 1986, sections 116M.06, 116M.07, and 116M.08, notwithstanding the repeal of those sections.

Sec. 25. 1987 S.F. No. 1, article 9, section 22, is amended to read:

Sec. 22. [APPROPRIATION.]

\$400,000 is ~~transferred~~ *appropriated* from the economic development fund *for transfer* to the Minnesota agricultural and economic development fund. \$200,000 is for fiscal year 1988 and \$200,000 is for fiscal year 1989.

Sec. 26. 1987 S.F. No. 1, article 9, section 23, is amended to read:

Sec. 23. [EFFECTIVE DATE.]

Sections ~~18 and 19~~ and 20 are effective the day following final enactment.

Sec. 27. 1987 S.F. No. 1, article 10, section 8, is amended to read:

Sec. 8. Laws 1983, chapter 334, section 7, is amended to read:

Sec. 7. [REPEALER.]

Sections 116L.01; 116L.02; 116L.03, subdivisions 1, 2, 3, 4, 5, and 7; 116L.04; and 116L.05; ~~1, 2, 3, 4, 5, and 7~~ are repealed June 30, 1989.

Sec. 28. 1987 S.F. No. 1, article 10, section 9, is amended to read:

Sec. 9. [SUPPLEMENTAL EDUCATION GRANT PROGRAM FUNDING.]

\$500,000 is appropriated from the general fund to the higher education coordinating board for the dislocated rural worker grant program established in section 3 6, to be available until June 30, 1989.

\$1,000,000 is appropriated from the general fund to the higher education coordinating board for the Minnesota job skills partnership program. \$500,00 is for fiscal year 1988 and \$500,000 is for fiscal year 1989.

Sec. 29. [116J.966] [ECONOMIC DEVELOPMENT FUND.]

Notwithstanding the repeal of section 116M.06, subdivision 4, the economic development fund is continued.

Sec. 30. [BALANCE TRANSFERRED.]

The unobligated balance of the energy fund created in Minnesota Statutes, section 116M.105, must be canceled, transferred, and credited to the economic development fund.

Sec. 31. 1987 S.F. No. 170, section 4, subdivision 1, is amended to read:

Subdivision 1. [PRELIMINARY COUNTY FINDINGS AND DECLARATION.] There is created in each county in this state other than Hennepin and Ramsey and other than those counties in which a county housing authority has been created by special act, a public body, corporate and politic, to be known as the housing and redevelopment authority of that county, hereinafter referred to as "county authority." No county authority shall transact any business or exercise any powers until the governing body of the county, by resolution, finds that there is need for a county authority to function in the county. The governing body shall consider the need for a county authority to function (1) on the governing body's own motion or (2) upon the filing of a petition signed by 25 qualified voters of the county asserting that there is need for a county authority to function in the county and requesting that the governing body so declare. The governing body shall adopt a resolution declaring that there is need for a county authority to function in the county if it makes the findings required in section 3, subdivision 1.

Sec. 32. [CORRECTION.]

Subdivision 1. 1987 H.F. No. 42, section 4, subdivision 2, is amended to read:

Subd. 2. [TRANSITIONAL LABORATORY REQUIREMENTS.] Before rules are adopted and licenses issued under subdivision 1, an employer may use the services of a nonlicensed testing laboratory that agrees in writing with the commissioner to comply with the following requirements:

(1) The director of the laboratory must be a full-time employee of the laboratory and must possess a doctoral or master's degree in biological or medical science and have at least three years experience in an analytical toxicology laboratory.

(2) The laboratory must be participating in and continuing to demonstrate satisfactory performance in the drug proficiency testing program of the college of American pathology or American association for clinical chemists.

(3) The drug and alcohol testing must be limited to analysis of a sample of blood or urine from the employer or job applicant subject to testing.

~~(4) The methods of analysis for drug and alcohol testing are limited to any enzyme multiplied immunoassay method for initial screening tests and any chromatography mass spectrometry method for confirmatory tests and confirmatory retests.~~

(4) The methods of analysis for drug and alcohol testing are limited to any combination of methods using immuno-chemical technology or chromatography for initial screening tests, confirmed by gas chromatography/mass spectrometry; except that, where gas chromatography/mass spectrometry is not the scientifically accepted method of choice, the test must be confirmed by a method using some form of chromatography. Testing for alcohol may include a breath test as an initial screening test, provided that the results are confirmed by blood analysis.

(5) The laboratory must have in writing and use laboratory chain-of-custody procedures that ensure reliable and properly handled and identified testing results.

(6) All initial screening test, confirmatory test, and confirmatory retest results must be reviewed and certified as accurate by a qualified scientist.

(7) A test report must indicate the drugs, alcohol, or their metabolites tested for and whether the test produced negative or positive test results.

(8) The laboratory must provide the commissioner with information requested by the commissioner regarding the laboratory's current operations and activities relating to drug and alcohol testing.

(9) The laboratory must agree to comply with the requirements for laboratories set forth in sections 1 to 5 and to be subject to the remedies set forth in section 7.

Subd. 2. [EFFECTIVE DATE.] Subdivision 1 is effective September 1, 1987.

Sec. 33. 1987 H.F. No. 753, article 1, section 16, is amended by adding a subdivision to read:

Subd. 11. [EXAMINATION FEES.] A school board may use the reserved revenue to pay \$30 of the examination fees for the international baccalaureate program and for the college board advanced placement program for public school pupils in the 11th and 12th grades.

Sec. 34. 1987 H.F. No. 753, article 6, section 20, is amended by adding a subdivision to read:

Subd. 4. [IMMEDIATE.] Minnesota Statutes 1986, section 62E.081, is repealed the day following final enactment of this act.

Sec. 35. 1987 H.F. No. 753, article 6, is amended by adding a section to read:

Sec. 23. [LOCAL APPROVAL AND EFFECTIVE DATE.]

Section 14 is effective the day after the clerk of the school board of special school district No. 1 complies with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 36. 1987 H.F. No. 753, article 10, section 3, is amended to read:

Sec. 3. FARIBAULT RESIDENTIAL ACADEMIES AND RESOURCE CENTER

Total Appropriations	\$2,206,200	\$2,649,500
	\$6,390,400	\$6,372,400

Approved Complement 1988 1989

State	185.5	185.5
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Federal	8.0	7.0
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Total	193.5	192.5
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The state board of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The state board must report material changes to the senate and house of representatives education committees.

Three complement and \$125,000 each year are for operation of a resource center for hearing-impaired, visually-impaired and multiply handicapped students.

\$107,600 in 1988 and up to \$107,600 in 1989 is for repairs, replacements, and betterment.

\$53,300 in 1988 and up to \$53,300 in 1989 is for repair and purchase of equipment.

Any unexpended balance remaining from the appropriation in this section in 1988 shall not cancel but is available in 1989.

Sec. 37. 1987 H.F. No. 753, article 10, section 2, subdivision 2, is amended to read:

Subd. 2. Educational Services

1988	1989
\$7,360,500	\$7,313,000

\$20,700 each year is from the trunk highway fund.

\$60,000 each year is from the public health fund.

The commissioner of education shall provide for direct local technical assistance to districts in meeting the curriculum requirements specified in the planning, evaluating, and reporting process. In addition to existing curriculum services, the commissioner shall enter into performance contract agreements for general curriculum specialist services with educational cooperative service units or other regional educational service agencies. If more than one agency submits a proposal to provide services to school districts within an educational coop-

erative service unit region, the department shall encourage the agencies to develop a joint proposal. The commissioner shall evaluate the performance agreements annually. This assistance shall be provided in conjunction with the educational effectiveness delivery system. \$400,000 in each year is for this purpose.

\$157,500 in fiscal year 1988 and \$67,800 in fiscal year 1989 is for services to school districts related to acquired immune deficiency syndrome.

\$50,000 in fiscal year 1988 and \$75,000 in fiscal year 1989 is for administration of state planning, evaluation and reporting.

\$75,000 each year is for technical assistance for local staff development plans and administration costs for implementing mentorship programs.

Beginning in fiscal year 1989, responsibility for the education research information service established by the council on quality education is transferred to the interagency resource and information center.

The governor's council on youth is discontinued.

\$198,300 each year is for the secondary vocational student organization center.

Two professional and one clerical complement are transferred from the special education section to the Faribault residential academies and resource center for the purpose of establishing a resource center for hearing-impaired, visually-impaired and multiply handicapped students. \$125,000 is available each year for this purpose.

One professional complement is added in each year in the curriculum services *section for research information service and development of learner outcomes*.

The complement of the secondary vocational section is reduced by two each year.

Two complement are transferred from federal to special purpose for the alcohol impaired driver program. \$100,000 each year is available from the alcohol impaired driver account for these complement.

One-half complement each year is for state agency library automation.

One complement is added to the community education section each year for additional re-

sponsibilities related to youth.

The responsibility for the education research information service established by the council on quality education is transferred to the interagency resource and information center.

Sec. 38. [CORRECTION.] Subdivision 1. [LCC BUSINESS STUDY AND GOVERNMENT COMPETITION STUDY.] 1987 S.F. No. 1516, section 10, subdivision 7, is repealed.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective July 1, 1987.*

Sec. 39. [CORRECTION.] [INADVERTENTLY OMITTED RIDER.] Subdivision 1. [HISTORICAL SOCIETY HISTORIC SITE STUDY.] 1987 S.F. No. 1516, section 20, is amended by adding a subdivision to read:

Subd. 6a. Historic Site Study.

The Minnesota historical society shall conduct an interim study, in cooperation with county historical organizations of their choice and the department of finance, to determine changes and revisions required in the Historic Sites Act of 1965. The study shall identify those historic sites that merit preservation and interpretation and include a plan for financing their development and operations. The study shall include recommendations by the society on which sites should charge admission fees and the amount of the proposed fee, by site. The historical society shall report the results of this study to the chairs of the senate finance committee and house of representatives appropriations committee, and the governor by July 1, 1988.

Subd. 2. [EFFECTIVE DATE.] *Subdivision 1 is effective July 1, 1987.*

Sec. 40. [SCHOOL DISTRICT 564.]

If independent school district No. 564, Thief River Falls, establishes a joint vocational technical district pursuant to section 136C.60 prior to August 1, 1987, the state shall pay 100 percent of the cost of the construction project authorized by the 1987 legislature. The state board of vocational technical education may utilize any unencumbered balance remaining in the appropriation made by Laws 1981, chapter 362, section 2, subdivision 1, to pay the additional amount needed to reach 100 percent.

Sec. 41. [REPEAL OF OBSOLETE TRANSITION.]

Minnesota Statutes 1986, section 326.2421, subdivision 7, is repealed.

Sec. 42. [CROSS REFERENCE; BOARD OF WATER AND SOIL RESOURCES.]

1987 S. F. No. 1516, section 34, is amended to read:

Sec. 34. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall change the words "state soil and water conservation board," "water resources board," "water policy board" or

other language intended to refer to those boards, wherever they appear in Minnesota Statutes to "board of water and soil resources" or other appropriate language to refer to the board of water and soil resources created in section ~~405~~ 103.

Sec. 43. [CROSS REFERENCE; EFFECTIVE DATE.]

1987 S. F. No. 1516, section 133, subdivision 1, is amended to read:

Subdivision 1. Section ~~408~~ 106 is effective the day following final enactment.

Sec. 44. 1987 H.F. No. 919, section 8, subdivision 2, is amended to read:

Subd. 2. Outdoor Recreation	17,000,000
	18,000,000

(a) Local Recreation Grants	2,500,000
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This appropriation is to acquire and better recreation open space projects upon application by local units of government and Indian tribes and bands recognized by the federal government. Projects that receive federal grants must be given priority. A grant under this paragraph is 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 must not receive grant assistance of more than \$400,000. A local unit of government must not receive more than one grant during each fiscal biennium.

\$500,000 the first year and \$500,000 the second year shall be granted for projects outside the metropolitan area defined in Minnesota Statutes, section 473.121.

(b) Metropolitan Open Space	15,500,000
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\$9,500,000 is for payment by the commissioner of energy and economic development 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.

\$6,000,000 is for the acquisition and better-

ment of land on Lake Minnetonka for a regional park. No more than \$400,000 may be used for staff and independent professional services necessary to acquire and better open space and for the performance of the duties of the metropolitan council under this paragraph.

The acquisition and betterment may include land between Lake Minnetonka and Stone Lake, to assist in connecting the Lake Minnetonka regional park with Carver park reserve. Of the \$6,000,000, the sum of \$250,000 may be used to develop parking and a pedestrian underpass to support a public access site in the city of Mound.

~~During the biennium, that part of Minnesota Statutes, section 398.09, paragraph (b), that requires local approval prior to acquiring real estate by purchase or condemnation shall not apply to this acquisition.~~

Sec. 45. [INTEREST EARNINGS.]

The provisions of Laws 1985, First Special Session chapter 15, section 5, subdivision 2, paragraph (b), relating to interest earnings shall continue regardless of any dollar amount limitation.

Sec. 46. 1987 H.F. No. 919, section 18, subdivision 11, is amended to read:

Subd. 11. Vermilion Community College Student Housing

1,500,000

The state board for community colleges may acquire a site and construct, own, operate, furnish, and maintain one or more dormitories or other student residence facilities at Ely for the use and benefit of Vermilion Community College. *Selection of a designer for the project is not subject to Minnesota Statutes, section 16B.33, subdivision 4.* The higher education facilities authority may issue revenue bonds for the facilities under Minnesota Statutes, sections 136A.25 to 136A.42, and the state board for community colleges may borrow the proceeds of the revenue bonds to finance the acquisition, construction, and equipping of the student housing facilities. The board may enter into agreements and pledge revenues of the facilities as may be necessary to provide security for the bonds and may mortgage the financed facilities to the higher education facilities authority or to a trustee for the bondholders if considered necessary by the board or the authority for the successful marketing of the

bonds. The state board for community colleges shall establish, maintain, revise when necessary, and collect rates and charges for the use of the student housing facilities. The rates and charges must be sufficient, as estimated by the board, to pay all expenses of operation and maintenance of the facilities, to pay principal of, and interest on, revenue bonds or other obligations when due and to pay customary fees and charges of the higher education facilities authority and to establish and maintain the reserve funds that the board considers necessary for repair, replacement, and maintenance of the facilities. Funds and accounts established in furtherance of these purposes are not subject to Minnesota Statutes, section 136.67, subdivision 2, and are not subject to the budgetary control of the commissioner of finance. The board shall never be obligated to use other revenues of the board or funds of the state to pay the costs of construction, operation, maintenance, and repair of the facilities or to pay principal of and interest on obligations issued for these purposes. *Notwithstanding any other law or rule or the city charter*, the city of Ely may, without complying with the procedures set forth in Minnesota Statutes, chapter 475, guarantee all or any part of the loan repayment obligation of the board to the authority, by pledging its full faith and credit and taxing power. The guarantee is not subject to any limitation on net debt of the city, and taxes required to make any payment under the guarantee may be levied without limit as to rate or amount.

Sec. 47. Minnesota Statutes 1986, section 62E.02, subdivision 23, as amended by 1987 H.F. No. 529, article 2, section 17, is amended to read:

Subd. 23. "Contributing member" means those companies operating pursuant to chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance or health maintenance organizations and nonprofit health service plan corporations incorporated under chapter 62C or fraternal benefit society operating under chapter 64 64B. *For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for coverage by a health maintenance organization shall be considered to be accident and health insurance premiums.*

Sec. 48. Minnesota Statutes 1986, section 297D.07, as amended by 1987 H.F. No. 529, article 17, section 36, is amended to read:

297D.07 [MEASUREMENT.]

For the purpose of calculating the tax under section 297D.08, a ~~gram~~ quantity of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession. ~~The weight of the mar-~~

~~marijuana or controlled substance includes all material, compound, mixture, or preparation that is added to the marijuana or controlled substance.~~

Sec. 49. 1987 H.F. No. 919, section 14, subdivision 8, is amended to read:

Subd. 8. Local Road Bridge Replacement and Rehabilitation

8,800,000

This appropriation is from the transportation fund.

\$8,800,000 is from the state transportation fund to construct and reconstruct key bridges on the state transportation system and must be allocated by the commissioner of transportation in the form of grants to political subdivisions for construction and reconstruction of key bridges on highways, streets, and roads under their jurisdictions. Of that amount, \$3,800,000 is to be used to match the local share of several federal demonstration projects.

Sec. 50. [EFFECTIVE DATE.]

Unless provided otherwise, the sections of this article that amend other 1987 enactments take effect on the same dates as the enactments that they amend."

Amend the title as follows:

Page 1, line 7, after "revisor;" insert "making miscellaneous corrections to statutes and other laws;"

Correct the citations in the title

The motion prevailed. So the amendment was adopted.

H.F. No. 713 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Peterson, D.C. moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 246. The motion prevailed.

MEMBERS EXCUSED

Mr. Freeman was excused from the Session of today from 9:00 a.m. to 12:30 p.m. Mr. Johnson, D.E. was excused from the Session of today from 9:00 a.m. to 10:30 a.m. Mr. Frederickson, D.J. was excused from the Session of today from 9:30 to 10:00 a.m. and from 6:30 to 6:55 p.m. Mr. Frank was excused from the Session of today from 6:15 to 6:35 p.m. Mrs. Adkins was excused from the Session of today from 4:20 to 4:45 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Tuesday, February 9, 1988. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate