

THIRTY-SECOND DAY

St. Paul, Minnesota, Monday, April 17, 1989

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Peter Geisendorfer-Lindgren.

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

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

The President declared a quorum present.

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

MEMBERS EXCUSED

Messrs. Anderson, Berg and Hughes were excused from the Session of today.

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. 358: A bill for an act relating to liquor; clarifying license eligibility; changing the time of sale on certain holidays; allowing for the dispensing of samples of malt liquor; amending Minnesota Statutes 1988, sections 340A.402; 340A.504, subdivisions 2, 3, and 4; and 340A.510.

Senate File No. 358 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 13, 1989

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 358 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 358: A bill for an act relating to liquor; clarifying license eligibility; changing the time of sale on certain holidays; allowing for the dispensing of samples of malt liquor; repealing bond requirement for retail licensees; authorizing the town board of Canosia township to issue an off-sale license; amending Minnesota Statutes 1988, sections 340A.402; 340A.405, subdivision 1; 340A.504, subdivisions 2, 3, and 4; and 340A.510; repealing Minnesota Statutes 1988, section 340A.412, subdivision 1.

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 8, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------------|---------------|----------------|-----------|
| Adkins | Decker | Johnson, D.J. | Metzen | Samuelson |
| Beckman | DeCramer | Knaak | Moe, D.M. | Schmitz |
| Belanger | Dicklich | Knutson | Moe, R.D. | Solon |
| Benson | Diessner | Kroening | Morse | Spear |
| Berglin | Frank | Langseth | Novak | Storm |
| Bertram | Frederick | Lantry | Pariseau | Stumpf |
| Brandl | Frederickson, D.J. | Lessard | Pehler | Vickerman |
| Chmielewski | Frederickson, D.R. | Luther | Peterson, D.C. | Waldorf |
| Cohen | Freeman | McGowan | Piper | |
| Dahl | Gustafson | McQuaid | Pogemiller | |
| Davis | Johnson, D.E. | Mehrkins | Purfeerst | |

Those who voted in the negative were:

| | | | | |
|-----------|---------|----------------|---------|---------|
| Bernhagen | Larson | Olson | Ramstad | Renneke |
| Laidig | Merriam | Peterson, R.W. | | |

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 Senate File No. 156, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 156: A bill for an act relating to gambling; authorizing the governor to negotiate a tribal-state compact pursuant to the Indian gaming regulatory act; proposing coding for new law in Minnesota Statutes, chapter 3.

Senate File No. 156 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 13, 1989

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

S.F. No. 227: A bill for an act relating to health; enacting the uniform determination of death act; proposing coding for new law in Minnesota Statutes, chapter 145.

There has been appointed as such committee on the part of the House: Quinn, Carruthers and Dempsey.

Senate File No. 227 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 13, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 702:

H.F. No. 702: A bill for an act relating to crime; expanding the crime of failure to appear for a criminal court appearance; specifying the attorney with jurisdiction to prosecute the crime; prescribing penalties; amending Minnesota Statutes 1988, section 609.49.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Wagenius, Bishop and Kelly have been appointed as such committee on the part of the House.

House File No. 702 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 April 13, 1989

Mr. Pogemiller moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 702, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 159, 169, 438, 505, 611 and 719.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 13, 1989

FIRST READING OF HOUSE BILLS

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

H.F. No. 159: A bill for an act relating to crimes; providing for termination, cancellation, and forfeiture of real estate interests related to contraband or controlled substance seizures; amending Minnesota Statutes 1988, sections 566.02; 609.531; 609.5311, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapters 566 and 609.

Referred to the Committee on Judiciary.

H.F. No. 169: A bill for an act relating to game and fish; authorizing elderly residents to take fish by spearing without a license; amending Minnesota Statutes 1988, section 97A.451, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 438: A bill for an act relating to courts; specifying the income standard for proceeding in forma pauperis; amending Minnesota Statutes 1988, section 563.01, subdivision 3.

Referred to the Committee on Judiciary.

H.F. No. 505: A bill for an act relating to veterans; removing a limitation on veterans in the category of protected groups for the purpose of state employment; amending Minnesota Statutes 1988, section 43A.02, subdivision 33.

Referred to the Committee on Governmental Operations.

H.F. No. 611: A bill for an act relating to insurance; regulating agent licensing; regulating Medicare supplement plans; modifying required levels of coverages; prescribing penalties; amending Minnesota Statutes 1988, sections 60A.17, subdivision 6c, and by adding a subdivision; 62A.31, subdivisions 1 and 2; 62A.41; 62D.104; 62D.121, subdivision 3; 62D.181, subdivision 4; 62E.07; and 62E.14, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 1988, sections 62A.32; 62A.33; 62A.34; 62A.35; and Minnesota Rules, part 2795.0900.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1014, now on General Orders.

H.F. No. 719: A bill for an act relating to economic development; authorizing certain local jurisdictions to contribute to local or regional economic development organizations; proposing coding for new law in Minnesota Statutes, chapter 469.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1041, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 957, 1524, 366,

1196 and 1173. The motion prevailed.

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

S.F. No. 459: A bill for an act relating to local government; granting certain water and sewer powers to towns; amending Minnesota Statutes 1988, sections 444.075, subdivision 1; 444.16; 444.17; 444.18; 444.19; and 444.20.

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

Page 1, lines 13 and 24, before the period, insert "*that is not in an orderly annexation process on the date of enactment of this act*"

Page 3, after line 35, insert:

"Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective the day following final enactment."

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

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

S.F. No. 462: A bill for an act relating to judicial procedure; clarifying, modifying, and recodifying tax court powers and procedures; making technical corrections and eliminating redundant and unnecessary language and obsolete references; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 271.01, subdivisions 1 and 5; 271.02; 271.04; 271.06, subdivisions 1, 2, 3, and 7; 271.07; 271.13; 271.15; 271.17; 271.18; 271.21, subdivisions 2 and 10; 277.011, subdivision 7; 278.01, subdivision 1; 278.02; 278.05, subdivision 4; 278.08, subdivision 1; 297.43, subdivision 1; and 297C.14, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270; repealing Minnesota Statutes 1988, sections 60A.151; 271.01, subdivision 6; 271.061; 271.21, subdivision 4; and 271.22.

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

Page 2, line 26, delete the new language

Page 3, line 5, delete "*real and personal property*"

Page 3, line 6, after "*taxes*" insert "*other than gross earnings taxes*"

Page 4, line 8, after "*(a)*" insert "*with respect to the reduction or abatement of real or personal property taxes*"

Page 16, line 21, strike "*school*" and insert "*education*"

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

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

S.F. No. 65: A bill for an act relating to economic development; authorizing local jurisdictions involved in economic development to participate in secondary markets; proposing coding for new law in Minnesota Statutes, chapter 465.

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was referred

S.F. No. 1332: A bill for an act relating to agriculture; increasing the value for destroyed livestock; amending Minnesota Statutes 1988, section 3.737, subdivision 1.

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

Page 1, line 11, after the second "is" insert "*irreparably*" and strike "so that it must be destroyed"

Page 1, line 19, after "destroyed" insert "*or irreparably crippled*"

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was referred

S.F. No. 1377: A bill for an act relating to wild rice; clarifying requirements on packaging and labeling; requiring disclosure of origin; authorizing the construction of a greenhouse facility for the study of wild rice; providing technical assistance for marketing; appropriating money; amending Minnesota Statutes 1988, section 30.49.

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

Delete everything after the enacting clause and insert:

"Section 1. [CITATION.]

This act may be cited as the "Minnesota wild rice preservation act of 1989" or "manomin act."

Sec. 2. Minnesota Statutes 1988, section 30.49, is amended to read:

30.49 [~~PADDY GROWN~~ WILD RICE LABELING.]

Subdivision 1. [CULTIVATED WILD RICE.] All (a) Except as provided in paragraph (b), wild rice which containing a portion of wild rice that is cultivated which is and offered for wholesale or retail sale in this state shall must be plainly and conspicuously labeled as either "paddy grown" or as "cultivated" in letters of a size and form prescribed by the commissioner.

(b) Cultivated wild rice sold for international commerce is exempt from this subdivision.

Subd. 2. [HAND-HARVESTED WILD RICE.] (a) A package containing only 100 percent hand-harvested wild rice from the public waters of the

state that is offered for sale at wholesale or retail sale in this state may be plainly and conspicuously labeled as "100 percent naturally grown, lake and river harvested" in letters of a size and form prescribed by the commissioner. A package of wild rice labeled "100 percent naturally grown, lake and river harvested" must also contain the license number issued under section 84.152 of the last licensed dealer to handle the wild rice.

(b) A package that does not contain 100 percent hand-harvested wild rice from the public waters of the state may not contain a label authorized under paragraph (a).

Subd. 3. [RECORDS.] (a) A person who buys, sells, processes, or markets wild rice must maintain the following records and shall submit annual reports on or before December 31 of each year to the commissioners of agriculture and natural resources.

(b) The report must contain:

- (1) the date of each transaction;
- (2) the quantity of wild rice bought or sold;
- (3) an identification of whether the wild rice is cultivated or paddy grown, or whether it is naturally grown lake and river harvested wild rice;
- (4) the names and addresses of the parties of the transaction and the department of natural resources license or permit numbers;
- (5) the lot numbers of all the wild rice bought or sold in each transaction; and
- (6) documents that track the rice, by lot number, through processing and the assignment of a final lot number on the finished product offered for distribution or sale in Minnesota.

Subd. 4. [FAIR PACKAGING AND LABELING.] Hand-harvested wild rice from public waters and cultivated or paddy grown wild rice are separate and distinct ingredients under the fair packaging and labeling provisions of section 31.103.

Subd. 5. [MISBRANDING RELATING TO INDIAN GROWN, HARVESTED, OR PROCESSED.] A wild rice label that implies the wild rice is grown, harvested, or processed by Native American Indians is misbranded unless the wild rice is grown, harvested, and processed by an entity that is owned by 51 percent or more persons who are members of federally enrolled tribes.

Subd. 6. [PACKAGED BLENDED RICE AND READY TO EAT RICE.] A package containing a blend of wild rice and at least 40 percent other grains or food products, and puffed or ready to eat wild rice are exempt from this section, except subdivisions 3, 5 and 7.

Subd. 7. [PENALTY.] Any person who ~~sells wild rice at wholesale or retail which is not labeled as required by~~ violates this section is guilty of a misdemeanor.

Sec. 3. [30.495] [MINNESOTA INDIAN WILD RICE PROMOTION COUNCIL.]

The Minnesota Indian wild rice promotion council is established for the promotion and marketing of hand-harvested wild rice. The membership and organization of the council is subject to sections 17.54, subdivisions

2, 3, 4, 5, 6, and 7; 17.56 to 17.63; 17.67; and 17.69.

Sec. 4. [REPEALER.]

Minnesota Statutes 1988, section 84.152, subdivision 5, is repealed.

Sec. 5. [APPROPRIATION.]

\$ is appropriated to the department of agriculture for the purpose of managing the tracking system established in section 2, subdivision 3. The appropriation is for the biennium ending June 30, 1991.

Sec. 6. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of agriculture to establish a year-round greenhouse in the Grand Rapids area for the purpose of experimentation on the culture of wild rice. The purpose of this greenhouse is to allow Minnesota to keep a competitive position in the industry. This appropriation is available for the biennium ending June 30, 1991.

Sec. 7. [APPROPRIATION.]

\$ is appropriated from the general fund to the Minnesota Chippewa Tribe for payment to the Minnesota Indian wild rice promotion council to promote and market wild rice as provided in the council's promotional order. The appropriation is available until expended."

Amend the title as follows:

Page 1, line 7, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 30; repealing Minnesota Statutes 1988, section 84.152, subdivision 5"

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

Mr. Purfeerst from the Committee on Transportation, to which was re-referred

S.F. No. 1339: A bill for an act relating to drivers' licenses; appropriating money to the commissioner of public safety to improve driver license security and legibility.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1197: A bill for an act relating to natural resources; establishing a task force to study and report on metropolitan water management issues; appropriating money.

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

Page 2, line 14, delete "*of the board of water and soil resources*"

Page 2, line 15, after "*members*" insert "*of the board of water and soil resources*"

Page 3, line 2, delete "*Minnesota intergovernmental county*" and insert

"metropolitan inter-county"

Page 3, delete subdivision 3

Page 3, line 16, delete "4" and insert "3"

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

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

S.F. No. 366: A bill for an act relating to crimes; prohibiting the ownership, possession, or operation of semi-automatic assault rifles except under certain circumstances; amending Minnesota Statutes 1988, section 609.67, subdivisions 1, 2, 3, and 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 609.11, is amended by adding a subdivision to read:

Subd. 5a. [ILLEGAL WEAPON.] (a) Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession an illegal weapon, shall be committed to the commissioner of corrections for a mandatory minimum term of imprisonment of not less than two years nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession an illegal weapon, shall be committed to the commissioner of corrections for a mandatory minimum term of imprisonment of not less than six years nor more than the maximum sentence provided by law.

(b) Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, an illegal weapon, shall be committed to the commissioner of corrections for a mandatory minimum term of imprisonment of not less than six years nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used an illegal weapon, shall be committed to the commissioner of corrections for a mandatory minimum term of imprisonment of not less than ten years nor more than the maximum sentence provided by law.

(c) For purposes of this subdivision, "illegal weapon" means a military assault weapon, machine gun, or short-barreled shotgun as defined in section 609.67; a firearm, as defined in section 97A.015, subdivision 19, that is equipped with a silencer or equipped to have a silencer attached; a Saturday night special, as defined in section 624.712, subdivision 4; or a firearm for which a permit is required under section 624.7131 if the defendant did not have a lawful permit for the firearm at the time of the offense.

Sec. 2. [609.662] [PERMISSIVE INFERENCE; FIREARMS IN AUTOMOBILES.]

The presence of a firearm in a passenger automobile creates an inference of knowing possession of the firearm by the driver or person in control of the automobile when the firearm was in the automobile. The inference does not apply:

(1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a firearm; or

(3) when the firearm is concealed on the person of one of the occupants.

Sec. 3. Minnesota Statutes 1988, section 609.67, is amended to read:

609.67 [MACHINE GUNS, MILITARY ASSAULT WEAPONS AND SHORT-BARRELED SHOTGUNS.]

Subdivision 1. [DEFINITION.] (a) "Machine gun" means any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger.

(b) "Shotgun" means a weapon designed, redesigned, made or remade which is intended to be fired from the shoulder and uses the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if such weapon as modified has an overall length less than 26 inches.

(d) "Military assault weapon" means:

(1) any of the following weapons:

(i) any Algimac AGM-1 semiautomatic firearm;

(ii) any AR-100 semiautomatic firearm;

(iii) any Armalite AR-180 semiautomatic firearm;

(iv) any Australian Automatic Arms semiautomatic firearm;

(v) any Avtomat Kalashnikov semiautomatic firearm;

(vi) any Beretta AR-70 or BM-59 semiautomatic firearm;

(vii) any CETME G-35A semiautomatic firearm;

(viii) any Chartered Industries of Singapore (CIS) SR-88 semiautomatic firearm;

(ix) any Daewoo K1 or K2 semiautomatic firearm;

(x) any Erma EM-1 semiautomatic firearm;

(xi) any FAMAS MAS-223 semiautomatic firearm;

(xii) any FN-FAL or FN-FNC semiautomatic firearm;

(xiii) any Galil AR, ARM, or 22-type semiautomatic firearm;

(xiv) any Heckler & Koch HK-91, HK-93, or HK-94 semiautomatic firearm;

(xv) any Ingram M-10 or M-11 semiautomatic firearm;

- (xvi) any Intratec TEC-9 or TEC-22 semiautomatic firearm;
- (xvii) any M-14 or M-16 semiautomatic firearm;
- (xviii) any Norinco SKS semiautomatic firearm;
- (xix) any shotgun with a revolving cylinder of the "street sweeper" or striker-12 type;
- (xx) any Sigarms SIG-550 or SIG-551 semiautomatic firearm;
- (xxi) any Steyr A.U.G. semiautomatic firearm;
- (xxii) any Unique F-11 semiautomatic firearm;
- (xxiii) any UZI semiautomatic firearm;
- (xxiv) any Valmet M-76 or M-78 semiautomatic firearm;

(2) any firearm that is another model made by the same manufacturer as one of the firearms listed in clause (1); has the same action design as one of the listed firearms; and has a slight modification or enhancement including but not limited to a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic, or metal stock; larger clip size; different caliber; or a bayonet mount;

(3) any other firearm with an action design identical or nearly identical to the listed firearms that is a redesigned, renamed, or renumbered version of, or is patterned after, a listed firearm, regardless of the company of production or country of origin; and

(4) any firearm that has been manufactured or sold by another company under a licensing agreement to manufacture or sell firearms that are identical or nearly identical to those listed in clause (1), or described in clause (2) or (3), regardless of the company of production or country of origin.

Subd. 2. [ACTS PROHIBITED.] Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun, a military assault weapon, or a short-barreled shotgun 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. 3. [USES PERMITTED.] The following persons may own or possess a machine gun, military assault weapon, or short-barreled shotgun provided the provisions of subdivision 4 are complied with:

- (1) law enforcement officers for use in the course of their duties;
- (2) chief executive officers of correctional facilities and other personnel thereof authorized by them and persons in charge of other institutions for the retention of persons convicted or accused of crime, for use in the course of their duties;
- (3) persons possessing machine guns, military assault weapons, or short-barreled shotguns which, although designed as weapons, have been determined by the superintendent of the bureau of criminal apprehension or the superintendent's delegate by reason of the date of manufacture, value, design or other characteristics to be primarily collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and are not likely to be used as weapons;
- (4) manufacturers of ammunition who possess and use machine guns or

military assault weapons for the sole purpose of testing ammunition manufactured for sale to law enforcement agencies and correctional facilities; and

(5) dealers and manufacturers who are federally licensed to buy and sell, or manufacture machine guns, *military assault weapons*, or short-barreled shotguns and who either use the machine guns, *military assault weapons*, or short-barreled shotguns in peace officer training under courses approved by the board of peace officer standards and training, or are engaged in the sale of machine guns, *military assault weapons*, or short-barreled shotguns to Minnesota law enforcement agencies and will use the machine gun, *military assault weapon*, or short-barreled shotgun for law enforcement sales demonstrations.

Subd. 4. [REPORT REQUIRED.] (a) A person owning or possessing a machine gun, *military assault weapon*, or short-barreled shotgun as authorized by subdivision 3, clause (1), (2), (3), or (4) shall, within ten days after acquiring such ownership or possession, file a written report with the bureau of criminal apprehension, showing the person's name and address; the person's official title and position, if any; a description of the machine gun, *military assault weapon*, or short-barreled shotgun sufficient to enable identification thereof; the purpose for which it is owned or possessed; and such further information as the bureau may reasonably require.

(b) A dealer or manufacturer owning or having a machine gun, *military assault weapon*, or short-barreled shotgun as authorized by subdivision 3, clause (5) shall, by the tenth day of each month, file a written report with the bureau of criminal apprehension showing the name and address of the dealer or manufacturer and the serial number of each machine gun, *military assault weapon*, or short-barreled shotgun acquired or manufactured during the previous month.

Subd. 4a. [EXISTING OWNERS OF MILITARY ASSAULT WEAPONS; PERMIT.] *Any person not exempted by subdivision 3 or 5 who lawfully owns or possesses a military assault weapon before the effective date of this section may continue to own or possess the weapon if the person obtains a permit as provided in section 4 on or before September 1, 1989.*

Subd. 5. [EXCEPTIONS.] This section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties.

Subd. 6. [PREEMPTION.] Laws 1977, chapter 255, supersedes all local ordinances, rules and regulations.

Sec. 4. [624.7171] [MILITARY ASSAULT WEAPONS; LIFETIME PERMIT PROCEDURE.]

Subdivision 1. [ELIGIBILITY.] A person who owns or possesses a military assault weapon, as defined in section 3, before the effective date of that section, may obtain, on or before September 1, 1989, a lifetime permit to continue to own or possess the weapon. The permit must be granted to any person described in this subdivision.

Subd. 2. [PERMIT PROCEDURES.] Except as otherwise provided in this section, the procedures contained in section 624.7131, subdivisions 1, 3, 11, and 12, for pistol transferee permits shall apply to military assault weapon lifetime permit applications.

Subd. 3. [EFFECT.] The permit holder is entitled to keep and carry the

weapon at the locations described in section 624.714, subdivision 9. The permit does not entitle the person to keep or carry the military assault weapon at any other location.

Subd. 4. [PENALTIES.] Any person covered by section 3 who commits any of the following acts is guilty of a crime and 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:

(1) owns or possesses a military assault weapon after September 1, 1989, without having obtained a permit under this section; or

(2) keeps or carries a military assault weapon at a location not authorized by a permit granted under this section.

Sec. 5. [DECLARATION OF INTENT.]

It is the intent of the legislature, in enacting sections 3 and 4, to place reasonable and necessary restrictions on the ownership, possession, and use of military assault weapons as defined in section 3. It is not the intent of the legislature, in enacting sections 3 and 4, to place restrictions on the ownership, possession, or use of those weapons designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 and 2 are effective August 1, 1989, and apply to crimes committed on or after that date. Sections 3 to 5 are effective the day following final enactment 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 felonies committed with an illegal weapon; creating a permissive inference of possession with respect to a firearm in an automobile; prohibiting the ownership, possession, or operation of military assault weapons except under certain circumstances; requiring the issuance of permits to existing owners of military assault weapons; defining terms; providing penalties; amending Minnesota Statutes 1988, sections 609.11, by adding a subdivision; and 609.67; proposing coding for new law in Minnesota Statutes, chapters 609 and 624."

And when so amended the bill do pass. Mr. Laidig questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1343: A bill for an act relating to education; providing a temporary funding adjustment to the state university board.

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

Page 1, line 8, after the first "the" insert "board of regents of the University of Minnesota, the" and after "board" insert ", the state board for community colleges, and the state board of vocational technical education" and delete "board's"

Amend the title as follows:

Page 1, line 3, delete "the state university board" and insert "all post-secondary boards"

And when so amended the bill be re-referred to the Committee on Finance without recommendation. Amendments adopted. Report adopted.

Mr. Bertram from the Committee on Veterans and Military Affairs, to which was referred

S.F. No. 1185: A bill for an act relating to veterans; appropriating money for use by the Vietnam Veterans of America in assisting veterans to make claims against the United States government.

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

Page 1, line 14, delete "\$20,000" and insert "\$30,000" and delete "to the"

Page 1, line 15, delete "*commissioner of veterans affairs for disbursement*"

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

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

S.F. No. 721: A bill for an act relating to taxation; providing a schedule for distribution of political campaign checkoff money to political parties; amending Minnesota Statutes 1988, section 10A.31, subdivision 5.

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

Page 2, line 30, after the period, insert "*If the amount of total payments received before September 15 is greater than the amount certified by the commissioner of revenue on September 15, the total amount of payments distributed between September 1 and December 31 must be reduced by the amount of the overpayment.*"

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

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

S.F. No. 4: A bill for an act relating to elections; limiting campaign expenditures by congressional candidates who choose to receive a public subsidy for their campaigns; making related changes in the ethics in government act; limiting amounts of contributions from political action committees that may be accepted by a congressional candidate; proposing a constitutional amendment to impose campaign spending limits on congressional candidates; imposing penalties; amending Minnesota Statutes 1988, sections 10A.01, subdivisions 7, 10, 10b, 15, and by adding subdivisions; 10A.25, subdivision 10, and by adding a subdivision; 10A.255; 10A.27, by adding a subdivision; 10A.275; 10A.28; 10A.30, subdivision 2; 10A.31, subdivisions 1 to 3, 5 to 11, and by adding subdivisions; 10A.33; and 10A.335; proposing coding for new law in Minnesota Statutes, chapter

10A; repealing Minnesota Statutes 1988, sections 10A.27, subdivision 5; and 10A.32.

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

Page 5, line 31, delete "\$4,000,000" and insert "\$3,000,000"

Page 5, line 32, delete "\$400,000" and insert "\$300,000"

Page 6, delete section 13 and insert:

"Sec. 13. Minnesota Statutes 1988, section 10A.25, subdivision 10, is amended to read:

Subd. 10. The expenditure limits imposed by this section apply only to candidates *and congressional candidates* whose *major political party* opponents agree to be bound by the limits and who themselves agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns in the form of an allocation of money from the state elections campaign fund.

A candidate or a congressional candidate of a major political party who agrees to be bound by the limits and receives a public subsidy, who has an opponent who: (1) is a candidate of a major political party; and (2) does not agree to be bound by the limits but is otherwise eligible to receive a public subsidy, is no longer bound by the limits but is still eligible to receive a public subsidy."

Page 7, line 27, delete "1990" and insert "1992" in both places

Page 7, line 33, delete "\$4,000,000" and insert "\$3,000,000" and delete "\$400,000" and insert "\$300,000"

Pages 10 to 12, delete sections 18 to 21 and insert:

"Sec. 18. Minnesota Statutes 1988, section 10A.30, subdivision 2, is amended to read:

Subd. 2. Within the state elections campaign fund account there shall be maintained: *(1) a separate political party account for the candidates of each political party and, (2) a general account, (3) a separate political party account for the congressional candidates of each political party, and (4) a congressional general account. Money must be divided equally between the state accounts and the congressional accounts.*

Sec. 19. Minnesota Statutes 1988, 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 \$5 \$10 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 \$5 \$10 shall be paid. No individual shall be allowed to designate \$5 \$10 more than once in any year.

Sec. 20. Minnesota Statutes 1988, section 10A.31, subdivision 2, is amended to read:

Subd. 2. The taxpayer may designate that ~~the amount designated:~~ *(1) \$10 be paid into the account of a political party or into the general account*

for congressional and state candidates or (2) \$10 be paid into the congressional and state general accounts, to be divided equally between the accounts.

Sec. 21. Minnesota Statutes 1988, 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 ~~\$5 \$10~~ (\$10 \$20 if filing a joint return) from the general fund of the state to finance the election campaigns of state candidates *and congressional candidates*. The form shall also contain language prepared by the commissioner which permits the individual to direct the state to allocate the ~~\$5 \$10~~ (or ~~\$10 \$20~~ 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 ~~\$5 \$10~~ on the return only if the individual has not designated ~~\$5 \$10~~ on the income tax return."

Page 22, line 24, delete "candidate or"

Page 22, line 25, delete "private" and insert "nonpublic"

Page 25, delete sections 38 and 39

Page 25, after line 32, insert:

"Sec. 39. [EFFECTIVE DATE.]

Sections 1 to 38 are effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "limiting"

Page 1, delete lines 6 to 9

Page 1, line 10, delete "candidates;"

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

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

S.F. No. 89: A bill for an act relating to ethics; clarifying and modifying certain exceptions to multicandidate political party expenditure limitations; modifying lobbyist reporting requirements; and discontinuing the state ethical practices board responsibility for developing and furnishing certain forms; amending Minnesota Statutes 1988, sections 10A.04, subdivision 2; 10A.275; and 383B.055, subdivisions 1 and 2.

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

Page 1, after line 20, insert:

"Sec. 2. Minnesota Statutes 1988, section 10A.04, subdivision 4a, is amended to read:

Subd. 4a. If in any reporting period the lobbyist's reportable disbursements total not over \$100 and no honorarium, gift, loan, item or benefit equal in value to \$50 or more was given or paid to any public official, a statement to that effect in lieu of the report may be filed for that period. The unreported disbursements shall be included in the report for the following period, unless the total for that period, including the carryover, is not over \$100. The ~~October~~ January 15 report shall include all previously unreported disbursements, even though the total for the year is not over \$100."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "subdivision 2" and insert "subdivisions 2 and 4a"

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

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

S.F. No. 1074: A bill for an act relating to elections; making various changes in laws applicable to school district elections; amending Minnesota Statutes 1988, sections 201.071, subdivision 3; 203B.08, subdivision 3; 204B.08, subdivision 3; 204B.14, subdivision 5; 204B.17; 204B.44; 204C.22, subdivisions 9, 10, 15, and by adding a subdivision; 204D.04, subdivision 2; 205A.05, subdivision 1; 205A.07, by adding a subdivision; 205A.09, subdivision 2; 205A.10, subdivisions 2 and 3; 205A.11; 205A.12, subdivision 2; 209.02, subdivision 1; 209.021, subdivision 1; 209.03; 209.09, subdivision 1; and 211A.01, subdivision 6.

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

Page 6, line 21, after "*check*" insert "*, acceptable to the official responsible for printing the ballots,*"

Pages 6 and 7, delete section 12 and insert:

"Sec. 12. Minnesota Statutes 1988, section 205A.05, subdivision 1, is amended to read:

Subdivision 1. [QUESTIONS.] Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition of 50 or more voters of the school district or five percent of the number of voters voting at the preceding regular school district election, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the 20 30 days before and the 30 days after ~~any regularly scheduled statewide the state primary or state general election or~~. In addition, a

special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision."

Pages 9 and 10, delete section 18

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 10 and 11, delete "205A.12, subdivision 2;"

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

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

S.F. No. 1168: A bill for an act relating to insurance; requiring insurers to pay the insured's deductible first when recovering from an uninsured motorist under a subrogation claim; amending Minnesota Statutes 1988, section 72A.201, subdivision 6.

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 698: A bill for an act relating to motor vehicles; defining physically handicapped person for purposes of obtaining special license plates; amending Minnesota Statutes 1988, section 169.345, subdivision 2.

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

Page 2, line 3, delete "*or*"

Page 2, line 4, delete "*an affliction*" and insert "*a disability*" and delete "*to such an*"

Page 2, line 5, delete "*extent that*" and insert "*by*"

Page 2, line 6, after "*conditions*" insert "*to an extent that*" and before the period, insert "*; or*"

(9) has lost an arm or a leg and cannot use an artificial limb"

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1248: A bill for an act relating to traffic regulations; prohibiting the towing of motor vehicles for traffic violations for a period of 12 hours unless moving the vehicle is necessary to relieve a safety problem; amending Minnesota Statutes 1988, section 169.04.

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

Delete everything after the enacting clause and insert:

"Section 1. [169.041] [TOWING AUTHORIZED.]

Subdivision 1. [TOWING AUTHORITY.] For purposes of this section, "towing authority" means:

(1) with respect to towing a motor vehicle from a public street, any local authority authorized by section 169.04 to enforce the traffic laws with respect to that public street; and

(2) with respect to towing a motor vehicle from a restricted parking area that is on privately owned nonresidential land, the owner or operator of the parking area or, if the parking area is adjacent to a commercial establishment, the owner or operator of that establishment.

Subd. 2. [FOUR-HOUR WAITING PERIOD.] In enforcing state and local parking and traffic laws, a towing authority may not allow or require the towing of a motor vehicle for a parking or traffic violation until four hours after issuance of the traffic ticket or citation, except as provided in this section. A towing authority may not allow or require the towing of a motor vehicle from a restricted parking area on private land until the vehicle has been in violation of the parking restriction for at least four hours.

Subd. 3. [TOWING ALLOWED.] A towing authority may tow a motor vehicle without regard to the four-hour waiting period if:

(1) the vehicle is parked in violation of snow emergency regulations;

(2) the vehicle is parked in a rush-hour restricted parking area between the hours of 7:00 a.m. and 9:00 a.m. or 4:15 p.m. and 6:00 p.m. on a weekday;

(3) the vehicle is blocking a driveway, alley, or fire hydrant;

(4) the vehicle is parked in a bus lane where parking is prohibited;

(5) the vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign;

(6) the vehicle is parked in a handicap transfer zone or handicapped parking space without a handicapped parking certificate or handicapped license plates;

(7) the vehicle is parked in an area that has been posted for restricted parking at least 24 hours in advance;

(8) the vehicle is parked within the right-of-way of a controlled access highway;

(9) a law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence;

(10) the driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping; or

(11) a law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses.

Subd. 4. [TOWING PROHIBITED.] Unless the vehicle is described in subdivision 3, a towing authority may not tow a motor vehicle because:

(1) the vehicle has expired registration tabs;

(2) *the vehicle is at a parking meter on which the time has expired; or*
(3) *the vehicle has been issued a ticket for any violation for which the fine is \$20 or less."*

Delete the title and insert:

"A bill for an act relating to traffic regulations; prohibiting the towing of motor vehicles for traffic violations for a period of four hours except under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 169."

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1293: A bill for an act relating to local government; permitting Carlton county and the city of Cloquet to jointly provide a government building.

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1396: A bill for an act relating to local government; regulating storm sewer improvements in Plymouth and Golden Valley; amending Laws 1979, chapter 303, article 10, section 15.

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1494: A bill for an act relating to the city of Minneapolis; giving the city certain powers pertaining to the delivery of energy and environmental services.

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

Page 2, after line 22, insert:

"Sec. 4. [COMBINED HEARINGS.]

The Minneapolis city council may conduct the hearing on the improvement required by Minnesota Statutes, section 429.031, and the hearing on the assessments required by Minnesota Statutes, section 429.061, at the same time pursuant to notices which include all of the information required by both sections. If the council proceeds in this manner, the proposed assessments shall be calculated on the basis of the engineer's estimate and other estimates of the council. If the actual cost of the improvement is less than the estimated cost adopted by the council or portion of it determined to be paid from special assessments, the council must provide for the cancellation and annulment or refunding of assessments in the manner provided in Minnesota Statutes, section 430.07, subdivision 5, or section

435.203."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, before the period, insert "; providing for combined hearings on improvements and assessments"

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1238: A bill for an act relating to fees; providing for fees charged by county recorder; amending Minnesota Statutes 1988, section 357.18, subdivision 1.

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

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1988, 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, 1990, or within one year of the assessor's first appointment under this section, whichever is later."

Page 1, lines 11 to 14, delete the new language and insert ". For instruments that contain more than one description, document number, or book and page that must be indexed separately, the fee shall be \$10 for each description or document number or book and page"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "fees;" and insert "county officers; removing a residency requirement for county assessors;"

Page 1, line 3, delete "section" and insert "sections 273.061, subdivision 1; and"

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

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

S.F. No. 960: A bill for an act relating to insurance; clarifying the calculation of underinsured motorist benefits; amending Minnesota Statutes

1988, section 65B.49, subdivisions 3a and 4a.

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

Page 3, delete lines 20 to 22 and insert:

"Sections 1 and 2 are effective for all contracts issued or renewed on or after August 1, 1989, or for all injuries occurring on or after August 1, 1989, or for deaths occurring as the result of injuries sustained on or after August 1, 1989."

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

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

S.F. No. 520: A bill for an act relating to food; authorizing donation of certain food; limiting liability of food donors; proposing coding for new law in Minnesota Statutes, chapter 31.

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

Page 1, line 15, after "food" insert "*manufacturer, distributor, processor,*"

Page 2, delete section 2

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

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

S.F. No. 1407: A bill for an act relating to liquor; requiring notice and hearing before liquor license fees are increased; amending Minnesota Statutes 1988, section 340A.408, by adding a subdivision.

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

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

S.F. No. 756: A bill for an act relating to workers' compensation; eliminating supplemental benefits for new claims; amending Minnesota Statutes 1988, section 176.132, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four

years have elapsed since the first date of the total disability, ~~except as provided by clause (b)~~; provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, and before October 1, 1989, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) An employee who has suffered personal injury after October 1, 1989, and is permanently totally disabled as defined by section 176.101, subdivisions 4 and 5, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving permanent total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 2. Minnesota Statutes 1988, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under ~~this section~~ subdivision 1, paragraphs (a) and (b), shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. *The supplementary benefit payable under subdivision 1, paragraph (c), shall be the difference between:*

(1) the amount the employee receives on or after October 1, 1989, under section 176.101, subdivision 4; plus the amount of disability benefits being paid under any government disability benefit program, provided those benefits are occasioned by the same injury or injuries giving rise to payments under section 176.101, subdivision 4; plus the amount of any federal old age and survivor's insurance benefits; and

(2) 65 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient *under subdivision 1, paragraph (a) or (b)*, is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

Sec. 3. Minnesota Statutes 1988, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits *under subdivision 1, paragraph (a) or (b), or currently paying permanent total disability benefits under subdivision 1, paragraph (c)*, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 4. [EFFECTIVE DATE.]

This act is effective October 1, 1989."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating the payment of supplemental benefits for new claims; amending Minnesota Statutes 1988, section 176.132, subdivisions 1, 2, and 3."

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

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

S.F. No. 287: A bill for an act relating to employment; prohibiting employers from charging fees for employment applications; providing that work over 40 hours a week is overtime; amending Minnesota Statutes 1988, sections 177.25, subdivision 1; and 181.031.

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

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete "providing"

Page 1, line 4, delete everything before "amending"

Page 1, line 5, delete "sections 177.25, subdivision" and insert "section"

Page 1, line 6, delete "1; and"

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

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

S.F. No. 1122: A bill for an act relating to workers' compensation; limiting the payment of temporary partial benefits under certain circumstances; amending Minnesota Statutes 1988, section 176.101, subdivision 2.

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

Page 1, lines 18 to 24, delete the new language and insert "*Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is earning in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 250 percent of the statewide average weekly wage.*"

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

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

S.F. No. 1435: A bill for an act relating to employment; prohibiting termination of sales representative agreements under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

Page 2, line 20, after "unless" insert "*the person has good cause and*"

Page 3, delete lines 4 and 5

Page 3, line 36, delete "*who has allegedly violated*" and insert "*for a violation of*"

Page 4, line 2, after the period, insert "*An arbitrator shall be selected from a panel under the rules and procedures of the American arbitration association.*"

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

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

S.F. No. 627: A bill for an act relating to juveniles; authorizing county welfare boards to collect fees for court-ordered treatment; amending Minnesota Statutes 1988, section 260.251, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 260.251, subdivision 1, is amended to read:

Subdivision 1. [CARE, EXAMINATION, OR TREATMENT.] (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a county welfare board, or

(2) whenever legal custody is transferred to a person other than the county welfare board, but under the supervision of the county welfare board,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, *and the county welfare board shall require*, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, *and the county welfare board shall require, reimbursement from the child to reimburse the county* for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, *the court shall order, and the county welfare board shall require*, the parents to ~~reimburse the county, in the manner and to whom the court may direct, such sums as will cover in whole or in part~~ contribute to the cost of care, examination, or treatment of the child. *When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the county welfare board and approved by the commissioner of human services.*

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian ~~or child over the age of 18~~ who fails to pay ~~this sum~~ without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed ~~against any of them~~ to collect the unpaid sums, or both procedures may be used.

(e) *If the court orders a physical or mental examination or treatment*

for a child, the examination or treatment is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was re-referred

S.F. No. 1221: A bill for an act relating to the city of Hopkins; authorizing the establishment of special service districts.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was re-referred

S.F. No. 773: A bill for an act relating to the city of Roseville; authorizing the city to use certain taxes to establish and operate a sports and recreation facility.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was re-referred

S.F. No. 135: A bill for an act relating to local government; creating the Kandiyohi county rural development finance authority; authorizing the establishment of a development and redevelopment program and the authorization of powers for it.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was re-referred

S.F. No. 957: A bill for an act relating to economic development; transferring programs under the Minnesota agricultural and economic development board to the department of trade and economic development; changing the governing structure of the certified development company; transferring program responsibilities for the allocation of bonding authority to the department of finance; eliminating certain reporting requirements; amending Minnesota Statutes 1988, sections 41A.01; 41A.02, subdivisions 7a, 15, 16, and by adding subdivisions; 41A.021; 41A.022; 41A.023; 41A.03, subdivision 3; 41A.035; 41A.036, subdivisions 1, 4, 5, and 6; 41A.04; 41A.05, subdivisions 1, 2, 3, and 4; 41A.051; 41A.06, subdivisions 2, 4, and 5; 41A.07; 41A.08; 469.175, subdivision 2; and 474A.02, subdivision 5a; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1988, sections 41A.02, subdivision 3; 41A.065; and 469.012, subdivision 5.

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

Page 19, line 11, delete "ten" and insert "25"

Page 19, line 16, delete everything after the period

Page 19, delete lines 17 to 22

Page 20, delete lines 16 to 20 and insert:

"Subd. 5. [BOARD OF DIRECTORS.] The development company bylaws must provide for a board of directors consisting of the commissioner of trade and economic development as chairperson, a vice-chairperson, and other members who are geographically representative of the state."

Page 22, delete section 31

Renumber the sections in sequence

And when so amended the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1027: A bill for an act relating to housing; making provisions for manufactured home park security deposits; amending Minnesota Statutes 1988, section 327C.02, subdivision 2.

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

Page 1, line 16, delete everything after "agreement"

Page 1, line 17, delete "subdivision 8"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1087: A bill for an act relating to landlord and tenant relations; providing standing for certain associations to bring an action for tenant remedies; providing for actions against certain unoccupied buildings; amending Minnesota Statutes 1988, sections 566.18, subdivision 7, and by adding a subdivision; 566.19; 566.20, subdivision 1; 566.25; 566.28; and 566.29, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 566.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 504.23, is amended to read:

504.23 [CODE VIOLATIONS, DISCLOSURE.]

All code violation records pertaining to a particular parcel of real property and the buildings, improvements and dwelling units located thereon

kept by any state, county or city agency charged by the governing body of the appropriate political subdivision with the responsibility for enforcing a state, county or city health, housing, building, fire prevention or housing maintenance code shall be available to all persons having a reasonable need for the information contained in the records relating to the premises, at reasonable times and upon reasonable notice to the custodian of the records, for inspection, examination, abstracting or copying at the expense of the person obtaining the information. The persons to whom the records shall be available under this section include but are not limited to the following persons and their representatives:

(a) any person having any legal or beneficial interest in the premises, including a tenant;

(b) any person considering in good faith the lease or purchase of the premises; ~~and~~

(c) *any person authorized to request an inspection under section 566.19; and*

(d) a party to any action related to the premises, including actions maintained pursuant to sections 504.18 and 566.18 to 566.33.

Sec. 2. Minnesota Statutes 1988, section 566.18, subdivision 7, is amended to read:

Subd. 7. [BUILDING.] "Building" means:

(a) any building used in whole or in part as a dwelling, including single family homes, multiple family units such as apartments, and structures containing both dwelling units and units used for nondwelling purposes, and also includes a manufactured home park, *or*

(b) *any unoccupied building which was previously used in whole or in part as a dwelling and which constitutes a nuisance under section 561.01.*

Sec. 3. Minnesota Statutes 1988, section 566.18, is amended by adding a subdivision to read:

Subd. 9. [NEIGHBORHOOD ORGANIZATION.] "*Neighborhood organization*" means a nonprofit corporation incorporated under chapter 317 that satisfies clauses (1) and (2).

The corporation shall:

(1) *designate in its articles of incorporation or bylaws a specific geographic community to which its activities are limited; and*

(2) *be formed for the purposes of promoting community safety, crime prevention, and housing quality in a nondiscriminatory manner.*

For purposes of this chapter, an action taken by a neighborhood organization with the written permission of a tenant means, with respect to a building with multiple dwelling units, an action taken by the neighborhood organization with the written permission of the tenants of a majority of the units.

Sec. 4. Minnesota Statutes 1988, section 566.19, is amended to read:

566.19 [INSPECTION, NOTICE.]

Subdivision 1. Upon demand by a tenant, *neighborhood organization with the written permission of a tenant or, if a building is unoccupied, by*

a neighborhood organization, an inspection shall be made by the local authority charged with enforcing the code claimed to be violated.

Subd. 2. After an inspection of a building has been made upon demand by a tenant *or neighborhood organization with the written permission of a tenant*, the owner or the owner's agent and the complaining tenant *or neighborhood organization* shall be informed in writing by the inspector of any code violations discovered and a reasonable period of time shall be allowed in which to correct the violations.

Subd. 3. Where an inspection has been made, no action shall be brought pursuant to sections 566.18 to 566.33 except on expiration of the time thus granted without satisfactory repairs being accomplished to remove the code violations unless the tenant *or neighborhood organization with the written permission of a tenant* shall allege the time is excessive.

Subd. 4. No action may be commenced pursuant to sections 566.18 to 566.33 by a tenant of a building in which a violation as defined in section 566.18, subdivision 6, clauses (b) or (c), is alleged to exist *or by a neighborhood organization with the written permission of a tenant of a building in which a violation as defined in section 566.18, subdivision 6, clause (b), is alleged to exist* unless the owner is informed in writing of the alleged violation at least 14 days prior to the commencement of the action. *The notice requirement may be waived upon a finding by the court that the owner cannot be located despite diligent efforts.*

Sec. 5. Minnesota Statutes 1988, section 566.20, subdivision 1, is amended to read:

Subdivision 1. An action may be brought in ~~county district court, or municipal court in the counties of Hennepin, Ramsey or St. Louis,~~ by any tenant of a building in which a violation, as defined in section 566.18, subdivision 6, is alleged to exist, or by any *neighborhood organization with the written permission of a tenant of a building in which a violation, as defined in section 566.18, subdivision 6, clause (a) or (b), is alleged to exist, or by a neighborhood organization that has within its geographical area an unoccupied building in which a violation, as defined in section 566.18, subdivision 6, clause (a) or (b), is alleged to exist,* or state, county or local department, or authority, charged with the enforcement of codes relating to health, housing, or building maintenance.

Sec. 6. Minnesota Statutes 1988, section 566.25, is amended to read:

566.25 [JUDGMENT.]

Upon finding the complaint proved, the court may, in its discretion, do any or all of the following, either alone or in combination:

(a) Order the owner to remedy the violation or violations found by the court to exist if the court is satisfied that corrective action will be undertaken promptly; or

(b) Order the tenant to remedy the violation or violations found by the court to exist and deduct the cost from the rent subject to the terms as the court determines to be just; or

(c) Appoint an administrator with powers as set out in section 566.29, and

(1) direct that rents due:

(i) on and from the day of entry of judgment, in the case of petitioning tenants *or neighborhood organizations*, and

(ii) on and from the day of service of the judgment on all other tenants and commercial tenants of the building, if any, shall be deposited with the administrator appointed by the court, and

(2) direct that the administrator use the rents collected for the purpose of remedying the violations found to exist by the court paying the debt service, taxes and insurance, and providing the services necessary to the ordinary operation and maintenance of the building which the owner is obligated to provide but fails or refuses to provide; or

(d) Find the extent to which any uncorrected violations impair the tenants' use and enjoyment of the premises contracted for and order the rent abated accordingly. Should the court choose to enter judgment under this paragraph the parties shall be informed and the court shall find the amount by which the rent shall be abated; ~~and~~

(e) *After termination of administration, continue the jurisdiction of the court over the building for a period of one year and order the owner to maintain the building in compliance with all applicable state, county, and city health, safety, housing, building, fire prevention, and housing maintenance codes; and*

~~(e)~~ (f) Grant any other relief the court deems just and proper, *including a judgment against the owner for reasonable attorney fees, not to exceed \$500, in the case of a prevailing tenant or neighborhood organization. The \$500 limitation does not apply to awards made under section 549.21 or other specific statutory authority.*

Sec. 7. Minnesota Statutes 1988, section 566.28, is amended to read:

566.28 [EVICITION PROCEEDINGS BY OWNER LIMITED.]

A tenant may not be evicted, nor may the tenant's obligations under a rental agreement be increased nor the services decreased, if the eviction or increase of obligations or decrease of services is intended as a penalty for the tenant's *or neighborhood organization's* complaint of a violation. The burden of proving otherwise shall be on the owner if said eviction or increase of obligations or decrease of services occurs within 90 days after the filing of the complaint, unless it is found that the complaint was not made in good faith. After 90 days the burden of proof shall be on the tenant.

Sec. 8. Minnesota Statutes 1988, section 566.29, subdivision 1, is amended to read:

Subdivision 1. The administrator may be any person, other than an owner of the building, the inspector, the complaining tenant or any person living in the complaining tenant's dwelling unit. If a state, court, or local agency is authorized by statute, ordinance or regulation to provide persons *or neighborhood organizations* to act as administrators under this section, the court may appoint such persons *or neighborhood organizations* as administrators to the extent they are available.

Sec. 9. Minnesota Statutes 1988, section 566.29, subdivision 3, is amended to read:

Subd. 3. The court may allow a reasonable amount for the services of administrators, and the expense of the administration from any rent moneys,

or upon termination of administration, may enter judgment against the owner in a reasonable amount for the services and expenses incurred by the administrator.

Sec. 10. Minnesota Statutes 1988, section 566.29, subdivision 4, is amended to read:

Subd. 4. [POWERS.] The administrator shall be empowered to:

(a) Collect rents from tenants and commercial tenants, evict tenants and commercial tenants for nonpayment of rent or other cause, ~~rent enter into leases for vacant dwelling units on a month to month basis~~, rent vacant commercial units with the consent of the owner and exercise all other powers necessary and appropriate to carry out the purposes of Laws 1973, chapter 611;

(b) Contract for the reasonable cost of materials, labor and services necessary to remedy the violation or violations found by the court to exist, and make disbursements for payment therefor from funds available for the purpose;

(c) Provide any services to the tenants which the owner is obligated to provide but refuses or fails to provide, and pay for them from funds available for the purpose;

(d) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the premise to secure funds to the extent necessary to cover the cost of materials, labor, and services, *including reasonable fees for the administrator's services*, necessary to remedy the violation or violations found by the court to exist, and to pay for them from funds derived from the encumbrance; and

(e) Petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by the municipality to the extent necessary to cover the cost of materials, labor, and services necessary to remedy the violation or violations found by the court to exist, and pay for them from funds derived from the municipal sources. The municipality shall recover disbursements by special assessment on the real estate affected, bearing interest at the rate determined by the municipality, not exceeding the rate established for finance charges for open-end credit sales under section 334.16, subdivision 1, clause (b), with the assessment, interest and any penalties to be collected the same as special assessments made for other purposes under state statute or municipal charter."

Amend the title as follows:

Page 1, line 6, after "sections" insert "504.23;"

Page 1, line 8, delete "subdivision" and insert "subdivisions" and delete "; proposing" and insert ", 3, and 4."

Page 1, delete line 9

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 989: A bill for an act relating to the town of Otsego; authorizing the town to establish an economic development authority and to exercise

tax increment financing powers; granting the town the power of a city with respect to the authority.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1138: A bill for an act relating to local government; permitting the Dakota and Washington county housing and redevelopment authorities to waive performance bonds for single family housing construction; amending Laws 1971, chapter 333; and Laws 1974, chapter 475.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1401: A bill for an act relating to economic development; changing the requirements for loans to Indians; amending Minnesota Statutes 1988, section 116J.64, subdivision 7.

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

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

S.F. No. 1282: A bill for an act relating to human services; adopting the asset limitations used by the veterans homes for purposes of determining medical assistance eligibility for veterans; amending Minnesota Statutes 1988, section 256B.056, by adding a subdivision.

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

Page 1, line 11, before "Notwithstanding" insert "(a)"

Page 1, after line 18, insert:

"(b) Paragraph (a) is effective only to the extent allowed by federal medical assistance laws and regulations and only if the federal health care financing agency approves the necessary amendments to the state medical assistance plan. The commissioner shall seek waivers of federal requirements to the extent necessary to implement paragraph (a)."

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 153: A bill for an act relating to retirement; providing lump sum payments to certain retired or disabled public employees or their surviving spouses; appropriating money.

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

Delete everything after the enacting clause and insert:

“ARTICLE 1

LUMP SUM POSTRETIREMENT ADJUSTMENTS
FOR CERTAIN RETIRED MEMBERS

Section 1. [POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.]

Subdivision 1. [COVERED RETIREMENT FUNDS.] The following retirement funds shall pay the postretirement adjustment provided for in this section:

- (1) public employees retirement fund;*
- (2) public employees police and fire fund;*
- (3) teachers retirement fund;*
- (4) state patrol retirement fund;*
- (5) state employees retirement fund of the Minnesota state retirement system; and*
- (6) Minneapolis employees retirement fund.*

Subd. 2. [ENTITLEMENT.] A person receiving a retirement annuity, disability benefit, or surviving spouse's annuity or benefit from a retirement fund named in subdivision 1 is entitled to receive the postretirement adjustment provided for in this section if the annuity or benefit the person is receiving is:

- (1) an annuity or benefit from the fund named in subdivision 1, clause (4), computed under the laws in effect before June 1, 1973;*
- (2) an annuity or benefit from the funds named in subdivision 1, clause (1), (2), (3), or (5), computed under the laws in effect before July 1, 1973;*
- (3) an annuity from the fund named in subdivision 1, clause (6), computed under the laws in effect before March 5, 1974;*
- (4) a “\$2 bill and annuity” annuity from the fund named in subdivision 1, clause (6); or*
- (5) an annuity or benefit from the fund named in subdivision 1, clause (5), computed under the metropolitan transit commission-transit operating division employees retirement fund document in effect before January 1, 1978.*

Subd. 3. [AMOUNT OF ADJUSTMENT.] Each retirement fund named in subdivision 1 shall pay the postretirement adjustments provided for in this section to each person eligible for an annuity or benefit on November 30, 1989, or November 30, 1990, and entitled to an adjustment under subdivision 2. An adjustment for an individual recipient must be a lump sum payment in an amount equal to \$25 in 1989 and \$25 in 1990 for each full year of allowable service credited to the recipient by the fund. Adjustments are payable on December 1, 1989, to recipients eligible for an annuity or benefit on November 30, 1989, and on December 1, 1990, to recipients eligible for an annuity or benefit on November 30, 1990. 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, 1990, 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.] \$11,698,843 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:

| | <i>Fiscal Year</i> | <i>Fiscal Year</i> |
|--|--------------------|--------------------|
| | <i>1990</i> | <i>1991</i> |
| <i>Public employees retirement fund</i> | <i>\$1,912,374</i> | <i>\$1,777,351</i> |
| <i>Public employees police and fire fund</i> | <i>89,305</i> | <i>86,073</i> |
| <i>Teachers retirement fund</i> | <i>1,682,050</i> | <i>1,597,950</i> |
| <i>State patrol retirement fund</i> | <i>77,750</i> | <i>77,500</i> |
| <i>State employees retirement fund</i> | <i>1,315,000</i> | <i>1,250,000</i> |
| <i>Minneapolis employees retirement fund</i> | <i>916,745</i> | <i>916,745</i> |

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective July 1, 1989.

ARTICLE 2

STATE UNIVERSITY AND COMMUNITY COLLEGE SUPPLEMENTAL RETIREMENT PLAN AMENDMENTS

Section 1. Minnesota Statutes 1988, section 136.80, subdivision 1, is amended to read:

Subdivision 1. [SUPPLEMENTAL PLAN MEMBERSHIP] A The supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full time contract is hereby established and shall be governed pursuant to sections 136.81 to 136.85. ~~Any~~ An unclassified employee who is employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal comprehensive employment and training act ~~shall~~ may not be included in the supplemental retirement plan provided for in sections 136.81 to 136.85 ~~from and~~ after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the

retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by section 136.81 on account of that unclassified employee from revenue sources other than funds provided under the federal comprehensive employment and training act, or the unclassified employee agrees in writing to make the employer contribution required by section 136.81 in addition to the member contribution.

Sec. 2. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. [DEDUCTIONS.] ~~There shall be deducted~~ *The state university board and the state board for community colleges shall deduct from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the portion of the person's annual salary paid between above \$6,000 and \$15,000. The deduction is to must be made in the same manner as other retirement deductions are made from the salary of the person only after the first \$6,000 has been paid in a fiscal year. The state employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person, but not to exceed \$450 a year unless an amount greater than \$450, but not to exceed \$2,000 a year, is specified in an agreement between a board and the exclusive representative of the persons employed by the board and described in section 136.80, subdivision 1. The moneys so money deducted and the state contribution shall must be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account is hereby established and shall must be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. The money required to meet the obligation of the state employer as provided in this subdivision shall must be contributed to the executive director of the teachers retirement association by the state employer.*

~~Any Deductions which are taken from the salary of a person for the supplemental retirement plan in error shall must, upon discovery and verification, be refunded to the person. The retirement board shall establish a reserve which shall reflect reflecting any gains or losses realized due to the purchase and redemption of shares representing salary deductions and state employer contributions which were made in error. The balance of the reserve shall must be credited annually to the cancellation reserve established pursuant to under section 136.82, subdivision 1, clause (5).~~

~~If any payroll deductions which are required pursuant to under this section are omitted, the deductions shall must be remitted to the supplemental retirement plan investment account of the teachers retirement association within one year from the end of the fiscal year in which the deductions were due, and, at the time of the receipt of the omitted deductions, the required state contribution shall then must be made.~~

Sec. 3. Minnesota Statutes 1988, section 356.24, is amended to read:

356.24 [SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.]

(a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and

operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.04;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee; or

(4) *for employees other than personnel employed by the state university board or the state board for community colleges and covered by section 136.80, subdivision 1, to the state of Minnesota deferred compensation plan under section 352.96, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or*

(5) *for personnel employed by the state university board or the state board for community colleges and covered by section 136.80, subdivision 1, to the supplemental retirement plan under sections 136.80 to 136.85, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.*

(b) No change in benefits or employer contributions in a supplemental pension plan to which this section applies after May 6, 1971, is effective without prior legislative authorization.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective July 1, 1989.

ARTICLE 3

STATE UNIVERSITY AND COMMUNITY COLLEGE INDIVIDUAL RETIREMENT ACCOUNT PLAN

Section 1. Minnesota Statutes 1988, section 354.05, subdivision 2a, is amended to read:

Subd. 2a. [EXCEPTIONS.] Notwithstanding subdivision 2, a person who is first employed as a teacher in the state university system or the state community college system after June 30, ~~1988~~ 1989, is not a member of the fund *except for purposes of social security coverage unless the person is covered by section 354B.02, subdivision 2, and has exercised an option under that subdivision to remain a member of the fund for all purposes.*

Sec. 2. Minnesota Statutes 1988, section 354.05, subdivision 5, is amended to read:

Subd. 5. [MEMBER OF FUND.] The term "member of fund" means every teacher who joins and contributes to the teachers retirement fund as provided in this chapter who has not retired-, *except a teacher covered by section 354B.02, subdivision 2, who elects to participate in the individual*

retirement account plan under chapter 354B.

Sec. 3. Minnesota Statutes 1988, section 354.66, subdivision 2, is amended to read:

Subd. 2. A teacher in the public elementary schools, secondary schools, or technical institutes, *or* in the community college system or the state university system of the state who has 20 years or more of allowable service in the fund or 20 years or more of full time teaching service in Minnesota public elementary schools, secondary schools, or technical institutes, *or* in the community college system or the state university system, *or a teacher in the community college system or state university system who has attained at least age 55 and has ten years or more of full-time teaching service.* may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position.

Sec. 4. [354.70] [DIVISION OF TEACHERS RETIREMENT ASSOCIATION.]

(a) Within 90 days after the report of the actuary retained by the legislative commission on pensions and retirement for July 1, 1989, the executive director shall divide the assets of the association, excluding assets transferred to the Minnesota postretirement investment fund under section 11A.18 and assets in the Minnesota variable annuity investment fund, into two separate accounts. One account must contain the assets held on behalf of active members employed as teachers by the state university system and the community college system, and the other account must contain the assets held on behalf of all other active members and deferred members. The commission-retained actuary shall determine the overall entry-age normal cost actuarial accrued liability funding ratio of the association as of July 1, 1989, for the combined actuarial accrued liability and assets of the two accounts. The executive director shall allocate assets between each account so that the entry-age normal cost actuarial accrued liability funding ratio of each account is the same and reflects the overall funding ratio determined by the commission retained actuary.

(b) A transfer to the plan under section 7 may be made only from the account representing the assets held on behalf of members employed as teachers by the state university system and the community college system.

Sec. 5. [354B.015] [SOCIAL SECURITY COVERAGE.]

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2, remain members of the teachers retirement association for purposes of social security coverage only and remain covered by the applicable agreement entered into under section 355.02, but are not members of the association for any other purpose while employed in covered employment.

Sec. 6. Minnesota Statutes 1988, section 354B.02, is amended to read:
354B.02 [COVERED PERSONS.]

Subdivision 1. [PLAN PARTICIPANTS.] Except as provided in subdivision 2, a person who was first employed in covered employment after June 30, ~~1988~~ 1989, shall participate in the plan.

Subd. 2. [PERSONS WITH CERTAIN PRIOR SERVICE.] A person with prior service as a member of the teachers retirement association other than in covered employment under section 354B.01, subdivision 2 or 3, ~~who is~~

~~entitled to a deferred annuity under section 354.55, subdivision 11, and~~ who is first employed in covered employment after June 30, ~~1988~~ 1989, may, at the person's option, remain a member of the teacher's retirement association for all purposes or participate in the plan.

Subd. 3. [OPTIONAL PARTICIPATION.] A person who was first employed in covered employment before July 1, 1989, and who is a coordinated member of the teachers retirement association, may elect to remain a member of the teachers retirement association for all purposes or to transfer retirement coverage to the plan under section 7. An election to transfer retirement coverage to the plan must be made before July 1, 1992, and is irrevocable. When a member transfers coverage to the plan, all existing service credits with the association to which the person was entitled before the transfer terminate and may not be restored.

Subd. 4. [PART-TIME FACULTY.] The state university board and the community college board, independently with regard to their employees, may establish eligibility requirements for the plan that exclude from participation persons employed in covered employment less than 35 percent of full-time employment. Persons excluded from the plan may be members of the teachers retirement association for all purposes, including social security coverage.

Sec. 7. [354B.03] [COVERAGE TRANSFER.]

Subdivision 1. [PROCEDURE.] If a person elects a transfer to the plan under section 6, subdivision 3, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions and an equal amount representing the matching employer contributions plus interest compounded annually at the rates established by the board of trustees to determine retirement annuities under section 354.44, subdivision 2, but not to exceed eight percent a year. The transfer must be made within 90 days from the date the executive director receives notification of the election. The employer contribution transfer may not include an amount representing an employer additional contribution or an amount representing the repayment of a refund received by the association after the date of enactment of this act.

Subd. 2. [LIMITATIONS.] A transfer to the plan under this section is a transfer to the financial institution selected by a plan administrator to provide annuity contracts or custodial accounts and must be made through the governing board of the system in which the person electing the transfer is employed in covered employment. No amount may be distributed to the person electing the transfer.

Sec. 8. Minnesota Statutes 1988, section 354B.04, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3, and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5. The association shall credit the additional employer contribution to the separate account, established under section 4, representing the assets held on behalf of active members employed as teachers by the state university system and the community college system.

Sec. 9. Minnesota Statutes 1988, section 354B.05, subdivision 3, is amended to read:

Subd. 3. [SELECTION OF FINANCIAL INSTITUTIONS.] The state university board and the community college board shall select no more than three financial institutions to provide annuity contracts or custodial accounts. *Each board may at its discretion change a selection of an institution.* Investment programs offered by the institutions must meet the requirements of section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended. In making their selections, the boards shall consider these criteria:

(1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;

(2) the relationship of the benefits to their cost; and

(3) the financial strength and stability of the institution.

Sec. 10. Minnesota Statutes 1988, section 354B.05, subdivision 4, is amended to read:

Subd. 4. [BENEFITS OWNED BY MEMBERS.] The retirement and death benefits provided by the annuity contracts or custodial accounts are owned by the ~~members of the plan trust~~ and must be paid in accordance with the provisions of the ~~annuity contracts or custodial accounts plan document~~.

Sec. 11. [355.61] [SOCIAL SECURITY COVERAGE FOR CERTAIN STATE UNIVERSITY OR COMMUNITY COLLEGE FACULTY.]

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2, remain members of the teachers retirement association for purposes of social security coverage only, and remain covered by the applicable agreement entered into under section 355.02, but are not members of the teachers retirement association for any other purpose while employed in covered employment.

Sec. 12. [EFFECTIVE DATE OF COVERAGE.]

Notwithstanding Laws 1988, chapter 709, article 11, sections 1, 3, and 7, persons first employed in covered employment between June 30, 1988, and July 1, 1989, are members of the teachers retirement association for all purposes but are eligible to elect to participate in the plan under section 7.

Sec. 13. [REPEALER.]

Section 7 is repealed October 1, 1992.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 11 are effective July 1, 1989."

Delete the title and insert:

"A bill for an act relating to retirement; various public pension plans; providing for certain postretirement adjustments; modifying the state university and community college supplemental retirement plan; modifying the individual retirement account plan; appropriating money; amending Minnesota Statutes 1988, sections 136.80, subdivision 1; 136.81, subdivision 1; 354.05, subdivisions 2a and 5; 354.66, subdivision 2; 354B.02;

354B.04, subdivision 2; 354B.05, subdivisions 3 and 4; and 356.24; proposing coding for new law in Minnesota Statutes, chapters 354; 354B; and 355."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1115: A bill for an act relating to economic development; establishing a cold weather resource center at International Falls; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 116Q.

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

Delete everything after the enacting clause and insert:

"Section 1. [116Q.01] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 1 to 5.

Subd. 2. [BOARD.] "Board" means the board of directors of the cold weather resource center.

Subd. 3. [CORPORATION.] "Corporation" means the cold weather resource center.

Sec. 2. [116Q.02] [COLD WEATHER RESOURCE CENTER.]

Subdivision 1. [ESTABLISHMENT.] The cold weather resource center is a public corporation established to encourage economic development by promoting, attracting, and coordinating cold weather research, testing, and related activities throughout the state. The corporation shall provide coordination and services to institutions and companies that conduct cold weather testing and research, and shall not directly conduct its own research or testing. The corporation shall only provide services that the private sector does not provide. The corporation is not subject to the laws governing a state agency except as provided in this chapter.

Subd. 2. [BOARD OF DIRECTORS.] The corporation is governed by a board of 16 directors. Board members may receive compensation and be reimbursed for expenses in the amounts authorized under section 15.0575. Vacancies are filled by the board. The term of a director is three years. A director may not serve more than two terms in succession and must remain off the board for at least two years before being appointed again. Appointments are staggered so that four directors are appointed each year. Appointments must be made to provide a fair geographic balance from communities with two or more private sector firms currently conducting cold weather testing or research, wherever practical. The following categories must be represented on the board:

(1) industries engaged in cold weather testing or research;

(2) development organizations involved in applied research and business development;

(3) state and local government;

(4) the department of transportation; and

(5) one representative from each of the following post-secondary educational institutions or groups:

- (i) technical institutes;
- (ii) community colleges;
- (iii) the University of Minnesota; and
- (iv) the state university system.

Subd. 3. [OPEN MEETINGS.] Meetings of the board are governed by the Minnesota open meeting law, section 471.705, except as provided in this subdivision. The board of directors may by a majority vote in a public meeting decide to hold a closed meeting to discuss application and investigative data described in subdivision 8. The time and place of the closed meeting must be announced at the public meeting. A written roll of members present at the closed meeting must be made available to the public after the closed meeting. The proceedings of a closed meeting must be tape-recorded at the expense of the board and must be preserved by the board for two years. The data on the tape is nonpublic data under section 13.02, subdivision 9.

Subd. 4. [EXECUTIVE DIRECTOR.] The board shall employ an executive director. The executive director shall manage the corporation. The executive director shall report to the board and may hire employees to accomplish the objectives of the board.

Subd. 5. [OFFICES.] The offices of the corporation must be located in or near the city of International Falls. The corporation may establish field offices if appropriate. Rainy River community college shall assist the corporation with obtaining office space and administrative services, to be paid for by the corporation. The city of International Falls may assist the corporation by providing it with money, or with in-kind contributions of land, buildings, support services, or other things of value, as negotiated between the city and the corporation.

Subd. 6. [ETHICAL PRACTICES.] Directors and the executive director are public officials for purposes of chapter 10A, relating to ethics in government.

Subd. 7. [ACCESS TO DATA.] The corporation is governed by the Minnesota government data practices act, chapter 13.

Subd. 8. [APPLICATION AND INVESTIGATIVE DATA.] The following data is classified as private data with regard to data on individuals under section 13.02, subdivision 12, or as nonpublic data with regard to data not on individuals under section 13.02, subdivision 9, whichever applies:

(1) financial data, statistics, and information given in connection with assistance or proposed assistance from the corporation, including credit reports, financial statements, statements of net worth, income tax returns, either personal or corporate, and any other business and personal financial records; or

(2) security information, trade secret information, or labor relations information, as defined in section 13.37, subdivision 1, disclosed to members of the board or employees of the corporation.

Sec. 3. [116Q.03] [POWERS.]

Subdivision 1. [GENERALLY; LIMITATIONS.] The corporation has

the powers specified in this section.

Subd. 2. [LEGAL CAPACITY.] The corporation may sue and be sued in its own name.

Subd. 3. [PROPERTY OWNERSHIP.] The corporation may purchase, lease, or otherwise acquire, own, hold, improve, and use real or personal property, or any interest in it, wherever situated.

Subd. 4. [PROPERTY DISPOSITION.] The corporation may sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or otherwise dispose of all or any part of its real or personal property, or any interest in it, wherever situated.

Subd. 5. [CONTRACTS; MORTGAGES.] The corporation may make contracts and incur liabilities, borrow money, and secure any of its obligations by mortgage of or creation of a security interest in all or any of its property, franchises, and income.

Subd. 6. [INVESTMENT.] The corporation may invest and reinvest its funds.

Subd. 7. [HOLDING PROPERTY AS SECURITY.] The corporation may take and hold real and personal property, whether or not of a kind sold or otherwise dealt in by the corporation, as security for the payment of money loaned, advanced, or invested.

Subd. 8. [EMPLOYEE PENSION PLAN.] The corporation may provide and pay for a pension plan for its employees.

Subd. 9. [PARTICIPATING IN MANAGEMENT.] The corporation may participate in any capacity in the promotion, organization, ownership, management, and operation of any organization or in any transaction, undertaking, or arrangement that the participating corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control with or to others.

Subd. 10. [INSURANCE.] The corporation may provide life insurance and other insurance for its officers, directors, and employees.

Subd. 11. [BYLAWS.] The corporation may adopt bylaws relating to the management of the business or the regulation of the affairs of the corporation.

Sec. 4. [116Q.04] [STATE NOT LIABLE.]

The state is not liable for the debts of the corporation.

Sec. 5. [116Q.05] [RESERVATION OF RIGHT.]

The state reserves the right to amend or repeal this chapter. The corporation is subject to this reserved right.

Sec. 6. [116Q.06] [AUDIT.]

The books and records of the corporation are subject to audit without previous notice by the legislative auditor.

Sec. 7. [116Q.07] [REPORT.]

The corporation must submit a biennial performance report to the governor and legislature.

Sec. 8. [INITIAL APPOINTMENTS.]

Notwithstanding section 2, subdivision 2, the governor shall appoint the members of the first board of directors of the cold weather research center as follows: four to one-year terms; four to two-year terms; four to three-year terms; and four to four-year terms.

Sec. 9. [APPROPRIATION.]

\$1,500,000 is appropriated from the general fund to the commissioner of trade and economic development for a grant to the cold weather resource center. \$650,000 is for the fiscal year ending June 30, 1990, and \$850,000 is for the fiscal year ending June 30, 1991. Any unencumbered balance remaining in the first year does not cancel and is available for the second year."

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

Mr. Pehler from the Committee on Education, to which was re-referred

S.F. No. 922: A bill for an act relating to education; permitting one levy referendum each year by a school board; amending Minnesota Statutes 1988, section 124A.03, subdivision 2.

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

Page 1, line 13, after the period, insert "*One election may be held in a calendar year to approve an increase that is initiated by a school board and one election may be held in a calendar year to approve an increase invoked by petition.*"

Page 1, line 14, delete "*In any*"

Page 1, line 15, delete "*calendar year,*" and strike "*only*" and delete "*one election*" and strike "*may be held to*"

Page 1, line 16, strike "*approve a levy increase*"

Page 1, line 17, strike the period

Page 2, strike lines 18 to 24

Page 2, line 25, strike "(4)" and insert "(3)" and before "(2)" insert "*(1) or*"

Page 2, line 26, strike "*five*" and insert "*15*"

Page 2, line 27, strike "*residents*" and insert "*registered voters*" and strike "*as determined by*"

Page 2, line 28, strike everything before the period

Page 2, line 28, strike "*revocation or reduction*"

Page 2, line 31, strike "(5)" and insert "(4)"

Page 2, line 34, strike "(6)" and insert "(5)"

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "*limiting the number of and altering petition procedures for school district levy referendums*"

Page 1, line 3, delete "*each year by a school board*"

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1010: A bill for an act relating to education; appropriating money for a study of educational facilities.

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 782: A bill for an act relating to education; entering into the Midwestern Education Compact; proposing coding for new law in Minnesota Statutes, chapter 121; repealing Minnesota Statutes 1988, sections 121.843; 121.844; and 121.845.

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 253: A bill for an act relating to education; authorizing the use of community education funds to acquire equipment to be used exclusively in community education programs; amending Minnesota Statutes 1988, section 124.271, subdivision 4.

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

Page 1, lines 13 and 14, strike "funds" and insert "money"

Page 1, line 17, strike "These funds" and insert "The money"

Page 1, delete lines 20 to 25 and insert:

"(b) In addition to money from other sources, a district may use up to ten percent of its community education revenue for equipment that is used exclusively in community education programs. This revenue may be used only for the following purposes:

(1) to purchase or lease computers and related materials;

(2) to purchase or lease equipment for instructional programs; and

(3) to purchase textbooks and library books."

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 425: A bill for an act relating to education; vocational technical; allowing purchase of real property by independent school district No. 347.

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

Page 1, line 10, delete "project" and insert "building"

Page 1, line 11, delete "local money" and insert "the technical institute debt reduction fund"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1095: A bill for an act relating to education; requiring school boards, public post-secondary boards and institutions, the commissioner of human rights, and the high school league to perform certain duties relating to sexual harassment and sexual violence; appropriating money; amending Minnesota Statutes 1988, sections 121.882, subdivision 2; 124A.27, by adding a subdivision; and 129.121, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 121; 127; 135A; and 363.

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

Pages 1 to 3, delete sections 1 to 4

Page 3, line 21, after the period, insert "*Each public post-secondary institution shall provide each student with information regarding its policy during student registration.*"

Pages 3 and 4, delete sections 7 to 9

Page 4, delete line 28 and insert:

"Sections 1 and 2"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "school boards,"

Page 1, line 3, delete ", the"

Page 1, line 4, delete everything before the comma

Page 1, line 6, delete "appropriating money;"

Page 1, line 7, delete "sections 121.882," and insert "section"

Page 1, delete line 8

Page 1, line 10, delete "chapters 121; 127;" and insert "chapter"

Page 1, line 11, delete "; and 363"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1448: A bill for an act relating to tourism; authorizing the commissioner of trade and economic development to make or participate in tourism-related loans; appropriating money; proposing coding for new law in chapter 116J.

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

Page 1, lines 18 and 19, delete "*set out*" and insert "*provided*"

Page 2, line 4, delete "*more than 30 days*"

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1509: A bill for an act relating to education; simplifying the high school league's audit requirements; amending Minnesota Statutes 1988, section 129.121, subdivision 2.

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

Page 1, line 12, before the period, insert "*or a certified public accountant, at the option of the league*"

Page 1, line 13, reinstate the stricken language and after the reinstated "auditor" insert "*or certified public accountant selected by the league*"

Page 1, lines 14 to 25, reinstate the stricken language

Page 2, lines 1 to 4, reinstate the stricken language

Page 2, line 5, reinstate the stricken "The league must pay the" and reinstate the stricken "costs of the audit."

Page 2, delete lines 6 and 7

Amend the title as follows:

Page 1, line 2, delete "simplifying" and insert "expanding the audit options for"

Page 1, line 3, delete "league's audit requirements" and insert "league"

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

Mr. Pehler from the Committee on Education, to which was re-referred

S.F. No. 1374: A bill for an act relating to education; providing that discrimination against a pupil by a teacher may be grounds for discharge or demotion; amending Minnesota Statutes 1988, sections 125.12, subdivision 8; and 125.17, subdivision 4.

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

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

H.F. No. 740 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 740 | 1157 | | | | |

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 740 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 740 and insert the language after the enacting clause of S.F. No. 1157, the first engrossment; further, delete the title of H.F. No. 740 and insert the title of S.F. No. 1157, the first engrossment.

And when so amended H.F. No. 740 will be identical to S.F. No. 1157, and further recommends that H.F. No. 740 be given its second reading and substituted for S.F. No. 1157, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 593 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 593 | 521 | | | | |

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 895 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 895 | 710 | | | | |

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 989 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

H.F. No. S.F. No.

989 1071

CONSENT CALENDAR

H.F. No. S.F. No.

CALENDAR

H.F. No. S.F. No.

and that the above Senate File be indefinitely postponed.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1439: A bill for an act relating to natural resources; reallocating costs assessed against the game and fish fund; appropriating money; amending Minnesota Statutes 1988, sections 97A.055, by adding a subdivision; 97A.061, subdivision 1; and 97A.165; proposing coding for new law in Minnesota Statutes, chapter 84.

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 1102: A bill for an act relating to education; authorizing school district participation in certain energy efficiency projects; proposing coding for new law in Minnesota Statutes, chapter 124.

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

Pages 1 to 3, delete section 1 and insert:

“Section 1. Minnesota Statutes 1988, section 123.36, is amended by adding a subdivision to read:

Subd. 15. [ENERGY CONSERVATION CONTRACTS.] A school board may enter into an installment payment contract according to this subdivision to reduce energy and operating costs in a school building, without an election under section 475.58 and without complying with the competitive bidding requirements of section 123.37 or 471.345. A contract shall include a provider's written guarantee that energy savings will equal or exceed the cost of the improvements. A contract is subject to sections 121.15, subdivisions 6 to 10, regardless of the expenditure amount, and 124.243. A contract may provide for payments during a ten-year term.”

Delete the title and insert:

“A bill for an act relating to education; allowing school districts to enter into certain contracts to reduce energy and operating costs; amending Minnesota Statutes 1988, section 123.36, by adding a subdivision.”

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was re-referred

S.F. No. 1174: A bill for an act relating to public lands; conditions for acceptance of transfers from the federal government; proposing coding for new law in Minnesota Statutes, chapter 84.

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

Page 1, line 9, after "*must*" insert "*consult with the board of water and soil resources for a determination of marginal land, tillable farm land, and farm homestead. The commissioner must*"

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was referred

S.F. No. 1561: A bill for an act relating to agriculture; appropriating money for agriculture information centers.

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was referred

S.F. No. 1524: A bill for an act relating to agriculture; establishing a board of directors of the agricultural utilization research institute; allocating certain amounts of the greater Minnesota fund for agriculture-related uses; amending Minnesota Statutes 1988, sections 116O.09, subdivisions 1, 2, and by adding a subdivision; and 116O.12.

Reports the same back with the recommendation that the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Davis from the Committee on Agriculture and Rural Development, to which was referred

S.F. No. 1496: A bill for an act relating to agriculture; providing coordination of aquiculture programs; requiring reporting to the commissioner of agriculture on aquiculture projects with state funding; defining aquiculture; declaring aquiculture an agricultural pursuit; amending Minnesota Statutes 1988, section 17.49; proposing coding for new law in Minnesota Statutes, chapter 17.

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

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

S.F. No. 1032: A bill for an act relating to environment; providing reciprocal access to courts and administrative agencies for injuries caused by transboundary pollution; proposing coding for new law in Minnesota Statutes, chapter 543.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, line 14, delete "*which*" and insert "*that*"

Page 2, line 8, delete "*the law of this state,*"

Page 2, line 9, delete "*excluding*" and insert "*to be determined by application of ordinary*"

Page 2, line 19, delete "*sovereignty*" and insert "*sovereign*"

Page 2, after line 24, insert:

"Sec. 2. [EFFECTIVE DATE.]

This act is effective January 1, 1991."

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

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

S.F. No. 1371: A bill for an act relating to human services; providing salary adjustments for semi-independent living services, day training and habilitation services, waived services, and intermediate care facilities for persons with mental retardation or related conditions; appropriating money; amending Minnesota Statutes 1988, sections 252.275, by adding a subdivision; 252.46, by adding a subdivision; and 256B.501, by adding subdivisions.

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

Page 1, lines 19 and 20, delete "*whose annual salary is less than \$20,000*"

Page 1, lines 27 and 28, delete "*that have an annual salary of less than \$20,000*"

Page 2, line 17, after "*for*" insert "*direct care and support*" and delete "*whose annual salary is less*" and insert a period

Page 2, delete lines 18 to 20

Page 3, lines 10 and 11, delete "*whose annual salary is less than \$20,000*"

Page 3, line 18, delete everything after "*care*" and insert "*and support staff positions, but not top level administrative staff positions*"

Page 3, line 19, delete "*\$20,000*"

Page 4, delete line 7

Page 4, line 8, delete "*\$20,000*"

Page 4, line 9, delete "*or*"

Page 4, after line 20, insert:

"Sec. 5. Minnesota Statutes 1988, section 256B.501, is amended by adding a subdivision to read:

Subd. 12. [ICF/MR SERVICE SITE RELOCATION.] (a) The commissioner may adjust a facility's property-related payment rate when the facility's service site must be relocated due to the termination of its operating lease by the lessor. For a facility to be eligible, the following conditions

must be met:

(1) the facility must provide verification that the facility received written notice from the lessor prior to April 1, 1989, indicating that the operating lease will be terminated or subject to termination before July 31, 1989;

(2) the commissioner must have received a completed determination of need from the provider pursuant to section 252.28 and Minnesota Rules, parts 9525.0015 to 9525.1065, by May 1, 1989;

(3) the determination of need in clause (2) must request a change of location due to termination of an operating lease and be accompanied by a written request for an increase in property reimbursement to cover an expected increase in operating lease costs for new service sites; and

(4) the provider must be relocating multiple facilities under these conditions.

(b) The commissioner shall determine eligible providers and shall adjust the provider's property-related payment rate as follows:

(1) the provider must submit copies of a signed lease agreement to the commissioner by October 1, 1989, for each relocated facility whose previous operating lease was terminated;

(2) the commissioner must apply the provisions of Minnesota Rules, parts 9553.0010 to 9553.0080, the investment-per-bed limitation is the limit that was established for calendar year 1989, and the commissioner shall include the new operating lease costs in establishing the facility's property-related payment rates. The new operating lease costs may not exceed \$1,500 per month for each facility meeting the criteria in this subdivision; and

(3) the facility's property-related payment rate change is effective October 1, 1989, but only if, prior to October 1, 1989, the facility is operating under a new lease agreement and residents occupy the new facility. For the rate year beginning October 1, 1990, the commissioner shall annualize the new lease agreement for costs incurred during the reporting year ending December 31, 1989."

Page 4, after line 30, insert:

"Sec. 7. [REHABILITATION FACILITIES; PLAN FOR QUALITY SERVICES.]

The commissioner of jobs and training shall propose a plan by January 1, 1990, that assures continued quality of care and services offered by private, nonprofit rehabilitation facilities. The proposed plan must include long-term solutions regarding staff qualifications, salaries, and benefits necessary to attract and retain quality employees and staff training, including a funding mechanism for increasing salaries of direct care staff.

Sec. 8. [SALARY PARITY PLAN.]

By February 1, 1990, the commissioner shall develop a plan for bringing salary and benefits of employees in nonstate-operated facilities into parity with those paid to employees performing similar work in state-operated facilities. The plan must be provided to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee. The plan must specify the amount of appropriations required to implement the plan and may provide for a phase-in period of up to five years. The commissioner shall develop the

plan in collaboration with an advisory committee consisting of representatives of public and private facilities and service providers, clients and family members, advocacy organizations, employees, and other interested persons and organizations."

Page 4, line 34, delete "5" and insert "8"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "authorizing a special property rate for certain intermediate care facilities; requiring a plan concerning rehabilitation facilities; requiring a salary parity plan;"

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

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

S.F. No. 1196: A bill for an act relating to nursing home admission agreements; prohibiting use of blanket waivers of liability by continuing care facilities and nursing homes; requiring nursing home admission agreements to be available to the public and clarifying that such agreements are consumer contracts; prohibiting nursing homes from requiring third party guarantors; requiring nursing homes to identify their status as medical assistance providers; prohibiting use of blanket consents for treatment; requiring written acknowledgment that residents have received a copy of the patients' bill of rights; providing penalties; amending Minnesota Statutes 1988, section 80D.04, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 80D.04, is amended by adding a subdivision to read:

Subd. 6. [WAIVERS OF LIABILITY PROHIBITED.] (a) A contract between a facility and resident or resident's representative must not include a waiver of facility liability for the health and safety or personal property of a resident while the resident is under the facility's supervision. A contract must not contain a provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor any provision that requires or implies a lesser standard of care or responsibility than is required by law.

(b) This subdivision applies to new admissions to facilities on and after October 1, 1989. This subdivision does not require the execution of a new admission contract for a resident who was residing in a facility before the enactment of this subdivision. However, provisions of the admission contract that are inconsistent with or in conflict with this subdivision are voidable at the sole option of the resident. Residents must be given notice of the changes in admission contracts according to this subdivision and must be given the opportunity to execute a new contract that conforms to this subdivision.

Sec. 2. [144.6501] [NURSING HOME ADMISSION CONTRACTS.]

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

(a) "Facility" means a nursing home licensed under chapter 144A or a boarding care facility licensed under sections 144.50 to 144.58.

(b) "Contract of admission," "admission contract," or "admission agreement," includes, but is not limited to, all documents that a resident or resident's representative must sign at the time of, or as a condition of, admission to the facility. Oral representations and statements between the facility and the resident or resident's representative are not part of the contract of admission unless expressly contained in writing in those documents.

(c) "Legal representative" means an attorney-in-fact under a valid power of attorney executed by the prospective resident, or a conservator or guardian of the person or of the estate, or a representative payee appointed for the prospective resident, or other agent of limited powers.

Subd. 2. [WAIVERS OF LIABILITY PROHIBITED.] An admission contract must not include a waiver of facility liability for the health and safety or personal property of a resident while the resident is under the facility's supervision. An admission contract must not include a provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor any provision that requires or implies a lesser standard of care or responsibility than is required by law.

Subd. 3. [CONTRACTS OF ADMISSION.] (a) A facility shall make complete unsigned copies of its admission contract available to potential applicants and to the state or local long-term care ombudsman immediately upon request.

(b) A facility shall post conspicuously within the facility, in a location accessible to public view, either a complete copy of its admission contract or notice of its availability from the facility.

(c) An admission contract must be printed in black type of at least ten-point type size. The facility shall give a complete copy of the admission contract to the resident or the resident's legal representative promptly after it has been signed by the resident or legal representative.

(d) An admission contract is a consumer contract under sections 325G.29 to 325G.37.

(e) All admission contracts must state in bold capital letters the following notice to applicants for admission: "NOTICE TO APPLICANTS FOR ADMISSION. READ YOUR ADMISSION CONTRACT. ORAL STATEMENTS OR COMMENTS MADE BY THE FACILITY OR YOU OR YOUR REPRESENTATIVE ARE NOT PART OF YOUR ADMISSION CONTRACT UNLESS THEY ARE ALSO IN WRITING. DO NOT RELY ON ORAL STATEMENTS OR COMMENTS THAT ARE NOT INCLUDED IN THE WRITTEN ADMISSION CONTRACT."

Subd. 4. [RESIDENTS' SIGNATURES.] (a) Before or at the time of admission, the facility shall make reasonable efforts to communicate the content of the admission contract to, and obtain on the admission contract the signature of, the person who is to be admitted to the facility. The admission contract must be signed by the prospective resident unless the

resident is legally incompetent or cannot understand or sign the admission contract because of the resident's medical condition.

(b) If the resident cannot sign the admission contract, the reason must be documented in the resident's medical record by the admitting physician.

(c) If the determination under paragraph (b) has been made, the facility may request the signature of another person on behalf of the applicant, subject to the provisions of paragraph (d). The facility must not require the person to disclose any information regarding the person's personal financial assets, liabilities, or income, unless the person voluntarily chooses to become financially responsible for the resident's care.

(d) A person other than the resident or a spouse who is financially responsible for the resident who signs an admission contract must not be required by the facility to assume financial responsibility for the resident's care. A person who desires to assume financial responsibility for the resident's care may contract with the facility to do so.

(e) The admission contract must include written notice, in bold capital letters, that a person other than the resident or financially responsible spouse may not be required by the facility to assume financial responsibility for the resident's care.

(f) This subdivision does not preclude the facility from obtaining the signature of a legal representative, if applicable.

Subd. 5. [PUBLIC BENEFITS ELIGIBILITY.] *An admission contract must clearly and explicitly state whether the facility participates in the Medicare, medical assistance, or Veterans Administration programs. If the facility's participation in any of those programs is limited for any reason, the admission contract must clearly state the limitation and whether the facility is eligible to receive payment from the program for the person who is considering admission or who has been admitted to the facility.*

Subd. 6. [MEDICAL ASSISTANCE PAYMENT.] *(a) An admission contract for a facility that is certified for participation in the medical assistance program must state that neither the prospective resident, nor anyone on the resident's behalf, is required to pay privately any amount for which the resident's care at the facility has been approved for payment by medical assistance or to make any kind of donation, voluntary or otherwise. An admission contract must state that the facility does not require as a condition of admission, either in its admission contract or by oral promise before signing the admission contract, that residents remain in private pay status for any period of time.*

(b) The admission contract must state that upon presentation of proof of eligibility, the facility will submit a medical assistance claim for reimbursement and will return any and all payments made by the resident, or by any person on the resident's behalf, for services covered by medical assistance, upon receipt of medical assistance payment.

(c) A facility that participates in the medical assistance program shall not charge for the day of the resident's discharge from the facility or subsequent days.

(d) If a facility's charges incurred by the resident are delinquent for 30 days, and no person has agreed to apply for medical assistance for the resident, the facility may petition the court under chapter 525 to appoint a representative for the resident in order to apply for medical assistance

for the resident.

(e) *The remedy provided in this subdivision does not preclude a facility from seeking any other remedy available under other laws of this state.*

Subd. 7. [CONSENT TO TREATMENT.] An admission contract must not include a clause requiring a resident to sign a consent to all treatment ordered by any physician. An admission contract may require consent only for routine nursing care or emergency care. An admission contract must contain a clause that informs the resident of the right to refuse treatment.

Subd. 8. [WRITTEN ACKNOWLEDGMENT.] An admission contract must contain a written acknowledgment that the resident has been informed of the patient's bill of rights, as required in section 144.652.

Subd. 9. [VIOLATIONS; PENALTIES.] (a) Violation of this section is grounds for issuance of a correction order, and if uncorrected, a penalty assessment issued by the commissioner of health, under section 144A.10. The civil fine for noncompliance with a correction order issued under this section is \$250 per day.

(b) Unless otherwise expressly provided, the remedies or penalties provided by this subdivision do not preclude a resident from seeking any other remedy and penalty available under other laws of this state.

Subd. 10. [APPLICABILITY.] This section applies to new admissions to facilities on and after October 1, 1989. This section does not require the execution of a new admission contract for a resident who was residing in a facility before the enactment of this section. However, provisions of the admission contract that are inconsistent with or in conflict with this section are voidable at the sole option of the resident. Residents must be given notice of the changes in admission contracts according to this section and must be given the opportunity to execute a new admission contract that conforms to this section."

And when so amended the bill do pass. Mr. Knaak questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1173: A bill for an act relating to human services; requiring counties to contract with post-secondary education institutions regarding child care payments for students on AFDC; guaranteeing continued child care assistance to eligible students who change their county of residence; appropriating money; amending Minnesota Statutes 1988, sections 256.736, subdivision 8; and 256H.08.

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

Page 2, delete lines 14 to 31

Page 2, line 32, delete "(3) provisions to allow the" and insert "(b) An" and after "institution" insert "must be allowed"

Page 3, line 1, delete the semicolon and insert a period

Page 3, delete lines 2 to 30

Page 4, line 10, delete "a" and insert "an AFDC"

Page 4, line 11, after "and" insert "*the move is in the employability plan and*"

Page 4, line 14, after "assistance" insert "*from the county of origin*"

Amend the title as follows:

Page 1, lines 2 and 3, delete "requiring counties to contract with" and insert "authorizing"

Page 1, line 4, delete "regarding" and insert "to complete employability plans for AFDC students in order to obtain federal financial participation" and delete "for students on AFDC"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Mr. Knaak questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 340: A bill for an act relating to veterans; clarifying the treatment of certain settlement payments for the purposes of certain assistance programs and benefits; proposing coding for new law in Minnesota Statutes, chapter 196.

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

Page 1, line 8, before "Payments" insert "(a)"

Page 1, line 11, after "income" insert "*or an available resource*"

Page 1, line 15, after the second "state" insert "*, except as provided in paragraph (b)*"

Page 1, after line 15, insert:

"(b) The income exclusion in paragraph (a) does not apply to the medical assistance, food stamps, or aid to families with dependent children programs until the commissioner of human services receives formal approval from the United States Department of Health and Human Services, for the medical assistance and aid to families with dependent children programs, and from the United States Department of Agriculture, for the food stamps program. The income exclusion does not apply to the Minnesota supplemental aid program until the commissioner receives formal federal approval of the exclusion for the medical assistance program."

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

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

S.F. No. 1422: A bill for an act relating to occupations and professions; changing licensure requirements for dental assistants; changing the procedure for setting the salary of the director of the board of dentistry; amending Minnesota Statutes 1988, sections 150A.06, subdivision 2a; and 214.04, subdivision 3; repealing Minnesota Statutes 1988, section 150A.06, subdivision 7.

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

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

S.F. No. 909: A bill for an act relating to human services; authorizing reimbursement for cost saving equipment under general assistance medical care; increasing the complement of the department of human services; amending Minnesota Statutes 1988, section 256D.03, subdivision 4.

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1442: A bill for an act relating to environment; providing methods to remove hazardous substances to facilitate economic development; authorizing loans; appropriating money; amending Minnesota Statutes 1988, sections 469.174, subdivisions 7 and 16; and 469.176, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

Page 1, lines 12 and 14, delete "to 4" and insert "and 3"

Page 1, line 17, delete "RESPONSE ACTION" and insert "ACTION RESPONSE"

Page 1, line 18, delete "*response action*" and insert "*action response*"

Page 1, line 19, delete "4" and insert "469.174, subdivision 17"

Page 3, lines 10, 17, 20, 25, and 29, delete "*response action*" and insert "*action response*"

Page 4, lines 3, 5, and 8, delete "*response action*" and insert "*action response*"

Page 6, line 16, delete "*response action*" and insert "*action response*"

Pages 6 to 11, delete sections 4 to 7

Page 11, line 22, delete "7" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete lines 5 and 6

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

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

S.F. No. 956: A bill for an act relating to waste management; requiring a county that enters a contract with the state for the siting and development of a stabilization and containment facility to hold a binding referendum on

implementation of the contract; amending Minnesota Statutes 1988, section 115A.191, by adding a subdivision.

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

Page 1, line 21, after "a" insert "final"

Page 1, line 22, delete "suitability" and insert "acceptability" and delete "study area" and insert "site"

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1436: A bill for an act relating to the Coon Creek watershed district; authorizing the district to decide not to charge certain expenses to individual ditches; allowing imposition of an ad valorem tax on ditch 57.

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

Delete everything after the enacting clause and insert:

"Section 1. [COON CREEK WATERSHED DISTRICT.]

Subdivision 1. [EXPENDITURES NOT CHARGED TO INDIVIDUAL DITCHES.] Notwithstanding Minnesota Statutes, section 106A.725, the Coon Creek watershed district shall not charge back to public ditches number 11, 39, 44, 57, 58, 59, and 60 the \$143,140.94 spent prior to January 1, 1989, by the district from its administrative fund for legal and other administrative expenses on these ditches.

Subd. 2. [EXPENDITURES CHARGED TO INDIVIDUAL DITCHES.] The Coon Creek watershed district may impose ad valorem tax levies within the subwatersheds of public ditches number 11, 39, 44, 57, 59, and 60 to raise their individual proportionate shares of the \$207,169.50 needed to reimburse the district's administrative fund for advances made prior to January 1, 1989, to these ditch accounts for engineering expenses and maintenance and repair work. Levies made pursuant to this subdivision may be spread over up to five consecutive years and must be adopted and collected in accordance with the procedure in Minnesota Statutes, section 112.611.

Sec. 2. [LOCAL APPROVAL.]

Section 1 is effective upon approval of the Coon Creek watershed board."

Amend the title as follows:

Page 1, line 5, delete "on ditch 57"

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

Mr. Davis from the Committee on Agriculture and Rural Development, to which was re-referred

S.F. No. 278: A bill for an act relating to economic development; authorizing the establishment of area development alliances; requiring the legislative auditor to perform project evaluations of existing regional development commissions; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 462.

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

Page 1, lines 10, 13, 16, and 26, delete "17" and insert "16"

Page 2, lines 8 and 12, delete "6" and insert "5"

Page 2, delete section 5

Page 2, line 30, delete "462.404" and insert "462.403"

Page 2, delete lines 32 to 36 and insert:

"Subdivision 1. [PETITION.] (1) Any combination of contiguous counties, upon approval by a majority of the governing bodies of the cities and towns of each county located within the area for which an area development alliance is proposed, or (2) any combination of counties or cities representing a majority of the population of the area, may petition the commissioner"

Page 3, delete line 1

Page 3, line 21, delete "17" and insert "16"

Page 3, line 34, after "each" insert "representative"

Page 3, line 35, delete "8" and insert "7"

Page 4, line 2, delete "462.405" and insert "462.404"

Page 4, line 16, delete "none of" and after "have" insert "not"

Page 4, line 17, after "have" insert "not"

Page 5, line 10, after the second "the" insert "alliance"

Page 5, line 13, after the period, insert "Boundary modifications under this subdivision may only be made by annexation of complete counties."

Page 5, line 15, delete "order" and insert "initiate"

Page 5, line 16, after "requirements" insert ". The commissioner may order an annexation"

Page 5, line 17, after "met" insert "and the county board of the county to be annexed has approved the proposed annexation by resolution"

Page 5, line 27, delete "17" and insert "16"

Page 5, line 29, delete "462.406" and insert "462.405"

Page 6, lines 10 and 13, after "county" insert "in the alliance"

Page 7, line 15, delete "462.407" and insert "462.406"

Page 8, line 33, delete "462.408" and insert "462.407"

Page 9, line 1, delete "17" and insert "16"

Page 9, lines 6 and 7, delete "*is the authorized agency to*" and insert "*may*"

Page 9, line 14, after "*delivery*" insert "*related to economic development*"

Page 9, line 33, delete "*17*" and insert "*16*"

Page 10, line 8, delete everything after "*comment*"

Page 10, delete lines 9 to 12

Page 10, line 13, delete "*plan*"

Page 11, line 28, delete "*462.409*" and insert "*462.408*"

Page 12, line 19, after the first "*project*" insert "*, whichever occurs first*"

Page 12, line 24, delete "*462.410*" and insert "*462.409*"

Page 13, line 18, delete "*462.411*" and insert "*462.410*"

Page 13, line 29, delete "*462.412*" and insert "*462.411*"

Page 13, line 31, delete "*17*" and insert "*16*"

Page 13, line 36, delete "*462.413*" and insert "*462.412*"

Page 14, lines 3, 7, and 26, delete "*17*" and insert "*16*"

Page 15, line 10, delete "*disbursement*" and insert "*disbursements*"

Page 16, line 21, delete "*17*" and insert "*16*"

Page 16, line 22, delete "*462.414*" and insert "*462.413*"

Page 17, line 26, delete "*462.415*" and insert "*462.414*"

Page 17, delete lines 27 to 32 and insert:

"Subdivision 1. [PETITION.] (1) A majority of counties within the alliance, upon approval by a majority of the governing bodies of the cities and towns of each county located within the area for which an alliance exists, or (2) any combination of counties or cities representing a majority of the population of the alliance area, may petition the commissioner by"

Page 18, line 34, delete "*15*" and insert "*14*"

Renumber the sections in sequence

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

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

S.F. No. 55: A bill for an act relating to employment; protective agents; prohibiting employers to hire as a protective agent a person convicted of certain crimes; disqualifying persons convicted of criminal sexual conduct from holding a license to operate a private detective or protective agent service; amending Minnesota Statutes 1988, sections 326.336, subdivision 1; 326.3381, subdivision 3, and by adding a subdivision; and 364.09.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 326.32, is amended by adding a subdivision to read:

Subd. 10c. A "proprietary employer" means an individual, partnership, or corporation that is not engaged in the business of providing protective agents but employs individuals to serve as security guards solely on the employer's property and its curtilage.

Sec. 2. Minnesota Statutes 1988, section 326.32, is amended by adding a subdivision to read:

Subd. 13. (a) "Security guard" means a person who wears or carries any insignia that identifies the person to the public as security, who is paid a fee, wage, or salary to do one or more of the following:

(1) prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;

(2) prevent or detect theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulate, or direct the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protect individuals from bodily harm; or

(5) enforce policies and rules of the security guard's employer related to crime reduction to the extent that the enforcement falls within the scope of the security guard's duties.

(b) The term "security guard" does not include:

(1) an auditor, accountant, or accounting clerk performing audits or accounting functions;

(2) an employee of a firm licensed under section 326.3381 whose duties are primarily administrative or clerical in nature;

(3) a person employed by a proprietary company to conduct plain-clothes surveillance or investigation;

(4) a person temporarily employed under statute or ordinance by political subdivisions to provide protective services at social functions;

(5) an employee of an air or rail carrier;

(6) a customer service representative or sales clerk employed in a retail establishment; or

(7) a person employed to perform primarily maintenance or custodial functions.

Sec. 3. Minnesota Statutes 1988, section 326.336, subdivision 1, is amended to read:

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 that every license holder is at all times accountable for the good conduct of every person employed. *When a license holder hires a person to perform services as a 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~~ to enable the bureau to determine whether that person has a criminal record. *The employee is a conditional employee until the employer receives a report from the bureau that, based on a check of the criminal records maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve as a private detective or protective agent, but may be trained by the employer. The bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received. If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately dismiss the employee.*

Sec. 4. Minnesota Statutes 1988, section 326.3381, is amended by adding a subdivision to read:

Subd. 1a. [PROPRIETARY EMPLOYERS.] A proprietary employer is not required to obtain a license, but must comply with section 326.336, subdivision 1, with respect to the hiring of security guards.

Sec. 5. Minnesota Statutes 1988, section 326.3381, subdivision 3, is amended to read:

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 criminal sexual conduct; 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.

Sec. 6. Minnesota Statutes 1988, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

This chapter shall not apply to the practice of law enforcement, to eligibility for a private detective or protective agent license, to eligibility for a family day care license, a family foster care license, a home care provider license, or to eligibility for school bus driver endorsements. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement.

Sec. 7. [EFFECT ON CURRENT EMPLOYEES.]

Sections 1 to 4 do not apply to persons hired before the effective date

of those sections.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to employment; protective agents; prohibiting employers to hire as a protective agent a person convicted of certain crimes; disqualifying persons convicted of criminal sexual conduct from holding a license to operate a private detective or protective agent service; amending Minnesota Statutes 1988, sections 326.32, by adding subdivisions; 326.336, subdivision 1; 326.3381, subdivision 3, and by adding a subdivision; and 364.09."

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

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

S.F. No. 1323: A bill for an act relating to deprivation of parental rights; increasing penalties for parental kidnapping where weapon is used, child is abused, or ransom is demanded; prohibiting concealing a child abducted in another state; amending Minnesota Statutes 1988, section 609.26, subdivisions 1 and 6.

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

Page 2, line 8, delete "*for 30 days or more*"

Page 2, line 24, delete "*deadly*" and insert "*dangerous*" and delete "*serious*" and insert "*substantial*" and delete "*another while*" and insert "*effect the taking*"

Page 2, line 25, delete "*committing the violation*"

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

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

S.F. No. 94: A bill for an act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A.

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

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

S.F. No. 312: A bill for an act relating to employment; providing for review of an employee's personnel record; providing for removal or revision of disputed information contained in an employee's personnel record; limiting records of nonemployment activities; regulating use of omitted information; proposing coding for new law in Minnesota Statutes, chapter 181.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, line 12, delete "8" and insert "7"

Page 1, line 16, delete "the" and insert "this" and delete "for"

Page 1, delete lines 17 to 20

Page 1, line 21, delete "months" and insert ", and includes current and former employees"

Page 1, line 27, delete "collectively"

Page 2, lines 10 and 11, delete "criminal offenses" and insert "a violation of a criminal or civil statute by an employee or an investigation of employee conduct for which the employer may be liable"

Page 2, line 29, delete "such" and insert "the"

Page 2, line 31, delete "would be"

Page 2, line 32, delete "otherwise not clearly" and insert "is not"

Page 2, line 35, delete "authored"

Page 3, line 4, delete "would ordinarily be" and insert "are"

Page 3, delete line 11

Page 3, line 12, delete "must be made in good faith."

Page 3, line 18, before the period, insert "if the personnel record is located in this state, or no later than 14 working days after receipt of the request if the personnel record is located outside this state"

Page 3, line 19, after "or" insert "an" and delete "thereof"

Page 3, line 25, after the period, insert "Upon the employee's request, the employer shall provide a copy of the record to the employee. An employer may not charge a fee for providing copies that exceeds the actual cost of making and compiling the copies."

Subd. 3. [GOOD FAITH.] The employer may deny access to an employee record if the request is not made in good faith."

Page 3, line 31, delete the colon

Page 3, delete lines 32 to 35

Page 3, line 36, delete the paragraph coding and delete "(2)"

Page 4, line 8, delete "thereafter"

Page 4, line 9, before the period, insert "after the position statement is submitted"

Page 4, line 10, delete "No" and insert "A"

Page 4, line 12, after "may" insert "not"

Page 4, line 13, delete "unless" and insert "if it is consistent with"

Page 4, line 14, delete "is not"

Page 4, line 15, delete "remove or" and after "revise" insert "or include a position statement regarding" and delete "and the employer"

Page 4, delete lines 16 to 18

Page 4, delete section 4

Page 4, line 29, delete "181.964" and insert "181.963"

Page 4, line 32, after "may" insert "not"

Page 4, line 34, delete "provided that" and insert "unless the employer did not intentionally omit the information and" and delete "has been" and insert "is"

Page 5, line 1, delete "181.965" and insert "181.964"

Page 5, lines 3 and 19, delete "7" and insert "6"

Page 5, line 4, delete "181.966" and insert "181.965"

Page 5, lines 7 and 11, delete "6" and insert "5"

Page 5, line 9, delete "5" and insert "4"

Page 5, line 13, delete everything after "fees"

Page 5, line 14, delete everything before the period

Page 5, line 16, delete "six"

Page 5, line 17, delete "months" and insert "one year"

Page 5, line 18, delete "181.967" and insert "181.966"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 5 and 6, delete "limiting records of nonemployment activities;"

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

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

S.F. No. 1081: A bill for an act relating to courts; providing for a study by the supreme court of racial bias in the judicial system; establishing a panel to investigate racism by judges and evaluate mechanisms for criticizing judges; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. [SUPREME COURT STUDY OF RACIAL BIAS IN THE JUDICIAL SYSTEM.]

Subdivision 1. [STUDY.] The supreme court shall study racial bias in the judicial system in Minnesota. The court shall appoint an advisory task force to assist with the study.

Subd. 2. [CONTENTS.] The study must examine the extent to which racial bias exists in the judicial system, including the existence of discriminatory treatment of litigants, witnesses, jurors, judges, attorneys, and court personnel who are members of racial minorities. The study should:

(1) identify positions within the judicial system including, but not limited to, judges, judicial clerks, court reporters, judicial administrators and their

staff, county attorneys, public defenders and their staff, and identify minority representation or underrepresentation in the positions;

(2) review sentencing patterns to see if the length or conditions of sentences vary based on the defendant's race;

(3) review the jury selection process, including grand juries, to determine the representation or underrepresentation of minority populations on juries and determine if the use of peremptory strikes varies based on the juror's race; and

(4) review other aspects of court operations as appropriate to identify patterns of different and unequal treatment of racial minority persons.

The task force shall report its findings and recommendations to the legislature by January 1, 1993.

Sec. 2. [APPROPRIATION.]

\$ is appropriated from the general fund to the supreme court to carry out the study under section 1."

Delete the title and insert:

"A bill for an act relating to courts; providing for a study by the supreme court of racial bias in the judicial system; appropriating money."

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

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

S.F. No. 190: A bill for an act relating to corporations; providing that the control share acquisition and business combination statutes apply to certain corporations unless they elect not to be covered; clarifying application of the statutes; reducing the period of time that business combinations may be regulated from five years to three years; removing restrictions on business combinations if an interested shareholder acquires at least 90 percent of the voting shares; modifying requirements for the use of committees to determine whether a corporation should pursue certain legal remedies; providing that meeting notices do not have to be sent to shareholders when mail has been returned undeliverable; amending Minnesota Statutes 1988, sections 302A.011, subdivisions 41 and 49; 302A.243; 302A.435, subdivision 1; 302A.671, subdivision 1; and 302A.673, subdivisions 1 and 3.

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

Page 3, line 15, delete "three-year" and insert "four-year"

Pages 4 and 5, delete sections 3 and 4 and insert:

"Sec. 3. Minnesota Statutes 1988, section 302A.111, subdivision 3, is amended to read:

Subd. 3. [STATUTORY PROVISIONS THAT MAY BE MODIFIED EITHER IN ARTICLES OR IN BYLAWS.] The following provisions govern a corporation unless modified either in the articles or in the bylaws:

(a) Directors serve for an indefinite term that expires at the next regular meeting of shareholders (section 302A.207);

- (b) The compensation of directors is fixed by the board (section 302A.211);
- (c) A certain method must be used for removal of directors (section 302A.223);
- (d) A certain method must be used for filling board vacancies (section 302A.225);
- (e) If the board fails to select a place for a board meeting, it must be held at the principal executive office (section 302A.231, subdivision 1);
- (f) A director may call a board meeting, and the notice of the meeting need not state the purpose of the meeting (section 302A.231, subdivision 3);
- (g) A majority of the board is a quorum for a board meeting (section 302A.235);
- (h) A committee shall consist of one or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present (section 302A.241, subdivision 2);
- (i) The board may establish a *special litigation* committee of ~~disinterested persons~~ (section ~~302A.243~~ 302A.241);
- (j) The chief executive officer and chief financial officer have specified duties, until the board determines otherwise (section 302A.305);
- (k) Officers may delegate some or all of their duties and powers, if not prohibited by the board from doing so (section 302A.351);
- (l) The board may establish uncertificated shares (section 302A.417, subdivision 7);
- (m) Regular meetings of shareholders need not be held, unless demanded by a shareholder under certain conditions (section 302A.431);
- (n) In all instances where a specific minimum notice period has not otherwise been fixed by law, not less than ten-days notice is required for a meeting of shareholders (section 302A.435, subdivision 2);
- (o) The number of shares required for a quorum at a shareholders' meeting is a majority of the voting power of the shares entitled to vote at the meeting (section 302A.443);
- (p) The board may fix a date up to 60 days before the date of a shareholders' meeting as the date for the determination of the holders of shares entitled to notice of and entitled to vote at the meeting (section 302A.445, subdivision 1);
- (q) Indemnification of certain persons is required (section 302A.521); and

(r) The board may authorize, and the corporation may make, distributions not prohibited, limited, or restricted by an agreement (section 302A.551, subdivision 1).

Sec. 4. Minnesota Statutes 1988, section 302A.161, subdivision 17, is amended to read:

Subd. 17. [COMMITTEES.] A corporation may establish committees of the board of directors, elect or appoint persons to the committees, and define their duties as provided in ~~sections~~ section 302A.241 and 302A.243 and fix their compensation.

Sec. 5. Minnesota Statutes 1988, section 302A.241, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] A resolution approved by the affirmative vote of a majority of the board may establish committees having the authority of the board in the management of the business of the corporation only to the extent provided in the resolution. *Committees may include a special litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the corporation and whether those rights and remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control of the board, except as provided in section 302A.243.*

Sec. 6. Minnesota Statutes 1988, section 302A.251, subdivision 2, is amended to read:

Subd. 2. [RELIANCE.] (a) A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, duly established in accordance with ~~sections~~ section 302A.241 and 302A.243, as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

(b) Paragraph (a) does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph (a) unwarranted.

Sec. 7. Minnesota Statutes 1988, section 302A.435, subdivision 1, is amended to read:

Subdivision 1. [TO WHOM GIVEN.] *Except as otherwise provided in this chapter, notice of all meetings of shareholders shall be given to every holder of shares entitled to vote, except where unless:*

(1) the meeting is an adjourned meeting and the date, time, and place of the meeting were announced at the time of adjournment; or

(2) the following have been mailed by first class mail to a shareholder at the address in the corporate records and returned undeliverable:

(i) two consecutive annual meeting notices; and

(ii) all meeting notices during the period between the two annual meetings; or all payments of dividends, provided there are at least two sent during a 12-month period.

An action or meeting that is taken or held without notice under clause (2) has the same force and effect as if notice was given. If the shareholder delivers a written notice of the shareholder's current address to the corporation, the notice requirement is reinstated."

Page 6, line 27, delete "three" and insert "four"

Page 6, line 29, delete the new language

Page 6, line 30, delete the paragraph coding and delete "(1)"

Page 6, line 36, delete "; or"

Page 7, lines 1 to 10, delete the new language

Page 10, after line 18, insert:

"Sec. 11. [REPEALER.]

Minnesota Statutes 1988, section 302A.243, is repealed.

Sec. 12. [EFFECTIVE DATE.]

Section 11 is effective the day following final enactment and applies to proceedings pending under Minnesota Statutes, section 302A.243, or proceedings commenced on or after that date. Notwithstanding any contrary provision of Minnesota Statutes, chapter 645, the repeal of section 302A.243 does not imply that the legislature has accepted or rejected the substance of the repealed section but must be interpreted in the same manner as if section 302A.243 had not been enacted."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete "three" and insert "four"

Page 1, delete lines 8 to 10 and insert "eliminating procedures for the use"

Page 1, line 16, delete "302A.243" and insert "302A.111, subdivision 3; 302A.161, subdivision 17; 302A.241, subdivision 1; 302A.251, subdivision 2"

Page 1, line 18, before the period, insert "; repealing Minnesota Statutes 1988, section 302A.243"

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

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

S.F. No. 339: A bill for an act relating to health; including anabolic steroids in the list of controlled substances; amending Minnesota Statutes 1988, section 152.02, subdivision 5.

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

Page 1, line 8, before "The" insert "(a)" and after "IV;" insert "Anabolic substances;"

Page 1, line 17, reinstate the stricken language and delete "; anabolic substances;" and insert:

"(b) For purposes of this subdivision, "anabolic substances" means"

Page 1, line 21, delete "chorionic" and insert "growth substances"

Page 1, line 22, delete "gonadotropin" and insert ", except that anabolic

substances are not included if they are: (1) expressly intended for administration through implants to cattle or other nonhuman species; and (2) approved by the United States Food and Drug Administration for that use"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 1433: A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; prescribing certain uses for oil overcharge money; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; 216C.27, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Page 9, delete section 7

Page 10, line 2, after the semicolon, insert "and"

Page 10, delete lines 3 and 4

Page 10, line 5, delete "(3)" and insert "(2)"

Page 10, line 33, delete "11" and insert "10"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, delete "216C.27,"

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

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 1020: A bill for an act relating to education; authorizing and establishing procedures for the sale of all or part of the Minnesota Educational Computing Corporation; amending Minnesota Statutes 1988, sections 119.04, subdivision 2, and by adding subdivisions; 119.06, subdivision 3; and 119.09.

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

Page 3, line 25, before "Sale" insert "(a)"

Page 3, line 26, delete "shall be"

Page 3, delete line 27 and insert "may not take place unless the conditions set in paragraphs (b) and (c) are met."

Page 3, line 28, delete "(a)" and insert "(b)"

Page 3, lines 33 and 36, delete “*shall*” and insert “*must*”

Page 3, line 35, delete “(b)” and insert “(c)”

Page 6, line 5, delete “*shall*” and insert “*must*”

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 87: A bill for an act relating to agriculture; providing a linked deposit program to allow eligible agricultural businesses and small businesses to obtain operating loans at reduced interest rates; requiring linked deposit agreements for eligible lending institutions to receive linked deposits; authorizing the state investment board to purchase investments from eligible lending institutions; imposing a penalty; appropriating money.

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

Page 1, delete section 1

Page 1, line 19, delete “9” and insert “8”

Page 3, line 5, delete “4” and insert “3”

Page 3, after line 12, insert:

“*Subd. 9. [RURAL FINANCE AUTHORITY.] “Rural finance authority” means the Minnesota rural finance authority established by section 41B.025.*”

Page 5, line 2, delete “, including making orders and” and insert “and may adopt”

Page 5, lines 3 and 6, delete “*must*” and insert “*shall*”

Page 5, line 21, delete “8” and insert “7”

Page 6, lines 13 and 15, delete “8” and insert “7”

Page 6, line 26, delete “\$8,000,000” and insert “\$”

Page 7, line 2, delete “9” and insert “8”

Page 7, line 4, delete “11” and insert “10”

Renumber the sections in sequence

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 1202: A bill for an act relating to metropolitan government; restructuring the regional transit board and the metropolitan transit commission; directing the board to plan and coordinate light rail transit systems in the metropolitan area; directing the commission to operate any light rail transit systems; transferring responsibility for distribution of the transit assistance fund and for receipt of federal grants to the board; requiring a transit delivery study; amending Minnesota Statutes 1988, sections 174.32,

subdivision 2; 473.169, subdivisions 3, 4, 5, and by adding subdivisions; 473.373, by adding a subdivision; 473.375, subdivision 8, and by adding a subdivision; 473.404, subdivisions 2 and 3; and 473.4051; repealing Minnesota Statutes 1988, sections 473.1691; 473.17; 473.373, subdivision 4; and 473.398.

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

Page 4, line 15, after the period, insert "*A regional rail authority that had not developed a comprehensive plan before January 1, 1989, is eligible for state assistance if its light rail transit plans are consistent with the metropolitan council's long-range transportation plans and corridor recommendations developed before January 1, 1989.*"

Pages 5 and 6, delete section 8 and insert:

"Sec. 8. Minnesota Statutes 1988, section 473.373, is amended by adding a subdivision to read:

Subd. 4a. [MEMBERSHIP] The board consists of 11 members, appointed to four-year terms as follows:

(1) a chair appointed by the governor with the advice and consent of the senate;

(2) a person who is age 65 or older at the time of appointment, appointed by the governor;

(3) a person with a disability, appointed by the governor; and

(4) eight persons appointed by the metropolitan council from agency districts under section 473.141, subdivision 2, four of whom must be elected members of the governing bodies of cities in the metropolitan area and four of whom must be elected members of the governing bodies of counties in the metropolitan area."

Page 9, delete lines 17 to 21 and insert:

"(1) three of the members appointed by the metropolitan council who are elected members of the governing bodies of cities, two years;

(2) two of the members appointed by the metropolitan council who are elected members of the governing bodies of counties, two years; and

(3) all others, four years."

Page 11, after line 1, insert:

"Sec. 16. [SUSPENSION OF TAXING AUTHORITY.]

Notwithstanding Minnesota Statutes, section 398A.04, a regional rail authority may not levy taxes for purposes of planning, acquisition of property, construction, or any other purpose related to light rail transit until the regional transit board has completed the plan required by section 10 and submitted it to the legislature for review and comment."

Page 11, line 6, delete "16" and insert "17"

Renumber the sections in sequence

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 1460: A bill for an act relating to economic development; regulating the jobs skills partnership program; amending Minnesota Statutes 1988, sections 116L.02; 116L.03, subdivision 7, and by adding a subdivision; 116L.04, subdivision 1; repealing Laws 1983, chapter 334, section 7, as amended.

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

Page 2, line 10, delete "*shall*" and insert "*must*"

Page 2, line 18, strike "(a) The" and insert "(1) *the*"

Page 2, line 21, strike "(b) The" and insert "(2) *the*"

Page 2, line 23, strike "(c) Preference" and insert "(3) *preference*"

Page 2, line 27, delete the new language and strike "*shall*" and insert "*A single grant to any one institution may*"

Amend the title as follows:

Page 1, line 2, delete "*regulating*" and insert "*regulating*"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 506: A bill for an act relating to gambling; creating a division of gaming enforcement; providing for its powers and duties; changing size and membership of charitable gambling control board; making changes in the manner in which charitable gambling is conducted; requiring audits; changing the requirement relating to distributors and manufacturers of gambling equipment; increasing the penalty for paying off on video games of chance; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 15A.081, subdivision 1; 240.02, subdivision 1; 240.06, subdivision 3; 240.07, subdivision 2; 240.08, subdivision 3; 240.21; 349.11; 349.12, subdivisions 3, 11, 12, 13, 15, 17, 20, and by adding subdivisions; 349.15; 349.151; 349.16, subdivision 4; 349.161; 349.162; 349.163; 349.164; 349.17, subdivision 2a; 349.18, subdivision 1, and by adding a subdivision; 349.19, subdivisions 2, 3, 6, and by adding subdivisions; 349.20; 349.21; 349.212, subdivision 1, and by adding subdivisions; 349.2121, subdivisions 2 and 3; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivision 2; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; and 609.76, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 349; proposing coding for new law as Minnesota Statutes, chapter 299K; repealing Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; 349.212, subdivisions 2 and 4; and 349.2121, subdivision 4.

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

Pages 1 and 2, delete section 1 and insert:

"Section 1. [299K.01] [DIVISION OF GAMBLING ENFORCEMENT.]

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

(b) "Commissioner" means the commissioner of public safety.

(c) "Director" means the director of gambling enforcement.

Subd. 2. [ESTABLISHED.] The division of gambling enforcement is a division in the department of public safety under the control and supervision of a director, appointed by the commissioner and serving at the commissioner's pleasure in the unclassified service.

Subd. 3. [EMPLOYEES.] The commissioner shall employ in the division of gambling enforcement personnel, in the classified service, necessary to carry out the duties under this chapter."

Page 2, line 15, delete "DIRECTOR" and insert "DIVISION OF GAMBLING ENFORCEMENT"

Page 2, lines 16 and 31, delete "director of gaming" and insert "commissioner"

Page 2, lines 17 and 32, delete "enforcement"

Page 2, lines 20 and 26, delete "director of gaming enforcement" and insert "commissioner"

Page 3, line 6, delete "director" and insert "commissioner"

Page 3, line 7, delete "of gaming enforcement"

Page 3, line 10, delete "director of gaming enforcement" and insert "commissioner"

Page 3, line 15, delete "director of gaming" and insert "division of gambling"

Page 3, lines 18 and 19, delete "of gaming enforcement"

Page 3, line 24, delete "director of gaming" and insert "division of gambling"

Page 3, lines 25 and 31, delete the first comma and insert " or" and delete ", or 349A"

Page 3, line 32, delete "director of gaming" and insert "employees of the division of gambling" and delete "has" and insert "have"

Page 4, line 14, delete the first comma and insert "or" and delete ", or 349A"

Page 4, line 15, delete "the director of gaming" and insert "employees of the division of gambling"

Page 4, lines 18 and 19, delete "director of gaming enforcement" and insert "commissioner"

Page 4, line 22, delete "director" and insert "commissioner"

Page 4, lines 23 and 24, delete "of gaming enforcement"

Page 4, lines 30 and 31, delete "director of gaming enforcement" and insert "commissioner"

Page 4, line 33, delete the first comma and insert "or" and delete "349A" and insert "any law relating to the lottery"

Page 5, line 4, delete "*director of gaming enforcement*" and insert "*commissioner*"

Page 5, lines 18 and 19, delete "*director of gaming enforcement*" and insert "*commissioner*"

Page 5, lines 32 and 33, delete "*director of gaming enforcement's*" and insert "*commissioner's*"

Page 6, line 1, delete "*director of gaming*" and insert "*division of gambling*"

Page 6, line 3, delete "*director of gaming enforcement*" and insert "*commissioner*"

Page 6, line 5, delete "*director's*" and insert "*commissioner's*"

Page 6, lines 7 and 18, delete "*of gaming*"

Page 6, line 8, delete "*enforcement*" and delete "*gaming*" and insert "*gambling*"

Page 6, line 19, delete "*enforcement*" and after "*division*" insert "*of gambling enforcement*"

Page 11, lines 25 and 26, delete "*for terms of six years*"

Page 12, lines 5 to 8, delete the new language

Page 12, line 10, delete everything after the period

Page 12, delete line 11

Page 12, line 12, delete everything before "*The*"

Page 12, line 13, delete "*gaming*" and insert "*gambling*"

Page 12, delete lines 15 and 16 and insert:

"Subd. 3. [COMPENSATION.] The *terms, compensation, and removal of board members is and filling of membership vacancies are as provided in section 15.0575; subdivision 3.*"

Page 12, line 17, reinstate the stricken language

Page 14, line 31, delete "REMOVAL;"

Page 14, delete lines 32 to 36

Page 15, line 1, delete "*Subd. 2. [CONFLICT OF INTEREST.]*"

Page 16, line 24, delete "*gaming*" and insert "*gambling*"

Page 17, lines 20 and 21, delete "*director of gaming*" and insert "*division of gambling*"

Page 17, line 23, delete "*director of gaming*" and insert "*division of gambling*"

Page 17, lines 25 and 26, delete "*director of gaming*" and insert "*division of gambling*"

Page 18, line 32, reinstate the stricken "Employees of the" and delete the new language

Page 18, line 33, delete the new language and insert "*division of gambling enforcement*"

Page 19, line 25, delete "*director of gaming*" and insert "*employees of the division of gambling*"

Page 20, lines 11 and 12, delete "*The director of gaming*" and insert "*Employees of the division of gambling*"

Page 21, lines 11 and 12, delete "*director of gaming*" and insert "*division of gambling*"

Page 21, lines 14 and 16, delete "*director of gaming*" and insert "*division of gambling*"

Page 22, line 24, after the period, insert "*No organization may conduct lawful gambling on premises under the jurisdiction of or leased from a state agency listed in section 15.06, subdivision 1, a metropolitan agency as defined in section 473.121, subdivision 5a, or a school district.*"

Page 24, line 19, reinstate the stricken "employees of the" and delete the new language

Page 24, line 20, delete "*gaming*" and insert "*division of gambling*"

Page 30, lines 2 and 11, delete "*gaming*" and insert "*gambling*"

Page 32, line 33, delete "*gaming*" and insert "*gambling*"

Page 33, line 10, delete "*gaming*" and insert "*gambling*"

Page 36, delete lines 24 to 30

Pages 37 to 40, delete sections 1 and 2

Page 40, line 23, delete "*gaming*" and insert "*gambling*"

Page 40, line 29, delete "*director of gaming*" and insert "*division of gambling*"

Page 40, line 34, delete "*director of gaming*" and insert "*division of gambling*" and delete "*director's*" and insert "*division's*"

Page 41, lines 1, 11, 18, 31, and 36, delete "*director of gaming*" and insert "*division of gambling*"

Page 42, line 5, delete "7" and insert "5"

Renumber the sections of article 3 in sequence

Amend the title as follows:

Page 1, line 2, delete "*gaming*" and insert "*gambling*"

Page 1, line 3, after "enforcement" insert "within the department of public safety"

Page 1, line 11, delete everything after "sections"

Page 1, line 12, delete the first "1;"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 262: A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a legislative commission on water; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating water conservation, water appropriations, and setting fees; establishing regulations, enforcing violations, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 5, 12, 15, 19, 21, 26, 30, and by adding subdivisions; 18B.03, by adding a subdivision; 18B.04; 18B.07, subdivisions 2, 3, 4, and 6; 18B.08, subdivisions 1, 3, and 4; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3 and 7; 18B.34, subdivisions 1, 2 and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, 3, and 4; 40.42, by adding a subdivision; 40.43, subdivisions 2 and 6; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 115B.20; 116C.41, subdivision 1; 144.381; 144.382, subdivision 1, and by adding a subdivision; and 473.877, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; 18B; and 144; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 18E; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; 18B.25; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11.

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

Page 3, line 12, delete "*chapter 18C*" and insert "*article 7, section 2, subdivision 11*"

Page 3, after line 12, insert:

"*Subd. 8. [GROUNDWATER.] "Groundwater" means groundwater as defined in section 115.01, subdivision 21.*"

Page 3, line 16, delete "*chapter 18C*" and insert "*article 7, section 2, subdivision 25*"

Page 3, delete lines 22 to 26

Page 3, line 32, delete "*chapter 18C*" and insert "*article 7, section 2, subdivision 34*"

Page 4, delete lines 13 and 14

Renumber the subdivisions in sequence

Page 5, delete lines 9 to 14 and insert:

"*Subd. 5. [STATE PROTECTION OF SENSITIVE AREAS.] (a) The*

commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants must consider the type of risk identified under subdivision 3 when adopting best management practices, water resource protection plans, and water resource protection requirements to prevent and minimize groundwater degradation in sensitive areas.

(b) To prevent and minimize groundwater degradation, state agencies must consider the type of risk identified under subdivision 3 when undertaking an activity within a sensitive area."

Page 6, lines 18 and 27, delete "receive" and insert "solicit"

Page 11, line 14, delete "inorganic"

Page 21, line 13, delete "(c)" and insert "Subd. 8. [SHORELAND MANAGEMENT GRANTS.] (a)"

Page 21, line 16, delete "(d)" and insert "(b)"

Page 21, line 18, delete "(e)" and insert "(c)"

Page 21, line 20, delete "(f)" and insert "(d)"

Page 26, line 6, delete "(d)" and insert "(e)"

Page 28, line 14, before the period, insert ", and for a variance relating to well construction, the nonrefundable application fee shall be the same amount as the well permit fee"

Page 32, line 35, delete "in use" and insert "not sealed by"

Page 34, line 36, delete "\$150" and insert "\$50"

Page 35, line 2, delete "\$300" and insert "\$100"

Page 35, line 18, before the period, insert "for each well, except a dewatering project comprising more than ten wells shall be issued a single permit for wells recorded on the permit for \$250"

Page 36, line 11, after "(2)" insert "is required to be sealed under this chapter and"

Page 36, line 36, after "property" insert "or a person authorized to act on behalf of the seller"

Page 36, after line 36, insert:

"(c) If a seller fails to provide a well certificate, a buyer, or a person authorized to act on behalf of the seller, may sign a well certificate based on the information provided on the disclosure required by this section or based on other available information."

Page 37, line 1, delete "(c)" and insert "(d)"

Page 37, line 10, delete "(d)" and insert "(e)"

Page 37, line 18, delete "damages," and after "costs" delete the comma and after "fees" delete the comma

Page 37, line 19, delete everything after "well"

Page 37, delete line 20

Page 37, line 21, delete everything before the period

Page 45, line 11, delete "by a well" and insert ", sealed, and reported"

Page 45, line 12, delete "*contractor*" and after "*commissioner*" insert "*by a well contractor or a monitoring well contractor*" and delete "An"

Page 45, delete line 13

Page 48, line 24, delete "\$250" and insert "\$50"

Page 71, line 25, delete "*Subdivision 1. [WATER SHORTAGE EMERGENCY RULES.]*"

Page 75, delete section 12

Page 76, delete section 17

Page 78, line 16, delete everything after "by"

Page 78, line 17, delete everything before the semicolon and insert "*FIFRA*"

Page 91, after line 16, insert:

"Sec. 47. Minnesota Statutes 1988, 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;

(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 school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(j) officers and enlisted persons in the national guard;

(k) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(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) 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;

(n) chaplains employed by the state;

(o) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(p) student workers; ~~and~~

(q) employees unclassified pursuant to other statutory authority; and

(r) *intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation.*"

Page 92, line 18, delete "28" and insert "26"

Renumber the sections of article 6 in sequence

Page 93, line 30, delete "unmanipulated" and after "manures" insert "that are not manipulated"

Page 95, line 2, after "blended," insert "or"

Page 95, line 12, after "chapter" insert "or by rule"

Page 96, delete lines 4 to 6

Renumber the subdivisions in sequence

Page 98, delete lines 13 to 20

Page 113, line 2, before "manufacture" insert "sell or distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or"

Page 113, line 29, delete everything after the first "fertilizer" and insert "and"

Page 115, line 7, delete everything after "(a)"

Page 115, delete lines 8 and 9

Page 115, line 10, delete the paragraph coding and delete "(b)"

Page 115, line 13, delete "(c)" and insert "(b)"

Page 115, line 15, delete "(d)" and insert "(c)"

Page 123, line 16, after "costs" insert a comma

Page 123, line 17, delete "administrative costs" and after "for" insert "a" and after "action" insert "administrative cost"

Page 123, line 19, before the period, insert "all costs"

Page 124, line 8, delete "OF APPLICATOR'S" and insert "FOR"

Page 124, line 9, delete everything after "or" and insert "chapter 18C"

Page 124, line 10, delete "*agricultural chemical*"

Page 124, line 11, after "*chapter*" insert "*, chapter 18B, or chapter 18C*"

Page 139, line 5, delete everything after "*caused*"

Page 139, line 6, delete "*18D*" and insert "*18C*" and delete "*shall*" and insert "*may*"

Page 139, line 7, after "*pay*" insert "*a portion of*"

Page 145, line 12, after "*the*" insert "*legislative commission on water and the*"

Page 147, after line 22, insert:

"(c) For a comprehensive evaluation of pesticide applicator health, and an education program to improve applicator health and safety practices. This portion of the appropriation is to be distributed by the university to the laboratory of environmental medicine and pathology and the department of family practice for a coordinated applicator study and education program

\$"

Amend the title as follows:

Page 1, line 23, delete "*18B.03, by adding a subdivision;*"

Page 1, line 36, after "*3;*" insert "*17;*"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 818: A bill for an act relating to retirement; public employees retirement association; excluding volunteer firefighters from membership; amending Minnesota Statutes 1988, section 353.01, subdivision 2b.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1
LOCAL POLICE AND FIRE
RELIEF ASSOCIATION LEGISLATION

Section 1. [ST. PAUL POLICE AND FIRE DEPARTMENT RELIEF ASSOCIATIONS; BYLAW AMENDMENT REQUIRED.]

The St. Paul police relief association and the St. Paul fire department relief association shall amend their articles of incorporation and bylaws to ensure that retired members of the police department and fire department are represented on the board of directors of the associations in the same proportion that the number of retired members in each relief association bears to the total membership of each relief association; provided, however, that in no event shall the retired members of the St. Paul police relief

association and the St. Paul fire department relief association ever be entitled under the articles of incorporation and bylaws to more seats on the board of directors than the active members of the respective associations.

Sec. 2. [ST. PAUL POLICE RELIEF ASSOCIATION; SURVIVING SPOUSE BENEFIT AMOUNT.] Laws 1955, chapter 151, section 13, as amended by Laws 1963, chapter 271, section 7; Laws 1971, chapter 549, section 2; Laws 1980, chapter 600, section 14; and Laws 1983, chapter 47, section 1, is amended to read:

Sec. 13. [SURVIVOR BENEFIT; QUALIFICATION AND AMOUNT.] The association shall pay a pension to the surviving spouse or any child under 18 years of age of any pensioned and retired member, or to the surviving spouse or any child under 18 years of age of any member who dies while in the service of the city police department, or to the surviving spouse or any child under 18 years of age of any member who, after being a member of the city police department for not less than 20 years, severs his or her connection with the department, and dies before attaining the age of 50 years. The association shall pay to any such surviving spouse a pension of ~~20~~ *not less than 22.5 units, nor more than 27.5 units*, per month, *as the bylaws of the association provide, subject to Minnesota Statutes, section 69.77, subdivision 2i*. The association shall pay to any such child under 18 years of age a pension of five units per month until the child attains the age of 18 years, provided, however, that if such child is married at the time of the death of the member or marries or becomes legally adopted after the death of the member, the child shall not be entitled to such benefits. If the surviving spouse and children reside together, the pension payable to the children shall be paid to the surviving spouse and shall be used for the support of the children. If a surviving spouse remarries, the pension immediately ceases and the association shall not make any further pension payments; provided further that if the remarriage terminates for any reason, the surviving spouse, whose benefit terminated solely because of remarriage, shall be entitled upon reapplication to a surviving spouse's benefit; provided, however, that such person shall not be entitled to retroactive payments for any period of time, prior to the effective date of this act or reapplication, whichever is later. For the purposes of this section, all provisions governing a child under 18 shall be extended to include a full time student under the age of 23.

Sec. 3. [BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION; DUTY DISABILITY BENEFIT.]

Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 9, or any other law to the contrary, the Bloomington firefighters relief association may provide a duty disability benefit to a volunteer firefighter who:

(1) becomes disabled from a medically determinable injury or illness arising out of or occurring in the course of the line of duty;

(2) is not entitled to the immediate receipt of a service pension equal to the amount of a service pension payable to a retiring firefighter with 20 years of service; and

(3) complies with any other requirement specified in the bylaws of the association.

The duty disability benefit must be equal to the amount of the service pension payable to a retiring firefighter with 20 years of service.

A Bloomington volunteer firefighter who has received a duty related disability benefit and who returns to active firefighting duties with the Bloomington fire department must accrue service credit towards a service pension for the period of the receipt of the duty related disability benefit.

Sec. 4. [BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION; NONDUTY DISABILITY BENEFIT.]

The Bloomington firefighters relief association may provide a volunteer firefighter who becomes disabled from an injury or illness not arising out of or not occurring in the course of the line of duty with a disability benefit as the bylaws of the relief association specify, subject to the provisions of Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 5. Laws 1965, chapter 446, section 2, is amended to read:

Sec. 2. [BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION; DUTY RELATED DEATH SURVIVOR BENEFITS.]

Notwithstanding Minnesota Statutes, section 424A.02, subdivision 9, or any other provision of law to the contrary and in lieu of the widows pension surviving spouse benefit provided in Minnesota Statutes, Section 424.24, the firemen's firefighters relief association in the city of Bloomington may provide a pension surviving spouse benefit to the widow surviving spouse of a volunteer fireman firefighter who dies as the result of an injury or illness arising out of or in the course of the line of duty, if the surviving spouse qualifies under the terms of Minnesota Statutes, Section 424.24, of not more than a sum. The surviving spouse benefit must not exceed an amount equal to one fourth of the salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the police department, in the employ of the city, such pension to three-quarters of the amount of the service pension payable to a retiring firefighter with 20 years of service. The surviving spouse benefit must be paid as the bylaws of the association provide for her natural life; provided that if she remarries, such pension shall upon remarriage, the surviving spouse benefit must cease to accrue and terminate as of the date of her remarriage.

In event If there is a surviving child or there are surviving children of a deceased firefighter who suffered a duty related death as provided in Minnesota Statutes, Section 424.24, the firemen's relief association of the city of Bloomington may provide for a pension of not more than four percent of the monthly salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the department, in the employ of the city, surviving child benefit. The surviving child benefit must not exceed an amount equal to 12 percent of the amount of the service pension payable to a retiring firefighter with 20 years of service for each child up to the time each child reaches the age of not less than 16 years or more than 18 years as the bylaws of the association provide; provided. The total pension hereunder survivor benefits for the widow surviving spouse and children of the deceased member shall not exceed one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the pension payment.

Sec. 6. Laws 1965, chapter 446, section 3, is amended to read:

Sec. 3. [BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION;

DUTY RELATED DEATH SURVIVING CHILD BENEFITS IN CERTAIN INSTANCES.] The ~~firemen's~~ *Bloomington firefighters relief association of the city of Bloomington* may provide a ~~pension~~ *surviving child benefit for the child or children of a deceased member with a duty related death after the death of their mothers the surviving spouse, of such the amount as the board of trustees of the association shall deem considers necessary to properly support such the child or children until they reach an the age of not more than 18, as the bylaws of the association provide; provided. The total pension hereunder surviving child benefit for the child or children of the deceased member shall not exceed a sum an amount equal to one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the pension survivor benefit payment.*

Sec. 7. [BLOOMINGTON FIREFIGHTERS RELIEF ASSOCIATION; NONDUTY RELATED DEATH SURVIVOR BENEFITS.]

The Bloomington firefighters relief association may provide the surviving spouse, surviving child, or surviving children of a volunteer firefighter, who dies from an injury or illness not arising out of or not occurring in the course of the line of duty, with a survivor benefit as the bylaws of the relief association specify, subject to Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 8. [EVELETH POLICE AND FIREFIGHTERS; BENEFIT INCREASE.]

Notwithstanding any general or special law to the contrary, in addition to other benefits payable, retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund may be increased by \$100 a month. Increases may be made retroactive to January 1, 1989.

Sec. 9. [MANKATO FIRE DEPARTMENT RELIEF ASSOCIATION; AMENDMENT AUTHORIZED.]

Subdivision 1. [AUTHORIZATION.] Subject to Minnesota Statutes, section 69.77, subdivision 2i, the Mankato fire department relief association may amend its constitution and bylaws to provide for payment of disability benefits to active regular salaried firefighters who, because of medically determinable sickness or injury, are unable to perform their duties as firefighters, regardless of whether the sickness was caused in the performance of duty or the injury occurred while on duty.

Subd. 2. [REGULAR SALARIED FIREFIGHTER NONDUTY DISABILITY BENEFIT AMOUNT.] The nonduty disability benefit for regular salaried firefighters must not exceed the amount of the duty disability benefit.

Sec. 10. Laws 1982, chapter 574, section 5, as amended by Laws 1985, chapter 261, section 16, is amended to read:

Sec. 5. [VIRGINIA POLICE; BENEFIT CHANGES FOR PARTICIPANTS.]

If the bylaws so authorize, the following changes shall be effective:

(a) The service pension payable to persons who retired from the police

department on or before January 12, 1966, shall be supplemented by ~~\$100~~ \$200 per month.

(b) For any participant who terminated employment after 20 ~~or more~~ years of service, the amount of the monthly service pension payable after the participant has attained the age of at least 50 years shall be equal to ~~one-half~~ 50 percent of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to termination of service, or to the rank and position most analogous thereto, *plus an additional one percent for each full year of service in excess of 20 years to a maximum of 60 percent*, payable by the police department in each month during which the retired participant receives a service pension.

(c) The amount of a monthly disability pension shall be equal to one-half of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to his or her disability or the rank and position most analogous thereto, payable by the police department in each month during the period of the participant's disability, subject to any integration of benefits. *Disability pensions payable for disabilities incurred on or before January 11, 1967, are increased by \$100 per month.*

(d) The benefit paid to the surviving spouse of a participant who died on or before January 11, 1967, shall be increased by ~~\$50~~ \$100 per month, *with benefits payable until the surviving spouse's death or remarriage.*

(e) The benefit paid to a surviving child shall be increased to \$50 per child per month, subject to any limitation placed on the total amount of survivor's benefits.

Sec. 11. [BROOKLYN CENTER VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; REPEAL.]

Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, section 245, are repealed.

Sec. 12. [MINNETONKA VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; INCREASED NONFORFEITABLE SERVICE PENSION PERCENTAGE.]

Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, if the articles of incorporation or the bylaws of the relief association so provide, subject to Minnesota Statutes, section 424A.02, subdivision 10, the Minnetonka volunteer firefighters relief association may pay a service pension to a retiring member who meets the minimum age, service, and other requirements of Minnesota Statutes, section 424A.02, subdivision 1. The amount of the service pension is that portion of a service pension payable with 20 years of service that full years of service credited by the relief association bear to 20 years of service.

Sec. 13. [EFFECTIVE DATE.]

Subdivision 1. Sections 1 and 11 are effective the day following final enactment.

Subd. 2. Section 2 is effective the day following approval by the city council of the city of St. Paul and compliance with Minnesota Statutes, section 645.021. Sections 3 to 7 are effective the day following approval

by the city council of the city of Bloomington and compliance with Minnesota Statutes, section 645.021. Section 8 is effective the day following approval by the city council of the city of Eveleth and compliance with Minnesota Statutes, section 645.021. Section 9 is effective the day following approval by the governing body of the city of Mankato and compliance with Minnesota Statutes, section 645.021. Section 10 is effective the day following approval by the governing body of the city of Virginia and compliance with Minnesota Statutes, section 645.021. Section 12 is effective the day following approval by the governing body of the city of Minnetonka and compliance with Minnesota Statutes, section 645.021.

ARTICLE 2 VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION VESTING AND RELATED CHANGES

Section 1. Minnesota Statutes 1988, section 424A.01, subdivision 2, is amended to read:

Subd. 2. [STATUS OF SUBSTITUTE OR PROBATIONARY VOLUNTEER FIREFIGHTERS.] No person who is serving as a substitute or a probationary volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Sec. 2. Minnesota Statutes 1988, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] ~~Any~~ A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches the age of 50 years; (3) completes at least ~~ten~~ five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least ~~ten~~ five years of active membership with the relief association ~~prior to before~~ separation from active service; and (5) complies with any additional conditions as to age, service, and membership ~~which that~~ are prescribed by the bylaws of the relief association. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69. In the case of a member who has completed at least ~~ten~~ five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least ~~ten~~ five years of active membership with the relief association ~~prior to before~~ separation from active service may be waived by the board of trustees of the relief association if the member completes at least ~~ten~~ five years of inactive membership with the relief association ~~prior to before~~ the payment of the service pension. During the period of inactive membership, the member ~~shall is not be~~ entitled to receive any disability benefit coverage, ~~shall is not be~~ entitled to receive any additional service credit towards computation of a service pension, and ~~shall be deemed is considered~~ to have the status of a person entitled to a deferred service pension ~~pursuant to under~~ subdivision 7.

No municipality or nonprofit firefighting corporation is authorized to may delegate the power to take final action in setting a service pension or

ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level ~~which that~~ this chapter would allow rather than a specific dollar amount or level.

No relief association as defined in section 424A.001, subdivision 4, ~~shall~~ *may* pay a service pension or disability benefit to ~~any~~ a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated.

For the purposes of this chapter, "to separate from active service" means to cease to perform fire suppression duties and to cease to supervise fire suppression duties.

Sec. 3. Minnesota Statutes 1988, section 424A.02, subdivision 2, is amended to read:

Subd. 2. [NONFORFEITABLE PORTION OF SERVICE PENSION.] If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension ~~shall~~ *may* not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension. The ~~applicable~~ nonforfeitable percentage of pension amounts are as follows:

| Completed Years of Service | Nonforfeitable Percentage of Pension Amount |
|----------------------------|--|
| 5 | 40 percent |
| 6 | 44 percent |
| 7 | 48 percent |
| 8 | 52 percent |
| 9 | 56 percent |
| 10 | 60 percent |
| 11 | 64 percent |
| 12 | 68 percent |
| 13 | 72 percent |
| 14 | 76 percent |
| 15 | 80 percent |
| 16 | 84 percent |
| 17 | 88 percent |
| 18 | 92 percent |
| 19 | 96 percent |
| 20 and thereafter | 100 percent |

Sec. 4. Minnesota Statutes 1988, section 424A.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED SERVICE PENSIONS.] A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service

with the fire department;

(2) has completed at least ~~ten~~ *five* years of active membership in the relief association; and

(3) separates from active service and membership ~~prior to before~~ reaching the age of 50 years or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than ~~the age of 50 years~~. The deferred service pension ~~shall commence~~ *starts* when the former member reaches the age of 50 years or the minimum age specified in the bylaws governing the relief association if that age is greater than ~~the age of 50 years~~ and when the former member makes a valid written application. ~~Any~~ A relief association ~~which that~~ provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for, interest ~~shall must~~ be paid at the rate actually earned by the relief association, but not to exceed the interest rate specified in section 356.215, subdivision 4d, and ~~shall must~~ be compounded annually based on calendar year balances. The deferred service pension ~~shall be~~ *is* governed by and ~~shall must~~ be calculated ~~pursuant to any~~ *under* the general statute, special law, relief association articles of incorporation, or relief association bylaw provisions applicable ~~as of on~~ the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 5. Minnesota Statutes 1988, section 424A.02, subdivision 13, is amended to read:

Subd. 13. [COMBINED SERVICE PENSIONS.] If the articles of incorporation or bylaws of the associations so provide, a volunteer firefighter with total service credit of ~~ten years or more, if every affected relief association does not require only a five-year service vesting requirement, or~~ *five years or more, if every affected relief association requires only a five-year service vesting requirement*, as a member of two or more relief associations is entitled, when otherwise qualified, to a prorated service pension from each association in which the member has ~~two years~~ *one year* or more of service credit. The prorated service pension must be based on the service pension amount in effect for the relief association on the date volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and give notice of membership to the prior association within two years of termination of active service with the prior association. The notice must be attested to by the association secretary.

Sec. 6. Minnesota Statutes 1988, section 424A.10, is amended to read:

424A.10 [STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "qualified recipient" means an individual who receives ~~an involuntary~~ a lump sum distribution of pension or retirement benefits from a firefighters' relief association for service performed as a volunteer firefighter.

Subd. 2. [PAYMENT OF SUPPLEMENTAL BENEFIT.] Upon the payment by a firefighters' relief association of ~~an involuntary~~ a lump sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary,

the relief association may pay the supplemental benefit out of its special fund. The amount of this benefit equals ten percent of the regular ~~involuntary~~ lump sum distribution that is paid on the basis of service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000.

Subd. 3. [STATE REIMBURSEMENT.] By February 15 of each year, the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year. By March 15 the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients. The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The reimbursement payment must be deposited in the special fund of the relief association.

Subd. 4. [IN LIEU OF INCOME TAX EXCLUSION.] The supplemental benefit provided by this section is in lieu of the state income tax exclusion for ~~involuntary~~ lump sum distributions of retirement benefits paid to volunteer firefighters. If the law is modified to exclude or exempt volunteer firefighters' lump sum distributions from state income taxation, the supplemental benefits under this section may no longer be paid beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump sum distribution under section 290.032 or 290.0802.

Sec. 7. [REPEAL.]

Minnesota Statutes 1988, section 424A.01, subdivision 3a, is repealed.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 3 SALARIED FIREFIGHTERS RELIEF ASSOCIATION ESCALATION BASE IN CERTAIN INSTANCES

Section 1. Minnesota Statutes 1988, section 423A.01, subdivision 2, is amended to read:

Subd. 2. [OPERATION OF LOCAL RELIEF ASSOCIATION UPON MODIFICATION OF RETIREMENT COVERAGE FOR NEWLY HIRED POLICE OFFICERS AND FIREFIGHTERS.] (a) ~~The following provisions shall of paragraphs (b) to (g) govern the operation of a local relief association upon where the modification of retirement coverage for newly hired police officers or salaried firefighters; has been modified as provided in subdivision 1.~~

(+) (b) ~~The minimum obligation of a municipality in which the retirement coverage for newly hired police officers or salaried firefighters has been modified pursuant to subdivision 1 other than the city of Crookston regarding the Crookston fire department relief association with respect to the local relief association shall must be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216; except that. However, the normal cost calculation for the relief association shall must be computed as a percentage of the compensation paid to the active members of the relief association. The compensation paid to persons with retirement coverage modified pursuant to under subdivision 1 shall must~~

not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) (c) The contribution rate of active members of the local relief association ~~shall~~ must be governed by section 69.77, ~~unless a or any applicable special law establishing, whichever establishes a greater member contribution rate is applicable whereupon it shall continue to govern.~~ The member contribution rate of persons with retirement coverage modified pursuant to under subdivision 1 ~~shall~~ must be governed by section 353.65.

(3) (d) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty and no consolidation question has been initiated or remains pending under chapter 353A, the local relief association ~~shall~~ must cease to exist as a legal entity and the assets of the special fund of the relief association ~~shall~~ must be transferred to a trust fund to be established by the ~~appropriate applicable~~ municipality for the purpose of paying service pensions and retirement benefits to recipient beneficiaries. Recipient beneficiaries who are competent to act on their own behalf ~~shall be~~ are entitled to select the prescribed number of board of trustees members of the trust fund as provided in this clause, subject to the approval of by the governing body of the municipality of the selected trustees. If there are at least five recipient beneficiaries, the trust fund ~~shall~~ must be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. ~~When~~ If there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries ~~shall be~~ must equal to the number of the remaining recipient beneficiaries; and the governing body of the municipality shall select the additional trustees. Persons serving as trustees are not required to have any prior or current membership in or relationship with the relief association. The term of the elected members of the board of trustees ~~shall be~~ is indefinite and ~~shall continue~~ continues until a vacancy occurs in one of the board of trustee member positions. Board of trustee trustees members ~~shall~~ may not be compensated for their services, but ~~shall~~ may be reimbursed for any expenses actually and necessarily incurred as a result of the performance of their duties in their capacity as board of trustee trustees members. The chief administrative officer of the municipality shall perform ~~whatever~~ the services that are necessary to administer the trust fund and the applicable benefit plan. When all obligations of the trust fund are paid and no current or prospective benefit recipients remain, the balance of the assets remaining in the trust fund ~~shall~~ revert to the municipality for deposit in the general fund of the municipality and expenditure for law enforcement or firefighting purposes, whichever is applicable applies.

(4) (e) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund ~~shall~~ must be determined in accordance with sections 69.77, 356.215 and 356.216, and the minimum obligation of the municipality with respect to the trust fund must be paid annually until the unfunded actuarial accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. If it is a greater amount than the minimum obligation of the municipality determined in accordance with sections 69.77, 356.215, and 356.216, the municipality ~~shall~~ must provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds ~~which that are projected~~ anticipated as payable for the following calendar year, as determined by the board of trustees of the trust fund, less

the amount of assets in the trust fund as of the end of the most ~~current~~ *recent* calendar year for which figures are available, valued ~~pursuant to~~ *under* section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) (f) In calculating the amount of service pensions and other retirement benefits payable from the local relief association and in calculating the amount of any automatic post retirement increases in those service pensions and retirement benefits based on the salary paid or payable to active members or escalated in any fashion, the salary for use as the base for the service pension or retirement benefit calculation and the post retirement increase calculation for the local relief association ~~shall must~~ be the salary for the applicable position as specified in the articles of incorporation or bylaws of the relief association as of the date ~~immediately prior to the effective date of the modification of retirement coverage for newly hired personnel pursuant to subdivision 1 June 15, 1980, or as of the effective date of any subsequent applicable law, articles of incorporation amendment, or bylaw amendment,~~ as the applicable salary is reset by the municipality periodically, irrespective of whether retirement coverage for persons holding the applicable position used in calculations is provided by the relief association or by the public employees police and fire fund. *If, for a local salaried firefighters relief association, the specified position no longer exists because of a reorganization of the fire department as a volunteer fire department, the percentage increase in the salary of the position of a top grade patrol officer in the police department of the municipality must be the basis for service pension and retirement benefit postretirement increase calculations.*

(6) (g) If the modification of retirement coverage implemented ~~pursuant to under subdivision 1 is applicable~~ *applies* to a local police relief association, the police state aid received by the municipality ~~shall must~~ be disbursed ~~pursuant to under~~ section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented ~~pursuant to under~~ subdivision 1 ~~is applicable~~ *applies* to a local firefighters' relief association, the fire state aid received by the applicable municipality ~~shall be disbursed must be allocated~~ as the municipality at its option may elect. The municipality may elect: ~~(a)~~ (i) to transmit the total fire state aid to the treasurer of the local relief association for immediate deposit in the special fund of the relief association; or ~~(b)~~ (ii) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund ~~pursuant to under~~ section 353.65, subdivision 3; or (e) (iii) to allocate the total fire state aid proportionately between the special fund of the local relief association and employer contribution of the municipality to the public employees police and fire fund on the basis of the respective number of active full time salaried firefighters receiving retirement coverage from each *pension plan*.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 4

EXCLUSION OF VOLUNTEER FIREFIGHTERS FROM THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] (a) The following persons are

excluded from the meaning of "public employee":

(1) persons employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate help in governmental subdivision charitable, penal, and correctional institutions;

(5) members of boards, commissions, bands, and others who serve the governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months;

(7) part-time employees who receive monthly compensation from a governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment as an officer or employee of a governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association;

(11) police matrons employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist interns who are serving in public hospitals;

(15) appointed or elected officers, paid entirely on a fee basis, who were not members on June 30, 1971;

(16) persons holding a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation, the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year; ~~and~~

(17) persons exempt from licensure under section 125.031; *and*

(18) except as provided in section 353.86, volunteer firefighters, as defined in subdivision 35, engaging in activities undertaken as part of volunteer firefighter duties, but a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6), if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10), does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. *Except as provided in section 353.86, compensation of any kind paid to a volunteer firefighter, as defined in subdivision 35, is not considered salary.* For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 3. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 35. [VOLUNTEER FIREFIGHTER.] For purposes of this chapter, a person is considered a volunteer firefighter if the person's hours of service as a volunteer firefighter for a governmental unit are provided with no promise, expectation, or receipt of compensation for the service rendered, except for reimbursement of expenses, reasonable benefits, normal fees, or a combination thereof.

Sec. 4. [353.86] [VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.]

Subdivision 1. [PARTICIPATION.] Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 35, who, before July 1, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. [OPTION.] A volunteer firefighter to whom subdivision 1 applies shall have the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. [LIMITATION.] No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter shall be required to make back contributions to the public employees retirement association for past volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. [REFUND.] Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a volunteer firefighter to whom subdivision 1 applies shall be given a refund of all past employee contributions made on account of volunteer firefighter service with five percent interest compounded annually.

Subd. 5. [FURTHER OPTION.] A volunteer firefighter, as defined in section 353.01, subdivision 35, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation for services other than services as a volunteer firefighter, shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the non-volunteer firefighter service is performed for another governmental unit.

Sec. 5. Minnesota Statutes 1988, section 353.64, subdivision 1, is amended to read:

Subdivision 1. [POLICE AND FIRE FUND MEMBERSHIP.] Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978, by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, ~~other than a volunteer firefighter,~~ shall become a

member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter, ~~other than a volunteer firefighter~~, employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and *any police officer or firefighter of a relief association that has consolidated with the association* for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10 ~~other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply~~ shall not be a member of this fund.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective July 1, 1989.

ARTICLE 5
DISPOSITION OF EXCESS POLICE STATE AID

Section 1. Minnesota Statutes 1988, section 43A.316, subdivision 9, is amended to read:

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 *and transfers from the public employees insurance reserve holding account established by section 353.65, subdivision 7*. 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. 2. Minnesota Statutes 1988, section 69.031, subdivision 5, is amended to read:

Subd. 5. [DEPOSIT OF STATE AID.] (1) The municipal treasurer, on receiving the fire state aid, shall within 30 days after receipt transmit it to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality; but if there is no relief association organized, or if any association dissolve, be removed, or has heretofore dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall keep the money in the municipal treasury as provided for in section 424A.08 and shall be disbursed only for the purposes and in the manner set forth in that section.

(2) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(a) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid shall be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall

immediately deposit the total state aid in the special fund of the relief association;

(b) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, the total state aid shall be applied toward the municipality's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association deposited in the public employees insurance reserve holding account of the public employees retirement association; or

(c) For a municipality in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (a), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (b), *except that all state aid in excess of the amount required to meet the employer's contribution under section 353.65, subdivision 3, must be transmitted to the relief association if the relief association has an unfunded actuarial accrued liability*, or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (b), *except that all state aid in excess of the amount required to meet the employer's contribution under section 353.65, subdivision 3, must be transmitted to the relief association if the relief association has an unfunded actuarial accrued liability on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).*

(3) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association deposited in the public employees insurance reserve holding account of the public employees retirement association.

Sec. 3. Minnesota Statutes 1988, section 353.65, subdivision 1, is amended to read:

Subdivision 1. There is a special fund known as the "public employees police and fire fund." In that fund there shall be deposited employee contributions, employer contributions *other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3),* and other amounts authorized by law including all employee and employer contributions of members transferred. Within the public employees police and fire fund are accounts for each municipality known as the "local relief association consolidation accounts," which are governed

by section 353A.09.

Sec. 4. Minnesota Statutes 1988, section 353.65, subdivision 6, is amended to read:

Subd. 6. All contributions other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

Sec. 5. Minnesota Statutes 1988, section 353.65, is amended by adding a subdivision to read:

Subd. 7. The public employees insurance reserve holding account is established in the public employees retirement association. Excess contributions established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), must be deposited in the account. These contributions and all investment earnings associated with them must be regularly transferred to the insurance trust fund established by section 43A.316, subdivision 9."

Delete the title and insert:

"A bill for an act relating to retirement; various local police and fire relief associations, the police state aid program, and the public employees retirement association; expanding the representation of retirees on the St. Paul police and fire department relief associations; increasing the St. Paul police relief association surviving spouse benefit; providing for duty related disability and death benefits of the Bloomington firefighters relief association; providing for postretirement adjustments from the Eveleth police and fire trust fund; providing for nonduty disability benefit coverage of the Mankato fire department relief association; providing postretirement and active service pension increases for the Virginia police relief association; repealing Brooklyn Center firefighters relief association local laws; authorizing greater nonforfeitable short-service pension for the Minnetonka volunteer firefighters relief association; eliminating a membership restriction for probational firefighters for volunteer firefighters relief associations; clarifying volunteer firefighters relief association supplemental benefits; reducing the service requirement for volunteer firefighters relief association service pensions to five years; clarifying the escalator base for certain salaried firefighters relief associations; excluding volunteer firefighters from public employee retirement association membership; redirecting excess police state aid amounts to the public employees insurance plan; amending Minnesota Statutes 1988, sections 43A.316, subdivision 9; 69.031, subdivision 5; 353.01, subdivisions 2b, 10, and by adding a subdivision; 353.64, subdivision 1; 353.65, subdivisions 1, 6, and by adding a subdivision; 423A.01, subdivision 2; 424A.01, subdivision 2; 424A.02, subdivisions 1, 2, 7, and 13; 424A.10; Laws 1955, chapter 151, section 13, as amended; Laws 1965, chapter 446, sections 2 and 3; and Laws 1982, chapter 574, section 5, as amended; proposing coding for new law in Minnesota Statutes, chapter 353; repealing Minnesota Statutes 1988, section 424A.01, subdivision 3a; Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, section 245."

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 1201: A bill for an act relating to retirement; teachers retirement association; making various administrative changes in the laws governing operation of the association; establishing an appeal procedure; amending Minnesota Statutes 1988, sections 136.81, subdivision 1; 136.82, subdivisions 1 and 2; 354.05, subdivisions 35 and 37; 354.06, by adding a subdivision; 354.07, subdivision 3; 354.091; 354.092; 354.10, subdivision 2; 354.35; 354.42, subdivision 7; 354.44, subdivisions 3, 5, and 8; 354.47, subdivision 2; 354.48, subdivisions 1 and 2; 354.65; 356.30, subdivision 2; 356.371, subdivision 3; and 356.80, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 354; repealing Minnesota Statutes 1988, sections 136.88, subdivision 3; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1
MINNESOTA STATE RETIREMENT SYSTEM
ADMINISTRATION PROVISIONS

Section 1. Minnesota Statutes 1988, section 43A.44, subdivision 2, is amended to read:

Subd. 2. [BENEFITS.] Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(a) (1) Membership in the Minnesota state retirement system, the teachers retirement association or the state patrol retirement fund, whichever is appropriate; ~~except that, notwithstanding any provision of section 352.01, subdivisions 11 and 16, 352B.01, subdivision 3, 354.05, subdivisions 13 and 25, or 354.091, employees shall have allowable service for the purpose of meeting the minimum service requirements for eligibility to a retirement annuity or other retirement benefit credited in full, but shall have benefit accrual service for the purpose of computing a retirement annuity or other retirement benefit credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.~~

(b) (2) Vacation and sick leave accruals shall be prorated in accordance with the pertinent collective bargaining agreement or plan covering the position;

(c) (3) Employee dental, medical and hospital benefits coverage shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(d) (4) Dependent life insurance coverage shall be available to employees

in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(e) (5) Employees in shared positions shall be entitled to the prorated holiday provisions of the applicable collective bargaining agreement or plan covering the position;

(f) (6) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(g) (7) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared time percent of those available to comparable full-time employees, whenever the benefits are divisible. Contributions by the employer toward the benefits, if any, shall be equal to the appropriate shared time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allocated, the appropriate shared time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

Sec. 2. Minnesota Statutes 1988, section 352.01, subdivision 11, is amended to read:

Subd. 11. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Service by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.

(2) Service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24.

(3) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041.

(4) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month for which payments in lieu of salary deductions are made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (9) and (10), any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month.

(5) The period of absence from their duties by employees who are temporarily disabled because of injuries incurred in the performance of duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund.

(6) The unused part of an employee's annual leave allowance for which the employee is paid salary.

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

(8) Any service before July 1, 1978, by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

(9) Service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern.

~~(10) Any service by an employee in the Minnesota demonstration job-sharing program under sections 43A.40 to 43A.465 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund; shall be credited on a fractional basis either weekly or annually based on the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year; with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.~~

The allowable service determined and credited on a fractional basis ~~under~~ clauses (9) and ~~(10)~~ shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

~~(11)~~ (10) Any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by

payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per year from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Sec. 3. Minnesota Statutes 1988, section 352.021, subdivision 5, is amended to read:

Subd. 5. [CONTINUING COVERAGE.] Any state employee who has made contributions to the retirement fund for a period of one year and who, continuing in state service after that year, becomes eligible for membership in the state teachers retirement association *as a full-time teacher, as defined in section 354.05, subdivision 2*, may continue coverage under the system by filing in its office written notice of election to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision 2b, clause (3), must be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee is not thereafter entitled to membership in the teachers retirement association while employed by the state in a position that entitled the employee to make this election.

Sec. 4. Minnesota Statutes 1988, section 352.03, subdivision 11, is amended to read:

Subd. 11. [LEGAL ADVISER, ATTORNEY GENERAL.] The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued *or petitioned under section 5* in the name of the board of directors of the system. In actions brought by it or against it, the board shall be represented by the attorney general- *and, except as provided in section 5, subdivision 9*, venue of actions shall be in the Ramsey county district court.

Sec. 5. [352.031] [APPEALS PROCEDURE.]

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given them.

(a) "Board" means the board of directors of the Minnesota state retirement system.

(b) "Documentation" includes, but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(c) "Executive director" means the executive director of the Minnesota

state retirement system.

(d) "Person" includes any state agency or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(e) "Record" means:

(1) the petition and the documentation that the petitioner submits with a petition;

(2) the executive director's answer to the petition and the documentation submitted with it; and

(3) the documentation that the board allows to be submitted in connection with the hearing on the petition if submitted in a timely fashion.

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] If the executive director terminates a benefit, reduces a benefit, or denies an application or a written request of any person claiming a right under chapter 352, other than sections 352.96 and 352.97; chapters 3A, 352B, 352C, and 352D; sections 490.121 to 490.133; or the applicable sections of chapters 355 and 356, the executive director must serve upon that person a written notice. The notice must contain:

(1) the reasons for the termination, reduction, or denial;

(2) notification that the person may petition the board for a review of the termination, reduction, or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) a statement that failure to petition the board within 60 days will preclude the person from contesting, in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under the statutory provisions listed in subdivision 2 and regarding whom a benefit has been terminated or reduced or an application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. [ANSWER; RECORD FOR HEARING.] Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard and at the time that the petition is considered by the board, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with the entire contents of the relevant documentation.

Subd. 5. [HEARING.] The board shall hold a hearing on a petition for

review in a timely fashion. The board must make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. [TERMINATION OF BENEFITS.] *If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit, the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity verbally or in writing to explain why the benefit should not be terminated. If the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.*

Subd. 7. [MEDICAL ADVISOR ACTION.] *If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in section 352.01, subdivision 17; 352B.10; or 490.121, subdivision 13, whichever applies, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.*

Subd. 8. [BOARD FINDINGS.] *After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director shall serve the findings, conclusions, and order on the petitioner by certified mail.*

Subd. 9. [APPEALS.] *Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ or certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.*

Subd. 10. [REFERRAL FOR ADMINISTRATIVE HEARING.] *Notwithstanding sections 14.03; 14.06; and 14.57 to 14.69, a challenge to a*

determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Sec. 6. Minnesota Statutes 1988, section 352.116, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL ANNUITIES.] The board shall establish an optional retirement annuity in the form of a joint and survivor annuity. The board may also establish an optional annuity in the form of an annuity payable for a period certain and for life thereafter or establish an optional annuity which takes the form of a joint and survivor annuity providing that, if after the joint and survivor annuity becomes payable, the person with the designated remainder interest in the annuity dies before the former member, the annuity amount must be reinstated to a normal single life annuity amount as of the first day of the month after the day the person dies. In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement but equal so far as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the retired employee becomes eligible for social security old age retirement benefits and payable for the period after the retired employee becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under subdivisions 2 and 3. The social security leveling option may be calculated based on broad average social security old age retirement benefits. For each year that the retiring employee is under age 62, up to five percent of the total single life annuity required reserves may be used to accelerate the optional retirement annuity. This greater amount shall be paid until the end of the month in which the retired employee reaches age 62, at which time the annuity shall be reduced. The optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

Sec. 7. Minnesota Statutes 1988, section 352.22, subdivision 1, is amended to read:

Subdivision 1. [SERVICE TERMINATION.] Any employee who ceases to be a state employee by reason of termination of state service or layoff is entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made 30 or more days after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.

Sec. 8. Minnesota Statutes 1988, section 352.22, subdivision 2a, is amended to read:

Subd. 2a. [AMOUNT OF CERTAIN REFUND REPAYMENTS PROHIBITED.] For any employee who is entitled to a refund under subdivision 1 and who, before July 1, 1978, was a member of the metropolitan transit commission transit operating division employees retirement fund, the refund for contributions made before July 1, 1978, must equal the following amounts:

(a) For any employee contributions made before January 1, 1950, the amount equal to one-half of the employee contributions without interest;

(b) For any employee contributions made after December 31, 1949, but before January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per year; and

(c) For any employee contributions made after December 31, 1974, but before July 1, 1978, the amount of the employee contributions plus simple interest at the rate of 3-1/2 percent per year. The refund of contributions made on or after July 1, 1978, must be determined under subdivision 2. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission-transit operating division employees retirement fund received before July 1, 1978, or for service rendered before July 1, 1978, may be repaid.

Sec. 9. [352.231] [QUALIFIED ROLLOVERS.]

Repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a), or an annuity qualified under the Internal Revenue Code, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as coordinated member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive secretary may require the coordinated member to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the Internal Revenue Code.

Sec. 10. Minnesota Statutes 1988, section 352.93, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS; DURATION AND AMOUNT.] The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, 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, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan or the unclassified employees retirement program between the ages of 58 and 65 shall receive a partial return of correctional contributions at retirement with five percent interest based on the following formula:

Employee contributions
contributed as a

Years and complete
months of regular

correctional employee
in excess of the
contributions the
employee would have
contributed as a
regular employee

X

service between
ages 58 and 65

.....
7

Sec. 11. Minnesota Statutes 1988, section 352B.08, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL ANNUITY FORMS.] In lieu of the single life annuity provided in subdivision 2, the member or former member with ~~ten~~ *five* years or more of service may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the interest assumption specified in section 356.215, subdivision 4d, and the board shall obtain the written recommendation of the commission-retained actuary. These recommendations shall be a part of the permanent records of the board.

Sec. 12. Minnesota Statutes 1988, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] A disabled member ~~not eligible for~~ *may, in lieu of* survivorship coverage under section 352B.11, subdivision 2, ~~may~~ choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The choice of an optional annuity must be made before commencement of payment of the disability benefit. It is effective ~~30 days after receipt of this choice or on the date on which the disability benefit begins to accrue, whichever is later. Upon becoming effective, the optional annuity begins to accrue on the date provided for the disability benefit.~~

Sec. 13. Minnesota Statutes 1988, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 3 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least 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 became or

would have become 55.

(b) The surviving spouse of a member who had credit for less than five years of service shall receive, for life, a monthly annuity equal to 20 percent of that part 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 five years service and who died 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 paragraph (b).

(d) The surviving spouse of any member who had credit for 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 before the deceased member's 55th birthdate, benefits or annuities shall cease as of the date of remarriage. Remarriage after 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 part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 22 years of age also may receive the monthly benefit provided in this section, 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 part 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 must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit must not exceed 40 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for five or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have reached the age of 55 years, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per year compounded annually.

Sec. 14. Minnesota Statutes 1988, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. When a participant attains at least age ~~58~~ 55, is retired from covered service, and applies for a retirement annuity, the cash value of the participant's shares shall be transferred to the Minnesota postretirement investment fund and used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the state employees retirement fund in determining pensions and reserves.

Sec. 15. Minnesota Statutes 1988, section 352D.075, subdivision 2, is amended to read:

Subd. 2. If a participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary, the spouse may receive:

(1) The value of the participant's total shares;

(2) The value of one-half of the total shares and beginning at age ~~58~~ 55 or thereafter receive an annuity based on the value of one-half of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age ~~58~~ 55 or thereafter receive an annuity based on the value of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; and further provided, if said spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse.

Sec. 16. [DEADLINE EXTENSION IN CERTAIN INSTANCES.]

Notwithstanding any provision of Minnesota Statutes, section 352D.12, to the contrary, a participant on the effective date of this section may transfer prior service contributions or repay any refund under that section by September 30, 1989, or within one year of the person's participation, whichever is later.

Sec. 17. [REPEALER.]

Minnesota Statutes 1988, sections 352.03, subdivision 13; and 352.73, subdivision 3, are repealed.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 15 and 17 are effective July 1, 1989. Section 16 is effective the day following final enactment.

ARTICLE 2 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] The following persons are included in the meaning of "public employee":

- (1) elected or appointed officers and employees of elected officers;
- (2) district court reporters;
- (3) officers and employees of the public employees retirement association;
- (4) employees of the league of Minnesota cities;
- (5) *employees of the association of metropolitan municipalities;*
- (6) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;
- ~~(6)~~ (7) employees of a school district who receive separate salaries for driving their own buses;
- ~~(7)~~ (8) employees of the association of Minnesota counties;
- ~~(8)~~ (9) employees of the metropolitan intercounty association;
- ~~(9)~~ (10) employees of the Minnesota municipal utilities association;
- ~~(10)~~ (11) *employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;*
- (12) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;
- ~~(11)~~ (13) employees of the Minneapolis employees retirement fund; if employment initially commenced after June 30, 1979;
- ~~(12)~~ (14) employees of the range association of municipalities and schools;
- ~~(13)~~ (15) employees of the soil and water conservation districts;
- ~~(14)~~ (16) employees of a county historical society who are county employees;
- ~~(15)~~ (17) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;
- ~~(16)~~ (18) employees of an economic development authority created under sections 458C.01 to 458C.23;
- ~~(17)~~ (19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters;
- (20) *employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.*

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] ~~(a)~~ The following persons are excluded from the meaning of "public employee":

(1) persons *who are* employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate ~~help~~ personnel who perform services in ~~governmental subdivision~~ charitable, penal, ~~and~~ or correctional institutions of a governmental subdivision;

(5) members of boards, commissions, bands, and others who serve ~~the~~ a governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months; *unless it involves employment for a probationary period that is part of a permanent position. Immediately following the expiration of a six-month period of employment, if the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions to be made on behalf of the employee in accordance with section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and part-time positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;*

(7) part-time employees who receive monthly compensation from a *one* governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a *one* governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service; *Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;*

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment ~~as an officer or employee of a~~ in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the ~~state employees retirement system; the teachers retirement fund;~~

the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10; other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers, who are paid entirely on a fee basis, and who were not members on June 30, 1971;

(16) persons holding who hold a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation; the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in

a fiscal year; and

(17) persons exempt from licensure under section 125.031-; and

(18) *volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel.*

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a); clause (6); if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a); clause (7); exceeds \$5,100 per calendar year or school year after being stipulated in advance; the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a); clause (10); does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2; by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. *Compensation of any kind paid to volunteer ambulance service personnel, as defined in subdivision 35, is not considered salary.* For a public employee who has

prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 11a. [TERMINATION OF PUBLIC SERVICE.] An officer or employee who terminates employment but within 30 days returns to employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).

Sec. 5. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 35. [VOLUNTEER AMBULANCE SERVICE PERSONNEL.] Volunteer ambulance service personnel for purposes of this chapter are 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.

Sec. 6. Minnesota Statutes 1988, section 353.27, subdivision 12, is amended to read:

Subd. 12. [OMITTED SALARY DEDUCTIONS; OBLIGATIONS.] In the case of omission of required deductions from salary of an employee, ~~past due for 60 days or less, the head of the department shall deduct from the employee's next salary payment and remit to the executive director the amount of the employee contribution delinquency, with the department head shall immediately, upon discovery, report the employee for membership and require employee deductions to be made in accordance with subdivision 4. Omitted employee deductions due for the 60-day period preceding enrollment must be deducted from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions past due and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each delinquent omitted employee contribution was first payable. The interest must be paid by the employer. Omitted required deductions past due for a period in excess of 60 days are the sole obligation of the governmental subdivision from the time the deductions were first payable, together with interest as specified in this subdivision. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest at the rate of six percent compounded annually from the date they were first payable, from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer. Unless otherwise indicated, An employer~~

shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay omitted employee deductions when an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it. ~~No action for the recovery of omitted employee and employer contributions or interest on contributions may be commenced and no payment of omitted contributions may be made or accepted unless the association has already commenced action for recovery of omitted contributions.~~ The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for the recovery of omitted contributions or interest commences five calendar days after on the date of the mailing of any written correspondence from the association requesting information from the governmental unit that may lead to a recovery of omitted contributions subdivision upon which to determine whether omitted deductions occurred.

Sec. 7. Minnesota Statutes 1988, section 353.28, subdivision 5, is amended to read:

Subd. 5. [INTEREST ON PAST DUE AMOUNTS.] Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4, shall bear compound interest at the rate of six percent per year from the date due for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date payment is actually received in the office of the association, with a minimum charge of \$10. *Interest for past due payments of excess police state aid under section 69.031, subdivision 5, must be charged at a rate of six percent compounded annually.*

Sec. 8. Minnesota Statutes 1988, section 353.28, subdivision 6, is amended to read:

Subd. 6. [COLLECTION PROCEDURES FOR AMOUNTS DUE.] If the governmental subdivision fails to pay amounts due under this chapter *or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5*, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

Sec. 9. Minnesota Statutes 1988, section 353.29, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR ANNUITY.] Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement shall be made in writing on a form prescribed by the executive director and shall be substantiated in ~~writing~~ *by written proof of the member's age of the member and identity. No application for a retirement annuity may be considered complete until all necessary supporting documents are received by the executive director.*

Sec. 10. Minnesota Statutes 1988, section 353.29, subdivision 7, is amended to read:

Subd. 7. [ANNUITIES; ACCRUAL.] Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments, but no payment shall accrue beyond the end of the month, in which entitlement to such annuity has terminated. If the annuitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse or if none to the designated beneficiary or if none to the estate. Any annuity granted to an elective public official shall accrue on the day following expiration of the public office held or right thereto, and the annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive for more than three months prior to that month in which ~~application therefor shall be filed with the association a complete application is received by the executive director as provided in subdivision 4.~~

Sec. 11. Minnesota Statutes 1988, 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 five years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If ~~such~~ *the disabled person's* public service has terminated at any time, at least three of the required 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 A repayment of a refund may be made before the effective date of disability benefits under subdivision 2.~~ 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. 12. Minnesota Statutes 1988, section 353.33, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS; ACCRUAL OF BENEFITS.] Every claim or demand for a total and permanent disability benefit ~~shall must~~ be initiated by written application in the manner and form prescribed by the executive director; ~~filed in the office of the retirement association;~~ showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit *and filed with the executive director.* A member or former member who became totally and permanently disabled

during a period of membership may file application for total and permanent disability benefits within three years next following termination of public service, but not thereafter. This benefit shall begin 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 said 90 day period, from the date salary ceased whichever is later. No payment shall accrue beyond the end of the month in which entitlement has terminated. If the disabilitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. *An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.*

Sec. 13. Minnesota Statutes 1988, 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~~ *coordinated with* any amounts received or receivable, ~~including under workers' compensation law, such as temporary total, permanent total, temporary partial or, permanent partial, or economic recovery compensation~~ 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 disabilitant. 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. 14. Minnesota Statutes 1988, section 353.33, subdivision 6, is amended to read:

Subd. 6. [CONTINUING ELIGIBILITY FOR BENEFITS.] The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. *Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation.* If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments shall be made for no more than 60 days.

Sec. 15. Minnesota Statutes 1988, section 353.33, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] *If, following a work or non-work-related injury or illness, a disabled person resumes a gainful occupation from which earnings are less than the salary at the date of disability or the salary currently paid for similar positions, the board shall continue*

the disability benefit in an amount that, when added to the earnings *and workers' compensation benefit*, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit does not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 16. Minnesota Statutes 1988, section 353.34, subdivision 1, is amended to read:

Subdivision 1. [REFUND OR DEFERRED ANNUITY.] Any member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, shall be entitled to a refund of accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. *An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in that fund and becomes a member of another fund enumerated in that subdivision may receive a refund of employee contributions from the applicable funds plus five percent interest compounded annually from the fund in which the member terminated service.* Application for a refund may not be made prior to date of termination of public service, or the expiration of 120 days of layoff, and a refund shall be paid within 120 days following receipt of application, provided applicant has not again become a public employee required to be covered by the association.

Sec. 17. Minnesota Statutes 1988, section 353.35, is amended to read:

353.35 [CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.]

When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of ~~such~~ the refund shall terminate and shall not again be restored until the person acquires not less than 18 months allowable service credit ~~subsequent to~~ *after* taking the last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at six percent per annum compounded annually. If more than one refund has been taken, ~~all refunds must be repaid by the person may repay all refunds or only the refund for the fund in which the person had most recently been a member,~~ with interest at six percent per annum compounded annually. All refunds must be repaid within three months of the last date of termination of public service.

Sec. 18. [353.351] [QUALIFIED ROLLOVERS.]

Repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a), or an annuity qualified under the Internal Revenue Code, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as coordinated member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive secretary may

require the coordinated member to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the Internal Revenue Code.

Sec. 19. Minnesota Statutes 1988, section 353.64, subdivision 2, is amended to read:

Subd. 2. [DECLARATION OF POLICE OFFICER POSITION.] Before a governing body may declare a position to be that of a police officer, the duties of the person so employed ~~shall~~ *must*, as a minimum, include ~~services employment~~ *as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant. A police officer who is periodically assigned to employment duties not within the scope of this subdivision may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a police officer, is adopted by the governing body of the department and is promptly submitted to the executive director.*

Sec. 20. Minnesota Statutes 1988, section 353.64, subdivision 3, is amended to read:

Subd. 3. [DECLARATION OF FIREFIGHTER POSITION.] Before a governing body may declare a position to be that of a firefighter, the duties of the person so employed ~~shall~~ *must*, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or companies who is engaged in the hazards of fire fighting. *A firefighter who is periodically assigned to employment duties outside the scope of firefighting may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a firefighter, is adopted by the governing body of the company or companies and is promptly submitted to the executive director.*

Sec. 21. Minnesota Statutes 1988, section 353.656, subdivision 4, is amended to read:

Subd. 4. [REDUCTION OF DISABILITY BENEFITS IN CERTAIN INSTANCES.] No member shall receive any disability benefit payment when there remains to the member's credit unused annual leave or sick leave or under any other circumstances; when, during the period of disability, there has been no impairment of salary ~~and~~. Should ~~such~~ *the* member resume a gainful occupation with earnings less than the salary earned at the date of disability or the salary currently paid for similar positions, the association shall continue the disability benefit in an amount which when added to ~~such~~ *workers' compensation benefits and actual earnings* does not exceed the salary earned at the date of disability or the salary currently paid for similar positions, whichever is higher; ~~provided~~. *In no event may the disability benefit in such case does not exceed the disability benefit originally allowed. In the event that the total amount is higher, the executive director shall reduce the disability benefit by the amount of the excess.*

Sec. 22. [REPEALER.]

Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662, are repealed.

Sec. 23. [EFFECTIVE DATE.]

(a) Sections 1; 2, other than clause (18); 4; and 6 to 22 are effective July 1, 1989.

(b) The past due excess police state aid interest charge provided for in section 7 is retroactive to July 1, 1989.

(c) Sections 2, clause (18); 3; and 5 are effective retroactively to July 1, 1988.

ARTICLE 3
TEACHERS RETIREMENT
ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. [SUPPLEMENTAL PLAN CONTRIBUTION AMOUNTS.] There shall be deducted from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the portion of the person's annual salary paid between \$6,000 and \$15,000. The deduction is to be made in the same manner as other retirement deductions are made from the salary of the person only after the first \$6,000 has been paid in a fiscal year. The ~~state~~ employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. The moneys so deducted and the ~~state~~ employer contribution shall be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account is hereby established and shall be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. ~~The money required to meet the obligation of the state as provided in this subdivision shall be contributed to the executive director of the teachers retirement association by the state~~ Two percent of the amount of the salary deductions and employer contributions must be credited to the administrative expense reserve account of the supplemental retirement plan and must be used for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65.

Any deductions which are taken from the salary of a person for the supplemental retirement plan in error shall upon discovery and verification be refunded to the person. Any related employer contributions must be refunded to the employer. The ~~retirement board~~ executive director shall establish a reserve which ~~shall~~ must reflect any gains or losses realized due to the purchase and redemption of shares representing salary deductions and ~~state~~ employer contributions which were made in error. The balance of the reserve ~~shall~~ remaining after the refund of contributions made in error must be credited annually to the ~~cancellation reserve established pursuant to section 136.82, subdivision 1, clause (5)~~ administrative expense reserve account.

If any ~~payroll~~ salary deductions which are required pursuant to under this section are omitted, the amount of the omitted salary deductions shall may be remitted by the person to the supplemental retirement plan investment account of the teachers retirement association within one year from the end of the fiscal year in which the deductions were due, and at the

time of the receipt of 90 days following the association's written notification to the person of the omission, but not thereafter. If the omitted salary deductions are received from the person, the required state employer contribution shall then must be made paid by the employer within 30 days after the association's written notification to the employer of the amount due.

Sec. 2. Minnesota Statutes 1988, section 136.82, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The executive director of the teachers retirement fund shall redeem shares in the accounts of the Minnesota supplemental retirement investment fund standing in an employee's share account record under the following circumstances, but always in accordance with the laws and rules governing the Minnesota supplemental retirement investment fund:

(b) The executive director shall redeem shares under this subdivision when requested to do so in writing on forms provided by the executive director by a person having shares to the credit of the employee's share account record if the person is age 55 or older and is no longer employed by the state university board or state board for community colleges. In such case the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the person's shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year.

(c) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person has left employment by the state university board or state board for community colleges because of a total and permanent disability as defined in section 354.05, subdivision 14. If the executive director finds that the person is totally and permanently disabled and will as a result be unable to return to similar employment, the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. If the person returns to good health, the person owes no restitution to the state or a fund established by its laws for a redemption under this paragraph.

(d) The executive director shall redeem shares under this subdivision in the event of the death of a person having shares to the credit of the employee's share account record and leaving a surviving spouse, when requested to do so in writing, on forms provided by the executive director, by the surviving spouse. The surviving spouse must receive the cash realized on

the redemption of the shares. The surviving spouse may direct the redemption of not more than 20 percent of the shares in the deceased spouse's employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. In that case the surviving spouse must receive the cash realized from the redemption of the shares. Upon the death of the surviving spouse any shares remaining in the employee's share account record must be redeemed by the executive director and the cash realized from the redemption must be distributed to the estate of the surviving spouse.

(e) In the event of the death of a person having shares to the credit of the employee's share account record and leaving no surviving spouse, the executive director shall redeem all shares to the credit of the employee's share account record and pay the cash realized from the redemption to the estate of the deceased person.

(f) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person is no longer employed by the state university board or state board for community colleges, but does not qualify under the provisions of paragraphs (b) to (e). In that case, *the applicable person is entitled, upon application, to receive one-half of the cash realized on the redemption of shares must be received by the person and one-half becomes the property must be credited to the administrative expense reserve account of the supplemental retirement plan account of the teachers retirement fund for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65. Annually on July 1 the cancellations of the previous 12 months must be prorated among the employees share accounts in proportion to the value that each account bears to the total value of all share accounts.*

Sec. 3. Minnesota Statutes 1988, section 136.82, subdivision 2, is amended to read:

Subd. 2. [REDEMPTION OF SHARES AS AN ANNUITY.] A person who has shares to the credit of the employee's share account record, who is 55 years of age or older and who is no longer employed by the state university board or the state board for community colleges or who is totally and permanently disabled pursuant to subdivision 1, paragraph (2) (c), or who has the status of a surviving spouse of a person who has shares to the credit of the employee's share account pursuant to subdivision 1, paragraph (3) (d), may redeem all or part of the shares to purchase an annuity by depositing the cash realized upon redemption with the executive director of the teachers retirement fund and receive in exchange an annuity for life or an optional annuity as hereinafter provided. The election to purchase an annuity may be made only once by any individual. If an election is made before the date on which the person is entitled to request redemption, the redemption shall not be made prior to the date upon which the person would be entitled to make the request. The annuity purchase rates shall be based on the annuity table of mortality adopted by the board of trustees of the teachers retirement fund for the fund as provided in section 354.07,

subdivision 1, using the interest assumption specified in section 356.215, subdivision 4d. The amount of the annuity for life shall be that amount which has a present value equal to the cash realized on the redemption of the shares as of the first day of the month next following the date of the election to purchase an annuity. The board of trustees of the teachers retirement fund shall establish an optional joint and survivor annuity, an optional annuity payable for a period certain and for life thereafter, and an optional guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the cash realized from the redemption of shares is payable to the designated beneficiary. The optional forms of annuity shall be actuarially equivalent to the single life annuity as defined in section 354.05, subdivision 7. In establishing these optional forms, the board of trustees shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement, and these recommendations shall be a part of the permanent records of the board of trustees.

Sec. 4. Minnesota Statutes 1988, section 354.05, subdivision 35, is amended to read:

Subd. 35. [SALARY.] (a) "Salary" means the compensation ~~paid to a teacher excluding~~, upon which member contributions are required and made, that is paid to a teacher before any allowable reductions permitted under the Internal Revenue Code, as amended, for employee selected fringe benefits, tax sheltered annuities, deferred compensation, or any combination of these items.

(b) "Salary" does not mean:

(1) lump sum annual ~~or~~ leave payments;

(2) lump sum sick leave payments ~~and all~~;

(3) payments in lieu of any employer paid group insurance coverage, including the difference between single and family premium rates, that may be paid to a member with single coverage; ~~"Salary" does not mean;~~

(4) any form of payment made in lieu of any other employer paid fringe benefit or expense; ~~or~~;

(5) any form of severance payments;

(6) workers' compensation payments; or

(7) disability insurance payments including self-insured disability payments.

Subd. 35a. [SEVERANCE PAYMENTS.] Severance payments include, but are not limited to:

~~(a)~~ (1) payments to an employee to terminate employment;

~~(b)~~ (2) payments, or that portion of payments, that are not clearly for the performance of services by the employee to the employer; ~~and~~

~~(c)~~ (3) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less of the execution of the agreement for compensation that is significantly different than the most recent contract salary; and

(4) payments under a procedure that allows the employee to designate

the time of payment if the payments are made during the period of formula service credit used to compute a benefit or annuity under section 354.44, subdivision 6 or 7; 354.46, subdivision 1 or 2; or 354.48, subdivision 3.

Sec. 5. Minnesota Statutes 1988, section 354.05, subdivision 37, is amended to read:

Subd. 37. [TERMINATION OF TEACHING SERVICE.] "Termination of teaching service" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer. *A member is not considered to have terminated teaching service if, before the effective date of the termination or retirement, the member has entered into a contract to resume teaching service with an employing unit covered by the provisions of this chapter.*

Sec. 6. Minnesota Statutes 1988, section 354.07, subdivision 3, is amended to read:

Subd. 3. The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued *or petitioned under section 7* in the name of the board of trustees of the teachers retirement fund ~~and~~. In all actions brought by or against it the board shall be represented by the attorney general. *Except as provided in section 7, subdivision 9,* venue of all actions is in the Ramsey county district court.

Sec. 7. [354.071] [APPEALS PROCEDURE.]

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given.

(a) "Documentation" includes, but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(b) "Executive director" means the executive director of the teachers retirement association.

(c) "Person" includes any state institution, school district, or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(d) "Record" means:

(1) the petition and the documentation that the petitioner submits with a petition;

(2) the executive director's answer to the petition and the documentation submitted with it; and

(3) the documentation that the board allows to be submitted in connection with the hearing on the petition if submitted in a timely fashion.

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] *If the executive director terminates a benefit, reduces a benefit, or denies an application or a written request of any person claiming a right under this chapter or*

the applicable sections of chapters 136, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

- (1) the reasons for the termination, reduction, or denial;*
- (2) notification that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;*
- (3) a statement that failure to petition the board within 60 days will preclude the person from contesting, in any other court procedure or administrative hearing, the issues determined by the executive director; and*
- (4) a copy of this section.*

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under the statutory provisions listed in subdivision 2 and regarding whom a benefit has been terminated or reduced or an application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. [ANSWER; RECORD FOR HEARING.] Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard and at the time that the petition is considered by the board, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with the entire contents of the relevant documentation.

Subd. 5. [HEARING.] The board shall hold a hearing on a petition for review in a timely fashion. The board must make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. [TERMINATION OF BENEFITS.] If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit, the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity verbally or in writing to explain why the benefit should not be terminated. If the executive director is unable to contact the person and the executive director determines that

a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

Subd. 7. [MEDICAL ADVISOR ACTION.] If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in section 354.05, subdivision 14, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

Subd. 8. [BOARD FINDINGS.] After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director must serve the findings, conclusions, and order on the petitioner by certified mail.

Subd. 9. [APPEALS.] Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ or certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

Subd. 10. [REFERRAL FOR ADMINISTRATIVE HEARING.] Notwithstanding sections 14.03; 14.06; and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Sec. 8. Minnesota Statutes 1988, section 354.091, is amended to read:
354.091 [SERVICE CREDIT.]

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any fiscal year. Commencing July 1, ~~1969~~ 1961, (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, ~~1969~~ 1961,

shall be computed pursuant to the law in effect at the time it was rendered.

In no event shall any teacher lose or gain retirement service credit as a result of the employer converting to a four day work week. If the employer does convert to a four day work week, the forms for reporting and procedures for determining service credit shall be determined by the executive director with the approval of the board of trustees.

Sec. 9. Minnesota Statutes 1988, section 354.092, is amended to read:
354.092 [SABBATICAL LEAVE.]

~~A member who is granted a sabbatical leave may receive allowable service credit not exceeding three years in any ten consecutive years toward a retirement annuity by paying into the fund employee contributions during the period of leave. The employee contribution shall be based upon the appropriate rate of contributions and the salary received during the year immediately preceding the leave. This payment shall be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated, and shall be without interest. A member shall not accrue more than three years allowable service by reason of this section unless the allowable service credit was paid for by the member prior to July 1, 1962. A sabbatical leave for the purpose of this section shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. Before the end of the fiscal year during which any sabbatical leave begins, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. Deductions for employee contributions at the applicable rate specified in section 354.42 must be made by the employing unit from salary paid to the member for a sabbatical leave. The member may also make direct payment of employee contributions at the appropriate rates specified in section 354.42 based upon the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave. This direct payment must be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated and must be without interest. If the employee contributions during the period of the leave made under this section are less than the employee contributions based on the salary received made for a comparable period during the year immediately preceding the leave, the allowable and formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (3), except that if the member is paid full salary for any sabbatical leave of absence, either past or prospective, the allowable and formula service credit shall not be prorated. A member may not receive more than three years of allowable service credit in any ten consecutive years under this section unless the allowable service credit was paid for by the member before July 1, 1962. For sabbatical leaves taken that begin after June 30, 1986, the required employer contribution, including the amortization amount contributions specified in section 354.42, subdivisions 3 and 5, shall must be paid by the employing unit within 30 days after the association's written notification by the association to the employing unit of the amount due.~~

Sec. 10. Minnesota Statutes 1988, section 354.10, subdivision 2, is amended to read:

Subd. 2. [AUTOMATIC DEPOSITS.] The board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive ~~such~~ the annuity or benefit. Upon completion

of the proper forms as provided by the ~~board~~ *executive director*, the annuity or benefit amount may be electronically transferred or the annuity or benefit check may be mailed to a banking institution, savings association or credit union for deposit to the recipient's individual account or joint account with a the recipient's spouse. The board shall prescribe the conditions which shall govern governing these procedures.

Sec. 11. Minnesota Statutes 1988, section 354.35, is amended to read:

354.35 [RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.]

~~Any~~ A coordinated member who retires before becoming eligible for social security retirement benefits, age 65 may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional accelerated retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional accelerated retirement annuity shall take the form of an annuity payable for the period before the member attains the age of 65 years in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement, but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the annuitant becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement. The social security leveling option may be calculated based on broad average social security old age retirement benefits. the optional accelerated retirement annuity shall must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount shall must be paid until the member retiree reaches the age of 65 and at which that time the payment from the association shall must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. The method of computing the optional accelerated retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees shall must obtain the written recommendation of the commission-retained actuary. The recommendations shall recommendation must be a part of the permanent records of the board of trustees.

Sec. 12. Minnesota Statutes 1988, section 354.42, subdivision 7, is amended to read:

Subd. 7. [ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.] (1) (a) Any deductions taken from the salary of an employee for the retirement fund in error shall; be refunded to the employee upon discovery and verification by the school district or institution employing unit making the deduction, be refunded to the employee and the corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(2) In the event (b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another public pension fund enumerated in section 356.30,

subdivision 3, the retirement fund must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest.

(c) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check has been returned to the funds of the school district or institution employing unit making the payment, a refundment refund of the sum so amount deducted, or any portion of it as that is required to adjust the salary deductions, shall be made to the school district or institution provided application for it is made on a form furnished by the retirement board employing unit.

(d) Any erroneous direct payments of member paid contributions or erroneous salary deductions that were not refunded in the regular processing of an employing unit's annual summary report shall be refunded to the member with interest computed using the rate and method specified in section 354.49, subdivision 2.

Sec. 13. Minnesota Statutes 1988, section 354.44, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FOR RETIREMENT.] ~~Retirement may~~ *Application for retirement must be made upon application of by the member or of by someone acting authorized to act in the member's behalf. Application must be made on a form prescribed by the executive director.*

Sec. 14. Minnesota Statutes 1988, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT.] ~~Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution employer unit to which this chapter applies shall be eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during any the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount equal to or greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to under the provisions of United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.~~

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached age 70, no reemployment income maximum is applicable regardless of the amount of income. For the purpose of this subdivision, income from teaching service shall include includes, but is

not limited to:

(a) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(b) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

~~In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income.~~

Sec. 15. Minnesota Statutes 1988, section 354.44, subdivision 8, is amended to read:

Subd. 8. [ANNUITY PAYMENT; EVIDENCE OF RECEIPT.] ~~Payment of An annuity or benefit for a given month shall must be paid during the first week of that month. Evidence of receipt of the check issued or acknowledgment of the amount electronically transferred in payment of an annuity or benefit shall be submitted by may be required from the payee or a banking institution on a form prescribed by the executive director. The evidence of receipt form shall may be submitted required periodically at times specified by the board. In the event the required evidence of receipt form is not submitted required, future annuities or benefits shall must be withheld until the form is submitted.~~

Sec. 16. Minnesota Statutes 1988, section 354.47, subdivision 2, is amended to read:

Subd. 2. [BENEFITS OF \$500 \$1,500 OR LESS.] ~~If a member or a former member dies without having a surviving designated a beneficiary, or if the beneficiary should die before making application for the refundment and the amount to the credit of such deceased member or former member, and the amount of the benefit the decedent is \$500 \$1,500 or less, the retirement board of trustees may 90 days after the date of death of the member or former member, in the absence of probate proceedings, make payment to the surviving spouse of the deceased member or former members, or, if none to the next of kin under the laws of descent of the state of Minnesota and such decedent. This payment shall be a bar to recovery of this payment from the association by any other person or persons. Any accrued retirement allowance or annuity which shall have accrued at the time of death of an annuitant, disability, or survivor benefit, may be paid in like the same manner.~~

Sec. 17. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] ~~Any A member who became totally and permanently disabled after is totally~~

and permanently disabled and has at least five years of credited allowable service shall be at the time that the total and permanent disability begins is entitled to a disability benefit based on this allowable service in an amount provided in subdivision 3. If such the disabled person's member's teaching service has terminated at any time, at least three of the required 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 is not be entitled to disability benefits.

Sec. 18. Minnesota Statutes 1988, section 354.48, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Any person described in subdivision 1, or another person authorized to act on behalf of the person, may make application for a total and permanent disability benefit only within the 18 months month period following the termination of teaching service but not there-after. This benefit shall begin to accrue accrues from the day following the commencement of disability or the day following the date on last day for which salary ceases is paid, whichever is later, but shall may not begin to accrue more than 90 days prior to before the date the application is filed with the board. If salary is being received for either annual or sick leave during the period, payments shall accrue from the date day following the last day for which this salary ceases is paid.

Sec. 19. Minnesota Statutes 1988, section 354.50, is amended by adding a subdivision to read:

Subd. 5. [QUALIFIED ROLLOVERS.] Repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a), or an annuity qualified under the Internal Revenue Code, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as coordinated member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive secretary may require the coordinated member to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the Internal Revenue Code.

Sec. 20. Minnesota Statutes 1988, section 354.65, is amended to read:

354.65 [ADMINISTRATIVE EXPENSES.]

Necessary and reasonable administrative expenses incurred by the teachers retirement association shall must be prorated and allocated to the teachers retirement fund, and the organization's participation in both the Minnesota variable annuity investment fund; the Minnesota postretirement investment fund and the Minnesota supplemental investment retirement fund must be in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

Sec. 21. [354A.095] [MATERNITY LEAVE.]

A basic or coordinated member of the St. Paul teachers retirement fund association and old or new coordinated members of the Duluth teachers retirement fund association, who are granted parental or maternity leave of absence by the employing authority, are entitled to obtain service credit

not to exceed one year for the period of leave upon payment to the applicable fund by the end of the fiscal year following the fiscal year in which the leave of absence terminated. The amount of the payment must include the total required employee and employer contributions for the period of leave prescribed in section 354A.12. Payment must be based on the member's average monthly salary upon return to teaching service and is payable without interest. Payment must be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

Sec. 22. Minnesota Statutes 1988, section 354A.31, subdivision 3, is amended to read:

Subd. 3. [RESUMPTION OF TEACHING AFTER COMMENCEMENT OF A RETIREMENT ANNUITY.] Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 and who has resumed teaching service for the school district in which the teachers retirement fund association exists ~~shall be~~ is entitled to continue to receive retirement annuity payments, except that for any person under the age of 72 years during any quarter in which the person's compensation for the teaching service is in an amount equal to or greater than the quarterly maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the quarterly maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the retirement annuity payment payable for the quarter immediately following the quarter in which the excess amount was earned. Any person to whom this subdivision applies who has reached the age of at least 72 years shall be entitled to continue to receive retirement annuity payments in full that annuity payments must be reduced during the calendar year immediately following the calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program, as set by the Secretary of Health and Human Services under the provisions of United States Code, title 42, section 403. The amount of the reduction must be one-half the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached age 70, no reemployment income maximum is applicable regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement

fund association exists.

Sec. 23. Minnesota Statutes 1988, section 354A.38, is amended by adding a subdivision to read:

Subd. 4. [QUALIFIED ROLLOVERS.] Repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a), or an annuity qualified under the Internal Revenue Code, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as coordinated member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive secretary may require the coordinated member to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the Internal Revenue Code.

Sec. 24. Minnesota Statutes 1988, section 356.30, subdivision 2, is amended to read:

Subd. 2. [REPAYMENT OF REFUNDS.] Any A person who is employed has service credit in a position covered by one of the funds enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these funds, but also has received a refund from any other of such these funds, may repay such the refund to the respective fund under such terms and conditions as that are consistent with the laws governing such the other fund, except that the person need not be a currently contributing member of the fund to which the refund is repaid at the time the repayment is made. Unless otherwise provided by statute, the repayment of a refund under this subdivision may only be made within six months following termination of employment from a position covered by one of the funds enumerated in subdivision 3 or before the date of retirement from that fund, whichever is earlier.

Sec. 25. Minnesota Statutes 1988, section 356.371, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.] If a public pension fund provides optional retirement annuity forms which that include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the chief administrative officer of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member prior to before the member's election of an optional retirement annuity.

Following the election of an optional retirement annuity form by the member, a copy of the completed retirement annuity application shall and retirement annuity beneficiary form must be sent by certified mail by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form to the spouse by certified mail.

Sec. 26. Minnesota Statutes 1988, section 356.80, subdivision 1, is

amended to read:

Subdivision 1. [INFORMATION FOR A PENDING MARRIAGE DISSOLUTION.] (a) Upon written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administrator must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, *or as of the end of the previous fiscal year for the plan*, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

Sec. 27. Minnesota Statutes 1988, section 356.80, subdivision 3, is amended to read:

Subd. 3. [ACCESS TO DATA.] Notwithstanding any provision of chapter 13 to the contrary, an administrator may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 518.582, to the extent necessary to comply with this section, *but only if the administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action.*

Sec. 28. [ST. PAUL TEACHERS BYLAW AMENDMENT.]

Authorization is hereby granted in accordance with Minnesota Statutes, section 354A.12, subdivision 4, for the St. Paul teachers retirement fund association to amend its bylaws as follows:

Paragraph (4) of section 2 of article IV of the bylaws may be amended to provide that repayment of a refund and interest on that refund may be made with funds distributed from a plan qualified under the Internal Revenue Code, section 401(a), an annuity qualified under the Internal Revenue Code, section 403(a), or from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The conditions for acceptance of the repayment are governed by Minnesota Statutes, section 354A.38, subdivision 4.

Sec. 29. [REPEALER.]

Minnesota Statutes 1988, sections 136.88, subdivision 3; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56, are repealed.

Sec. 30. [EFFECTIVE DATE.]

Sections 2 to 13 and 15 to 29 are effective the day following final enactment. Section 1 is effective July 1, 1989. Section 14 is effective January 1, 1989.

ARTICLE 4
PURCHASES OF CREDIT FOR
PRIOR SERVICE

Section 1. [PURCHASE OF PRIOR SERVICE CREDIT.]

Subdivision 1. [ELIGIBILITY.] The following persons are eligible to purchase credit for the specified period of prior service from the public employees retirement association:

(1) a person who is a member of the association and who has prior service as an elected court commissioner in Ramsey county between January 1, 1963, and December 31, 1974, for that period;

(2) a person whose employment with Hennepin county began in July 1973, but for whom no salary deductions were made between October 1973 and July 1976, for that period;

(3) a person who was born on October 1, 1925, who was a member of the association as of December 1, 1988, who is a seasonal employee of the city of St. Paul at the Highland golf course and who was employed in that capacity between June 25, 1979, and July 31, 1984, during which no salary deductions were made, for that period;

(4) a person who is a member of the association and who has prior service as an elected county recorder in Dakota county between January 1, 1983, and December 31, 1987, for that period; and

(5) a person who was born on May 11, 1927, whose employment by the city of Bloomington began in March 1960 and continued during the years 1960 and 1961, and for whom no salary deductions were made, for that period.

Subd. 2. [PURCHASE PAYMENT AMOUNT.] For a person eligible to purchase credit for prior service under subdivision 1, there must be paid to the public employees 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 applicable preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the public employees retirement association and assuming continuous future service in the public employees retirement association 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, and also assuming a future salary history that includes annual salary increases at the applicable salary increase rate specified in Minnesota Statutes, section 356.215, subdivision 4d. The person requesting the purchase of prior service shall establish in the records of the public employees 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 public employees retirement association.

Subd. 3. [PAYMENT: CREDITING SERVICE.] Payment must be made in one lump sum, unless the executive director of the public employees 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 a person specified in subdivision 1 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 public employees retirement association 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. Laws 1988, chapter 709, article 3, section 1, subdivision 4, is amended to read:

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 a person specified in subdivision 1, ~~clause (1), (2), (4), (5), (6), or (7)~~ may, at its discretion, ~~and the metropolitan sports facilities commission for a person specified in subdivision 1, clause (3), shall~~ 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. 3. [PURCHASE AMOUNT.]

Notwithstanding Laws 1988, chapter 709, article 3, section 1, subdivision 2, the amounts required to purchase credit for prior service under Laws 1988, chapter 709, article 3, section 1, subdivision 1, clause (3), must be calculated assuming the affected employees will retire at age 65. Notwithstanding any contrary provision in section 352.116, if an employee who purchases service under clause (3) retires before age 65, the annuity must be reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt from the day the annuity begins to accrue to age 65.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 3 are effective the day following final enactment. Section 2 is effective retroactively to May 5, 1988.

ARTICLE 5 JUDGES RETIREMENT PLAN MODIFICATIONS

Section 1. Minnesota Statutes 1988, section 356.30, subdivision 3, is amended to read:

Subd. 3. [COVERED FUNDS.] ~~The provisions of This section shall apply~~ applies 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 353C.01 to 353C.10; *and*

(15) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 2. Minnesota Statutes 1988, section 356.302, subdivision 7, is amended to read:

Subd. 7. [COVERED RETIREMENT PLANS.] This section applies to the following retirement plans:

(1) state employees retirement fund, established by chapter 352;

(2) unclassified employees retirement plan, established by chapter 352D;

(3) public employees retirement association, established by chapter 353;

(4) teachers retirement fund, established by chapter 354;

(5) Duluth teachers retirement fund association, established by chapter 354A;

(6) Minneapolis teachers retirement fund association, established by chapter 354A;

(7) St. Paul teachers retirement fund association, established by chapter 354A;

(8) Minneapolis employees retirement fund, established by chapter 422A;

(9) correctional employees retirement plan, established by chapter 352;

(10) state patrol retirement fund, established by chapter 352B; *and*

(11) public employees police and fire fund, established by chapter 353; *and*

(12) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 3. Minnesota Statutes 1988, section 356.303, subdivision 4, is amended to read:

Subd. 4. [COVERED RETIREMENT PLANS.] This section applies to the following retirement plans:

- (1) legislators retirement plan, established by chapter 3A;
- (2) state employees retirement fund, established by chapter 352;
- (3) correctional employees retirement plan, established by chapter 352;
- (4) state patrol retirement fund, established by chapter 352B;
- (5) elective state officers retirement plan, established by chapter 352C;
- (6) unclassified employees retirement plan, established by chapter 352D;
- (7) public employees retirement association, established by chapter 353;
- (8) public employees police and fire fund, established by chapter 353;
- (9) teachers retirement fund, established by chapter 354;
- (10) Duluth teachers retirement fund association, established by chapter 354A;
- (11) Minneapolis teachers retirement fund association, established by chapter 354A;
- (12) St. Paul teachers retirement fund association, established by chapter 354A; ~~and~~
- (13) Minneapolis employees retirement fund, established by chapter 422A; ~~and~~

(14) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 4. Minnesota Statutes 1988, section 490.124, subdivision 12, is amended to read:

Subd. 12. [REFUND.] (a) Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all the person's contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at the rate of five percent per annum compounded annually.

(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors. A person who becomes a judge again after taking a refund under paragraph (a) may reinstate previously terminated service credits, rights, and benefits by repaying all refunds. A repayment must include interest at six percent per annum, compounded annually.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 3 are effective retroactively to August 1, 1987. Section 4 is effective the day following final enactment.

ARTICLE 6
MINNESOTA PUBLIC PENSION PLAN
FIDUCIARY RESPONSIBILITY AND LIABILITY ACT

Section 1. [356A.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of this chapter, the following terms have the meanings given them in this section.

Subd. 2. [BENEFIT.] "Benefit" means an amount, other than an administrative expense, paid or payable from a pension plan, including a retirement annuity, service pension, disability benefit, survivor benefit, death benefit, funeral benefit, or refund.

Subd. 3. [BENEFIT PROVISIONS.] "Benefit provisions" means the portion of a pension plan that deals specifically with the benefit coverage provided by the plan, including the kinds of coverage, the eligibility for and entitlement to benefits, and the amount of benefits.

Subd. 4. [BENEFIT RECIPIENT.] "Benefit recipient" means a person who has received a benefit from a pension plan or to whom a benefit is payable under the terms of the plan document of the pension plan.

Subd. 5. [CHIEF ADMINISTRATIVE OFFICER.] "Chief administrative officer" means the person who has primary responsibility for the execution of the administrative or management affairs of a pension plan.

Subd. 6. [COFIDUCIARY.] "Cofiduciary" means a fiduciary of a pension plan, other than a fiduciary directly undertaking a fiduciary activity or directly and primarily responsible for a fiduciary activity.

Subd. 7. [COVERED GOVERNMENTAL ENTITY.] "Covered governmental entity" means a governmental subdivision or other governmental entity that employs persons who are plan participants in a covered pension plan and who are eligible for that participation because of their employment.

Subd. 8. [COVERED PENSION PLAN.] "Covered pension plan" means a pension plan or fund listed in section 356.20, subdivision 2, or 356.30, subdivision 3.

Subd. 9. [COVERED PENSION PLAN OTHER THAN A STATEWIDE PLAN.] "Covered pension plan other than a statewide plan" means a pension plan not included in the definition of a statewide plan in subdivision 24.

Subd. 10. [DIRECT OR INDIRECT PROFIT.] "Direct or indirect profit" means a payment of money, the provision of a service or an item of other than nominal value, an extension of credit, a loan, or any other special consideration to a fiduciary or a direct relative of a fiduciary on behalf of the fiduciary in consideration for the performance of a fiduciary activity or a failure to perform a fiduciary activity.

Subd. 11. [DIRECT RELATIVE.] "Direct relative" means any of the persons or spouses of persons related to one another within the third degree of kindred under civil law.

Subd. 12. [FIDUCIARY.] "Fiduciary" means a person identified in section 2.

Subd. 13. [FIDUCIARY ACTIVITY.] "Fiduciary activity" means an activity described in section 2, subdivision 2.

Subd. 14. [FINANCIAL INSTITUTION.] "Financial institution" means a bank, savings institution, or credit union organized under federal or state law.

Subd. 15. [GOVERNING BOARD OF A PENSION PLAN.] "Governing board of a pension plan" means the body of a pension plan that is assigned or that undertakes the chief policy-making powers and management duties of the plan.

Subd. 16. [INVESTMENT ADVISORY COUNCIL.] "Investment advisory council" means the investment advisory council established by section 11A.08.

Subd. 17. [LIABILITY.] "Liability" means a secured or unsecured debt or an obligation for a future payment of money, including an actuarial accrued liability or an unfunded actuarial accrued liability, except where the context clearly indicates another meaning.

Subd. 18. [OFFICE OF THE PENSION PLAN.] "Office of the pension plan" means an administrative facility or portion of a facility where the primary business or administrative affairs of a pension plan are conducted and the primary and permanent records and files of the plan are retained.

Subd. 19. [PENSION FUND.] "Pension fund" means the assets amassed and held in a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses.

Subd. 20. [PENSION PLAN.] "Pension plan" means all aspects of an arrangement between a public employer and its employees concerning the pension benefit coverage provided to the employees.

Subd. 21. [PLAN DOCUMENT.] "Plan document" means a written document or series of documents containing the eligibility requirements and entitlement provisions constituting the benefit coverage of a pension plan, including any articles of incorporation, bylaws, governing body rules and policies, municipal charter provisions, municipal ordinance provisions, or general or special state law.

Subd. 22. [PLAN PARTICIPANT.] "Plan participant" means a person who is an active member of a pension plan by virtue of the person's employment or who is making a pension plan member contribution.

Subd. 23. [STATE BOARD OF INVESTMENT.] "State board of investment" means the Minnesota state board of investment created by the Minnesota Constitution, article XI, section 8.

Subd. 24. [STATEWIDE PLAN.] "Statewide plan" means any of the following pension plans:

(1) the Minnesota state retirement system or a pension plan administered by it;

(2) the public employees retirement association or a pension plan administered by it; and

(3) the teachers retirement association or a pension plan administered by it.

Sec. 2. [356A.02] [FIDUCIARY STATUS AND ACTIVITIES.]

Subdivision 1. [FIDUCIARY STATUS.] For purposes of this chapter, the following persons are fiduciaries:

- (1) any member of the governing board of a covered pension plan;*
- (2) the chief administrative officer of a covered pension plan or of the state board of investment;*
- (3) any member of the state board of investment; and*
- (4) any member of the investment advisory council.*

Subd. 2. [FIDUCIARY ACTIVITY.] The activities of a fiduciary identified in subdivision 1 that must be carried out in accordance with the requirements of section 4 include, but are not limited to:

- (1) the investment of plan assets;*
- (2) the determination of benefits;*
- (3) the determination of eligibility for membership or benefits;*
- (4) the determination of the amount or duration of benefits;*
- (5) the determination of funding requirements or the amounts of contributions;*
- (6) the maintenance of membership or financial records; and*
- (7) the expenditure of plan assets.*

Sec. 3. [356A.03] [PROHIBITION OF CERTAIN PERSONS FROM FIDUCIARY STATUS.]

Subdivision 1. [INDIVIDUAL PROHIBITION.] For the prohibition period established by subdivision 2, a person, other than a constitutional officer of the state, who has been convicted of a violation listed in subdivision 3, may not serve in a fiduciary capacity identified in section 2.

Subd. 2. [PROHIBITION PERIOD.] A prohibition under subdivision 1 is for a period of five years, beginning on the day following conviction for a violation listed in subdivision 3 or, if the person convicted is incarcerated, the day following unconditional release from incarceration.

Subd. 3. [APPLICABLE VIOLATIONS.] A prohibition under subdivision 1 is imposed as a result of any of the following violations of law:

- (1) a violation of federal law specified in United States Code, title 29, section 1111, as amended;*
- (2) a violation of Minnesota law that is a felony under Minnesota law;*
or
- (3) a violation of the law of another state, United States territory or possession, or federally recognized Indian tribal government, or of the Uniform Code of Military Justice, that would be a felony under the offense definitions and sentences in Minnesota law.*

Subd. 4. [DOCUMENTATION.] In determining the applicability of this section, the appropriate appointing authority, the state board of investment, or the covered pension plan, as the case may be, may rely on a disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended through the effective date of this section, and filed with the state board of investment or the pension plan.

Sec. 4. [356A.04] [GENERAL STANDARD OF FIDUCIARY CONDUCT.]

Subdivision 1. [DUTY.] A fiduciary of a covered pension plan owes a

fiduciary duty to:

(1) the active, deferred, and retired members of the plan, who are its beneficiaries;

(2) the taxpayers of the state or political subdivision, who help to finance the plan; and

(3) the state of Minnesota, which established the plan.

Subd. 2. [PRUDENT PERSON STANDARD.] (a) A fiduciary identified in section 2 shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs.

(b) If a fiduciary activity involves the investment of plan assets, a fiduciary identified in section 2 shall act for the purpose of investment, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

Sec. 5. [356A.05] [DUTIES APPLICABLE TO ALL ACTIVITIES.]

(a) The activities of a fiduciary of a covered pension plan must be carried out solely for the following purposes:

(1) to provide authorized benefits to plan participants and beneficiaries;

(2) to incur and pay reasonable and necessary administrative expenses; or

(3) to manage a covered pension plan in accordance with the purposes and intent of the plan document.

(b) The activities of fiduciaries identified in section 2 must be carried out faithfully, without prejudice, and in a manner consistent with law and the plan document.

Sec. 6. [356A.06] [INVESTMENTS; ADDITIONAL DUTIES.]

Subdivision 1. [TITLE TO ASSETS.] Assets of a covered pension plan may be held only by the plan treasurer, the state board of investment, or the depository agent of the plan or of the state board of investment. Legal title to plan assets must be vested in the plan, the state board of investment, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title shall function as a trustee for a person or entity with a beneficial interest in the assets of the plan.

Subd. 2. [DIVERSIFICATION.] The investment of plan assets must be diversified to minimize the risk of substantial investment losses unless the circumstances at the time an investment is made clearly indicate that diversification would not be prudent.

Subd. 3. [ABSENCE OF PERSONAL PROFIT.] No fiduciary may personally profit, directly or indirectly, as a result of the investment or management of plan assets. This subdivision, however, does not preclude the receipt by a fiduciary of reasonable compensation, including membership in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to the plan.

Subd. 4. [ECONOMIC INTEREST STATEMENT.] Each member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest.

The statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest. The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan. A disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended, and filed with the state board of investment or the pension plan meets the requirements of this subdivision.

Subd. 5. [INVESTMENT BUSINESS RECIPIENT DISCLOSURE.] *The chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the state board of investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the legislative commission on pensions and retirement within 90 days after the close of the fiscal year of the plan. For the state board of investment, a disclosure document included as part of a regular annual report of the board is considered to have been filed on a timely basis.*

Subd. 6. [LIMITED LIST OF AUTHORIZED INVESTMENT SECURITIES.] *(a) Except to the extent otherwise authorized by law, a covered pension plan may invest its assets only in investment securities authorized by this subdivision if the plan does not:*

(1) have assets with a book value in excess of \$1,000,000;

(2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21, as amended, or licensed as an investment advisor in accordance with sections 80A.04 and 80A.14, subdivision 9, for the investment of at least 60 percent of its assets, calculated on book value;

(3) use the services of the state board of investment for the investment of at least 60 percent of its assets, calculated on book value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the state board of investment for the investment of at least 75 percent of its assets, calculated on book value.

(b) Investment securities authorized for a pension plan covered by this subdivision are:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured by the National Credit Union Administration, or is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118.01;

(2) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(3) governmental obligations, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by an act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that:

(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality;

(ii) for an obligation that is a revenue bond, has been completely self-supporting for the last five years; and

(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;

(4) corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had, on average, annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and

(5) shares in an open-end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4).

Subd. 7. [EXPANDED LIST OF AUTHORIZED INVESTMENT SECURITIES.] Except to the extent otherwise authorized by law or bylaws, a covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in accordance with section 11A.24.

Subd. 8. [MINIMUM LIQUIDITY REQUIREMENTS.] A covered pension plan described by subdivision 6, paragraph (a), in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

Subd. 9. [PROHIBITED TRANSACTIONS.] (a) No fiduciary of a covered pension plan may engage in a prohibited transaction or allow the plan to engage in a transaction that the fiduciary knows or should know is a prohibited transaction.

(b) A prohibited transaction is any of the following transactions, whether direct or indirect:

(1) the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;

(2) the lending of money or other extension of credit between the plan and a fiduciary of the plan;

(3) the furnishing to a plan by a fiduciary, for compensation or remuneration, of goods, services other than those performed in the capacity of fiduciary, or facilities;

(4) the furnishing to a fiduciary by a plan of goods, services, or facilities other than office and related space, equipment and office supplies, and administrative services appropriate to the recipient's fiduciary position;

(5) the transfer of plan assets to a plan fiduciary for use by or the benefit of the fiduciary, other than the payment of retirement plan benefits to which a fiduciary is entitled or the payment to a fiduciary of a reasonable salary and of necessary and reasonable expenses incurred by the fiduciary in the performance of the fiduciary's duties; and

(6) the sale, exchange, loan, or lease of any item of value between a plan and a fiduciary of the plan other than for a fair market value and as a result of an arms-length transaction.

Sec. 7. [356A.07] [BENEFIT SUMMARY; ANNUAL REPORTS; ADDITIONAL DUTIES.]

Subdivision 1. [BENEFIT PROVISIONS SUMMARY.] The chief administrative officer of a covered pension plan shall prepare and provide each active plan participant with a summary of the benefit provisions of the plan document. The summary must be provided within 30 days of the start or resumption of a participant's membership in the plan, or within 30 days of the date on which the start or resumption of membership was reported to a covered pension plan by a covered governmental entity, whichever is later. The summary must contain a notice that it is a summary of the plan document but is not itself the plan document, and that in the event of a discrepancy between the summary and the plan document as amended, the plan document governs. A copy of the plan document as amended must be furnished to a plan participant or benefit recipient upon request. The chief administrative officer may utilize the services of the covered governmental entity in providing the summary. The summary must be in a form reasonably calculated to be understood by an average plan participant.

Subd. 2. [ANNUAL FINANCIAL REPORT.] A covered pension plan shall provide each active plan participant and benefit recipient with a copy of the most recent annual financial report required by section 356.20 and a copy of the most recent actuarial evaluation, if any, required by section 69.77, 69.773, 356.215, or 356.216, or a summary of those reports.

Subd. 3. [DISTRIBUTION.] A covered pension plan may distribute the summaries required by this section through covered governmental entities so long as the plan has made arrangements with the entities to assure, with reasonable certainty, that the summaries will be distributed or made easily available to active plan participants.

Subd. 4. [REVIEW PROCEDURE.] If a review procedure is not specified by law for a covered pension plan, the chief administrative officer of the plan shall propose, and the governing board of the plan shall adopt and implement, a procedure for reviewing a determination of eligibility, benefits, or other rights under the plan that is adverse to a plan participant

or benefit recipient. The review procedure must include provisions for timely notice to the plan participant or benefit recipient and reasonable opportunity to be heard in any review proceeding conducted and may, but need not be, a contested case under chapter 14.

Sec. 8. [356A.08] [PLAN ADMINISTRATION; ADDITIONAL DUTIES.]

Subdivision 1. [PUBLIC MEETINGS.] A meeting of the governing board of a covered statewide pension plan or of a committee of the governing board of the statewide plan is governed by section 471.705.

Subd. 2. [LIMIT ON COMPENSATION.] No fiduciary of a covered pension plan or a direct relative of a fiduciary may receive any direct or indirect compensation, fee, or other item of more than nominal value from a third party in consideration for a pension plan disbursement.

Sec. 9. [356A.09] [FIDUCIARY BREACH; REMEDIES.]

Subdivision 1. [OCCURRENCE OF BREACH.] A fiduciary breach occurs if a fiduciary violates the general standard of fiduciary conduct as specified in section 4 in carrying out the activities of a fiduciary. A fiduciary breach also occurs if a fiduciary of a covered pension plan violates the provisions of section 6, subdivision 9.

Subd. 2. [REMEDIES.] Remedies available for a fiduciary breach by a fiduciary are those specified by statute or available at common law.

Sec. 10. [356A.10] [COFIDUCIARY RESPONSIBILITY AND LIABILITY.]

Subdivision 1. [COFIDUCIARY RESPONSIBILITY IN GENERAL.] A cofiduciary has a general responsibility to oversee the fiduciary activities of all other fiduciaries unless the activity has been allocated or delegated in accordance with subdivision 3. A cofiduciary also has a general responsibility to correct or alleviate a fiduciary breach of which the cofiduciary had or ought to have had knowledge.

Subd. 2. [COFIDUCIARY LIABILITY.] A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other fiduciary or to correct or alleviate a breach by that fiduciary.

Subd. 3. [LIMITATION ON COFIDUCIARY RESPONSIBILITY.] A cofiduciary may limit cofiduciary responsibility and liability through the allocation or delegation of fiduciary activities if the allocation or delegation:

- (1) follows appropriate procedures;*
- (2) is made to an appropriate person or persons; and*
- (3) is subject to continued monitoring of performance.*

Subd. 4. [BAR TO LIABILITY IN CERTAIN INSTANCES.] A properly made delegation or allocation of a fiduciary activity is a bar to liability on the part of a fiduciary making the delegation or allocation unless the fiduciary has or ought to have knowledge of the breach and takes part in the breach, conceals it, or fails to take reasonable steps to remedy it.

Subd. 5. [EXTENT OF COFIDUCIARY LIABILITY.] Unless liability is barred under subdivision 4, cofiduciary liability is joint and several, but a cofiduciary has the right to recover from the responsible fiduciary for any damages paid by the cofiduciary.

Sec. 11. [356A.11] [FIDUCIARY INDEMNIFICATION.]

Subdivision 1. [INDEMNIFIED FIDUCIARIES.] A fiduciary who is a member of the governing board of a pension plan, the state board of investment, or the investment advisory council, or who is an employee of a covered pension plan or of the state board of investment, may be indemnified from liability for fiduciary breach. Indemnification is at the discretion of the governing board of the plan or of the state board of investment in the case of members of the state board or of the investment advisory council. A decision to indemnify a fiduciary must apply to all eligible fiduciaries of similar rank.

Subd. 2. [ALLOWABLE INDEMNIFICATION.] An indemnified fiduciary must be held harmless from reasonable costs or expenses incurred as a result of any actual or threatened litigation or other proceedings.

Sec. 12. [356A.12] [JURISDICTION; SERVICE OF PROCESS; AND STATUTE OF LIMITATIONS.]

Subdivision 1. [JURISDICTION.] The district court has jurisdiction over a challenge of a fiduciary action or inaction.

Subd. 2. [SERVICE OF PROCESS.] For a fiduciary or cofiduciary alleged in the complaint to be responsible for an alleged breach, personal service of process must be obtained.

Subd. 3. [LIMITATIONS ON LEGAL ACTIONS.] A legal action challenging a fiduciary action or inaction must be timely. Notwithstanding any limitation in chapter 541, an action is timely if it is brought within the earlier of the following periods:

(1) the period ending three years after the date of the last demonstrable act representing the alleged fiduciary breach or after the final date for performance of the act the failure to perform which constitutes the alleged breach; or

(2) the period ending one year after the date of the discovery of the alleged fiduciary breach.

Sec. 13. [356A.13] [CONTINUING FIDUCIARY EDUCATION.]

Subdivision 1. [OBLIGATION OF FIDUCIARIES.] A fiduciary of a covered pension plan shall make reasonable effort to obtain knowledge and skills sufficient to enable the fiduciary to perform fiduciary activities adequately. At a minimum, a fiduciary of a covered pension plan shall comply with the program established in accordance with subdivision 2.

Subd. 2. [CONTINUING FIDUCIARY EDUCATION PROGRAM.] The governing boards of covered pension plans shall each develop and periodically revise a program for the continuing education of any of their board members and any of their chief administrative officers who are not reasonably considered to be experts with respect to their activities as fiduciaries. The program must be designed to provide those persons with knowledge and skills sufficient to enable them to perform their fiduciary activities adequately.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective the day following final enactment.

ARTICLE 7

CONFORMING AMENDMENTS TO FIDUCIARY PROVISIONS.

Section 1. [3A.011] [ADMINISTRATION OF PLAN.]

The Minnesota state retirement system shall administer the legislators retirement plan in accordance with article 1.

Sec. 2. Minnesota Statutes 1988, section 11A.01, is amended to read:

11A.01 [STATEMENT OF PURPOSE.]

The purpose of ~~sections 11A.01 to 11A.25~~ *this chapter* is to establish standards ~~which will~~, *in addition to the applicable standards of article 6,* to insure that state and pension assets subject to this legislation will be responsibly invested to maximize the total rate of return without incurring undue risk.

Sec. 3. Minnesota Statutes 1988, 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 *if state assets are involved and in accordance with article 6 if pension assets are involved.*

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board ~~shall~~ *must* allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board ~~shall~~ *are 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~~ *that* 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~~ *must* 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 of employing private firms~~. 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. 4. Minnesota Statutes 1988, section 11A.07, subdivision 4, is amended to read:

Subd. 4. [DUTIES AND POWERS.] The director, at the direction of the state board, shall:

(1) Plan, direct, coordinate and execute administrative and investment functions in conformity with the policies and directives of the state board and the requirements of this chapter and of article 6.

(2) Employ ~~such~~ professional and clerical staff as is necessary within the complement limits established by the legislature. Employees whose primary responsibility is to invest or manage money or employees who hold positions designated as unclassified ~~pursuant to under~~ section 43A.08, subdivision 1a ~~shall be~~, are in the unclassified service of the state. Other employees ~~shall be~~ are in the classified service.

(3) Report to the state board on all operations under the director's control and supervision.

(4) Maintain accurate and complete records of securities transactions and official activities.

(5) Establish a policy relating to the purchase and sale of ~~all~~ securities on the basis of competitive offerings or bids. The policy is subject to board approval.

(6) Cause ~~all~~ securities acquired to be kept in the custody of the state treasurer or ~~such~~ other depositories *consistent with article 6*, as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library ~~on or before~~, by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report ~~shall~~ must be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, and brokerage organizations. ~~This~~ The report ~~shall~~ must contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.

(8) Require state officials from any department or agency to produce

and provide access to any financial documents the state board deems necessary in the conduct of ~~their~~ *its* investment activities.

(9) Receive and expend legislative appropriations.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this subdivision *consistent with article 1*.

Sec. 5. Minnesota Statutes 1988, section 11A.09, is amended to read:

11A.09 [STANDARD OF CARE.]

In the discharge of their respective duties, the members of the state board, director, board staff, *and* members of the council and any other person charged with the responsibility of investing money pursuant to the standards set forth in sections 11A.01 to 11A.25 shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. *In addition, for the investment of pension fund assets, the members and director of the state board and members of the investment advisory council shall act in accordance with article 6.*

Sec. 6. Minnesota Statutes 1988, section 11A.13, subdivision 1, is amended to read:

Subdivision 1. [LEGAL TITLE TO FUND ASSETS.] Legal title to the assets of state funds to be invested by the state board ~~shall must~~ be in the state of Minnesota, or its nominees. Legal title to pension funds to be invested by the state board ~~shall must be in the state board, or its nominees, as trustees for any person having a beneficial interest in the applicable fund subject to the rights of the particular funds maintaining shares, investment participation or units in the accounts to their credit as specified in article 6, section 6.~~

Sec. 7. Minnesota Statutes 1988, section 69.77, subdivision 2g, is amended to read:

Subd. 2g. The funds of the association ~~shall must~~ be invested in securities ~~which that are proper authorized investments pursuant to under article 6, section 11A.24 6, subdivision 6 or 7.~~ Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. Securities held by the association before ~~March 20, 1986, which the effective date of this section that~~ do not meet the requirements of this ~~paragraph~~ subdivision may be retained after that date if they were proper investments for the association on that date.

The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board *of investment under the provisions of section 11A.17*. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board ~~pursuant to under section 11A.04, clause (11).~~

Sec. 8. Minnesota Statutes 1988, section 69.775, is amended to read:
69.775 [INVESTMENTS.]

The special fund assets of the relief associations governed by sections 69.771 to 69.776 ~~shall must~~ be invested in securities ~~which that are proper~~ authorized investments ~~pursuant to under~~ article 6, section ~~11A.24~~ 6, subdivision 6 or 7. Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. Securities held by the associations before ~~March 20, 1986,~~ *which the effective date of this section* that do not meet the requirements of this section may be retained after that date if they were proper investments for the association on that date. The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board of investment ~~under the provisions of section 11A.17. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board under section 11A.04, clause (11).~~

Sec. 9. Minnesota Statutes 1988, section 136.84, is amended to read:
136.84 [TITLE TO ASSETS, PERSONAL RIGHTS.]

The right of a person who has shares to the credit of the person's employee's share account record to redeem the shares or any portion ~~thereof of the shares~~ is a personal right only and ~~shall is not be~~ assignable. Legal title to the assets of the supplemental retirement investment fund ~~shall be in the state of Minnesota or the state board of investment or the nominee of either is as specified in article 6, section 6, subdivision 1,~~ subject to the rights of the teachers retirement fund. ~~Any~~ An assignment or attempted assignment of shares to the credit of an employee's share account record ~~by any person~~ is null and void. ~~Such~~ Shares are exempt from garnishment or levy under attachment or execution and from all taxation by the state of Minnesota, ~~except that none shall be but are not~~ exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

Sec. 10. Minnesota Statutes 1988, section 352.03, subdivision 7, is amended to read:

Subd. 7. [DIRECTORS' FIDUCIARY OBLIGATION.] The board and the director shall ~~administer the law faithfully without prejudice and undertake their activities consistent with the expressed intent of the legislature. They shall act in their respective capacities with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers who aid in financing it, and the state employees who are its beneficiaries~~ article 6.

Sec. 11. Minnesota Statutes 1988, section 352.92, is amended by adding a subdivision to read:

Subd. 3. [PLAN ADMINISTRATION.] *The Minnesota state retirement system shall administer the correctional employees retirement plan established by sections 352.90 to 352.951 in accordance with this chapter, chapter 356, and article 6.*

Sec. 12. Minnesota Statutes 1988, section 352.96, subdivision 3, is

amended to read:

Subd. 3. [EXECUTIVE DIRECTOR TO ADMINISTER SECTION.] This section ~~shall~~ *must* be administered by the executive director of the system under subdivision 4. *Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with article 6.* If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner; ~~be presented and in a manner conforming that conforms to applicable rules~~ adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

Sec. 13. Minnesota Statutes 1988, section 352B.03, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS.] The policy-making, management, and administrative functions governing the operation of the state patrol retirement fund are vested in the board of directors and executive director of the Minnesota state retirement system with duties, authority, and responsibility as provided in chapter 352. *Fiduciary activities of the fund must be undertaken in a manner consistent with article 6.*

Sec. 14. Minnesota Statutes 1988, section 352C.091, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATIVE AGENCY AND STANDARDS.] ~~The provisions of~~ This chapter ~~shall~~ *must* be administered by the Minnesota state retirement system. *The elected state officers retirement plan must be administered consistent with this chapter, chapter 356, and article 6.*

Sec. 15. Minnesota Statutes 1988, section 352D.09, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATIVE AGENCY AND STANDARDS.] The unclassified employees retirement plan and the provisions of this chapter ~~shall~~ *must* be administered by the Minnesota state retirement system. The provisions of chapter 352 ~~shall~~ govern in all instances where not inconsistent with the provisions of this chapter. *Fiduciary activities of the unclassified employees retirement plan must be undertaken in a manner consistent with article 6.*

Sec. 16. Minnesota Statutes 1988, section 353.03, subdivision 1, is amended to read:

Subdivision 1. [MANAGEMENT; COMPOSITION; ELECTION.] The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and eight members. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who ~~shall be~~ *is* a retired annuitant, and one who is a public

member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of \$100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, ~~must~~ shall file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate ~~must~~ shall file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall ~~faithfully administer the law without prejudice and undertake their activities consistent with the expressed intent of the legislature. Board members shall act as trustees with a fiduciary obligation to the state of Minnesota, which created the fund, the taxpayers of the governmental subdivisions that aid in financing it, and the public employees who are its beneficiaries. They shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs~~ article 6.

Sec. 17. Minnesota Statutes 1988, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund ~~shall be~~ is vested in a board

of eight trustees ~~which shall be~~ known as the board of trustees of the teachers retirement fund. It ~~shall be~~ is composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, four members of the fund ~~who shall be~~ elected by the members of the fund, and one retiree ~~who shall be~~ elected by the retirees of the fund. The five elected members of the board of trustees ~~shall~~ must be chosen by mail ballot in a manner ~~which shall be~~ fixed by the board of trustees of the fund. In every odd-numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year ~~there shall be elected~~ one retiree of the fund ~~must be elected~~ to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election ~~shall~~ must be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy ~~shall~~ must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree ~~shall~~ may be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a member or retiree of the fund in good standing at the time of the appointment or election.

Subd. 1a. [FIDUCIARY DUTY.] It ~~shall be~~ is the duty of the board of trustees and the executive director to ~~faithfully administer the law without prejudice and undertake their activities consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it and the teachers who are its beneficiaries~~ *article 6.*

Sec. 18. Minnesota Statutes 1988, section 354A.021, subdivision 6, is amended to read:

Subd. 6. [TRUSTEES' FIDUCIARY OBLIGATION.] ~~It is the duty of~~ The trustees or directors of each teachers retirement fund association ~~to~~ shall administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, and of the bylaws, ~~and of article 6. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it, and the teachers who are its beneficiaries.~~ The purpose of this subdivision is to establish each teachers retirement fund association as a trust under the laws of the state of Minnesota for all purposes related to section 401(a) of the Internal Revenue Code of the United States, including all amendments.

Sec. 19. Minnesota Statutes 1988, section 422A.05, subdivision 2a, is amended to read:

Subd. 2a. [FIDUCIARY DUTY.] In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any other person charged with the responsibility of investing money pursuant to the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as

the probable income to be derived therefrom. *In addition, the members of the board and the chief administrative officer shall act in a manner consistent with article 6.*

Sec. 20. Minnesota Statutes 1988, section 422A.05, subdivision 2d, is amended to read:

Subd. 2d. [ACCOUNT TRANSFERS.] Notwithstanding any law to the contrary, the retirement board, subject to the standards of subdivision 2a of this section *and article 6*, may transfer assets between accounts established by section 422A.06.

Sec. 21. Minnesota Statutes 1988, section 423.374, is amended to read:
423.374 [OFFICERS OF ASSOCIATION.]

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ *must* be managed *in accordance with article 6* by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its special fund.

Sec. 22. Minnesota Statutes 1988, section 423.45, is amended to read:
423.45 [OFFICERS; DIRECTORS; BOND.]

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ *must* be managed *in accordance with article 6* by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its special fund.

Sec. 23. Minnesota Statutes 1988, section 423.805, is amended to read:
423.805 [POLICE PENSION FUND.]

The association shall establish a police pension fund or continue to maintain the police pension fund now existing in the city and shall ~~have the management~~ *manage* and control of the fund. *Fiduciary activities of the fund must be undertaken in a manner consistent with article 6.*

Sec. 24. Minnesota Statutes 1988, section 423A.21, subdivision 4, is amended to read:

Subd. 4. [FIDUCIARY RESPONSIBILITY.] In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09. *In addition, the trustees must act in accordance with article 6.*

Each member of the board is a fiduciary *and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with article 6.* No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 25. Minnesota Statutes 1988, section 424.06, is amended to read:
424.06 [OFFICERS; TRUSTEES.]

The officers of the relief association shall be a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ *must* be managed *in accordance with article 6* by a board of trustees elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in amounts as the association from time to time may determine. Each relief association shall be and is hereby authorized to pay the premiums on such bonds from its general fund.

Sec. 26. Minnesota Statutes 1988, section 424A.001, subdivision 7, is amended to read:

Subd. 7. [FIDUCIARY RESPONSIBILITY.] In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09. *In addition, the trustees must act in accordance with article 6.*

Each member of the board is a fiduciary *and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with article 6.* No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 27. Minnesota Statutes 1988, section 424A.04, subdivision 2, is amended to read:

Subd. 2. [FIDUCIARY DUTY.] ~~It shall be the duty of The board of trustees to faithfully administer any provisions of statute or special law applicable to the relief association without prejudice and shall undertake their activities consistent with the expressed intent of the legislature. The members of the board shall act as trustees with a fiduciary obligation to the state of Minnesota which authorized the creation of the relief association, to the taxpayers who aid in its financing, and to the firefighters who are its beneficiaries article 6.~~

Sec. 28. [490.021] [ADMINISTRATION OF VARIOUS JUDGES' RETIREMENT PLANS.]

The Minnesota state retirement system shall administer the judges' retirement plans established by sections 490.025 to 490.12 in accordance with article 6.

Sec. 29. Minnesota Statutes 1988, section 490.122, is amended to read:

490.122 [ADMINISTRATION OF JUDGES' RETIREMENT.]

The policy-making, management, and administrative functions governing the operation of the judges' retirement fund and the administration of sections ~~490.025~~ 490.121 to 490.132 ~~shall be~~ are vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority, and responsibility as are provided in chapter 352. Except as otherwise specified, no provision of chapter 352 ~~shall apply~~ applies to the judges' retirement fund or any judge. *Fiduciary activities of the uniform retirement and survivors' annuities for judges must be undertaken in a manner consistent with article 6.*

Sec. 30. [EFFECTIVE DATE.]

Sections 1 to 29 are effective the day following final enactment.

ARTICLE 8 MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] (a) The following persons are excluded from the meaning of "public employee":

(1) persons employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate help in governmental subdivision charitable, penal, and correctional institutions;

(5) members of boards, commissions, bands, and others who serve the governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months;

(7) part-time employees who receive monthly compensation from a governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment as an officer or employee of a governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association;

(11) police matrons employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist interns who are serving in public hospitals;

(15) appointed or elected officers, paid entirely on a fee basis, who were not members on June 30, 1971;

(16) persons holding a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation, the

applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year; and

(17) persons exempt from licensure under section 125.031; and

(18) *persons who are employed by the Minneapolis community development agency.*

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6), if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10), does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 2. Minnesota Statutes 1988, section 355.90, subdivision 3, is amended to read:

Subd. 3. [REFERENDUM.] A referendum on the question of extending the provisions of United States Code, title 42, sections 426-1, and 1395c, must be held for each public employee pension plan listed in section 356.30, subdivision 3, except clauses (5) and (6), that has current members or participants who do not have coverage by the federal old age, survivors, and disability insurance program for the employment giving rise to that pension plan membership. The state agency shall supervise the referendum in accordance with United States Code, title 42, section 418, on the date or dates set by the governor for each pension plan. The notice of the referendum provided to each employee must contain a statement sufficient to inform the person of the rights available to the person as an employee in Medicare qualified government employment and the employee contribution rates applicable to the program. ~~The referendum is approved if a majority of the members or participants indicate their desire to have the coverage on a form prescribed by the state agency. If the referendum is approved, The referendum must permit each employee the opportunity to select or reject Medicare coverage. The governor shall certify that fact to~~

the Secretary of Health and Human Services; ~~and the that the conditions specified in United States Code, title 42, section 418(d)(7), have been met.~~ Coverage is effective for ~~all~~ members or participants of the plan ~~who select it on the first of the month after the certification unless the participant or member elects coverage effective retroactively to April 1, 1986.~~

Sec. 3. Minnesota Statutes 1988, section 355.90, subdivision 4, is amended to read:

Subd. 4. [EMPLOYEE AND EMPLOYER CONTRIBUTIONS.] (a) ~~If the referendum is approved,~~ Beginning on the first of the month after the certification of approval by the governor, the employer of each member or participant ~~covered by selecting coverage under the referendum shall deduct from the wages of the employee an amount equal to the tax that would be imposed under United States Code, title 26, section 3101(b), if the services of the employee for which wages were paid constituted employment as defined in United States Code, title 26, section 3121.~~

(b) In addition to the deduction specified in paragraph (a), the employer of each member or participant covered by the referendum shall also pay an amount equal to the tax that would be imposed under United States Code, title 26, section 3111(b), on the same wage base specified in paragraph (a).

(c) The amounts under paragraphs (a) and (b) shall be paid by the employer to the Secretary of the Treasury in the manner required by the secretary.

Sec. 4. Minnesota Statutes 1988, section 356.001, is amended by adding a subdivision to read:

Subd. 2a. [OFFICERS AND EMPLOYEES.] *No chief administrative officer of a public pension or retirement plan or fund covered by this section who is a member of the plan or fund may serve for compensation as an officer or director of a business corporation, other business enterprise, or for-profit organization in which the plan or fund has an investment.*

Sec. 5. Laws 1980, chapter 595, section 2, subdivision 4, is amended to read:

Subd. 4. [PENSION COVERAGE; EXCLUSIONS FROM THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.] (a) All employees of the agency shall be considered employees of *the housing and redevelopment authority and not the city of Minneapolis* for the purposes of *exclusion from membership in the public employee retirement association.*

(b) An employee of *the agency or the Minneapolis housing and redevelopment authority* who is transferred to employment of the department or agency or the Minneapolis industrial development commission *or the city of Minneapolis* shall elect one of the following options with respect to retirement programs within six months after the date of transfer:

(a) (1) The employee may continue as a member of the retirement program established by the Minneapolis housing and redevelopment authority and in effect on the date of transfer, and the agency or department *or the city of Minneapolis* shall make the necessary employer contributions to the program instead of becoming a member of the public employees retirement association.

(b) (2) The employee may become a member of the public employees

retirement association.

(c) An employee of the city of Minneapolis who is transferred to employment of the agency or the Minneapolis housing and redevelopment authority shall remain a member of the retirement fund to which the employee belonged prior to the transfer, during the employment. An employee of the city of Minneapolis who is a member of the Minneapolis municipal employees retirement fund who is transferred to employment of the agency shall remain a member of the fund during the employment.

Sec. 6. [REFUND OF EXCESS EMPLOYEE CONTRIBUTIONS.]

A former employee of the bureau of health of the city of Saint Paul who, under Laws 1973, chapter 767, section 4, elected to retire with benefits calculated in accordance with Minnesota Statutes, chapter 425, as modified by Laws 1969, chapter 1102, may, upon application to the executive director of the public employees retirement association on a form prescribed by the executive director, receive a refund of excess employee contributions to the bureau of health pension fund. The amount to be refunded is the difference between the amount actually deducted from the employee's monthly pay from the effective date of Laws 1969, chapter 1102, to the effective date of Laws 1973, chapter 767, and an amount equal to six percent of the monthly salary of a health sanitarian in the employment of the city of Saint Paul on January 1, 1969, plus interest at the rate of six percent a year compounded annually. The refund is payable from the public employees retirement association.

Sec. 7. [PAYMENT OF REFUNDS BY ASSOCIATION.]

The executive director of the public employees retirement association shall notify each former employee of the bureau of health of the city of Saint Paul covered by section 6 who is receiving a retirement annuity from the public employees retirement association of the person's right to apply for a refund of excess contributions under that section. Application must be made within 60 days following notice or the eligibility for the refund expires. Upon receipt of an application for a refund from a person, the executive director of the association shall pay to the person a refund calculated in accordance with section 6.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 and 5 are effective the day following approval by the city council of the city of Minneapolis and compliance with Minnesota Statutes, section 645.021, and apply retroactively to July 13, 1980. Sections 2, 3, 6, and 7 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; various public pension plans; making administrative modifications in various plans; authorizing the purchase of prior service credit; making various modifications in the judges' retirement plan; establishing, codifying, clarifying, and revising the obligations and responsibilities of public pension plan fiduciaries; making miscellaneous public pension plan modifications; amending Minnesota Statutes 1988, sections 11A.01; 11A.04; 11A.07, subdivision 4; 11A.09; 11A.13, subdivision 1; 43A.44, subdivision 2; 69.77, subdivision 2g; 69.77s; 136.81, subdivision 1; 136.82, subdivisions 1 and 2; 136.84; 352.01, subdivision 11; 352.021, subdivision 5; 352.03, subdivisions 7 and 11; 352.116, subdivision 3; 352.22, subdivisions 1 and 2a; 352.92, by adding

a subdivision; 352.93, subdivision 3; 352.96, subdivision 3; 352B.03, subdivision 1; 352B.08, subdivision 3; 352B.10, subdivision 5; 352B.11, subdivision 2; 352C.091, subdivision 1; 352D.06, subdivision 1; 352D.075, subdivision 2; 352D.09, subdivision 1; 353.01, subdivisions 2a, 2b, 10, and by adding subdivisions; 353.03, subdivision 1; 353.27, subdivision 12; 353.28, subdivisions 5 and 6; 353.29, subdivisions 4 and 7; 353.33, subdivisions 1, 2, 5, 6, and 7; 353.34, subdivision 1; 353.35; 353.64, subdivisions 2 and 3; 353.656, subdivision 4; 354.05, subdivisions 35 and 37; 354.06, subdivision 1; 354.07, subdivision 3; 354.091; 354.092; 354.10, subdivision 2; 354.35; 354.42, subdivision 7; 354.44, subdivisions 3, 5, and 8; 354.47, subdivision 2; 354.48, subdivisions 1 and 2; 354.50, by adding a subdivision; 354.65; 354A.021, subdivision 6; 354A.31, subdivision 3; 354A.38, by adding a subdivision; 355.90, subdivisions 3 and 4; 356.001, by adding a subdivision; 356.30, subdivisions 2 and 3; 356.302, subdivision 7; 356.303, subdivision 4; 356.371, subdivision 3; 356.80, subdivisions 1 and 3; 422A.05, subdivisions 2a and 2d; 423.374; 423.45; 423.805; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.04, subdivision 2; 490.122; and 490.124, subdivision 12; Laws 1980, chapter 595, section 2, subdivision 4; and Laws 1988, chapter 709, article 3, section 1, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 356A; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 354; 354A; and 490; repealing Minnesota Statutes 1988, sections 136.88, subdivision 3; 352.03, subdivision 13; 352.73, subdivision 3; 353.01, subdivision 2c; 353.661; 353.662; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56."

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1417: A bill for an act relating to state lands; authorizing the sale of certain state lands bordering on public waters; authorizing the sale of certain trust fund land in Itasca, St. Louis, and Cook counties; authorizing the sale of certain surplus land for recreational purposes in the cities of Faribault, Anoka, Warroad, and Ortonville; authorizing the sale of a certain gifted city lot in the city of Brainerd; authorizing a private sale of certain land in Goodhue county to resolve an inadvertent trespass.

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

Delete everything after the enacting clause and insert:

"Section 1. [BENTON COUNTY; EXCHANGE OF LAND.]

Notwithstanding Minnesota Statutes, sections 92.45 and 94.342, subdivision 3, the commissioner of natural resources may exchange:

Part of Outlot "A". Lakewood Shores, according to the plat and survey thereof on file and of record in the Office of the County Recorder located in Section 15, Township 37N, Range 31 W, Benton County, for land owned by John Burton, described as follows:

Part of Government Lot 1 of Section 14, Township 37 North, Range 31 West, Benton County, Minnesota, lying westerly of U. S. Trunk Highway No. 10.

The exchange will allow better access to state land located on Little Rock Lake in Benton county.

Sec. 2. [ITASCA COUNTY; TRUST FUND LAND.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell in the manner prescribed for trust fund land, under Minnesota Statutes, chapter 92, the property described as:

The East one-half of the North one-fourth of Section 14, Township 150 North, Range 27 West, in Itasca county, Minnesota.

The land is suitable for agriculture and is not required for state forest purposes.

This land has been leased for several years to the adjacent property owner. The property owner has requested to purchase the property to expand a farming operation. The land is not needed for resource management purposes.

Sec. 3. [ST. LOUIS COUNTY; TRUST FUND LAND.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell in the manner prescribed for trust fund land, under Minnesota Statutes, chapter 92, the following described property:

Lot 1 of Block 1 of the plat of Burntside View located in Government Lot 6, Section 23, Township 63 North, Range 13 West, St. Louis county.

The land and any improvements must be appraised separately.

If the purchaser of the property is not J. A. Louis LaMontague, the purchaser must reimburse Mr. LaMontague for the value of the improvements.

The land sale will resolve an inadvertent trespass that was discovered when a boundary line was resurveyed. The public interest will be best served when this trespass is resolved.

Sec. 4. [COOK COUNTY; TRUST FUND LAND.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell in the manner prescribed for trust fund land, under Minnesota Statutes, chapter 92, the following described property:

The East 100 feet of the North 1,715 feet of the West half of the Northwest Quarter of Section 15, Township 64 North, Range 1 West, Cook county, Minnesota, containing 3.94 acres, more or less.

The land and improvements must be appraised separately.

If the purchaser of the property is not the Northwest Conference of the Evangelical Covenant Church, the purchaser must reimburse the Northwest Conference of the Evangelical Covenant Church for the value of the improvements.

This will resolve an inadvertent trespass that was discovered when a boundary line was resurveyed. The public interest will be best served when this trespass is resolved.

Sec. 5. [CITY OF FARIBAULT; SURPLUS LAND FOR RECREATIONAL PURPOSES.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell the following described property to the city

of Faribault in the manner prescribed by Minnesota Statutes, section 84.027, subdivision 10.

The commissioner of natural resources may sell:

All that part of the Northeast one-fourth of the Northeast one-fourth of Section 31, Township 110 North, Range 20 West, Rice county, Minnesota, containing 1.8 acres, more or less, described as follows: all that part of the land described in that certain deed between Swift and Company and the state of Minnesota dated June 28, 1971, and filed for record in the office of the register of deeds in and for Rice county, Minnesota, on August 19, 1971, in book 250 of Deeds on page 453, which lies westerly of the water's edge of the Straight river.

This land has been leased by the city for park purposes and the conveyance to the city will best serve the public interest.

Sec. 6. [ANOKA COUNTY; SURPLUS LAND FOR RECREATIONAL PURPOSES.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell the following described property to Anoka county in the manner prescribed by Minnesota Statutes, section 84.027, subdivision 10.

The commissioner of natural resources may sell property described as:

Government Lot 1, Section 5, Township 120 North, Range 22 West; and Government Lot 1, Section 6, Township 120 North, Range 22 West; and Government Lot 4, Section 31, Township 121 North, Range 22 West, Hennepin county, according to the government survey thereof. Containing 97.0 acres, more or less.

This land will be used for a county park and the conveyance to the county will best serve the public interest.

Sec. 7. [CITY OF WARROAD; RECREATIONAL PURPOSES.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell the following described property to the city of Warroad in the manner prescribed by Minnesota Statutes, section 84.027, subdivision 10:

Government Lot 6, Section 28, Township 163 North, Range 36 West, Roseau county, Minnesota.

This land was acquired for a public access and is no longer needed for that purpose. The conveyance to the city will best serve the public interest.

Sec. 8. [CITY OF ORTONVILLE; RECREATIONAL PURPOSES.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell the following described property to the city of Ortonville in the manner prescribed by Minnesota Statutes, section 84.027, subdivision 10.

The commissioner may sell property described as:

Commencing at the intersection of the center line of the Minnesota River and the center line of County State Aid Highway No. 30 on the Minnesota MHD Bridge No. 5411; thence southwesterly along the center line of County State Aid Highway No. 30 a distance of 550 feet, to its intersection with the South Dakota-Minnesota boundary line; thence southeasterly along

the interstate boundary line a distance of 60 feet to the point of beginning and its intersection with the south right-of-way line of County State Aid Highway No. 30. Thence northeasterly along the said right-of-way line a distance of 970 feet, more or less; thence southeasterly 350 feet along the top of the berm dyke; thence southwesterly 1,000 feet to the interstate boundary; thence northerly along said state line a distance of 120 feet, more or less, to a state monument; thence northwesterly along the interstate boundary line a distance of 315 feet, more or less, to the point of beginning, excepting therefrom the channel area, containing 7.2 acres, more or less, all lying in Section 9, Township 121 North, Range 46 West of the 5th Principal Meridian, being parts of Government Lots 1, 3, and 4, in said Section, Township, and Range, Lac Qui Parle and Big Stone counties, Minnesota.

This land has been used by the city for park purposes for some time. The conveyance to the city will best serve the public interest.

Sec. 9. [CITY OF BRAINERD; CITY LOT.]

Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell in the manner prescribed in Minnesota Statutes, chapter 94, the following described land:

Lot 10, Block 1, Bonny Woode Addition to the city of Brainerd, except the south eight feet thereof, according to the plat thereof on file and of record in the office of the county recorder in and for the county of Crow Wing in Minnesota.

This land is a lot within the city that was obtained through a gift to the state. It will best serve the public interest if this property is sold and the proceeds are used for the acquisition of other land.

Sec. 10. [GOODHUE COUNTY; PRIVATE SALE.]

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, the commissioner of natural resources may sell by private sale for a consideration of not less than the appraised value, excluding improvements, to Eugene Laqua, of Red Wing, Minnesota, a tract of land in Goodhue county and described as:

That part of Block 8, Wacouta Beach, according to the recorded plat thereof, described as follows:

Commencing at a found iron pipe at the southwest corner of Lot 7, Block 4, Wacouta Beach; thence South 00 degrees, 07 minutes, 53 seconds West along the southerly projection of the west line of said Lot 7, a distance of 40.01 feet to the north line of said Block 8; thence North 88 degrees, 41 minutes, 10 seconds East along said north line, a distance of 364.60 feet to the point of beginning of the land to be described; thence South 83 degrees, 50 minutes, 01 second East, a distance of 188.87 feet; thence North 23 degrees, 32 minutes, 52 seconds East, a distance of 12 feet, more or less, to the north line of said Block 8; thence westerly along said north line to the point of beginning containing .04 acres, more or less.

This will resolve an inadvertent trespass that was discovered through a resurvey of a boundary line. It will best serve the public interest if this land is sold to the affected property owner.

Sec. 11. [GOODHUE COUNTY; CORRECTION OF SURVEY ERROR.]

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16; 92.45; or

85.012, the commissioner of natural resources shall convey to the adjacent landowners interests in certain real property described in this section. This conveyance shall be made without consideration as it corrects a previous survey error.

The conveyance shall be in a form approved by the attorney general.

The interest in land to be conveyed is located in Goodhue county and is described as follows:

That part of Government Lot 3, Section 13, Township 112 North, Range 13 West of the 5th Principal Meridian, Goodhue County, Minnesota, described more particularly as follows:

Commencing at a found Minnesota Department of Transportation 3-inch aluminum right-of-way marker, said marker is at Highway Station Number 239 + 48.1 and is at the easterly right of way of State Highway No. 61 at the T.S. of a spiral curve concave to the southwest. Said commencing point bears N 38 degrees 26' 20" W a chord distance of 137.60 feet from a found 1/2 inch iron pipe marked "RLS 12788" for the intersection of the east right of way line of State Hwy. No. 61, and the south line of Government Lot 3, also being the south line of Beach Bay Subdivision as recorded. Said commencing point also bears S 68 degrees 06' 17" E a distance of 3253.47 feet from a found Minnesota Department of Natural Resources Cast Iron Monument for the west one-quarter corner of Section 13, Township 112 N, Range 13 W, 5th Principal Meridian, Goodhue County, Minnesota, thence N 38 degrees 41' 05" W, astronomic bearing determined by solar observation a distance of 359.38 feet along the easterly right of way of State Highway No. 61 to the POINT OF BEGINNING of said tract; thence N 38 degrees 41' 05" W a distance of 16.21 feet continuing along the easterly right of way of State Highway No. 61, for the northwesterly corner of said tract; thence N 88 degrees 50' 35" E a distance of 1317.00 feet to the westerly shore of Lake Pepin, said distance reflects the shoreline as observed on August 9, 1988, with a mean sea level elevation of Lake Pepin observed at 667.11 feet, said elevation being referenced to a U.S. Coast & Geodetic Survey Brass Disc Benchmark stamped "K249", and located approximately 4.1 miles north of the intersection of Highways No. 61 & 63, 157 feet northeast of the centerline of Highway No. 61; thence S 18 degrees 14' 31" W a distance of 40.25 feet along the shoreline of Lake Pepin as described above; thence S 89 degrees 57' 18" W a distance of 1294.00 feet parallel with the south line of Government Lot 3, to the POINT OF BEGINNING. Said tract contains 33,193 square feet or 0.762 acres, more or less, to the shoreline of Lake Pepin as surveyed on August 9, 1988.

Sec. 12. [CARLTON COUNTY; TRANSFER FROM DEPARTMENT OF TRANSPORTATION TO DEPARTMENT OF NATURAL RESOURCES.]

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, or other law, the commissioner of transportation on behalf of the state shall convey from the department of transportation to the department of natural resources, without compensation, interests in certain real property described in this section.

The conveyance shall be in a form approved by the attorney general.

The interest in land to be conveyed is located in Carlton county and is described as follows:

All right of access, being the right of ingress to and egress from Tract A described below, to Trunk Highway No. 311 renumbered No. 73;

Tract A. That part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 46 North, Range 19 West, Carlton County, Minnesota; lying southeasterly of the southeasterly right of way line of Trunk Highway No. 73 as now located and established and westerly of the right of way of Trunk Highway No. 35 as now located and established;

which lies between points distant 20 feet and 80 feet southwesterly of the point of termination of Line 1 described below (both distances measured along said Line 1);

Line 1. Beginning at a point on the north line of Section 29, Township 46 North, Range 19 West, distant 1045.1 feet east of the north quarter corner thereof; thence run southwesterly at an angle of 73 degrees 02 minutes 00 seconds from said north section line (measured from west to south) for 699.16 feet; thence deflect to the left on a 4 degree 00 minute 00 second curve (delta angle 48 degrees 02 minutes 00 seconds) for 1200.83 feet; thence on tangent to said curve for 2630.1 feet to tangent spiral point; thence deflect to the left on a spiral curve of decreasing radius (spiral angle 06 degrees 00 minutes 00 seconds) for 300 feet to Spiral Curve Point; thence deflect to the left on a 04 degree 00 minute 00 second circular curve (delta angle 72 degrees 15 minutes 00 seconds) for 1806.25 feet to Curve Spiral Point; thence deflect to the left on a spiral curve of increasing radius (spiral angle 06 degrees 00 minutes 00 seconds) for 300 feet to Spiral Tangent Point; thence on tangent to said curve for 1239.8 feet and there terminating.

Sec. 13. [OTTER TAIL COUNTY; PRIVATE SALE TO CLEAR TITLE.]

Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, or other law, the commissioner of natural resources shall convey to the adjacent landowner interests in certain real property described in this section. The conveyance shall be made for not less than the appraised value.

The conveyance shall be in a form approved by the attorney general.

The interest in land to be conveyed is located in Otter Tail county and is described as follows:

Part of the Northeast Quarter of the Northwest Quarter (NE 1/4 of NW 1/4), of Section 17, Township 137, Range 38, in Ottertail County furtherly described as:

Beginning at a point 4 rods west of the Northeast corner of said Northeast Quarter of the Northwest Quarter (NE 1/4 of NW 1/4), of Section 17, Township 137, Range 38, 256 feet west, thence 429 feet south, thence 256 feet east, thence 429 feet north to place of beginning, less road across the northeast corner of same.

This conveyance will allow the chain of title for this parcel to be cleared.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "authorizing the exchange of certain land in Benton county;"

Page 1, line 7, delete "Anoka,"

Page 1, line 8, before the semicolon, insert ", and Anoka county"

Page 1, line 9, delete "a" and insert "the"

Page 1, line 10, delete "county" and insert "and Otter Tail counties"

Page 1, line 11, before the period, insert "; authorizing conveyance of interest in certain land in Goodhue county to correct a survey error; authorizing transfer of certain land in Carlton county from the department of transportation to the department of natural resources"

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

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

H.F. No. 268: A bill for an act relating to commerce; regulating burglar alarm franchises; amending Minnesota Statutes 1988, section 80C.30.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 80C.14, subdivision 1, is amended to read:

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. A violation of this section is enjoined by a court of competent jurisdiction, and irreparable harm to the franchisee will be presumed if there is a violation of this section.

A temporary injunction may be granted under this section without requiring the posting of any bond or security. A bond or security is required if a temporary restraining order is granted.

Sec. 2. Minnesota Statutes 1988, section 80C.21, is amended to read:

80C.21 [WAIVERS VOID.]

Any condition, stipulation or provision, including any choice of law provision, purporting to bind any person acquiring any franchise to waive compliance or which has the effect of waiving compliance with any provision of sections 80C.01 to 80C.22 or any rule or order thereunder is void.

Sec. 3. [INTENT.]

Sections 1 and 2 are a restatement and clarification of the legislative intent of sections 80C.14, subdivision 1, and 80C.21, and must not be construed as a modification of existing law.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to commerce; clarifying legislative intent regarding unfair practices under a franchise agreement; amending Minnesota Statutes 1988, sections 80C.14, subdivision 1; and 80C.21."

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

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

H.F. No. 424: A bill for an act relating to commerce; unclaimed property; providing for the ownership of metal dies and molds; amending Minnesota Statutes 1988, section 345.20, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

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

H.F. No. 1352: A bill for an act relating to intoxicating liquor; authorizing the city of Blaine to issue one additional on-sale license.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 459, 462, 65, 1332, 721, 89, 1074, 1168, 698, 1248, 1293, 1396, 1494, 1238, 960, 1407, 756, 287, 1122, 1435, 627, 1027, 1087, 1138, 1401, 922, 253, 425, 1095, 1509, 1374, 1102, 1174, 1032, 956, 55, 1323, 94, 312, 190, 339, 1020, 818, 1201 and 1417 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 740, 593, 895, 989, 268, 424 and 1352 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Moe, R.D. moved that H.F. No. 46 be taken from the table, given a second reading and placed at the top of General Orders. The motion prevailed.

Mr. Lessard moved that the names of Messrs. Pogemiller and Knaak be added as co-authors to S.F. No. 150. The motion prevailed.

Mr. Schmitz moved that his name be stricken as a co-author to S.F. No. 891. The motion prevailed.

Ms. Peterson, D.C. moved that the name of Ms. Olson be added as a co-author to S.F. No. 1095. The motion prevailed.

Mr. Pogemiller moved that the name of Mr. Marty be added as a co-author to S.F. No. 1414. The motion prevailed.

Mr. Lessard moved that the names of Messrs. Bernhagen and Novak be added as co-authors to S.F. No. 1439. The motion prevailed.

Mr. Waldorf moved that the name of Ms. Reichgott be added as a co-author to S.F. No. 1460. The motion prevailed.

Mr. Solon moved that the name of Mr. Moe, R.D. be added as a co-author to S.F. No. 1491. The motion prevailed.

Mr. Metzen moved that the name of Mr. Dahl be added as a co-author to S.F. No. 1542. The motion prevailed.

Mr. Bertram introduced—

Senate Resolution No. 102: A Senate resolution congratulating James Christensen on attaining the rank of Eagle Scout.

Referred to the Committee on Rules and Administration.

Mr. Frederick introduced—

Senate Resolution No. 103: A Senate resolution congratulating the Owatonna High School Math Team for winning the 1989 State High School Math Championship.

Referred to the Committee on Rules and Administration.

Mr. Moe, R.D. moved that Senate Concurrent Resolution No. 7 be taken from the table. The motion prevailed.

Senate Concurrent Resolution No. 7: A Senate concurrent resolution commending retiring University of Minnesota Regents: the Honorable Wally Hilke, the Honorable David M. Lebedoff, the Honorable Charles F. McGuigan, and the Honorable Wenda W. Moore.

WHEREAS, providing quality education on all levels to citizens of the United States of America is perhaps the most important challenge facing our country; and

WHEREAS, the University of Minnesota Board of Regents has the responsibility of ensuring that the University of Minnesota maintains its reputation as one of the finest academic institutions in the United States; and

WHEREAS, service on the Board of Regents requires a thorough understanding of both the University and the people of the State of Minnesota, a willingness to work to resolve complex problems, and a deep devotion to public service; and

WHEREAS, the present regents have served at a time of extraordinary difficulty; and

WHEREAS, four members of the University of Minnesota Board of Regents have recently announced their retirement after years of service to the University of Minnesota, its educators, staff, and students; and

WHEREAS, these retiring Regents are: the Honorable Wally Hilke, the Honorable David M. Lebedoff, the Honorable Charles F. McGuigan, and the Honorable Wenda W. Moore; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota, the House of Representatives concurring, that the Senate and House of Representatives commend these retiring Regents for their years of dedicated service to the University of Minnesota and to quality education.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to prepare enrolled copies of this resolution, to be authenticated by his signature and those of the Chairman of the Senate Rules and Administration Committee, the Speaker of the House of Representatives, and the Chief Clerk of the House of Representatives, and present them to Wally Hilke, David M. Lebedoff, Charles F. McGuigan, and Wenda W. Moore.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mr. Johnson, D.E. moved that H.F. No. 501 be withdrawn from the Committee on Education and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 425, now on the Consent Calendar. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Second Reading of House Bills.

SECOND READING OF HOUSE BILLS

H.F. No. 46 was read the second time.

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

CONSENT CALENDAR

S.F. No. 1241: A bill for an act relating to education; changing a requirement for teaching in barber school; amending Minnesota Statutes 1988, section 154.065, 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 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

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 General Orders Calendar. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Chmielewski in the chair.

After some time spent therein, the committee arose, and Mr. Chmielewski reported that the committee had considered the following:

S.F. Nos. 391 and 1, which the committee recommends to pass.

S.F. No. 723, which the committee reports progress, subject to the following motion:

Ms. Berglin moved to amend S.F. No. 723 as follows:

Page 6, line 35, after the period, insert "*Prior to the adoption of rules the board shall use the same procedures used by the department of health to certify public health nurses.*"

Page 11, after line 18, insert:

"Sec. 9. [148.2315] [REGISTRATION OF PUBLIC HEALTH NURSES.]

A public health nurse certified for public health duties by the commissioner of health under section 145A.06, subdivision 3, or previous authority must be deemed to be registered as a public health nurse under the provisions of sections 148.171 to 148.285."

Page 13, line 19, delete "12" and insert "13"

Page 22, line 17, delete "13" and insert "14"

Renumber the sections in sequence

The motion prevailed. So the amendment was adopted.

S.F. No. 587, which the committee recommends to pass with the following amendment offered by Mr. Beckman:

Page 3, lines 33 and 36, strike "116J.06" and insert "216C.06"

The motion prevailed. So the amendment was adopted.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

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. 702: Messrs. Pogemiller, Luther and McGowan.

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Dicklich, Solon and Kroening introduced—

S.F. No. 1562: A bill for an act relating to appropriations; appropriating money to help retain Northwest Airlines in the state; authorizing the issuance of state bonds.

Referred to the Committee on Commerce.

Messrs. Metzen, DeCramer, Frederick and Mehrkens introduced—

S.F. No. 1563: A bill for an act relating to motor vehicles; restricting access to registration information concerning passenger automobile lessees; amending Minnesota Statutes 1988, section 168.345.

Referred to the Committee on Transportation.

Messrs. Pehler; Moe, D.M.; Pogemiller; Laidig and Brandl introduced—

S.F. No. 1564: A bill for an act relating to education; appropriating money for grants to the Minnesota Hispanic Education Program, Inc.

Referred to the Committee on Education.

Mr. Chmielewski introduced—

S.F. No. 1565: A bill for an act relating to corrections; requiring county boards to provide medical aid for prisoners in jail; amending Minnesota Statutes 1988, section 641.15.

Referred to the Committee on Health and Human Services.

Ms. Piper and Mrs. Brataas introduced—

S.F. No. 1566: A bill for an act relating to public health; changing the structure and authorities of the Minnesota Institute for Addiction and Stress Research; amending Minnesota Statutes 1988, sections 152A.01, subdivisions 1, 2, 3, 6, and by adding subdivisions; 152A.02; 152A.03; and 152A.04; repealing Laws 1988, chapter 689, article 2, section 269, subdivision 5.

Referred to the Committee on Health and Human Services.

Messrs. Novak, Dicklich and Johnson, D.J. introduced—

S.F. No. 1567: A bill for an act relating to capital improvements; authorizing a grant to renovate and improve the Mounds View North Environmental Learning Center; authorizing the sale of state bonds; appropriating money.

Referred to the Committee on Environment and Natural Resources.

Messrs. Chmielewski, Bertram, Lessard and Laidig introduced—

S.F. No. 1568: A bill for an act proposing an amendment to the Minnesota Constitution, article I; adding a section to provide that the right to keep and bear arms shall not be abridged; appropriating money.

Referred to the Committee on Judiciary.

Messrs. Solon; Chmielewski; Johnson, D.J.; Gustafson and Stumpf introduced—

S.F. No. 1569: A bill for an act relating to taxation; sales and use; providing an exemption for capital equipment and construction materials for major manufacturing projects in distressed counties; amending Minnesota Statutes 1988, section 297A.257, by adding a subdivision.

Referred to the Committee on Taxes and Tax Laws. Mr. Diessner questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Messrs. Luther, Marty, Laidig and Dahl introduced—

S.F. No. 1570: A bill for an act relating to solid waste; providing for household battery management programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 115A and 297A.

Referred to the Committee on Environment and Natural Resources.

Ms. Reichgott introduced—

S.F. No. 1571: A bill for an act relating to human rights; allowing a jury trial in certain discrimination cases; amending Minnesota Statutes 1988, section 363.14, subdivision 2.

Referred to the Committee on Judiciary.

Messrs. Marty and Merriam introduced—

S.F. No. 1572: A bill for an act relating to motor vehicles; registration; abolishing authority to appoint corporations or private individuals other than persons acting on behalf of nonprofit corporations as deputy registrars; providing for the transfer of appointments of corporations as deputy registrars to private individuals in certain circumstances; requiring county auditors to accept appointments as deputy registrars except in certain situations; permitting any other county official or any statutory or home rule charter city official to be appointed as a deputy registrar; permitting counties to contract with private individuals for deputy registrar services in certain instances; requiring the registrar of motor vehicles to adopt rules governing the hours of operation of deputy registrars; permitting private individuals holding appointments as deputy registrars or qualifying for transfers of appointments held by corporations to continue to operate as deputy registrars; requiring the registrar of motor vehicles to develop a plan for compensating persons who by a certain date purchased corporations holding appointments as deputy registrars; amending Minnesota Statutes 1988, section 168.33, subdivision 2.

Referred to the Committee on Transportation.

Mr. Luther introduced—

S.F. No. 1573; A bill for an act relating to commerce; regulating divesting transactions involving a principal domestic subsidiary; authorizing the metropolitan airports commission to approve a change in control of a major tenant at the Minneapolis-St. Paul airport; modifying standards that may be considered by certain investment fiduciaries; providing for worker and consumer protections after a leveraged buyout; imposing a tax on golden parachute compensation agreements; amending Minnesota Statutes 1988, sections 80B.01, subdivisions 1 and 10, and by adding subdivisions; 268.07, subdivision 2; and 302A.011, subdivision 41, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 80B; 290; 300; 302A; and 325E; proposing coding for new law as Minnesota Statutes, chapters 268A; and 360A.

Referred to the Committee on Commerce.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 7:00 p.m., Tuesday, April 18, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate