# FIFTY-SEVENTH DAY

St. Paul, Minnesota, Saturday, May 20, 1989

The Senate met at 12:00 noon 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 Senator Dean E. Johnson.

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

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

The President declared a quorum present.

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

## REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed by the Secretary of the Senate: Department of Finance, Report on Fees, 1988; Department of Agriculture, Farmers' Market WIC Coupon Program, 1988; Department of Finance, Prompt Payment Report, 1989; Department of Agriculture, Biennial Report, 1986-88; Department of Human Services, Progress Report on Special Project to Reduce AFDC Dependence Grant Program; Department of Natural Resources, Future Use of State-Owned Land Within the Gordy Yeager Wildlife Management Area, Rochester and Olmsted County, 1988; Department of Corrections, Biennial Report, 1987-88; Department of Trade and Economic Development, Feasibility of Designating Regional Parks as State Parks, 1988; Higher Education Coordinating Board, 1989; Higher Educa-

tion Coordinating Board, Technical Report, 1989; Department of Health, Minnesota Institute for Addiction and Stress Research, Progress Report and Operations Plan, 1989; Governor Rudy Perpich to the 76th Legislature, Proposed Biennial Budget, 1990-91; Department of Administration, Soybean Oil-based Ink Feasibility Study; State Board of Vocational Technical Education, Faculty Exchanges of the Minnesota Technical Institute System, 1989; Department of Administration, Veterans' Home Siting Study, 1989; Department of Administration, Management Analysis Division, Potential Sites for a Minnesota Veterans Home, Southwest Minnesota and Fergus Falls, 1989; Minnesota Housing Finance Agency, Biennial Report and Appendix, 1988-89; Department of Jobs and Training, Temporary Emergency Food Assistance Program, 1989; Department of Trade and Economic Development, Study of Tourism for Northern Minnesota, 1989; State Board of Investment, Annual Report, 1988; University of Minnesota, Management and Accountability, 1989; Department of Human Services, Status of the Consolidated Chemical Dependency Treatment Fund, 1989; Department of Administration, Management Analysis Division, Task Force on Occupancy Standards for Family and Group Family Day Care Homes, 1988; Department of Health, Renewal Fee Structure of Health Maintenance Organizations, 1989; Minnesota Public Utilities Commission, Minnesota Telephone Assistance Plan, 1988; Minnesota Crime Victims Reparations Board, Thirteenth Annual Report, 1988; Crime Victims Ombudsman, Second Biennial Report, 1988; Minnesota Crime Victim and Witness Advisory Council, Second Biennial Report, 1988; Department of Trade and Economic Development, Invention and Innovation Support in Minnesota, An Interim Report, 1989; State Board of Investment, External Money Manager Report, 1989; Department of Employee Relations, Minnesota State Government Employment, 1989; Department of Commerce, Minnesota Comprehensive Health Association; Minnesota Technical Institute System, American Indian Education, 1989; Council on Black Minnesotans, Biennial Report, 1987-88; Board of Governors, Big Island Veterans Camp, Annual Report, 1988; Department of Revenue, Compliance of the Property Tax Refund Program, 1989; Hazardous Substance Injury Compensation Board, Annual Report, 1988; Department of Human Services, Hospital-Attached Nursing Home Property Payments, 1989; Minnesota Racing Commission, Annual Report, 1988; Department of Human Services, Progress Report on Establishment of Systems, 1989; Capitol Area Architectural and Planning Board, Biennial Report, 1988-89; Department of Finance, Actions Taken By the Legislative Advisory Commission, 1987-89; Department of Human Services, Proposed Rate System for Payments to Intermediate Care Facilities for Persons with Mental Retardation, 1989; State Planning Agency, Youth Employment and Training Planning Grants, 1989; Pollution Control Agency, Regulating Chlorofluorocarbons and Halons in Minnesota, 1989; Department of Health, Health Facility Complaints, Annual Report, Fiscal Year Ending June 30, 1988; Regional Transit Board, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Transit Commission, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Airports Commission, Procurement and Contract Awards to Socially or Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Council, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Waste Control Commission, Procurement and Contract Awards to Socially and Economically Disadvantaged

(SED) Businesses, 1988; Department of Agriculture, By-Product Lime Materials, Soil Buffering Demonstration/Research Project, 1989; Department of Agriculture, Horticulture Work Group, 1989; Department of Human Services, Reasonable Efforts, 1989; Departments of Natural Resources and Transportation, Feasibility Study: Connecting Saint Croix State Park and the Munger State Trail-Hinckley Fire Segment via a Department of Transportation Right-Of-Way, 1989; Zoological Garden, Annual Report, 1988; Department of Health, Medical Screening for Asbestos-Related Lung Disease Among Conwed Corporation (Cloquet) Workers and Their Spouses, Preliminary Report, 1989; Department of Health, Monitoring of Boarding Care Homes and Board and Lodging Houses, 1989; Department of Health, Establishment of a Statewide Population-Based Cancer Surveillance System, 1989; Department of Health, Access to Hospital Services in Rural Minnesota, 1989; Department of Health, Subacute Care in Minnesota Hospitals, 1987; Department of Health, Laboratory Quality Related to HIV Antibody Testing in Minnesota, 1989; Minnesota Technical Institute System, Community Service Activities, 1989; Department of Human Services, General Assistance and Work Readiness, Annual Report, 1988; Environmental Quality Board, Task Force on Genetically Engineered Organisms, 1989; State Auditor, Revenues, Expenditures and Debt of the Towns in Minnesota, 1988; Office of Administrative Hearings, Attorney Fees and Expenses Awarded, 1989; Environmental Quality Board, Hazardous Waste Stabilization and Containment Facility, Public Ownership, 1989; Metropolitan Council, Regional Parks Operation and Maintenace Grants, 1988 and 1989; Iron Range Resources and Rehabilitation Board, Biennial Report, 1987-88; Workers' Compensation Advisory Council, Report to the Governor and Legislature and Workers' Compensation, 1989; Board on Judicial Standards, Annual Report, 1988; State Auditor, Revenues, Expenditures and Debt of Minnesota Counties, Annual Report, 1987.

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 18, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1061 | 136 | 1800 hours May 17 | May 18 |
| | 1115 | 143 | 1755 hours May 17 | May 18 |
| 1417 | | 150 | 1520 hours May 17 | May 18 |
| 184 | | 151 | 1750 hours May 17 | May 18 |

| | | | | |
|---|---|---|---|---|
| 1374 | | 152 | 1525 hours May 17 | May 18 |
| 206 | | 155 | 1802 hours May 17 | May 18 |
| | 101 | 157 | 1804 hours May 17 | May 18 |
| | 647 | 159 | 1530 hours May 17 | May 18 |
| | 1282 | 160 | 1817 hours May 17 | May 18 |
| | 1104 | 162 | 1705 hours May 17 | May 18 |
| | 1151 | 163 | 1818 hours May 17 | May 18 |
| | 1323 | 166 | 1820 hours May 17 | May 18 |
| | 169 | 168 | 1710 hours May 17 | May 18 |
| | 966 | 169 | 1720 hours May 17 | May 18 |
| | 1354 | 170 | 1830 hours May 17 | May 18 |
| | 1581 | 173 | 1832 hours May 17 | May 18 |
| | 1447 | 174 | 1833 hours May 17 | May 18 |
| | 1207 | 176 | 1712 hours May 17 | May 18 |
| | 731 | 177 | 1834 hours May 17 | May 18 |
| | 578 | 179 | 1835 hours May 17 | May 18 |
| | 33 | 180 | 1836 hours May 17 | May 18 |
| | 278 | 181 | 1837 hours May 17 | May 18 |
| | 243 | 184 | 1840 hours May 17 | May 18 |
| 1191 | | 185 | 1843 hours May 17 | May 18 |

Sincerely,
Joan Anderson Growe
Secretary of State

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 481, 613, 499, 564 and 1394.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

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. 536: A bill for an act relating to consumer protection; providing for enhanced civil penalties for deceptive acts targeted at senior citizens or handicapped persons; providing factors a court may consider in determining to impose an enhanced civil penalty; providing that sums collected must be credited to the account of the state board on aging; amending Minnesota Statutes 1988, section 256.975, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

Senate File No. 536 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. Moe, R.D. moved that S.F. No. 536 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 809: A bill for an act relating to juveniles; including emotionally abused children among children in need of protection or services; amending Minnesota Statutes 1988, section 260.015, subdivision 2a, and by adding a subdivision.

Senate File No. 809 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. Spear moved that S.F. No. 809 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 470: A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

Senate File No. 470 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. DeCramer moved that the Senate do not concur in the amendments by the House to S.F. No. 470, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the return of the following bill to the Conference Committee as formerly constituted for further consideration:

H.F. No. 162: 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.

Edward A. Burdick, Chief Clerk, House of Representatives

May 19, 1989

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the return of the following bill to the Conference Committee as formerly constituted for further consideration:

H.F. No. 166: A bill for an act relating to state agencies; providing that certain information submitted to department of transportation is public data; providing for development of internal auditing standards; classifying certain internal auditing data as other than public; defining terms; providing for limousine registration; exempting certain special transportation service providers holding current certificate of compliance from motor carrier regulations; delineating requirements of carriers to display certain information; providing for permits of special passenger carriers and household goods carriers; providing for operation under motor carrier permit on death of holder; providing for amount of insurance, bond, or other security required of motor carriers; giving commissioner of transportation subpoena power for certain enforcement purposes; providing for suspension of registration of interstate authority for failure to maintain insurance; amending Minnesota Statutes 1988, sections 13.72, by adding subdivisions; 16A.055, subdivision 1; 168.011, subdivision 35; 168.128, subdivision 2; 174.30, subdivision 6; 221.011, subdivisions 16, 20, and by adding a subdivision; 221.031, subdivision 6; 221.111; 221.121, subdivision 6a; 221.141, subdivision 1b, and by adding a subdivision; and 221.60, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13; 65B; and 221.

Edward A. Burdick, Chief Clerk, House of Representatives

May 19, 1989

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 962 and 1443.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1989

## FIRST READING OF HOUSE BILLS

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

H.F. No. 962: A bill for an act relating to health; requiring the physician to make a determination of viability; prohibiting an abortion except if necessary to preserve the life or health of the mother; regulating the method of abortion of the viable fetus; requiring the presence of a second physician at the abortion of a viable unborn child; regulating the standard of care for the viable unborn child; according protection of law to the child born alive as a result of abortion; creating a commission on crisis pregnancies and abortion prevention; providing a penalty; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Human Services.

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

Mr. Moe, R.D. moved that H.F. No. 1443 be laid on the table. The motion prevailed.

## REPORTS OF COMMITTEES

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

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

H.F. No. 417 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. |
| 417 | 95 | | | | |

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 417 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 417 and insert the language after the enacting clause of S.F. No. 95, the fourth engrossment; further, delete the title of H.F. No. 417 and insert the title of S.F. No. 95, the fourth engrossment.

And when so amended H.F. No. 417 will be identical to S.F. No. 95, and further recommends that H.F. No. 417 be given its second reading and substituted for S.F. No. 95, 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. 1194 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. |
| 1194 | 1044 | | | | |

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1194 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1194 and insert the language after the enacting clause of S.F. No. 1044, the second engrossment; further, delete the title of H.F. No. 1194 and insert the title of S.F. No. 1044, the second engrossment.

And when so amended H.F. No. 1194 will be identical to S.F. No. 1044, and further recommends that H.F. No. 1194 be given its second reading and substituted for S.F. No. 1044, and that the Senate File be indefinitely postponed.

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

## SECOND READING OF HOUSE BILLS

H.F. Nos. 417 and 1194 were read the second time.

## MOTIONS AND RESOLUTIONS

Mr. Novak moved that the name of Mr. Dahl be added as a co-author to S.F. No. 1647. The motion prevailed.

Ms. Reichgott introduced—

Senate Resolution No. 135: A Senate resolution congratulating Schuler Shoes on its 100th anniversary.

Referred to the Committee on Rules and Administration.

Ms. Reichgott and Mr. Ramstad introduced—

Senate Resolution No. 136: A Senate resolution congratulating the Courage Rolling Gophers on winning their third straight national basketball championship.

Referred to the Committee on Rules and Administration.

Mrs. Pariseau introduced—

Senate Resolution No. 137: A Senate resolution commending the achievements of the Hastings Senior High School Concert Choir.

Referred to the Committee on Rules and Administration.

Mr. Beckman introduced—

Senate Resolution No. 138: A Senate resolution congratulating Stella Dahl, of Elmore, Minnesota, for serving 34 years as an Elementary School Teacher.

Referred to the Committee on Rules and Administration.

Messrs. Frederickson, D.R.; Renneke; Moe, R.D.; Benson and Davis introduced—

Senate Resolution No. 139: A Senate resolution commemorating the life and work of Merlyn Lokensgard.

Referred to the Committee on Rules and Administration.

Mr. Langseth moved that H.F. No. 723 be taken from the table. The motion prevailed.

H.F. No. 723: A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 198.

## SUSPENSION OF RULES

Mr. Langseth moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 723 and that the rules of the Senate be so far suspended as to give H.F. No. 723 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 723 was read the second time.

Mr. Langseth then moved to amend H.F. No. 723 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 723, and insert the language after the enacting clause, and the title, of S.F. No. 272, the fourth engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Langseth then moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 3, line 20, delete "*$200,000*" and insert "*$290,000*"

The motion prevailed. So the amendment was adopted.

Mr. Frederick moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a

new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a

facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and (2) the nursing home beds are not certified for participation in the medical assistance program;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this

clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; ~~or~~

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause~~.~~; *or*

*(r) to license and certify skilled nursing beds in a nursing home if the nursing home demonstrates that during the preceding 12 months the occupancy rate for all nursing homes within a ten mile radius of the nursing home was 96 percent or greater and that alternatives to long-term care in a nursing home are being utilized to the extent they are available within*

*the community. Notwithstanding contrary provisions of chapter 256B, the commissioner of human services shall allow an immediate medical assistance property rate adjustment to reflect the costs associated with the new beds.*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "authorizing an exception to the nursing home moratorium;"

Page 1, line 8, delete "section" and insert "sections 144A.071, subdivision 3; and"

Ms. Berglin questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Frederick then moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

~~(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;~~

~~(g)~~ to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

~~(h)~~ *(g)* to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek

to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

~~(i)~~ *(h)* to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

~~(j)~~ *(i)* to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

~~(k)~~ *(j)* to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and (2) the nursing home beds are not certified for participation in the medical assistance program;

~~(l)~~ *(k)* to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

~~(m)~~ *(l)* to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

~~(n)~~ *(m)* to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

~~(o)~~ *(n)* to certify or license new beds in a new facility on the Red Lake Indian reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

~~(p)~~ *(o)* to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing

home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; or

~~(q)~~ *(p)* license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause."

Page 3, line 13, after the period, insert "*For purposes of the study, the commissioner may not assume the existence of a veterans nursing home in Silver Bay, but must treat the proposed Silver Bay nursing home in the same manner as other proposals for new nursing homes.*"

Page 3, line 22, delete "2" and insert "*3*"

Page 3, after line 22, insert:

"Sec. 5. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "removing the exception to the nursing home moratorium for veterans nursing homes;"

Page 1, line 8, delete "section" and insert "sections 144A.071, subdivision 3; and"

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

Mr. Benson moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. [198.345] [VETERANS HOMES; LUVERNE, FERGUS FALLS.]

*Subdivision 1.* [ESTABLISHMENT.] *The board shall establish veterans homes in Luverne and Fergus Falls to provide at least 60 beds at each*

*home for skilled nursing care in conformance with licensing rules of the department of health.*

*Subd. 2.* [FUNDING.] *The homes must be purchased or built with funds, 65 percent of which must be provided by the federal government, and 35 percent by other nonstate sources, including local units of government, veterans' organizations, and corporations or other business entities. Contracts made by the board for the purposes of this section are subject to chapter 16B."*

Page 3, after line 22, insert:

"Sec. 5. [REPEALER.]

*Section 1 is repealed September 1, 1990, unless the United States Veterans Administration has approved the separate requests to establish veterans nursing homes in Luverne and Fergus Falls."*

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 36, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Brataas | Johnson, D.E. | McGowan | Pariseau |
| Belanger | Decker | Knaak | McQuaid | Ramstad |
| Benson | Frederick | Knutson | Mehrkens | Renneke |
| Berg | Frederickson, D.R. | Laidig | Metzen | Storm |
| Bertram | Gustafson | Larson | Olson | Taylor |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Diessner | Lessard | Peterson, D.C. | Spear |
| Beckman | Frederickson, D.J. | Luther | Peterson, R.W. | Stumpf |
| Berglin | Freeman | Marty | Piper | Vickerman |
| Brandl | Hughes | Merriam | Purfeerst | Waldorf |
| Chmielewski | Johnson, D.J. | Moe, D.M. | Reichgott | |
| Cohen | Kroening | Moe, R.D. | Samuelson | |
| DeCramer | Langseth | Novak | Schmitz | |
| Dicklich | Lantry | Pehler | Solon | |

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

H.F. No. 723 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Mr. Langseth moved that S.F. No. 272, No. 32 on General Orders, be stricken and laid on the table. The motion prevailed.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Peterson, R.W. moved that the following members be excused for a Conference Committee on H.F. No. 654 at 1:30 p.m.:

Messrs. Peterson, R.W.; Pehler; DeCramer; Hughes and Ms. Peterson, D.C. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Mr. Benson moved that the Senate take up the Calendar and that the rules of the Senate be so far suspended as to waive Joint Rule 2.03. The motion prevailed.

## CALENDAR

H.F. No. 1181: A bill for an act relating to metropolitan government; regulating budgets; clarifying the valuation of certain agriculture land; amending Minnesota Statutes 1988, sections 273.111, subdivision 4; 473.145; 473.1623, subdivision 4, and by adding subdivisions; 473.167, subdivisions 2, 3, and 5; 473.173, subdivisions 3 and 4; 473.249, subdivision 1; repealing Minnesota Statutes 1988, section 473.249, subdivision 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 661: A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 354: A bill for an act relating to elections; providing for handicap access to precinct caucuses and party conventions; providing for interpreters at precinct caucuses and party conventions; making convention and caucus materials available to the visually impaired; appropriating money; amending Minnesota Statutes 1988, sections 202A.13; and 202A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 202A.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 180 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 180

A bill for an act relating to the office of the secretary of state; establishing a procedure for contesting the registration of a corporation, limited part-

nership, or assumed name, or a trade or service mark with the secretary of state; providing that the office of the secretary of state is not liable for registrations; amending Minnesota Statutes 1988, sections 300.025; 302A.115, by adding a subdivision; 303.05, by adding a subdivision; 308.06, by adding a subdivision; 317.09, by adding a subdivision; 322A.02; 322A.72; 1989 S.F. No. 525, section 12, by adding a subdivision; S.F. No. 848, article 1, section 8, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5.

May 19, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 180, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 180 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [5.22] [CONTEST OF REGISTRATION OF NAME.]

*Subdivision 1.* [NOTICE OF CONTEST; DEPOSIT.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state by filing an acknowledged notice of contest with the secretary of state and sending a copy of the notice of contest to the person who subsequently registered the contested name. The notice to the secretary of state must be accompanied by a $100 deposit, which the secretary of state shall award to the prevailing party in the contest.*

*Subd. 2.* [PROCEDURE.] *(a) Upon receipt of a notice of contest, the secretary of state shall ask each party to the contest to submit within 30 days an affidavit setting forth the facts, opinions, and arguments for or against the retention of the contested name on the records of the secretary of state. The secretary of state shall review the affidavits and shall make a decision or order a hearing to be held within 30 days.*

*(b) If a hearing is ordered, the parties shall meet with the secretary of state before the hearing and attempt to settle the contest.*

*(c) If a settlement is not reached, the secretary of state shall hold a hearing. At the hearing, the secretary of state may consider evidence presented by the parties relating to the factual or legal issues raised by the contest. A record of the hearing is not required. The hearing is not a contested case hearing under chapter 14.*

*Subd. 3.* [STANDARD OF REVIEW.] *The secretary of state may order that the contested name be changed on the records of the secretary of state if it is likely that the use of the names will cause confusion, mistake, or deception among the public when applied to the goods or services provided by the businesses. In determining whether confusion, mistake, or deception is likely, the secretary of state shall consider:*

*(1) the strength or unique nature of the names;*

*(2) the similarity of sound, appearance, or meaning of the names;*

*(3) the intent of the parties;*

*(4) the type of businesses engaged in or to be engaged in by the parties;*

*(5) the geographic market areas served by each party and the manner of distribution and marketing used in those areas;*

*(6) the nature and quality of goods or services provided by the parties;*

*(7) the level of sophistication of potential purchasers of goods or services offered by the parties;*

*(8) whether the party contesting the subsequent registration of a name failed to make a timely objection or acquiesced to the use of the name so that it would be inequitable to prohibit its registration; and*

*(9) whether the names in question are in fair use, have been abandoned, or are parodies of other names.*

*Subd. 4.* [DECISION; ENFORCEMENT.] *The secretary of state shall make a decision for one of the parties within ten days of the hearing and may order that the contested name be changed on the records of the office of the secretary of state and the relevant documents be amended by the secretary of state in a manner that results in a new name that is not the same as or deceptively similar to another name registered with the office of the secretary of state.*

*Subd. 5.* [APPEAL.] *A party may appeal the decision of the secretary of state to the district court within 20 days. The district court shall consider the factual and legal issues without reference to the decision of the secretary of state.*

*Subd. 6.* [LIABILITY.] *The office of the secretary of state is not liable for damages incurred as a result of the registration of a name found to be the same or deceptively similar to another name already registered with the office of the secretary of state. The office of the secretary of state is not liable for damages that arise from the decision of the secretary of state in a contest under this section.*

Sec. 2. Minnesota Statutes 1988, section 300.025, is amended to read:

300.025 [ORGANIZATION OF FINANCIAL CORPORATIONS.]

*(a)* Three or more persons may form a corporation for any of the purposes specified in section 47.12 by applying to the department of commerce and complying with all applicable organizational requirements and the conditions set out in clauses (1) to (7). However, no corporation may be formed under this section if it may be formed under the Minnesota business corporation act. The incorporators must subscribe a certificate specifying:

(1) the corporation's name, which must distinguish it from all other corporations authorized to do business in this state, and must contain the word "company," "corporation," "bank," "association," or "incorporated";

(2) the general nature of the corporation's business and its principal place of business;

(3) the period of its duration, if limited;

(4) the names and places of residence of the incorporators;

(5) the board in which the management of the corporation will be vested, the date of the annual meeting at which it will be elected, and the names and addresses of the board members until the first election, a majority of whom must always be residents of this state;

(6) the amount of capital stock, if any, how the capital stock is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each class, and the method of voting on each class; and

(7) the highest amount of indebtedness or liability to which the corporation will at any time be subject.

The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders. However, a corporation subject to sections 48.27 and 51A.22, subdivision 2, may show its highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 3. Minnesota Statutes 1988, section 302A.115, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS; PROHIBITIONS.] The corporate name:

(a) Shall be in the English language or in any other language expressed in English letters or characters;

(b) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&";

(c) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;

(d) Shall ~~not~~ be ~~the same as, or deceptively similar to,~~ *distinguishable upon the records in the office of the secretary of state from* the name of a domestic corporation or limited partnership, *whether profit or nonprofit,* or a foreign corporation or limited partnership authorized or registered to do business in this state, *whether profit or nonprofit,* or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the articles one of the following:

(1) The written consent of the domestic corporation or limited partnership or foreign corporation or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to

333.54 having ~~the same or a deceptively similar~~ *a* name *that is not distinguishable*;

(2) A certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) The applicant's affidavit that the corporation or limited partnership with the ~~same or deceptively similar~~ name *that is not distinguishable* has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit, and has not during the three-year period filed any document with the secretary of state; that the applicant has mailed written notice to the corporation or limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the corporation or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, that the applicant intends to use ~~the same or deceptively similar~~ *a* name *that is not distinguishable* and the notice has been returned to the applicant as undeliverable to the addressee corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the corporation or limited partnership with the ~~same or deceptively similar~~ name *that is not distinguishable* in the county in which is located the registered office of the corporation shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

Sec. 4. Minnesota Statutes 1988, section 302A.115, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION.] The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *"distinguishable" from* another name for purposes of this section and section 302A.117.

Sec. 5. Minnesota Statutes 1988, section 302A.115, is amended by adding a subdivision to read:

*Subd. 8.* [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 6. Minnesota Statutes 1988, section 302A.117, subdivision 1, is amended to read:

Subdivision 1. [WHO MAY RESERVE.] The exclusive right to the use

of a corporate name otherwise permitted by section 302A.115 may be reserved by:

(a) A person doing business in this state under that name ~~or a name deceptively similar to that name~~;

(b) A person intending to incorporate under this chapter;

(c) A domestic corporation intending to change its name;

(d) A foreign corporation intending to make application for a certificate of authority to transact business in this state;

(e) A foreign corporation authorized to transact business in this state and intending to change its name;

(f) A person intending to incorporate a foreign corporation and intending to have the foreign corporation make application for a certificate of authority to transact business in this state; or

(g) A foreign corporation doing business under that name or a name deceptively similar to that name in one or more states other than this state and not described in clauses (d), (e), or (f).

Sec. 7. Minnesota Statutes 1988, section 303.05, is amended by adding a subdivision to read:

*Subd. 4.* [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 8. Laws 1989, chapter 144, article 1, section 8, subdivision 1, is amended to read:

Subdivision 1. [NAME.] The name of a cooperative must distinguish the cooperative ~~from other entities doing business in the state as domestic or foreign corporations or limited partnerships, or under assumed names, trade or service marks, or reserved corporate or limited partnership names, as provided in section 302A.115~~ *upon the records in the office of the secretary of state from the name of a domestic corporation, whether profit or nonprofit, or a limited partnership, or a foreign corporation or a limited partnership authorized or registered to do business in this state, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 317A.117, 322A.03, or 333.001 to 333.54.*

Sec. 9. Laws 1989, chapter 144, article 1, section 8, is amended by adding a subdivision to read:

*Subd. 3.* [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 10. Minnesota Statutes 1988, section 317.09, subdivision 2, is amended to read:

Subd. 2. [USE OF SIMILAR NAME FORBIDDEN.] The corporate name shall ~~not~~ be ~~the same as, nor deceptively similar to,~~ *distinguishable from* the name of any assumed name, trade or service mark, or limited partnership, or domestic corporation, whether profit or nonprofit, or of any

foreign corporation or foreign limited partnership, whether profit or nonprofit, authorized or registered to do business in this state or to any name reserved under section 302A.117 or 322A.03, unless there is filed with the articles a written consent, court decree of prior right, or affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d).

The secretary of state shall determine whether a name is ~~"deceptively similar"~~ *"distinguishable" from* to another name for purposes of this section. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

Sec. 11. Minnesota Statutes 1988, section 317.09, is amended by adding a subdivision to read:

*Subd. 4.* [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 12. If H.F. No. 1203 is enacted in the 1989 legislative session, Minnesota Statutes, section 317.09, subdivision 4, as added by section 11 of this act, is repealed and H.F. No. 1203, section 12, is amended by adding a subdivision to read:

*Subd. 6.* [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 13. If H.F. No. 1203 is enacted in the 1989 legislative session, H.F. No. 1203, section 12, subdivision 2, is amended to read:

Subd. 2. [USE OF DECEPTIVELY SIMILAR NAME.] (a) A corporate name ~~may not be the same as, or deceptively similar to,~~ *must be distinguishable upon the records in the office of the secretary of state from* the name of a domestic corporation or limited partnership, a foreign corporation or limited partnership authorized or registered to do business in this state, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved, registered, or provided for in section 13, 302A.117, 322A.03, or sections 333.001 to 333.54, unless one of the following is filed with the articles:

(1) the written consent of the organization having the ~~same or a deceptively similar~~ name *that is not distinguishable*;

(2) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to use its corporate name in this state; or

(3) an affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d), clause (3).

(b) The secretary of state shall determine whether a name is ~~deceptively similar~~ *distinguishable from another name* for purposes of this section and section 13.

(c) This subdivision does not affect the right of a corporation existing

on January 1, 1991, or a foreign corporation authorized to do business in this state on that date, to use its corporate name.

Sec. 14. If H.F. No. 1203 is enacted in the 1989 legislative session, H.F. No. 1203, section 13, subdivision 1, is amended to read:

Subdivision 1. [WHO MAY RESERVE.] A corporate name permitted by section 12 may be reserved in the records of the secretary of state by:

(1) a person doing business in this state under that name ~~or a name deceptively similar to that name~~;

(2) a person intending to incorporate under this chapter;

(3) a domestic corporation intending to change its name;

(4) a foreign corporation intending to make application for a certificate of authority to transact business in this state;

(5) a foreign corporation authorized to transact business in this state and intending to change its name;

(6) a person intending to incorporate a foreign corporation and intending to have the foreign corporation make application for a certificate of authority to transact business in this state; or

(7) a foreign corporation doing business under that name or a name deceptively similar to that name in a state other than this state and not described in clauses (4) to (6).

Sec. 15. Minnesota Statutes 1988, section 322A.02, is amended to read:

322A.02 [NAME.]

*(a)* The name of each limited partnership as set forth in its certificate of limited partnership:

(1) shall contain without abbreviation the words "limited partnership";

(2) may not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) ~~may not~~ *must* be ~~the same as, or deceptively similar to,~~ *distinguishable from* the name of a domestic corporation or limited partnership, *whether profit or nonprofit,* or a foreign corporation or limited partnership authorized or registered to do business in this state, *whether profit or nonprofit,* or a name the right to which is reserved or provided for in the manner provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuse, of the kind required by section 302A.115, subdivision 1, paragraph (d); and

(4) may not contain the following words: corporation, incorporated.

The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *"distinguishable" from* another name for purposes of this section and section 322A.03. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and

protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 16. Minnesota Statutes 1988, section 322A.72, is amended to read:

322A.72 [NAME.]

*(a)* A foreign limited partnership may register with the secretary of state under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.

*(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 17. Minnesota Statutes 1988, section 333.055, subdivision 4, is amended to read:

Subd. 4. The secretary of state shall accept for filing all certificates and renewals thereof which comply with the provisions of sections 333.001 to 333.06 and which are accompanied by the prescribed fees, notwithstanding the fact that the assumed name disclosed therein may ~~be the same as, or similar to,~~ *not be distinguishable from* one or more other assumed names already filed with the secretary of state. In the event of duplication or similarity, the secretary of state shall, within 20 days after the filing, notify in writing each previously filed business holding a certificate for the assumed name or a similar assumed name, of the duplication or similarity, including in the notice the name and last known address of the person so filing. The secretary of state shall not accept for filing a certificate that discloses an assumed name that is ~~the same as, or deceptively similar to,~~ *not distinguishable from* a corporate, or limited partnership name in use or reserved in this state by another or a trade or service mark registered with the secretary of state, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuser of the kind required by section 302A.115, subdivision 1, clause (d). The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *distinguishable from* another name for purposes of this subdivision.

Sec. 18. [EFFECTIVE DATE.]

*Sections 3, 4, 6, 8, 10, 13 to 15, and 17 are effective January 1, 1990.*"

Delete the title and insert:

"A bill for an act relating to commerce; regulating the use of names for certain business entities; providing a procedure for contesting the registration of a name; amending Minnesota Statutes 1988, sections 300.025; 302A.115, subdivisions 1, 3, and by adding a subdivision; 302A.117, subdivision 1; 303.05, by adding a subdivision; 317.09, subdivision 2, and by adding a subdivision; 322A.02; 322A.72; and 333.055, subdivision 4;

amending Laws 1989, chapter 144, article 1, section 8, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5."

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

Senate Conferees: (Signed) Tracy L. Beckman, David J. Frederickson, Pat Piper

House Conferees: (Signed) Gene Hugoson, John J. Sarna, Jim Heap

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 180 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 180 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Reichgott voted in the negative.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1285, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1285 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1285

A bill for an act relating to health insurance; changing coverage and administrative procedures relating to the comprehensive health insurance plan; requiring a report; amending Minnesota Statutes 1988, sections 62E.10, subdivisions 2a, 7, and 9; and 62E.12.

May 17, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1285, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1285 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 13.71, is amended by adding a subdivision to read:

*Subd. 6.* [DATA ON ENROLLEES OF MCHA.] *The names and addresses of enrollees of the comprehensive health association maintained by or submitted to the department of commerce are private data.*

Sec. 2. Minnesota Statutes 1988, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. [CREATION; *DUTIES;* TAX EXEMPTION.] *(a)* There is established a comprehensive health association.

*(b) The comprehensive health association shall:*

*(1) oversee the operation and management of the state plan;*

*(2) ensure that costs associated with the delivery of health care services to persons covered under the state plan, including both the costs of claims and the direct and indirect expenses of administration, and the costs arising out of the association's performance of its functions and obligations, are effectively and responsibly controlled;*

*(3) establish, through innovative cost and quality control programs including, to the extent feasible, programs providing for the use of health care outcomes and other data in the choice and regulation of health care services, mechanisms to ensure that cost controls do not have a significant negative impact on the access to services or the quality or effectiveness of health care services actually provided to enrollees; and*

*(4)* ~~to~~ promote the public health and welfare of the state of Minnesota ~~with~~.

*(c) The* membership ~~consisting~~ of ~~all~~ *the comprehensive health association consists of* insurers, self-insurers, fraternals, and health maintenance organizations licensed or authorized to do business in this state.

*(d)* The comprehensive health association shall be exempt from taxation

under the laws of this state and all property owned by the association shall be exempt from taxation.

Sec. 3. Minnesota Statutes 1988, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] *(a)* The board of directors of the association shall be made up of nine members as follows: five insurer directors selected by participating members, subject to approval by the commissioner; four public directors selected by the commissioner. Public members may include licensed insurance agents.

*(b) The public members of the board shall be compensated at the rate of at least $35 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner of employee relations' plan adopted under section 43A.18, subdivision 2. Compensation under this subdivision must be paid by the association.*

*(c)* In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, or health maintenance contract payment derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the commissioner.

*(d)* In approving directors of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. Insurer directors may be reimbursed from the money of the association for expenses incurred by them as directors, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

Sec. 4. Minnesota Statutes 1988, section 62E.10, subdivision 2a, is amended to read:

Subd. 2a. [APPEALS.] A person may appeal to the commissioner within 30 days after notice of an action, ruling, or decision by the board. *If the appeal relates to an action taken by the writing carrier, the person must first exhaust the writing carrier's internal grievance process before appealing to the commissioner, except in emergency or life-threatening situations. If the internal grievance process is not concluded within 45 days after it is commenced, the person may appeal to the commissioner before the internal process has been exhausted.*

A final action or order of the commissioner under this subdivision is subject to judicial review in the manner provided by chapter 14.

In lieu of the appeal to the commissioner, a person may seek judicial review of the board's action.

Sec. 5. Minnesota Statutes 1988, section 62E.10, subdivision 7, is amended to read:

Subd. 7. [GENERAL POWERS.] The association may:

(a) Exercise the powers granted to insurers under the laws of this state;

(b) Sue or be sued;

(c) Enter into contracts with insurers, similar associations in other states

or with other persons for the performance of administrative functions including the functions provided for in clauses (e) and (f);

(d) Establish administrative and accounting procedures for the operation of the association;

(e) Provide for the reinsuring of risks incurred as a result of issuing the coverages required by sections 62E.04 and 62E.16 by members of the association. Each member which elects to reinsure its required risks shall determine the categories of coverage it elects to reinsure in the association. The categories of coverage are:

(1) Individual qualified plans, excluding group conversions;

(2) Group conversions;

(3) Group qualified plans with fewer than 50 employees or members; and

(4) Major medical coverage.

A separate election may be made for each category of coverage. If a member elects to reinsure the risks of a category of coverage, it must reinsure the risk of the coverage of every life covered under every policy issued in that category. A member electing to reinsure risks of a category of coverage shall enter into a contract with the association establishing a reinsurance plan for the risks. This contract may include provision for the pooling of members' risks reinsured through the association and it may provide for assessment of each member reinsuring risks for losses and operating and administrative expenses incurred, or estimated to be incurred in the operation of the reinsurance plan. This reinsurance plan shall be approved by the commissioner before it is effective. Members electing to administer the risks which are reinsured in the association shall comply with the benefit determination guidelines and accounting procedures established by the association. The fee charged by the association for the reinsurance of risks shall not be less than 110 percent of the total anticipated expenses incurred by the association for the reinsurance; ~~and~~

(f) Provide for the administration by the association of policies which are reinsured pursuant to clause (e). Each member electing to reinsure one or more categories of coverage in the association may elect to have the association administer the categories of coverage on the member's behalf. If a member elects to have the association administer the categories of coverage, it must do so for every life covered under every policy issued in that category. The fee for the administration shall not be less than 110 percent of the total anticipated expenses incurred by the association for the administration;

*(g) Notwithstanding the usual and customary charge requirement under section 62E.06, subdivision 1, establish a fee schedule for payments for services covered by the comprehensive health insurance plan according to section 7;*

*(h) Provide for the assignment of benefits on the terms and subject to the conditions the association determines are appropriate; and*

*(i) Provide for the development of new methods to allow the enrollee to participate in the choice and regulation of the enrollee's own health care in accordance with the principle that participation by the health care consumer in decisions affecting care is an effective means of ensuring that*

*the health care services actually rendered are necessary, low in cost, and reasonably effective.*

Sec. 6. Minnesota Statutes 1988, section 62E.10, subdivision 9, is amended to read:

Subd. 9. [*STUDIES, DEMONSTRATION PROJECTS, AND* EXPERIMENTAL DELIVERY ~~METHOD~~ *SYSTEMS.*] ~~The association may petition the commissioner of commerce for a waiver to allow the experimental use of alternative means of health care delivery. The commissioner may approve the use of the alternative means the commissioner considers appropriate. The commissioner may waive any of the requirements of this chapter and chapters 60A, 62A, and 62D in granting the waiver. The commissioner may also grant to the association any additional powers as are necessary to facilitate the specific waiver, including the power to implement a provider payment schedule.~~

~~This subdivision is effective until August 1, 1990.~~

~~The commissioner of commerce in consultation with the governor's commission on health plan regulatory reform shall study and report to the legislature by January 15, 1989, on the current means utilized to finance the annual operating deficits incurred under the association. In conducting the study, the commissioner shall analyze any negative financial impacts which the current deficits are having on the contributing members of the association and recommend alternative sources of funding or other approaches which could be utilized to finance the operating deficit. The study shall also address the current association funding inequities between employers which self-insure for employee health benefit coverage and those employers which have health coverage subject to state regulation.~~ *The association shall conduct studies, demonstration projects, and experimental delivery systems the association considers appropriate to give effect to the principles in section 62E.10, subdivisions 1, paragraph (b), and 7, paragraph (i). The studies, demonstration projects, and experimental delivery systems may be administered by the writing carrier or by third parties the association in its discretion considers most likely to achieve its purposes. The writing carrier, as a condition of its acceptance of a contract to provide comprehensive health insurance, shall agree to provide data and information for studies and demonstration projects and other experimental delivery systems the association considers appropriate in discharging its obligations under this section. The association may petition the commissioner of commerce for, and the commissioner may grant, a waiver of any of the requirements of this chapter and chapters 60A, 62A, and 62D, to allow the experimental use of alternative health delivery systems.*

Sec. 7. Minnesota Statutes 1988, section 62E.10, is amended by adding a subdivision to read:

*Subd. 10.* [FEE SCHEDULE.] *(a) The association shall establish a fee schedule for payments for services and articles covered by the comprehensive health insurance plan, subject to applicable copayments and deductibles. The fee schedule must be designed to reduce the amount paid for services rendered under the plan without substantially reducing the access to services or quality of services. The fee schedule must be established no later than January 1, 1990. In determining the fee schedule, the association must consider, in addition to other relevant factors, a weighted average of the following payments made to providers in the seven-county Minneapolis-St. Paul metropolitan area:*

*(1) payments made under the medical assistance program;*

*(2) payments made under the Medicare program;*

*(3) payments made by the two largest contributing members of the association;*

*(4) workers' compensation payments; and*

*(5) payments by commercial insurers according to the most recent compilation of data regarding prevailing hospital, surgical, and dental charges conducted by the Health Insurance Association of America.*

*(b) A proposed fee schedule established under paragraph (a) must be published in the State Register along with notice of a public hearing on the fee schedule and solicitation of public comment on the fee schedule. Following the public hearing and comment period, the final fee schedule must be published in the State Register and is effective 30 days after publication.*

*(c) The association and the writing carrier must not reduce payments for services below approved plan benefit provisions prior to the establishment of a fee schedule under this section.*

*(d) Information provided for purposes of establishing a fee schedule under paragraph (a) is nonpublic, trade secret information as defined in section 13.37, subdivision 1, paragraph (b), and shall be provided directly to an agent selected by the association for the purposes of determining the fee schedule required under paragraph (a). The detailed payment information used in developing the fee schedule shall not be disclosed by the agent unless directed by a unanimous vote of the association board of directors. When the fee schedule has been determined by the association, the payment information shall be destroyed or returned to the entity which provided the information, if so requested. The association or its agent may not disclose any information, formulas, or calculations relating to the fee schedule that would result in the direct or indirect release of the information described in paragraph (a), clause (3).*

*(e) As a condition of receiving a payment from the association or enrollee for services or articles covered by the plan, a provider shall be deemed to have agreed not to charge to or collect from the enrollee any amount in excess of the fee schedule.*

Sec. 8. Minnesota Statutes 1988, section 62E.12, is amended to read:

62E.12 [MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN.]

The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan, a number two qualified plan and a qualified medicare supplement plan. They shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier. Notwithstanding the provisions of section 62E.06 the state plan shall exclude coverage of:

*(1)* services of a private duty nurse other than on an inpatient basis ~~and~~*;*

*(2)* any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental

or nervous disorder, unless similar treatment for the mental or nervous disorder is medically necessary, unavailable in Minnesota and provided upon referral by a licensed Minnesota medical practitioner; *and*

*(3) services or articles that are determined by the writing carrier to be not medically necessary, experimental, or investigative, as defined in the policy.*

Sec. 9. [RESEARCH AND DATA COLLECTION; REPORT.]

*Subdivision 1.* [SPECIAL PROJECTS.] *To the extent possible under the terms of existing contracts with the writing carrier, the board shall conduct studies, demonstration projects, and experimental delivery systems under section 6.*

*Subd. 2.* [DATA COLLECTION.] *The board of directors of the comprehensive health association shall collect and analyze information and data concerning:*

*(1) the characteristics of the persons enrolled in the comprehensive health insurance plan;*

*(2) the types and locations of providers who serve enrollees;*

*(3) the amounts of payments made to providers for covered services; and*

*(4) other related information.*

*Subd. 3.* [REPORT.] *The board shall review the data collected under subdivision 2 and other relevant data and research relating to the delivery of health care, and report to the legislature by November 1, 1990, with recommendations for administrative and legislative changes to improve the efficiency and effectiveness of the comprehensive health insurance plan. The board shall propose specific language for legislation to accompany any recommendation for legislative change. The report must include at least the following:*

*(1) an analysis of the feasibility of an assumption of risk by the writing carrier;*

*(2) an analysis of the risk factors in the population served by the plan;*

*(3) a discussion of the feasibility of developing and implementing outcome measurements;*

*(4) a description of the types and locations of medical providers who serve enrollees and a comparison of provider payments to payments made by other payers;*

*(5) a description and analysis of the demographics of the enrollee population;*

*(6) a description and evaluation of studies, demonstration projects, and experimental delivery systems conducted under section 6;*

*(7) an analysis of potential cost-containment activities and alternative health care delivery methods; and*

*(8) other information and recommendations the board considers appropriate.*

Sec. 10. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment. Sections 2, 4, 5, 7, and 8 are effective July 1, 1989, and apply to policies issued or renewed after July 1, 1989. Sections 3, 6, and 9 are effective July 1, 1989."*

Delete the title and insert:

"A bill for an act relating to health insurance; changing coverage and administrative procedures relating to the comprehensive health insurance plan; requiring a report; amending Minnesota Statutes 1988, sections 13.71, by adding a subdivision; 62E.10, subdivisions 1, 2, 2a, 7, 9, and by adding a subdivision; and 62E.12."

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

House Conferees: (Signed) Wesley J. Skoglund, John Burger, Phil Carruthers

Senate Conferees: (Signed) John E. Brandl, William P. Luther, Donald A. Storm

Mr. Brandl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1285 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Benson moved that the recommendations and Conference Committee Report on H.F. No. 1285 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

## CALL OF THE SENATE

Mr. Brandl imposed a call of the Senate for the balance of the proceedings on H.F. No. 1285. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Mr. Benson.

The roll was called, and there were yeas 20 and nays 36, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Benson | Dicklich | Knaak | McQuaid | Pariseau |
| Brataas | Frederick | Laidig | Merriam | Renneke |
| Chmielewski | Frederickson, D.J. | Larson | Metzen | Samuelson |
| Decker | Johnson, D.E. | McGowan | Novak | Schmitz |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brandl | Knutson | Pehler | Storm |
| Anderson | Cohen | Kroening | Peterson, R.W. | Stumpf |
| Beckman | Davis | Langseth | Piper | Vickerman |
| Belanger | DeCramer | Lantry | Purfeerst | Waldorf |
| Berg | Frederickson, D.R. | Lessard | Ramstad | |
| Berglin | Freeman | Luther | Reichgott | |
| Bernhagen | Gustafson | Mehrkens | Solon | |
| Bertram | Hughes | Olson | Spear | |

The motion did not prevail.

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

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1285 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 47 and nays 11, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Johnson, D.J. | Mehrkens | Schmitz |
| Anderson | Davis | Knutson | Moe, R.D. | Solon |
| Beckman | Decker | Kroening | Pariseau | Spear |
| Belanger | DeCramer | Laidig | Pehler | Storm |
| Benson | Dicklich | Langseth | Peterson, R.W. | Stumpf |
| Berg | Diessner | Lantry | Piper | Taylor |
| Berglin | Frederick | Lessard | Purfeerst | Vickerman |
| Bernhagen | Frederickson, D.J. | Luther | Ramstad | |
| Bertram | Gustafson | McGowan | Reichgott | |
| Brandl | Johnson, D.E. | McQuaid | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Brataas | Frederickson, D.R. | Larson | Metzen | Olson |
| Chmielewski | Knaak | Marty | Novak | Renneke |
| Dahl | | | | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1137, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1137 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1137

A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a, and by adding subdivisions.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1137, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1137 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 473.39, subdivision 1a, is amended to read:

Subd. 1a. [OBLIGATIONS.] (a) *After August 1, 1989,* the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~$17,000,000~~ *$26,000,000* for financial assistance to the commission, as prescribed in the implementation ~~plan~~ *and capital plans* of the board and the capital program of the commission.

(b) *After August 1, 1989,* the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~$1,500,000~~ *$4,700,000* for ~~land acquisition and capital improvements for park and ride lots and transit transfer stations planned for the interstate highway described in section 161.123, clause (2), commonly known as I-394. These facilities may be constructed and maintained by the metropolitan transit commission~~ *other capital expenditures as prescribed in the implementation and capital plans of the board.*

*(c)* The board shall require, as a condition of financial assistance to the commission, that the commission make facilities it constructs, acquires, or improves for I-394 with funds provided under this ~~provision~~ *section* available to all transit providers on a nondiscriminatory basis, as the board defines these terms.

*(d)* The limitation contained in this subdivision does not apply to refunding bonds issued by the council.

Sec. 2. [APPLICATION.]

*This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.*"

Delete the title and insert:

"A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a."

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

House Conferees: (Signed) Alice M. Johnson, Peter McLaughlin, Sally Olsen

Senate Conferees: (Signed) Marilyn M. Lantry, Gene Merriam, Gen Olson

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1137 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1137 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1425:

H.F. No. 1425: A bill for an act relating to privacy of communications; modifying standards for disclosure of communications by electronic communications services; limiting use of contract personnel; modifying reporting requirements; modifying procedures for the use of pen registers and trap and trace devices; requiring orders for the use of mobile tracking devices; providing for a civil cause of action; removing the sunset on the privacy of communications act; authorizing the attorney general and county attorneys to issue administrative subpoenas; creating crimes that prohibit warning subjects of investigations, electronic surveillance, or search warrants; imposing penalties; amending Minnesota Statutes 1988, sections 626A.02, subdivision 3; 626A.04; 626A.06, subdivisions 1 and 4a; 626A.11, subdivisions 1 and 2; 626A.12, subdivision 1; 626A.17; 626A.35; 626A.36; 626A.37; 626A.38, subdivision 1; 626A.39, by adding a subdivision; and 626A.40; Laws 1988, chapter 577, section 63; proposing coding for new law in Minnesota Statutes, chapters 8, 388, 609, and 626A; repealing Minnesota Statutes 1988, sections 626A.12, subdivision 1a; 626A.22; 626A.23; 626A.24; and 626A.38, subdivision 5; Laws 1988, chapter 577, section 62.

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

Pugh, Kelly and Carruthers have been appointed as such committee on the part of the House.

House File No. 1425 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1425, 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.

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 299 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 299

A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

May 19, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 299, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 299 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 97A.065, is amended by adding a subdivision to read:

*Subd. 5.* [RESTITUTION FOR WILD ANIMALS.] *Money collected from restitution under section 2 for wild animals killed, injured, or possessed in violation of the game and fish laws must be used by the commissioner for replacement, propagation, or protection of wild animals.*

Sec. 2. [97A.341] [RESTITUTION FOR WILD ANIMALS ILLEGALLY TAKEN.]

*Subdivision 1.* [LIABILITY FOR RESTITUTION.] *A person who kills, injures, or possesses a wild animal in violation of the game and fish laws is liable to the state for the value of the wild animal as provided in this section. Species afforded protection include members of the following groups as defined by statute or rule: game fish, game birds, big game, small game, fur-bearing animals, minnows, and threatened and endangered animal species. Other animal species may be added by order of the commissioner as determined after public meetings and notification of the chairs of the environment and natural resources committees in the senate and house of representatives.*

*Subd. 2.* [ARREST AND CHARGING PROCEDURE.] *(a) An enforcement officer who arrests a person for killing, injuring, or possessing a wild animal in violation of the game and fish laws must describe the number, species, and restitution value of wild animals illegally killed, injured, or possessed on the warrant or the notice to appear in court.*

*(b) As part of the charge against a person arrested for killing, injuring,*

*or possessing a wild animal in violation of the game and fish laws, the prosecuting attorney must include a demand that restitution be made to the state for the value of the wild animal killed, injured, or possessed. The demand for restitution is in addition to the criminal penalties otherwise provided for the violation.*

*Subd. 3.* [SENTENCING PROCEDURE.] *If a person is convicted of or pleads guilty to killing, injuring, or possessing a wild animal in violation of the game and fish laws, the court must require the person to pay restitution to the state for replacement of the wild animal as part of the sentence or state in writing why restitution was not imposed. The court may consider the economic circumstances of the person and, in lieu of monetary restitution, order the person to perform conservation work representing the amount of restitution that will aid the propagation of wild animals. If the court does not order a person to pay restitution, the court administrator must send a copy of the court order to the commissioner.*

*Subd. 4.* [AMOUNT OF RESTITUTION.] *The amount of restitution shall be determined by the court by a preponderance of the evidence. In determining the amount of restitution, the court must consider the value of the wild animal under section 3.*

*Subd. 5.* [RESTITUTION CREDITED TO GAME AND FISH FUND.] *The court administrator shall forward restitution collected under this section to the commissioner of finance and the commissioner shall credit all money forwarded to the game and fish fund in the state treasury.*

Sec. 3. [97A.345] [RESTITUTION VALUE OF WILD ANIMALS.]

*(a) The commissioner may, by rules adopted under chapter 14, prescribe the dollar value to the state of species of wild animals. The value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animals. Species of wild animals with similar values may be grouped together.*

*(b) The value of a wild animal under the rules adopted by the commissioner is prima facie evidence of a wild animal's value under section 2.*

*(c) The commissioner shall report annually to the legislature the amount of restitution collected under section 2 and the manner in which the funds were expended.*

Sec. 4. [EFFECTIVE DATE.]

*Sections 1 and 2 are effective November 1, 1989, and apply to game and fish law violations committed on or after that date. Section 3 is effective the day after final enactment.*"

Delete the title and insert:

"A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A."

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

Senate Conferees: (Signed) Gene Merriam, John Bernhagen, Charles A. Berg

House Conferees: (Signed) Tom Rukavina, Doug Carlson, Willard Munger

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 299 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 299 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Luther, Ms. Berglin, Messrs. Knutson, Storm and Moe, R.D. introduced—

S.F. No. 1659: A bill for an act relating to health care; establishing the Minnesota board on biomedical ethics; setting its membership; assigning its duties and powers; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

Referred to the Committee on Health and Human Services.

Mr. Metzen introduced—

S.F. No. 1660: A bill for an act relating to education; providing for prepaid tuition; proposing coding for new law as Minnesota Statutes, chapter 135B.

Referred to the Committee on Education.

Mrs. Pariseau and Mr. Renneke introduced—

S.F. No. 1661: A bill for an act relating to the environment; repealing the motor vehicle inspection program; repealing Minnesota Statutes 1988, sections 116.60 to 116.65.

Referred to the Committee on Environment and Natural Resources.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has 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. 738: A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

There has been appointed as such committee on the part of the House:

Olson, E.; Tunheim and Lieder.

Senate File No. 738 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 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. 491: A bill for an act relating to health care; creating a health care access commission; requiring a health care access study; appropriating money.

There has been appointed as such committee on the part of the House:

Ogren, Boo and Rodosovich.

Senate File No. 491 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 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 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 530: A bill for an act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivisions 1a and 4; 473.823, subdivisions 3 and 6; 473.831, subdivision 2; 473.833, subdivision 2a; 473.840, subdivision 2; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1988, sections 115A.98; 115B.29, subdivision 2; 473.149, subdivision 2b; 473.803, subdivision 1a; and 473.806.

There has been appointed as such committee on the part of the House:

Long; Anderson, R.; Munger; Ozment and Wagenius

Senate File No. 530 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 1358, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1358: A bill for an act relating to metropolitan airport planning; requiring various actions, plans, and reports by the metropolitan council and the metropolitan airports commission; establishing a state advisory council on metropolitan airport planning; providing for a study on the effects of a runway expansion at Airlake airport and the use of certain airports to relieve congestion at Minneapolis-St. Paul international airport; amending Minnesota Statutes 1988, sections 473.604, subdivision 1; 473.608, subdivision 1; and 473.621, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 473.

Senate File No. 1358 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 761, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 761 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 761

A bill for an act relating to judgments; providing a reasonable exemption for employee benefits; amending Minnesota Statutes 1988, section 550.37, subdivision 24.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 761, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 761 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 550.37, subdivision 24, is amended to read:

Subd. 24. [EMPLOYEE BENEFITS.] The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service:

*(1) to the extent the plan or contract is described in section 401(a), 403, 408, or 457 of the Internal Revenue Code of 1986, as amended, or payments under the plan or contract are or will be rolled over as provided in section 402(a)(5), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986, as amended; or*

*(2) to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of $30,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment and applies retroactively to April 12, 1988."*

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

House Conferees: (Signed) Wayne Simoneau, Howard Orenstein, Terry Dempsey

Senate Conferees: (Signed) Don Frank, LeRoy A. Stumpf, William P. Luther

Mr. Frank moved that the foregoing recommendations and Conference Committee Report on H.F. No. 761 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 761 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Knaak | Mehrkens | Purfeerst |
| Anderson | Dicklich | Knutson | Metzen | Ramstad |
| Beckman | Diessner | Kroening | Moe, R.D. | Reichgott |
| Belanger | Frank | Langseth | Novak | Schmitz |
| Berg | Frederick | Lantry | Olson | Solon |
| Berglin | Frederickson, D.J. | Larson | Pariseau | Spear |
| Bertram | Frederickson, D.R. | Lessard | Pehler | Storm |
| Brandl | Gustafson | Luther | Peterson, D.C. | Stumpf |
| Brataas | Hughes | Marty | Peterson, R.W. | Taylor |
| Cohen | Johnson, D.E. | McGowan | Piper | Vickerman |
| Decker | Johnson, D.J. | McQuaid | Pogemiller | Waldorf |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1423, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1423 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1423

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 public benefits 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; requiring a facility fee payment to enrolled hospitals for certain emergency room or clinic visits; amending Minnesota Statutes 1988, section 80D.04, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 144; and 256B.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1423, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F. No. 1423 be further amended as follows:

Page 6, after line 30, insert:

"Sec. 5. Minnesota Statutes 1988, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2) has been a victim of physical or sexual abuse or resides with a victim of domestic child abuse as defined in subdivision 24, *or is a victim of emotional maltreatment as defined in section 260.015, subdivision 5a*;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's

parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose occupation, behavior, condition, environment, or associations are such as to be injurious or dangerous to the child or others;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway; or

(12) is an habitual truant.

Sec. 6. Minnesota Statutes 1988, section 260.015, is amended by adding a subdivision to read:

*Subd. 5a.* [EMOTIONAL MALTREATMENT.] *"Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person."*

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 13, after the first semicolon insert "providing requirements

for registration of dental assistants; including emotionally abused children among children in need of protection or services;"

Page 1, line 15, after the semicolon insert "and 260.015, subdivision 2a, and by adding a subdivision;"

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

House Conferees: (Signed) Paul Anders Ogren, Tony Onnen, Don Ostrom

Senate Conferees: (Signed) Marilyn M. Lantry, Linda Berglin, Nancy Brataas

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1423 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1423 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Knaak | Moe, R.D. | Renneke |
| Anderson | Dicklich | Knutson | Novak | Schmitz |
| Beckman | Diessner | Kroening | Olson | Spear |
| Belanger | Frank | Laidig | Pariseau | Storm |
| Benson | Frederick | Langseth | Pehler | Stumpf |
| Berg | Frederickson, D.J. | Lantry | Peterson, D.C. | Taylor |
| Berglin | Frederickson, D.R. | Luther | Peterson, R.W. | Vickerman |
| Bertram | Freeman | Marty | Piper | Waldorf |
| Brataas | Gustafson | McGowan | Pogemiller | |
| Chmielewski | Hughes | McQuaid | Purfeerst | |
| Cohen | Johnson, D.E. | Mehrkens | Ramstad | |
| Decker | Johnson, D.J. | Metzen | Reichgott | |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 306:

H.F. No. 306: A bill for an act relating to trusts; providing for their creation, validity, administration, and supervision; providing for the sale of real property; relating to legal estates in real and personal property; relating to estates; amending Minnesota Statutes 1988, sections 500.17, subdivision 2; and 502.73; proposing coding for new law as Minnesota Statutes, chapter 501B; proposing coding for new law in Minnesota Statutes, chapter 525; repealing Minnesota Statutes 1988, sections 500.13; 501.01; 501.02; 501.03; 501.04; 501.05; 501.06; 501.07; 501.08; 501.09; 501.10; 501.11; 501.115; 501.12; 501.125; 501.13; 501.14; 501.15; 501.155; 501.16; 501.17; 501.18; 501.19; 501.195; 501.20; 501.21; 501.211; 501.22; 501.23; 501.24; 501.25; 501.26; 501.27; 501.28; 501.29; 501.30; 501.31; 501.32; 501.33; 501.34; 501.35; 501.351; 501.36; 501.37; 501.38; 501.39; 501.40; 501.41; 501.42; 501.43; 501.44; 501.45; 501.46; 501.461; 501.48; 501.49;

501.50; 501.51; 501.52; 501.53; 501.54; 501.55; 501.56; 501.57; 501.58; 501.59; 501.60; 501.61; 501.62; 501.63; 501.64; 501.65; 501.66; 501.67; 501.71; 501.72; 501.73; 501.74; 501.75; 501.76; 501.77; 501.78; 501.79; 501.80; 501.805; 501.81; 501A.01; 501A.02; 501A.03; 501A.04; 501A.05; 501A.06; and 501A.07.

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

Pugh, Quinn and Bishop have been appointed as such committee on the part of the House.

House File No. 306 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 306, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 837, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 837 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 837

A bill for an act relating to crimes; prohibiting the concealing of criminal proceeds; prohibiting racketeering; providing civil and criminal penalties for engaging in narcotics and violent offenses as part of an enterprise; authorizing the dissolution of a corporate charter, revocation of a license, and injunctive relief to prevent criminal activity by an enterprise; authorizing fines of three times the profit gained through racketeering; authorizing criminal forfeiture; amending Minnesota Statutes 1988, section 541.07; proposing coding for new law in Minnesota Statutes, chapters 541 and 609.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 837, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 837, the unofficial engrossment (UEH0837-1), be further amended as follows:

Page 4, line 1, before the period, insert ", *or of an offense committed in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota*"

Page 4, after line 4, insert:

"Sec. 5. [609.901] [CONSTRUCTION OF RACKETEERING PROVISIONS.]

*Sections 6 to 15 shall be liberally construed to achieve their remedial purposes of curtailing racketeering activity and controlled substance crime and lessening their economic and political power in Minnesota.*"

Page 4, line 6, delete "*14*" and insert "*15*"

Page 4, line 9, delete "*6*" and insert "*7*"

Page 4, line 23, after "*(e)*" insert "*or (f)*" and after "*609.562;*" insert "*609.582, subdivision 1 or 2;*"

Page 4, line 29, delete the colon and insert "*two of the acts constitute felonies other than conspiracy.*"

Page 4, delete lines 30 to 32

Page 10, line 29, delete "*five*" and insert "*ten*"

Page 12, line 17, after "*dismissed*" insert "*after jeopardy attached*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

House Conferees: (Signed) Phil Carruthers, Marcus Marsh, Jean Wagenius

Senate Conferees: (Signed) Michael O. Freeman, Donna C. Peterson, William V. Belanger, Jr.

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 837 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 837 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Dicklich | Knaak | Mehrkens | Ramstad |
| Beckman | Diessner | Knutson | Metzen | Reichgott |
| Belanger | Frank | Kroening | Moe, D.M. | Renneke |
| Benson | Frederick | Laidig | Moe, R.D. | Schmitz |
| Berglin | Frederickson, D.J. | Langseth | Olson | Solon |
| Bertram | Frederickson, D.R. | Lantry | Pariseau | Spear |
| Brataas | Freeman | Larson | Pehler | Storm |
| Chmielewski | Gustafson | Lessard | Peterson, D.C. | Stumpf |
| Cohen | Hughes | Marty | Piper | Taylor |
| Decker | Johnson, D.E. | McGowan | Pogemiller | Vickerman |
| DeCramer | Johnson, D.J. | McQuaid | Purfeerst | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Mr. Knaak moved that Joint Rule 2.03 be suspended. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 631 a Special Order to be heard immediately.

## SPECIAL ORDER

S.F. No. 631: A bill for an act relating to electric utilities; service areas; establishing a task force to study issues relating to service area boundary changes; authorizing the public utilities commission to assess costs associated with the study; appropriating money.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Knutson | Novak | Renneke |
| Anderson | Diessner | Kroening | Olson | Solon |
| Beckman | Frank | Lantry | Pariseau | Spear |
| Belanger | Frederick | Larson | Pehler | Storm |
| Benson | Frederickson, D.J. | Luther | Peterson, D.C. | Stumpf |
| Berglin | Freeman | Marty | Peterson, R.W. | Taylor |
| Bertram | Gustafson | McGowan | Piper | Vickerman |
| Chmielewski | Hughes | McQuaid | Pogemiller | Waldorf |
| Decker | Johnson, D.E. | Mehrkens | Purfeerst | |
| DeCramer | Knaak | Moe, D.M. | Ramstad | |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 827, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 827 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 827

A bill for an act relating to game and fish; authorizing the taking of certain muskrats that are causing damage; providing that license applications need not be notarized; regulating the purchase of raw furs; amending Minnesota Statutes 1988, sections 97A.481; 97B.655, subdivision 1; and 97B.905, subdivision 1.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 827, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 827 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [97A.037] [HUNTER, TRAPPER, AND ANGLER HARASSMENT PROHIBITED.]

*Subdivision 1.* [INTERFERENCE WITH TAKING WILD ANIMALS PROHIBITED.] *A person who has the intent to prevent, disrupt, or dissuade the taking of a wild animal or enjoyment of the out-of-doors may not disturb or interfere with another person who is lawfully taking a wild animal or preparing to take a wild animal. "Preparing to take a wild animal" includes travel, camping, and other acts that occur on land or water where the affected person has the right or privilege to take lawfully a wild animal.*

*Subd. 2.* [DISTURBING WILD ANIMALS PROHIBITED.] *A person who has the intent to prevent or disrupt a person from lawfully taking the animals may not disturb or engage in an activity that will tend to disturb wild animals.*

*Subd. 3.* [PERSONS INTENDING TO HARASS HUNTERS, TRAPPERS, AND ANGLERS MAY NOT REMAIN ON LAND.] *A person who has intent to violate subdivision 1 or 2 may not enter or remain on public lands, or on private lands without permission of the owner.*

*Subd. 4.* [PEACE OFFICER ORDER; PENALTY.] *A person must obey*

*the order of a peace officer to stop the harassing conduct that violates this section if the officer observes the conduct. For purposes of this subdivision, "harassing conduct" does not include a landowner's or lessee's action to enforce the trespass law. Violation of this subdivision is a misdemeanor.*

Sec. 2. Minnesota Statutes 1988, section 97A.401, subdivision 4, is amended to read:

Subd. 4. [TAKING WILD ANIMALS FROM GAME REFUGES ~~AND~~, WILDLIFE MANAGEMENT, *AND OTHER* AREAS.] Special permits may be issued, with or without a fee, to take a wild animal from game refuges, wildlife management areas, ~~and~~ state parks, *and other areas of the state that the commissioner may open for the taking of a wild animal during a special season. In addition, an application fee may be charged for a special permit. Fees to be collected shall be based upon the estimated cost of conducting the special season.*

Sec. 3. Minnesota Statutes 1988, section 97A.481, is amended to read:

97A.481 [LICENSE APPLICATIONS ~~UNDER OATH~~; *PENALTY.*]

All information required on a license application form must be furnished. The application must be made in writing and ~~under oath~~ *is subject to the penalty prescribed in section 97A.301, subdivision 1, clause (5).*

Sec. 4. Minnesota Statutes 1988, section 97A.485, subdivision 6, is amended to read:

Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a) Persons authorized to sell licenses under this section must sell the following licenses for the license fee and the following issuing fees:

(1) to take deer or bear with firearms and by archery, the issuing fee is $1;

(2) Minnesota sporting, the issuing fee is $1; and

(3) to take small game, for a person under age 65 to take fish by angling or for a person of any age to take fish by spearing, and to trap fur-bearing animals, the issuing fee is $1;

(4) for a trout and salmon stamp that is not issued simultaneously with an angling or sporting license, an issuing fee of 50 cents may be charged at the discretion of the authorized seller; and

(5) for stamps other than a trout and salmon stamp, there is no fee.

(b) An issuing fee may not be collected for issuance of a trout and salmon stamp if a stamp is issued simultaneously with the related angling or sporting license. Only one issuing fee may be collected when selling more than one trout and salmon stamp in the same transaction after the end of the season for which the stamp was issued.

(c) The auditor or subagent shall keep the issuing fee as a commission for selling the licenses.

(d) The commissioner shall collect the issuing fee on licenses sold by the commissioner.

(e) A license, except stamps, must state the amount of the issuing fee and that the issuing fee is kept by the seller as a commission for selling the licenses.

(f) The fee for an angling license paid by a resident 65 years of age or over must be refunded to the licensee upon request to the commissioner, if the request is made within 30 days of the sale. The commissioner shall design a system on the license for this purpose. *An auditor or subagent may not provide postage stamps or pre-addressed envelopes for obtaining the refund. An auditor or subagent must provide information on the purposes for which license receipts are spent and the effects of applying for a refund.*

Sec. 5. Minnesota Statutes 1988, section 97B.655, subdivision 1, is amended to read:

Subdivision 1. [OWNERS AND OCCUPANTS MAY TAKE CERTAIN ANIMALS.] A person may take mink, squirrel, rabbit, hare, raccoon, lynx, bobcat, fox, *muskrat,* or beaver on land owned or occupied by the person where the animal is causing damage. The person may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this subdivision with artificial lights during open season. A person that kills mink, raccoon, lynx, bobcat, fox, *muskrat,* or beaver under this subdivision must bring the entire animal to a conservation officer or employee of the division within 24 hours after the animal is killed.

Sec. 6. Minnesota Statutes 1988, section 97B.905, subdivision 1, is amended to read:

Subdivision 1. [~~RESIDENT~~ LICENSE *REQUIREMENT.*]

(a) A ~~resident that has a license to buy and sell raw furs~~ *person* may *not* buy ~~and~~ *or* sell raw furs ~~in the state including:~~

~~(1) selling raw furs to a manufacturer, representing nonresidents;~~

~~(2) selling raw furs to a broker or agent, representing a nonresident; and~~

~~(3) conducting a fur auction that makes sales to resident manufacturers and nonresidents~~ *without a fur buying and selling license, except a taxidermist licensed under section 97A.475, subdivision 19, and a fur manufacturer are not required to have a license to buy raw furs from a person with fur buying and selling licenses.*

(b) An employee, partner, or officer buying or selling only for a raw fur dealer licensee at an established place of business licensed under section 97A.475, subdivision 21, clause (a), may obtain a supplemental license under section 97A.475, subdivision 21, clause (b).

Sec. 7. Laws 1989, chapter 153, section 1, if enacted, is amended to read:

Section 1. Minnesota Statutes 1988, section 97B.031, subdivision 1, is amended to read:

Subdivision 1. [FIREARMS AND AMMUNITION THAT MAY BE USED TO TAKE BIG GAME.] (a) A person may take big game with a firearm only if:

(1) the rifle, shotgun, and handgun used is a caliber of at least .23 inches;

(2) the firearm is loaded only with single projectile ammunition;

(3) a projectile used is a caliber of at least .23 inches and has a soft point or is an expanding bullet type;

(4) the ammunition has a case length of at least 1.285 inches;

(5) the muzzle-loader used is incapable of being loaded at the breech;

(6) the smooth-bore muzzle-loader used is a caliber of at least .45 inches; and

(7) the rifled muzzle-loader used is a caliber of at least .40 inches.

(b) A person may not take big game with a .30 caliber M-1 carbine cartridge.

(c) *Notwithstanding paragraph (a), clause (4),* a person may take big game with a ten millimeter cartridge *that is at least 0.95 inches in length.*

Sec. 8. [EFFECTIVE DATE.]

*Section 2 is effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to game and fish; prohibiting interference with or disturbance of a person taking wild animals under certain conditions; authorizing application fees for special permits to take game from certain areas during special seasons; clarifying the penalty for false or incomplete license applications; prohibiting certain actions related to license fee refunds; authorizing the taking of certain muskrat that are causing damage; creating an exception to fur buying and selling license requirements; permitting use of certain ammunition; amending Minnesota Statutes 1988, sections 97A.401, subdivision 4; 97A.481; 97A.485, subdivision 6; 97B.655, subdivision 1; 97B.905, subdivision 1; and Laws 1989, chapter 153, section 1; proposing coding for new law in Minnesota Statutes, chapter 97A."

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

House Conferees: (Signed) Brad Stanius, Willard Munger, Bob Johnson, Tom Rukavina, Marcus Marsh

Senate Conferees: (Signed) John Bernhagen, Charles A. Berg, LeRoy A. Stumpf, Gene Merriam, Dennis R. Frederickson

Mr. Bernhagen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 827 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 827 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 1, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Chmielewski | Knutson | Merriam | Samuelson |
| Anderson | Decker | Kroening | Moe, D.M. | Schmitz |
| Beckman | Diessner | Laidig | Olson | Spear |
| Belanger | Frank | Langseth | Pariseau | Storm |
| Benson | Frederick | Lantry | Piper | Stumpf |
| Berg | Frederickson, D.J. | Larson | Pogemiller | Vickerman |
| Berglin | Frederickson, D.R. | Luther | Purfeerst | |
| Bernhagen | Gustafson | Marty | Ramstad | |
| Bertram | Hughes | McGowan | Reichgott | |
| Brandl | Johnson, D.E. | Mehrkens | Renneke | |

Mr. Knaak voted in the negative.

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

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on H.F. No. 1408 at 3:00 p.m.:

Messrs. Novak, Metzen and Mrs. McQuaid. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, D.M. moved that H.F. No. 1443 be taken from the table. The motion prevailed.

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

## SUSPENSION OF RULES

Mr. Moe, D.M. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1443 and that the rules of the Senate be so far suspended as to give H.F. No. 1443 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1443 was read the second time.

Mr. Moe, D.M. then moved to amend H.F. No. 1443 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1443, and insert the language after the enacting clause, and the title, of S.F. No. 1383, the second engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 1443 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 42 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Chmielewski | Johnson, D.E. | Moe, D.M. | Solon |
| Anderson | Cohen | Knaak | Olson | Spear |
| Beckman | Decker | Laidig | Pariseau | Storm |
| Belanger | Dicklich | Langseth | Piper | Stumpf |
| Berg | Diessner | Lantry | Pogemiller | Taylor |
| Berglin | Frank | Larson | Ramstad | Vickerman |
| Bernhagen | Frederick | Luther | Reichgott | |
| Bertram | Frederickson, D.J. | Marty | Renneke | |
| Brataas | Frederickson, D.R. | McGowan | Schmitz | |

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

Mr. Moe, D.M. moved that S.F. No. 1383, No. 38 on General Orders, be stricken and laid on the table. The motion prevailed.

## SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that S.F. No. 575, No. 37 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

## SPECIAL ORDER

S.F. No. 575: A bill for an act relating to resource development; establishing a legislative task force on minerals; appropriating money.

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 39 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Chmielewski | Johnson, D.E. | McGowan | Reichgott |
| Beckman | Cohen | Knaak | Moe, D.M. | Renneke |
| Belanger | Decker | Knutson | Olson | Solon |
| Benson | Dicklich | Laidig | Pariseau | Spear |
| Berglin | Diessner | Lantry | Piper | Storm |
| Bernhagen | Frank | Larson | Pogemiller | Taylor |
| Bertram | Frederick | Luther | Purfeerst | Vickerman |
| Brandl | Frederickson, D.R. | Marty | Ramstad | |

So the bill passed and its title was agreed to.

## SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that H.F. No. 1146, No. 41 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

## SPECIAL ORDER

H.F. No. 1146: A bill for an act relating to traffic regulations; dedicating seat belt violation fines to emergency medical services relief account; amending Minnesota Statutes 1988, section 169.686, subdivision 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 36 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Cohen | Knaak | Moe, D.M. | Solon |
| Beckman | Decker | Knutson | Moe, R.D. | Spear |
| Belanger | Dicklich | Kroening | Olson | Taylor |
| Benson | Diessner | Laidig | Pariseau | Vickerman |
| Berglin | Frank | Lantry | Piper | |
| Bertram | Frederickson, D.R. | Luther | Purfeerst | |
| Brataas | Hughes | Marty | Renneke | |
| Chmielewski | Johnson, D.E. | McGowan | Schmitz | |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that H.F. No. 391, No. 35 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

## SPECIAL ORDER

H.F. No. 391: A bill for an act relating to peace officers; providing eligibility for death benefits for certain fire and rescue unit members and other first responders; amending Minnesota Statutes 1988, section 176B.01, 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 39 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Chmielewski | Knaak | Moe, R.D. | Samuelson |
| Anderson | Cohen | Knutson | Olson | Schmitz |
| Beckman | Diessner | Laidig | Pariseau | Solon |
| Belanger | Frank | Lantry | Pehler | Spear |
| Benson | Frederick | Larson | Piper | Storm |
| Berglin | Frederickson, D.R. | Luther | Purfeerst | Taylor |
| Bertram | Hughes | Marty | Ramstad | Vickerman |
| Brataas | Johnson, D.E. | Moe, D.M. | Renneke | |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1759, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1759 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1759

A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, veterans nursing homes, and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 2; 43A.27, subdivision 2; 62A.045; 62A.046; 62D.041, subdivision 1, and by adding a subdivision; 62D.042, subdivision 1; 62D.05, subdivision 6; 144.50, subdivision 6, and by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144.698, subdivision 1; 144.701; 144.702, subdivision 2, and by adding subdivisions; 144A.01, subdivision 5, and by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, subdivisions 5, 6a, and by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.45, subdivision 2; 144A.46; 144A.61; 144A.611; 145.38, subdivision 1; 145.39, subdivision 1; 145.61, subdivision 5; 145.63; 145.882, subdivisions 1 and 7; 146.13; 147.02, subdivision 1; 148B.23, subdivision 1; 148B.27, subdivision 2; 148B.32, subdivision 2; 148B.40, subdivision 3; 148B.42, by adding a subdivision; 149.02; 149.06; 150A.06, subdivision 2a; 153A.13, subdivision 4; 153A.15, subdivision 3; 153A.16; 176.136, subdivisions 1 and 5; 214.04, subdivision 3; 214.06, subdivision 1; 237.70, subdivision 7; 237.701, subdivision 1; 245.461; 245.462; 245.463, subdivision 2, and by adding subdivisions; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1, 3, and by adding subdivisions; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivision 3; 245.696, subdivision 2; 245.697, subdivisions 1, 2, and 2a; 245.713, subdivision 2; 245.73, subdivisions 1, 2, and 4; 245.771, subdivision 3; 245.91, by adding a subdivision; 245.94, subdivision 1, and by adding a subdivision; 245A.02, subdivisions 3, 9, 10, 14, and by adding a subdivision; 245A.03, subdivisions 1, 2, and 3; 245A.04, subdivisions 1, 3, 5, 6, 7, and by adding subdivisions; 245A.06, subdivisions 1, 5, and by adding a subdivision; 245A.07, subdivision 2; 245A.08, subdivision 5; 245A.095; 245A.12; 245A.13; 245A.14, subdivision 3, and by adding subdivisions; 245A.16, subdivision 1; 246.015; 246.18, subdivision 4; 246.36; 246.50, subdivisions 3, 4, and 5; 246.54; 246.57, subdivision 1; 251.011, subdivision 4, and by adding a subdivision; 252.27, subdivision 1; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.46, subdivisions 1, 2, 3, 4, 6, and 12; 252.47; 252.50; 253.015; 254A.08, subdivision 2; 254B.02, subdivision 1; 254B.03, subdivisions 1 and 4; 254B.04, subdivision 2; 254B.06, subdivision 1; 254B.09, subdivisions 1, 4, and 5; 256.01, subdivision 2, and by adding a subdivision; 256.014, subdivision 1; 256.045, subdivisions 1, 3, 4, 4a, 5, 6, 7, 10, and by adding a subdivision; 256.12, subdivision 14; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 11, 14, 16, and by adding subdivisions; 256.737; 256.74, subdivisions 1, 1a, and by adding a subdivision; 256.85; 256.87, subdivision 1a; 256.936, subdivisions 1, 2, and 4; 256.969; 256.974; 256.9741, subdivisions 3, 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; 256.975, subdivision 2; 256B.031, subdivision

5; 256B.04, subdivision 14, and by adding a subdivision; 256B.055, subdivisions 7 and 8; 256B.056, subdivisions 3, 4, and 5; 256B.062; 256B.0625, subdivisions 2, 13, 17, and by adding subdivisions; 256B.091, subdivision 3; 256B.092, subdivision 7; 256B.14; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; 256B.48, subdivisions 1, 6, and 8; 256B.501, subdivisions 3, 3g, and by adding subdivisions; 256B.69, subdivisions 4, 5, 11, and by adding a subdivision; 256C.28, subdivision 3, and by adding subdivisions; 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1 and 4; 256D.03, subdivisions 2, 3, and 4; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.06, by adding a subdivision; 256D.101; 256D.111, subdivision 5; 256D.35, subdivisions 1, 7, and by adding subdivisions; 256D.36, subdivision 1, and by adding a subdivision; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.05, subdivision 3; 256E.08, subdivision 5; 256E.09, subdivisions 1 and 3; 256F.05, subdivisions 2, 3, and 4; 256F.07, subdivision 3a; 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.08; 256H.09; 256H.10, subdivisions 2, 3, and by adding a subdivision; 256H.11; 256H.12; 256H.15; 256H.18; 256H.20, subdivision 3; 257.071, subdivision 7; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 259.47, subdivision 5; 259.49, subdivision 2; 260.251, subdivision 1; 268.0111, subdivision 4, and by adding a subdivision; 268.0122, subdivisions 2 and 3; 268.08, subdivision 1; 268.31; 268.37, by adding a subdivision; 268.86, subdivision 2; 268.871, subdivision 5; 268.88; 287.12; 297.13, subdivision 1; 326.78, subdivision 2; 327.20, subdivision 1; 327C.02, subdivision 2; 357.021, subdivisions 2 and 2a; 517.08, subdivisions 1b and 1c; 518.54, subdivision 6; 518.551, subdivision 10, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivisions 1, 2, 4, and by adding a subdivision; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 403, article 3, section 98; Laws 1988, chapter 689, article 2, sections 248 and 269, subdivision 2; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 150A.06, subdivision 7; 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; 245.775; 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 245A.095, subdivision 3; 246.50, subdivisions 3a, 4a, and 9; 254B.09, subdivision 3; 254B.10; 256.87, subdivision 4; 256.969, subdivisions 2a, 3, 4, 5, and 6; 256B.0625, subdivision 21; 256B.17, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 256B.69, subdivisions 12, 13, 14, and 15; 256D.01, subdivision 1c; 256D.051, subdivision 6a; 256D.052, subdivisions 5, 6, and 7; 256D.06, subdivisions 3, 4, and 6; 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; 256D.43; 256E.08, subdivision 9; 256F.05, subdivision 1; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivision 4; 256H.13; 268.86, subdivision 7; 518.613, subdivision 5; Laws 1987, chapter 403, article 5, section 1; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; 157; 196; 245; 246; 251; 252; 253; 254A; 256; 256B; 256D; 256E; 256F; 256H; 259; 268; and 626; proposing coding for new law as Minnesota Statutes, chapter 256I.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1759, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1759 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN RESOURCES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1989," "1990," and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively.

SUMMARY BY FUND

| | 1990 | 1991 | TOTAL |
|---|---|---|---|
| General | $1,306,847,000 | $1,361,394,000 | $2,668,241,000 |
| Special Revenue | $ 5,345,000 | $ 5,391,000 | $ 10,736,000 |
| Metropolitan Landfill | $ 167,000 | $ 167,000 | $ 334,000 |
| Trunk Highway | $ 1,488,000 | $ 1,488,000 | $ 2,976,000 |
| Total | $1,313,847,000 | $1,368,440,000 | $2,682,287,000 |

| | APPROPRIATIONS Available for the Year Ending June 30, 1990 | 1991 |
|---|---|---|
| Sec. 2. COMMISSIONER OF HUMAN SERVICES | | |
| Subdivision 1. Appropriation by Fund | | |
| General Fund | 1,104,499,000 | 1,160,516,000 |
| The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions. | | |
| During the biennium ending June 30, 1991, the commissioner shall notify the chairs of the house health and human services appropriations committee and the senate health and human services finance committee whenever implementation of legislation by the department is likely to result in expenditures $1,000,000 or more than the amount authorized by the legislature. | | |

Federal money received in excess of the estimates shown in the 1989 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

For the fiscal year ending June 30, 1989, the appropriations for the medical assistance and general assistance medical care programs in Laws 1988, chapter 689, article 1, section 2, subdivision 5, paragraph (a), are increased by the amount necessary to fully cover the expenditure requirements of these programs.

For the biennium ending June 30, 1991, federal receipts as shown in the biennial budget document or in working papers of the two appropriations committees to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be accredited to and become a part of the appropriations provided for in this section.

Positions and administrative money may be transferred within the department of human services as the commissioner considers necessary, with the advance approval of the commissioner of finance.

Estimates of federal money that will be earned by the various accounts of the department of human services and deposited in the general fund are detailed on the worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance. If federal money anticipated is less than that shown on the official worksheets, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 77th legislature in addition to an estimate of similar federal money anticipated for the biennium ending June 30, 1993.

The commissioner of human services, with the approval of the commissioner

of finance and by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs and between fiscal years of the biennium.

During the biennium ending June 30, 1991, the commissioner shall report annually to the chair of the house of representatives appropriations committee and the chair of the senate finance committee regarding information systems authorized under Minnesota Statutes, section 256.014, subdivision 3, including implementation schedules, the nature and amount of systems expenditures, projected and actual savings, evidence of cost-effectiveness, comparison with anticipated program goals and objectives, impact on affected consumers and providers, and future development plans.

For the biennium ending June 30, 1991, information system project appropriations for development and federal receipts for the alien verification entitlement system must be deposited in the special systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Information Policy Office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner considers necessary. Any unexpended balance in the appropriation for these projects does not cancel in the first year but is available in the second year of the biennium.

| | | |
|---|---|---|
| Subd. 2. Human Services Administration | 12,985,000 | 11,174,000 |

The state planning agency, the department of human services, and the department of finance shall conduct a study to determine the extent to which changes in health care program rate-setting rules are increasing state expenditures beyond the amount appropriated for the programs and report to the legislature by

February 1, 1990, regarding possible changes in state law to prevent major increases in state expenditures through the rulemaking process.

| | | |
|---|---|---|
| Subd. 3. Legal and Intergovernmental Programs | 4,182,000 | 4,274,000 |

By January 1, 1990, the commissioner shall report to the legislature regarding the activities and effectiveness of the county community service evaluation staff, including additional funding necessary to continue the function if the report indicates the activities have improved or have the potential to improve delivery of county social services.

| | | |
|---|---|---|
| Subd. 4. Social Services | 120,519,000 | 124,284,000 |

For the biennium ending June 30, 1991, this appropriation includes one position in fiscal year 1990 and two positions in fiscal year 1991 which are to be regionally based positions to assist in developing privately and publicly operated services for persons with developmental disabilities who are being relocated from regional treatment centers. The four positions authorized to improve the quality of regional treatment center services must also be regionally based.

By February 15, 1990, the board on aging shall submit a report to the legislature containing an analysis of the need for expanding congregate housing services and an evaluation of existing congregate housing service programs.

During the biennium ending June 30, 1991, juvenile detention facilities must provide or arrange for a chemical use assessment for juveniles who request such an assessment and for juveniles petitioned or adjudicated for alcohol- or drug-related unlawful acts in juvenile court.

For the biennium ending June 30, 1991, any balance remaining in the first year for the nonrecurring adoption expense reimbursement appropriation does not cancel, but is available for the second year of the biennium.

For the biennium ending June 30, 1991, $447,000 each year of the county allocation for Title XX community social services is for migrant child care.

For the biennium ending June 30, 1991, one complement position in the department of human services program for administration of child care fund grants shall be for the purpose of coordinating and expediting the review of applications and for expediting the dispersal of funds to grantees of child care service development grants.

By September 1, 1991, the Higher Education Coordinating Board shall report to the legislature on the percentage of non-AFDC, post-secondary funds expended for administrative purposes during fiscal year 1990.

In the event that money appropriated for foster care liability insurance for fiscal year 1990 is insufficient to cover increased premium costs in that year, the commissioner may use funds appropriated for fiscal year 1991 to cover the costs.

By July 1, 1990, each county shall report to the commissioner on efforts made to implement Minnesota Statutes, section 256F.07, subdivision 3a, regarding placement prevention and family reunification services for minority children. The report must include specific information on the number of foster and adoptive placements involving minority children, including information on the number of minority families who have become foster or adoptive parents and the number of minority families who have left the foster family system, with reasons for their departure from the system. The commissioner shall report to the legislature by November 1, 1990, with a summary and analysis of the county reports and an evaluation of county efforts.

In the event that the commissioner determines that the duties of regional services specialists have been assumed by county case managers and screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, the commissioner may reassign the regional services specialists to other duties.

| | | |
|---|---|---|
| Subd. 5. Mental Health | 21,555,000 | 25,572,000 |

Funding to continue the family-based community support pilot project shall be

included as a base adjustment in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11. The funding level shall be adjusted to reflect the full biennial costs of operating the project.

Of this appropriation, $10,000 is for camping activities for people with mental illness from the mental health special project account.

Of this appropriation, $53,000 is for the depression awareness, recognition, and treatment program from the mental health special projects account.

Of the appropriation for therapeutic foster care programs, one grant must be awarded to Olmsted county for an existing program.

The commissioner may, with the written approval of the governor after consulting with the legislative advisory commission, transfer all or part of the appropriation for alternative placements for persons who must be moved out of nursing homes due to federal requirements to other appropriations if the commissioner determines that other funding mechanisms will more appropriately meet the needs of the persons being moved.

| | | |
|---|---|---|
| Subd. 6. Family Support Programs | 181,169,000 | 189,755,000 |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aid to Families with Dependent Children, General Assistance, Work Readiness, Minnesota Supplemental Aid

| | |
|---|---|
| $154,500,000 | $156,236,000 |

The commissioner shall set the monthly standard of assistance for general assistance and work readiness assistance units consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at $203.

The $100,000 appropriated for literacy training for the biennium ending June 30, 1991, shall be used for pilot demonstration projects. Each grantee of funds must report back to the commissioner of

human services at the end of the grant period with a summary of expenditures and a detailed analysis of persons served, literacy programs used, and outcomes achieved. The commissioner shall report back to the legislature by January 1, 1992, with an evaluation of the program.

The commissioner of human services shall include as a budget change request in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, an annual adjustment in the aid to families with dependent children, general assistance, and work readiness grants as of July 1 of each year, beginning July 1, 1991, by a percentage amount equal to the percentage increase, if any, in the consumer price index (CPI-U-U.S.) city average, as published by the Bureau of Labor Statistics, United States Department of Labor, during the preceding calendar year for the biennium ending June 30, 1993.

During the biennium ending June 30, 1991, the commissioner of human services shall provide supplementary grants not to exceed $816,800 a year for aid to families with dependent children and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; replacement of essential household furnishings and essential major appliances; and employment-related transportation and educational expenses. Of this amount, $616,800 is for employment-related transportation and educational expenses.

For the biennium ending June 30, 1991, the maximum room and board rate for a facility that enters into an initial negotiated rate agreement with a county on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under Minnesota Statutes, section 256D.37.

(b) Family Support Programs Administration

$ 26,669,000 $ 33,519,000

Federal financial reimbursement received during fiscal year 1989 for work readiness services expenditures by counties must be credited to the work readiness account and is appropriated to the commissioner of human services for work readiness program purposes. Amounts not needed to reimburse counties must be canceled to the general fund.

Any balance remaining in the first year for the welfare fraud eligibility verification program appropriation does not cancel but is available in the second year of the biennium ending June 30, 1991.

In implementing the requirements of Minnesota Statutes, section 256.01, subdivision 2, clause (c), the commissioner shall develop specific program measures to assess county compliance with fraud initiatives and provide technical assistance to enforce fraud program requirements.

Any balance remaining at the end of the first year in the appropriation for social adjustment services for refugees and child welfare services for refugees does not cancel but is available for the second year.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for food stamp outreach programs does not cancel to the general fund but is available in fiscal year 1990.

Federal financial participation received during fiscal year 1989 for work readiness service expenditures is appropriated to the commissioner for work readiness program purposes and must be used to reimburse counties for work readiness expenditures.

For the biennium ending June 30, 1991, federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

During the biennium ending June 30, 1991, money appropriated from the general fund to the department of human services for the work incentive program shall transfer to the job opportunity and basic skills program upon acceptance by

the federal government of Minnesota's welfare reform plan.

Any unexpended balance remaining in the first year of the appropriation for the AFDC self-employment investment demonstration project appropriation does not cancel but is available for the second year of the biennium.

For the biennium ending June 30, 1991, federal funds received for direct employment services provided to refugees and immigrants is appropriated to the commissioner to provide bicultural employment service case managers to PATHS eligible refugees and immigrants. The commissioner of human services shall review expenditures of bilingual case management funds at the end of the third quarter of the second year of the biennium and may reallocate unencumbered funds to those counties which can demonstrate a need for additional funds. Funds shall be reallocated according to the same formula used initially to allocate funds to counties.

Any unexpended balance up to $2,000,000 remaining in the first year for the PATHS case management and employment and training services appropriation does not cancel and is available for the second year of the biennium ending June 30, 1991.

In planning for the operation of the child support enforcement clearinghouse information system, the commissioner shall issue a request for a proposal for the operation of the system and, in consultation with the information policy office, review responses to the solicitation. After review of the proposals, the commissioner may award a service contract for operation of the system or continue processing through the department of administration. In the event the projected costs for systems operation exceed the available appropriation, the commissioner shall notify the chairs of the house health and human services division of appropriations and the senate health and human services division of finance.

For the child support enforcement activity, during the biennium ending June 30,

1991, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner for the purposes of the child support enforcement activity.

Federal financial participation from the United States Department of Agriculture for expenditures that are eligible for reimbursement through the food stamp employment and training program for nonpublic assistance recipients is appropriated to the commissioner to operate the food stamp employment and training program for nonpublic assistance recipients.

For the biennium ending June 30, 1991, federal money received for the operating costs of the statewide MAXIS automated eligibility information system is appropriated to the commissioner to pay for the development and operation of the MAXIS system and the counties' share of the operating costs.

Subd. 7. Health Care Programs

| | | |
|---|---|---|
| General Fund | 553,384,000 | 593,448,000 |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Medical Assistance and General Assistance Medical Care

| | |
|---|---|
| $506,808,000 | $545,894,000 |

The developmental achievement center pilot payment rate system in Minnesota Statutes, section 252.46, subdivision 14, may operate through June 30, 1991.

The commissioner of human services shall seek federal financial participation to reimburse the costs of family therapy necessary to the mental health of an adoptive child who prior to adoption had been under the guardianship of the commissioner under Minnesota Statutes, section 260.242.

Notwithstanding any law to the contrary, the commissioner shall include as budget change requests in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, all annual

inflationary adjustments in the medical assistance, general assistance medical care, and Minnesota supplemental aid programs.

Of this appropriation, $300,000 in fiscal year 1991 is for the increased costs of exceptions to the moratorium on licensure and certification of long-term care beds. The commissioner of health may license or certify beds through the exception review process, provided the projected total annual increased state medical assistance costs of all licenses or certifications granted during the biennium under any exception to the moratorium do not exceed an annual amount of $300,000.

The amount appropriated for medical assistance is based on projected inflationary increases for Minnesota nursing homes of 5.1 percent the first year and 5.2 percent the second year. The inflationary increases are required under current law in Minnesota Statutes, chapter 256B. The projected increases include increases of 4.8 percent the first year and 5.1 percent the second year for nursing home wages, including nursing staff wages. The projected state general fund cost for inflationary increases is $11,314,000 the first year and $19,821,000 the second year. The actual inflationary increases will be based on the index established under Minnesota Statutes, chapter 256B. The commissioner shall annually report, in the manner prescribed by the commissioner, on the home's use of that portion of the inflationary increase that is attributable to the wage increase.

During the biennium ending June 30, 1991, the commissioner may determine the need for conversion of a home and community-based service program to an intermediate care facility for people with mental retardation if the conversion is cost-effective and the people receiving home and community-based services choose to receive services in an intermediate care facility for people with mental retardation. After the commissioner has determined the need to convert the program, the commissioner of

health shall certify the program as an intermediate care facility for people with mental retardation if the program meets applicable certification standards. Notwithstanding the provisions of Minnesota Statutes, section 246.18, receipts collected for state-operated community services are appropriated to the commissioner and are dedicated to the operation of state-operated community services which are converted in this section or which were authorized in Laws 1988, chapter 689, article 1, section 2, subdivision 5. Any balance remaining in this account at the end of the fiscal year does not cancel and is available for the second year of the biennium. The commissioner may, after consultation with the legislative advisory commission and approval of the governor, transfer funds from the Minnesota supplemental aid program to the medical assistance program to fund services converted under this section.

The maximum pharmacy dispensing fee under medical assistance and general assistance medical care is $4.20.

Payments to vendors for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and X-ray services in either the medical assistance or general assistance medical care programs must continue to be calculated at the lower of (1) the submitted charges, or (2) the 50th percentile of prevailing charges in 1982.

Effective with services rendered on or after July 1, 1989, payments to dentists for medical assistance recipients shall be increased by 7.5 percent for diagnostic and routine preventive services and by five percent for all other dental services.

Federal money received during the biennium for administration of the home and community-based services waiver for persons with mental retardation is appropriated to the commissioner of human services for administration of the home and community-based services program

and must be deposited in that activity's account.

(b) Preadmission Screening and Alternative Care Grants
$16,530,000 $16,530,000

Any balance remaining in the first year of the appropriation for the preadmission screening-alternative care grants program does not cancel but is available for the second year.

During the biennium ending June 30, 1991, the commissioner shall include in the forecast of health care entitlement program expenditures submitted to the commissioner of finance and the legislature, an estimate of projected expenditures for that portion of the preadmission screening and alternative care grant funded through the medical assistance program.

(c) Children's Health Plan
$ 4,297,000 $ 6,736,000

Of this appropriation, $20,000 in fiscal year 1990 is for a study of the utilization of outpatient mental health services by children eligible for medical assistance. The results of the study must be used to prepare recommendations for the legislature to structure an appropriate and cost-effective outpatient mental health benefit under the children's health plan. $480,000 in fiscal year 1991 is appropriated to add an outpatient mental health benefit to the children's health plan in fiscal year 1991.

(d) Health Care Programs Administration
$25,749,000 $24,288,000

For the biennium ending June 30, 1991, $200,000 in fiscal year 1990 and $200,000 in fiscal year 1991 is appropriated for contracting with private or public entities for case management services for those medical assistance and general assistance recipients identified by the commissioner as inappropriately using health care services. To implement the project, the commissioner shall seek appropriate waivers. The commissioner may enter into risk-based contracts and contract for a full range of health services for medical assistance and general

assistance medical care recipients. Federal receipts received for this purpose shall be dedicated to this activity.

By February 1, 1990, the commissioner may develop a plan to minimize turnover of direct care employees in privately operated day training and habilitation services, intermediate care facilities for persons with mental retardation, semi-independent living services, and waivered services programs. 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 may develop the plan in collaboration with representatives of public and private facilities and service providers, clients and family members, advocacy organizations, employees, and other interested persons and organizations.

During the biennium ending June 30, 1991, the appropriation in the preadmission screening and annual resident review account shall be used to cover the nonfederal share of costs for conducting diagnostic assessments, reassessments, and screening which are required by Public Law Number 100-203 and which are federally reimbursable as a state medical assistance expense at 75 percent. This provision is effective July 1, 1989, and does not include screening costs covered under Minnesota Statutes, section 256B.091. Federal receipts for this activity are dedicated to the department for this purpose.

The interagency board for quality assurance shall study the following issues and report to the legislature by November 1, 1990, on its findings and recommendations: (1) identifying indicators of high quality long-term care service provided in Minnesota nursing homes and boarding care homes; and (2) establishing a program of incentive payments to reward nursing facilities that provide the highest quality care to residents. A study advisory committee consisting of nursing

home consumers and representatives of the nursing home industry must be appointed by the executive director of the interagency board for quality assurance to participate in the study process.

The commissioner shall work with Care Providers of Minnesota, the Minnesota Association of Homes for the Aging, and consumer groups to seek assistance from the Minnesota congressional delegation and the United States Department of Health and Human Services to obtain recognition of the Minnesota case mix system as an alternative to the current Medicare payment system, or other appropriate solutions. The commissioner shall report to the legislative commission on long-term care by November 1, 1989, regarding efforts to resolve the conflicts between the Medicare and medical assistance nursing home reimbursement systems. The commissioner shall report on the extent of the conflict and the potential impact on Minnesota nursing homes and shall make recommendations regarding necessary state and federal actions.

Recoveries obtained by the provider appeals unit shall be dedicated to the medical assistance account during the biennium ending June 30, 1991.

Federal receipts received for the phone-in system for prior authorization for health care providers and the provider relations unit within the health care management division are appropriated to the commissioner for those purposes.

The receipts realized for the sale of the provider manual are appropriated to the commissioner for printing and distribution of the materials.

Any balance remaining in the first year of the appropriation for the review of medical assistance prepayment programs does not cancel but is available for the second year.

Of this appropriation, $45,000 each year is for the establishment of a statewide resource center on caregiver support and respite care services. The complement of the department is increased by one

position for this purpose. This appropriation and complement increase are not included in the base funding level. The commissioner shall report to the legislature by February 15, 1990, with an analysis of the activities of the resource center, information on the need for respite care services, a projection of the need for respite care services, and an evaluation of existing caregiver support and respite care programs.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for a regional demonstration project to provide health care coverage to low-income uninsured persons does not cancel but is available for fiscal year 1990. The appropriation is available when planning for the project is complete, sufficient money has been committed from nonstate sources to allow the project to proceed, and the project is prepared to begin accepting and approving applications from uninsured individuals. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2.

The MA and GAMC managed care project shall continue through June 30, 1990.

| | | |
|---|---|---|
| Subd. 8. State Residential Facilities | 210,705,000 | 212,009,000 |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Regional Treatment Centers and State-operated Community Services

| Approved Complement | | |
|---|---|---|
| | June 30, 1990 | June 30, 1991 |
| | 4,763 | 4,687 |
| (1) Salaries | $169,617,000 | $169,005,000 |
| (2) Current Expense | $ 14,150,000 | $ 15,699,000 |
| (3) Repairs and Betterments | $ 2,772,000 | $ 1,772,000 |
| (4) Special Equipment | $ 680,000 | $ 1,150,000 |
| (5) Personnel Mitigation | $ -0- | $ 2,000,000 |

Money appropriated for personnel mitigation expenses in fiscal year 1991 may be used to cover expenses occurring in fiscal year 1990.

The commissioner shall prepare and present a plan to the legislature by February 15, 1990, on methods of increasing the use of staff and resources at the Willmar Regional Treatment Center to serve children with severe emotional disturbance who would otherwise be placed in treatment in other states.

Regional treatment center and state-operated nursing home employees, except temporary or emergency employees, affected by changes in the department of human services delivery system must receive, along with other options, priority consideration in order to transfer to vacant or newly created positions at the Minneapolis and Hastings veterans homes and at facilities operated by the commissioner of corrections. The veterans homes board, in cooperation with the commissioners of human services and corrections, shall develop procedures to facilitate these transfers.

The legislative audit commission shall evaluate the regional treatment center systems project and report findings and recommendations to the chair of the house health and human services division of appropriations and the senate health and human services division of finance by January 15, 1992.

Provided there is no conflict with any collective bargaining agreement, any regional treatment center or state nursing home reduction in the human services technician classifications and other nonprofessional, nonsupervisory direct care positions must only be accomplished through attrition, transfers, and retirement and must not be accomplished through layoff, unless the position reduction is due to the relocation of residents to a different state facility and the employee declines to accept a transfer to a comparable position in another state facility.

Any regional treatment center employee position identified as being vacant by the

regional treatment center and the commissioner of human services may only be declared so after review of the chair of the house human services division of appropriations and the chair of the senate health and human services division of finance.

The legislative auditor shall study the admission and discharge policies for persons with mental retardation or related conditions in regional treatment centers, state-operated community-based services, and privately operated facilities and report to the legislature by February 1, 1990.

Notwithstanding any other law to the contrary, the commissioner may transfer money between nonsalary object of expenditure classes to salary object of expenditure classes for staff training and personnel mitigation during the biennium ending June 30, 1991.

With the approval of the commissioner of finance, the commissioner of human services may transfer any unencumbered balance from any department account, except an income maintenance entitlement account, to the regional treatment salary account during fiscal year 1989. The amounts transferred must be identified to the chairs of the senate finance division on health and human services and the house appropriations division on health and human services.

For the biennium ending June 30, 1991, this appropriation includes $40,000 in the second year to be transferred to the commissioner of health for licensure of additional community-based supervised living facilities.

During the biennium ending June 30, 1991, employees of residential facilities who are eligible for retraining funds may use those funds to attend an approved program in any public or private adult education or post-secondary institution.

Of this appropriation, $546,000 each year shall be available to the commissioner for contingency situations related to chemical dependency programs operated by regional treatment centers during the biennium ending June 30, 1991.

The commissioner shall consolidate both program and support functions at each of the regional centers and state nursing homes to ensure efficient and effective space utilization that is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions between the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition according to Minnesota Statutes, section 16B.24.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

(b) Nursing Homes
Approved Complement - 569.5 534.5

(1) Salaries
$18,477,000 $17,649,000

(2) Current Expense
$ 2,486,000 $ 2,474,000

(3) Repairs and Betterments
$ 378,000 $ 222,000

(4) Special Equipment
$ 66,000 $ 0

(c) Other State Residential Facilities Administration Activities
$ 2,079,000 $ 2,038,000

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION 888,000 921,000

Sec. 4. VETERANS NURSING HOMES BOARD

Subdivision 1. Total Appropriation 18,876,000 21,041,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subd. 2. Veterans Nursing Homes 18,731,000 20,896,000

At least 80 percent of the new positions at the Hastings and Minneapolis veterans homes must be nonsupervisory positions

| | | |
|---|---|---|
| in direct care services, rehabilitation services, psychological services, social services, pharmaceutical services, food services, housekeeping services, and internal auditing as recommended in the governor's 1989-1991 biennial budget document. Any remaining portion of the appropriation for new positions may be used to fund other positions. | | |
| The appropriation for geriatric research and teaching is not included in the base funding level. | | |
| Subd. 3. Veterans Nursing Homes Board | 145,000 | 145,000 |
| Sec. 5. COMMISSIONER OF JOBS AND TRAINING | | |
| Subdivision 1. Total Appropriation | 37,755,000 | 32,349,000 |
| The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions. | | |
| Subd. 2. Rehabilitation Services | 18,305,000 | 18,380,000 |
| Any balance remaining in the first year does not cancel but is available for the second year. | | |
| The commissioner shall report to the legislature by January 15, 1990, on grants for the rehabilitation of injured workers, including the number of workers served and the outcome on injured workers of the services provided. | | |
| Subd. 3. Services for the Blind | 3,380,000 | 3,383,000 |
| Subd. 4. Economic Opportunity Office | 7,257,000 | 7,257,000 |
| For the biennium ending June 30, 1991, the commissioner shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 3.75 percent of the transferred money may be used by the commissioner for administrative purposes. | | |
| For the biennium ending June 30, 1991, the commissioner shall transfer to the low-income home weatherization program at least five percent of money | | |

received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the community services block grant and the weatherization program may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, discretionary money from the community services block grant (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplemental funding is required. Any remaining money shall be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

The commissioner shall, by January 1 of each year of the biennium, report to the legislature on the use of discretionary money from the community services block grant (regular) and discretionary money resulting from block grant transfers to the community services block grant.

| | | |
|---|---|---|
| Subd. 5. Employment and Training | 8,813,000 | 3,329,000 |

Of this amount, $250,000 in each year is to be distributed to organizations applying for grants through the governor's job council to provide services and support to dislocated workers. The governor's job council may award grants to organizations to assist dislocated workers who have been dislocated as a result of a plant closing or layoff that did not meet the threshold levels as provided in article 2, section 177, subdivisions 6 and 8, if the council determines that the plant closing or layoff has a significant effect on the community. An additional $15,000

each year is for prefeasibility study grants related to this provision. Any balance remaining in the first year of the appropriation for dislocated workers does not cancel but is available for the second year.

The appropriations increase for the summer youth employment program must be spent on transitional services.

Of the money appropriated for the summer youth employment programs for fiscal year 1990, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

Any balance remaining in the first year of the appropriation for the Minnesota employment and economic development program does not cancel but is available for the second year.

Any balance remaining at the end of the fiscal year ending June 30, 1989, in the appropriation in Laws 1987, article 1, section 4, subdivision 2, for Minnesota employment and economic development wage subsidies does not cancel and is available for the fiscal year ending June 30, 1990.

Any balance remaining in the Minnesota wage subsidy account established under Minnesota Statutes, section 268.681, subdivision 4, at the end of the fiscal years ending June 30, 1989, and June 30, 1990, does not cancel and is available for the second year.

Sec. 6. COMMISSIONER OF CORRECTIONS

Subdivision 1. Appropriation by Fund

| | | |
|---|---|---|
| General Fund | 104,822,000 | 104,505,000 |

The amounts that may be spent from the appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval

of the commissioner of finance.

| | | |
|---|---|---|
| Subd. 2. Correctional Institutions | 75,733,000 | 75,477,000 |

Any unencumbered balances in special equipment, repairs and replacement, food provisions, and central office health care remaining in the first year do not cancel but are available for the second year.

Employees of the St. Paul-Ramsey Medical Center who perform the functions of psychologist and director of the mental health unit at the Minnesota correctional facility-Oak Park Heights and psychiatric social worker at the Minnesota correctional facility-Stillwater shall be transferred to the state classified service without competitive or qualifying examination and shall be placed by the commissioner of employee relations, with no loss in salary, in the proper classifications. These transferred employees shall begin on the date of transfer to serve a probationary period appropriate to the classification to which each is assigned according to a collective bargaining agreement or plans established under Minnesota Statutes, section 43A.16.

| | | |
|---|---|---|
| Subd. 3. Community Services | 25,041,000 | 24,950,000 |

Base level funding in the probation and supervised release activity for services to Dakota and Rice counties must be transferred to the community corrections act appropriation upon the entry of those counties into the community corrections program. An incumbent whose position is transferred under this subdivision retains the wages and benefits of the former position under the applicable state plan or collective bargaining agreement until the date upon which a collective bargaining agreement under Minnesota Statutes, chapter 179A, covering the new position is renewed or adjusted.

The commissioners of corrections and human services shall study the funding structure of general assistance per diems for emergency shelters for battered women and report to the legislature by January 15, 1991.

The commissioner is encouraged to direct a portion of the increase in funding to battered women's programs toward pay

| | | |
|---|---|---|
| increases for employees of the programs. | | |
| Of the appropriation for battered women's programs, $34,000 in fiscal year 1990 is to pay startup costs for an American Indian battered women's shelter. | | |
| Subd. 4. Management Services | 4,048,000 | 4,078,000 |
| Sec. 7. SENTENCING GUIDELINES COMMISSION | 218,000 | 218,000 |
| Sec. 8. CORRECTIONS OMBUDSMAN | 369,000 | 364,000 |
| Sec. 9. COMMISSIONER OF HEALTH | | |
| Subdivision 1. Appropriation by Fund | | |
| General Fund | 39,345,000 | 41,480,000 |
| Metropolitan Landfill Contingency Fund | 167,000 | 167,000 |
| Special Revenue Fund | 435,000 | 375,000 |
| Trunk Highway Fund | 1,488,000 | 1,488,000 |
| The appropriation from the metropolitan landfill contingency fund is for monitoring well water supplies and conducting health assessments in the metropolitan area. | | |
| The appropriation from the trunk highway fund is for emergency medical services activities. | | |
| Positions and administrative money may be transferred within the department of health as the commissioner considers necessary, with the advance approval of the commissioner of finance. | | |
| The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions. | | |
| Subd. 2. Preventive and Protective Health Services | | |
| General Fund | 11,610,000 | 11,751,000 |
| Metropolitan Landfill Contingency Fund | 145,000 | 145,000 |
| Special Revenue Fund | 255,000 | 255,000 |
| Trunk Highway Fund | 61,000 | 61,000 |
| Of this amount, $135,000 in 1990 and $115,000 in 1991 from the general fund are one-time appropriations to conduct a follow-up study of asbestos-related lung disease among Conwed Corporation | | |

employees and spouses. The commissioner shall by January 1, 1990, present to the legislature a report addressing recommendations and plans for a comprehensive feasibility study of a statewide occupational disease surveillance system.

Of this amount, $65,000 in 1990 from the general fund is a one-time appropriation to develop and pilot test the feasibility of an epidemiologic study of the relationship between emissions of sulfur dioxide and other air contaminants and the prevalence and severity of asthma in the city of Inver Grove Heights and surrounding areas of Dakota County. The commissioner of health shall, by February 1, 1990, submit to the legislature a report including the results of this study and specific recommendations related to any future epidemiologic studies.

For the biennium ending June 30, 1991, no less than $2,000,000 from the general fund shall be used by the commissioner for AIDS prevention grants and contracts for certain high risk populations, including communities of color, adolescents at high risk, homosexual men, intravenous drug users, and others as determined by the commissioner. By October 1, 1990, and October 1, 1991, the commissioner shall report to the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee regarding the amounts of state and federal money spent by the department in fiscal years 1990 and 1991 on grants and contracts to assist each of the above groups.

The $47,000 required to be transferred to the general fund by Laws 1987, chapter 388, section 9, paragraph (c), shall be transferred not later than June 30, 1992.

The commissioner shall present to the legislature by January 1, 1990, a plan for implementing the hazardous substance exposure provisions required under Minnesota Statutes, section 145.94. The plan shall include proposals for funding and recommendations for coordinating the implementation efforts of the state department of health, the pollution control agency, and local health departments.

| | | |
|---|---|---|
| Subd. 3. Health Delivery Systems | | |
| General Fund | 24,028,000 | 26,028,000 |
| Special Revenue Fund | 180,000 | 120,000 |
| Trunk Highway Fund | 1,341,000 | 1,341,000 |

Of this amount, $80,000 in 1990 and $20,000 in 1991 from the health occupations licensing account within the state government special revenue fund are to pay start-up and ongoing costs associated with registering contact lens technicians and respiratory therapists. These and all subsequent costs related to this provision shall be returned to the health occupations licensing account through fees. The commissioner may use unencumbered balances in the health occupations licensing account to pay start-up costs associated with the registration of any additional occupational groups, except acupuncturists, for which the commissioner determines registration is appropriate. All such costs shall be returned to the health occupations licensing account through fees.

Of this amount, $5,000 from the general fund is available as a state match for a grant program to community-based organizations to purchase and provide paint removal equipment.

Of this amount, $10,000 from the general fund in each year is to contract with local health boards to provide safe housing for residents who are relocated due to a paint-related or plaster-related lead contamination threat in their place of residence.

Of this amount, $35,000 from the general fund in each year is to conduct assessments to determine sources of lead contamination in the residences of children and pregnant women whose blood lead levels exceed 25 micrograms per deciliter or the Centers for Disease Control recommendation for elevated blood level, and to provide education on ways of reducing the danger of lead contamination.

Of this amount, $50,000 from the general fund in each year is to implement a lead education strategy and to fund lead abatement advocates.

Of this amount, $5,000 from the general fund is transferred to the commissioner of state planning for a task force to study lead abatement costs. The task force shall consist of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement contractors, realtors, community residents including both tenants and landowners, lead advocacy organizatons, and cultural groups at high risk of lead poisoning. The task force shall evaluate the costs of providing assistance to property owners and local communities required to do lead paint, soil, and dust abatement; and of providing subsidized programs to assist the property owners and communities. The task force shall present recommendations for a statewide subsidized abatement service program. The task force shall report its findings and recommendations to the legislature by January 15, 1990.

Of the appropriation to supplement the federal Women, Infants and Children (WIC) program, any balance remaining in the first year does not cancel but is available for the second year.

For the biennium ending June 30, 1991, the commissioner of finance may authorize the transfer of money to the community health services activity from other programs in this section if the transferred money is to be used to supplement the community health services subsidy.

For the biennium ending June 30, 1991, if the appropriation for community health services or services to children with handicaps is insufficient for either year, the appropriation for the other year is available by direction of the governor after consulting with the legislative advisory commission.

For the biennium ending June 30, 1991, community health services boards should give priority consideration in the allocation of increased community health services subsidy funds to activities consistent with recommendations of the state community health services advisory committee and the commissioner's statewide goals relating to prevention of human

immunodeficiency virus.

For the biennium ending June 30, 1991, community health services boards are encouraged to use a portion of their community health services subsidy increases to conduct erythrocyte protoporphyrin and blood lead screenings among children at high risk for lead toxicity.

Until the start of the 1992 licensure year, the commissioner of health shall not apply the provisions of Minnesota Statutes, section 144.55, subdivision 6, paragraph (b), to the Minnesota Veterans Home at Hastings.

The commissioner shall report to the legislature by December 15, 1989, on the commissioner's enforcement of section 144A.10, subdivision 2, relating to the coordination of nursing home inspections, and on the commissioner's enforcement of section 144.55, subdivision 5, relating to the coordination of hospital inspections. The report must include a list of the agencies inspecting nursing homes and hospitals, the frequency of inspections, the legal authority for the inspections, the purpose of the inspections, and recommendations for consolidating and coordinating the inspections. The report must also include recommendations for improving the enforcement of sections 144A.10, subdivision 2, and 144.55, subdivision 5.

Subd. 4. Health Support Services

| | | |
|---|---|---|
| General Fund | 3,707,000 | 3,701,000 |
| Metropolitan Landfill Contingency Fund | 22,000 | 22,000 |
| Trunk Highway Fund | 86,000 | 86,000 |

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation

| | | |
|---|---|---|
| Special Revenue Fund | 4,910,000 | 5,016,000 |
| General Fund | 75,000 | |

Notwithstanding any law to the contrary, all fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, and all unobligated balances in the direct-appropriated special revenue fund on June 30, 1989, attributable to fees generated by the health-related

licensing boards, shall be credited to the health occupations licensing account within the state government special revenue fund.

Unless otherwise designated, all appropriations in this section are from the special revenue fund.

| | | |
|---|---|---|
| Subd. 2. Board of Chiropractic Examiners | 264,000 | 252,000 |
| Subd. 3. Board of Dentistry | 400,000 | 400,000 |
| Subd. 4. Board of Medical Examiners | 1,760,000 | 1,920,000 |

Of this amount, $210,000 in 1990 and $262,000 in 1991 are for the purpose of purchasing additional legal services from the office of the attorney general. This money is available only in the event that the board requires legal services above and beyond a level equivalent to that provided by the office of the attorney general during 1989. Unencumbered balances in the appropriation for purchasing additional legal services may be transferred between fiscal years of the biennium.

For the biennium ending June 30, 1991, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28, may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, clause (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

| | | |
|---|---|---|
| Subd. 5. Board of Nursing | 1,055,000 | 1,019,000 |
| Subd. 6. Board of Examiners for Nursing Home Administrators | 141,000 | 141,000 |
| Subd. 7. Board of Optometry | 57,000 | 59,000 |
| Subd. 8. Board of Pharmacy | 445,000 | 431,000 |

| | | |
|---|---|---|
| Subd. 9. Board of Podiatry | 26,000 | 26,000 |
| Subd. 10. Board of Psychology | 181,000 | 187,000 |
| Subd. 11. Social Work and Mental Health Boards Special Revenue Fund | 485,000 | 485,000 |
| General Fund | 75,000 | |

(a) Board of Marriage and Family Therapy

| | |
|---|---|
| $ 82,000 | $ 82,000 |

(b) Board of Social Work

| | |
|---|---|
| $ 87,000 | $ 87,000 |

(c) Board of Unlicensed Mental Health Service Providers

Special Revenue Fund

| | |
|---|---|
| $ 93,000 | $ 93,000 |

General Fund

| | |
|---|---|
| $ 75,000 | $ |

The fee for filing as an unlicensed mental health service provider is $50 until permanent rules establishing the amount of the fee are adopted.

(d) The Office of Social Work and Mental Health Boards

| | |
|---|---|
| $223,000 | $223,000 |

| | | |
|---|---|---|
| Subd. 12. Board of Veterinary Medicine | 96,000 | 96,000 |

Subd. 13. Revenue

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards, except that the board of unlicensed mental health service providers may spend from appropriated money in excess of fees collected. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Sec. 11. COMMISSIONER OF FINANCE

During the biennium ending June 30, 1991, the commissioner of finance shall forward to the chairs of the house health and human services appropriations committee and the senate health and human services finance committee all reports of

projected funding deficiencies in programs operated or supervised by the departments of human services, health, jobs and training, and corrections, and the offices of ombudsman for corrections and for mental health and mental retardation, the sentencing guidelines commission, the health-related boards, and the department of veterans affairs. If no deficiency funding recommendations are made by the governor, the commissioner shall notify the legislature of any projected deficiencies by February 1 of each year.

For the governor's recommended budget for fiscal year 1992 and fiscal year 1993, in those instances where the governor recommends funding for a change request but at a level different from the agency request, the commissioner of finance shall include in the governor's recommendation detail information commensurate with that provided by the agency. This includes a breakout of spending items if more than one provision is included in the request and rationale for the request. The commissioner of finance shall also adjust the long range implications expenditure projections to coincide with the revised governor's recommendation.

Sec. 12. TRANSFERS OF MONEY

Subdivision 1. Governor's Approval Required

For the biennium ending June 30, 1991, the commissioners of human services, corrections, jobs and training, and health and the veterans nursing homes board shall not transfer money to or from the object of expenditure "personal services" to or from the object of expenditure "grants and aid," as shown on the official worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance, except upon the written approval of the governor after consulting with the legislative advisory commission. Notwithstanding this limitation, money may be transferred to "grants and aid" without approval of the governor in the following programs: services for the blind, basic

client rehabilitation services, and rehabilitation services for workers' compensation recipients.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1991, the commissioners of human services, corrections, health, and jobs and training by direction of the governor after consulting with the legislative advisory commission may transfer unencumbered appropriation balances and positions among all programs.

Sec. 13. PROJECT LABOR

For human services and corrections institutions, wages for project labor may be paid if the employee is to be engaged in a construction or repair project of short-term and nonrecurring nature. Minnesota Statutes, section 43A.25, does not prevent the payment of the prevailing wage rate, as defined in Minnesota Statutes, section 177.42, subdivision 6, to a person hired to work on a project, whether or not the person is working under a contract.

Sec. 14. PROVISIONS

For the biennium ending June 30, 1991, money appropriated to the commissioner of corrections and the commissioner of human services in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1990 and fiscal year 1991 must be

based on the June 1989 and June 1990 producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 15. PUBLIC HEALTH FUND

Any balance remaining in the public health fund at the close of fiscal year 1989, regardless of any dedicated purpose, shall be transferred to the general fund.

Sec. 16. Minnesota Statutes 1988, section 144.122, is amended to read:

144.122 [LICENSE AND PERMIT FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with subdivision 1 or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

*(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.*

Sec. 17. Minnesota Statutes 1988, section 145.894, is amended to read:

145.894 [STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.]

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional

supplements to pregnant and lactating women, infants, and children;

(b) Contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites;

(d) Develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;

(e) Authorize local health agencies to issue vouchers bimonthly to some or all eligible individuals served by the agency, provided the agency demonstrates that the federal minimum requirements for providing nutrition education will continue to be met and that the quality of nutrition education and health services provided by the agency will not be adversely impacted;

(f) Investigate and implement an infant formula cost reduction system that will reduce the cost of nutritional supplements so that by October 1, 1988, additional mothers and children will be served;

(g) Develop, analyze, and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;

(h) Apply for, administer, and annually expend at least 99 percent of available federal or private funds;

(i) Aggressively market services to eligible individuals by conducting ongoing outreach activities and by coordinating with and providing marketing materials and technical assistance to local human services and community service agencies and nonprofit service providers;

(j) Determine, on July 1 of each year, the number of pregnant women participating in each special supplemental food program for women, infants, and children (W.I.C.) and, in 1986, 1987, and 1988, at the commissioner's discretion, designate a different food program deliverer if the current deliverer fails to increase the participation of pregnant women in the program by at least ten percent over the previous year's participation rate;

(k) Promulgate all rules necessary to carry out the provisions of sections 145.891 to 145.897; ~~and~~

(l) Report to the legislature by November 15 of every year on the expenditures and activities under sections 145.891 to 145.897 of the state and local health agencies for the preceding fiscal year; *and*

*(m) Ensure that any state appropriation to supplement the federal program is spent consistent with federal requirements.*

Sec. 18. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

*Subd. 6.* [ELIGIBILITY CRITERIA.] *To the extent allowed by federal regulations, the commissioner shall ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.*

Sec. 19. Minnesota Statutes 1988, section 287.12, is amended to read:

287.12 [TAXES, HOW APPORTIONED.]

All taxes paid to the county treasurer under the provisions of sections

287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month. The treasurer shall report to the county welfare agency on or before the tenth day of each month 97 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to 97 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month. *If a county's mortgage and deed tax receipts exceed the state share of AFDC grants for the county, the excess amount must be offset against state payments to the county for the state share of the income maintenance programs. Any excess remaining after offsetting all state payments for income maintenance programs must be paid to the commissioner of human services and credited to the AFDC account.*

ARTICLE 2

SOCIAL SERVICES, HEALTH, AND ADMINISTRATION

Section 1. Minnesota Statutes 1988, section 16B.06, is amended by adding a subdivision to read:

*Subd. 2a.* [EXCEPTION.] *The requirements of subdivision 2 do not apply to state contracts distributing state or federal funds pursuant to the federal economic dislocation and worker adjustment assistance act, United States Code, title 29, section 1651 et seq., or sections 268.973 and 268.974. For these contracts, the commissioner of jobs and training is authorized to directly enter into state contracts with approval of the governor's job training council, and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner shall adopt internal procedures to administer and monitor funds distributed under these contracts.*

Sec. 2. Minnesota Statutes 1988, section 43A.27, subdivision 2, is amended to read:

Subd. 2. [ELECTIVE ELIGIBILITY.] The following persons, if not otherwise covered by section 43A.24, may elect coverage for themselves or their dependents at their own expense:

(a) a state employee, including persons on layoff from a civil service position as provided in collective bargaining agreements or a plan established pursuant to section 43A.18;

(b) an employee of the board of regents of the University of Minnesota, including persons on layoff, as provided in collective bargaining agreements or by the board of regents;

(c) an officer or employee of the state agricultural society, state horticultural society, Sibley house association, Minnesota humanities commission, Minnesota international center, Minnesota academy of science, science museum of Minnesota, Minnesota safety council, state office of disabled American veterans, state office of the American Legion and its auxiliary, ~~or~~ state office of veterans of foreign wars and its auxiliary, *or state office of the Military Order of the Purple Heart*;

(d) a civilian employee of the adjutant general who is paid from federal funds and who is not eligible for benefits from any federal civilian employee

group life insurance or health benefits program; and

(e) an officer or employee of the state capitol credit union or the highway credit union.

Sec. 3. Minnesota Statutes 1988, section 62D.041, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] *(a)* For the purposes of this section, the term "uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization for which an enrollee would also be liable in the event of the organization's insolvency, and that are not guaranteed, insured, or assumed by a person other than the health maintenance organization.

*(b) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "uncovered expenditures" excludes any expenditures attributable to the supplemental benefit.*

Sec. 4. Minnesota Statutes 1988, section 62D.041, is amended by adding a subdivision to read:

*Subd. 10.* [SUPPLEMENTAL DEPOSIT.] *A health maintenance organization offering supplemental benefits as described in section 62D.05, subdivision 6, must maintain an additional deposit in the first year such benefits are offered equal to $50,000. At the end of the second year such benefits are offered, the health maintenance organization must maintain an additional deposit equal to $150,000. At the end of the third year such benefits are offered and every year thereafter, the health maintenance organization must maintain an additional deposit of $250,000.*

Sec. 5. Minnesota Statutes 1988, section 62D.042, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, "guaranteeing organization" means an organization that has agreed to make necessary contributions or advancements to the health maintenance organization to maintain the health maintenance organization's statutorily required net worth.

(b) For this section, "working capital" means current assets minus current liabilities.

*(c) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "expenses" does not include any expenses attributable to the supplemental benefit.*

Sec. 6. Minnesota Statutes 1988, section 62D.05, subdivision 6, is amended to read:

Subd. 6. [SUPPLEMENTAL BENEFITS.] *(a)* A health maintenance organization may, as a supplemental benefit, provide coverage to its enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization. *Supplemental benefits may be provided if the following conditions are met:*

*(1) a health maintenance organization desiring to offer supplemental benefits must at all times comply with the requirements of sections 62D.041*

*and 62D.042;*

*(2) a health maintenance organization offering supplemental benefits must maintain an additional surplus in the first year supplemental benefits are offered equal to the lesser of $500,000 or 33 percent of the supplemental benefit expenses. At the end of the second year supplemental benefits are offered, the health maintenance organization must maintain an additional surplus equal to the lesser of $1,000,000 or 33 percent of the supplemental benefit expenses. At the end of the third year benefits are offered and every year after that, the health maintenance organization must maintain an additional surplus equal to the greater of $1,000,000 or 33 percent of the supplemental benefit expenses. When in the judgment of the commissioner the health maintenance organization's surplus is inadequate, the commissioner may require the health maintenance organization to maintain additional surplus;*

*(3) claims relating to supplemental benefits must be processed in accordance with the requirements of section 72A.201; and*

*(4) in marketing supplemental benefits, the health maintenance organization shall fully disclose and describe to enrollees and potential enrollees the nature and extent of the supplemental coverage, and any claims filing and other administrative responsibilities in regard to supplemental benefits.*

*(b)* The commissioner may, pursuant to chapter 14, adopt, enforce, and administer rules relating to this subdivision, including: rules insuring that these benefits are supplementary and not substitutes for comprehensive health maintenance services *by addressing percentage of out-of-plan coverage*; rules relating to ~~protection against insolvency, including~~ the establishment of necessary financial reserves; ~~rules relating to appropriate standards for claims processing;~~ rules relating to marketing practices; and other rules necessary for the effective and efficient administration of this subdivision. The commissioner, in adopting rules, shall give consideration to existing laws and rules administered and enforced by the department of commerce relating to health insurance plans. ~~Except as otherwise provided by law, a health maintenance organization may not advertise, offer, or enter into contracts for the coverage described in this subdivision until 30 days after the effective date of rules adopted by the commissioner of health to implement this subdivision.~~

Sec. 7. [144.0535] [ENTRY FOR INSPECTION.]

*For the purposes of performing their official duties, all officers and employees of the state department of health shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.*

Sec. 8. Minnesota Statutes 1988, section 144.50, subdivision 6, is amended to read:

Subd. 6. [SUPERVISED LIVING FACILITY LICENSES.] *(a)* The commissioner may license as a supervised living facility a facility seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions for four or more persons as authorized under section 252.291.

*(b) Class B supervised living facilities for six or less persons seeking medical assistance certification as an intermediate care facility for persons*

*with mental retardation or related conditions shall meet Group R, Division 3, occupancy requirements of the state building code, the fire protection provisions of chapter 21 of the 1985 life safety code, NFPA 101, for facilities housing persons with impractical evacuation capabilities, and shall provide the necessary physical plant accommodations to meet the needs and functional disabilities of the residents.*

Sec. 9. Minnesota Statutes 1988, section 144.562, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR LICENSE CONDITION.] A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ *482.66*, or it has a licensed bed capacity of 50 beds or more and has swing beds that were approved for medicare reimbursement before May 1, 1985 *or it has a licensed bed capacity of less than 65 beds and, as of the effective date, the available nursing homes within 50 miles have had occupancy rates of 96 percent or higher in the past two years*; (2) it is located in a rural area as defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ *482.66*; and (3) it agrees to utilize no more than four hospital beds as swing beds at any one time, except that the commissioner may approve the utilization of up to three additional beds at the request of a hospital if no medicare certified skilled nursing facility beds are available within 25 miles of that hospital.

Sec. 10. Minnesota Statutes 1988, section 144.562, subdivision 3, is amended to read:

Subd. 3. [APPROVAL OF LICENSE CONDITION.] The commissioner of health shall approve a license condition for swing beds if the hospital meets all of the criteria of this subdivision:

(a) The hospital must meet the eligibility criteria in subdivision 2.

(b) The hospital must be in compliance with the medicare conditions of participation for swing beds under Code of Federal Regulations, title 42, section ~~405.1041~~ *482.66*.

(c) The hospital must agree, in writing, to limit the length of stay of a patient receiving services in a swing bed to not more than 40 days, or the duration of medicare eligibility, unless the commissioner of health approves a greater length of stay in an emergency situation. To determine whether an emergency situation exists, the commissioner shall require the hospital to provide documentation that continued services in the swing bed are required by the patient; that no skilled nursing facility beds are available within 25 miles from the patient's home, or in some more remote facility of the resident's choice, that can provide the appropriate level of services required by the patient; and that other alternative services are not available to meet the needs of the patient. If the commissioner approves a greater length of stay, the hospital shall develop a plan providing for the discharge of the patient upon the availability of a nursing home bed or other services that meet the needs of the patient. Permission to extend a patient's length of stay must be requested by the hospital at least ten days prior to the end of the maximum length of stay.

(d) The hospital must agree, in writing, to limit admission to a swing bed only to (1) patients who have been hospitalized and not yet discharged from the facility, or (2) patients who are transferred directly from an acute

care hospital.

(e) The hospital must agree, in writing, to report to the commissioner of health by December 1, 1985, and annually thereafter, in a manner required by the commissioner (1) the number of patients readmitted to a swing bed within 60 days of a patient's discharge from the facility, (2) the hospital's charges for care in a swing bed during the reporting period with a description of the care provided for the rate charged, and (3) the number of beds used by the hospital for transitional care and similar subacute inpatient care.

(f) The hospital must agree, in writing, to report statistical data on the utilization of the swing beds on forms supplied by the commissioner. The data must include the number of swing beds, the number of admissions to and discharges from swing beds, medicare reimbursed patient days, total patient days, and other information required by the commissioner to assess the utilization of swing beds.

Sec. 11. Minnesota Statutes 1988, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

~~(a)~~ *(1)* a balance sheet detailing the assets, liabilities, and net worth of the hospital;

~~(b)~~ *(2)* a detailed statement of income and expenses;

~~(c)~~ *(3)* a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act; ~~and~~

~~(d)~~ *(4)* a copy of all changes to articles of incorporation or bylaws;

*(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;*

*(6) information required on the revenue and expense report form set in effect on July 1, 1989; and*

*(7) other information required by the commissioner in rule.*

Sec. 12. Minnesota Statutes 1988, section 144.701, is amended to read:

144.701 [RATE DISCLOSURE.]

Subdivision 1. [CONSUMER INFORMATION.] The commissioner of health shall ensure that the total costs, total revenues, and total services of each hospital and each outpatient surgical center are reported to the public in a form understandable to consumers.

Subd. 2. [DATA FOR POLICY MAKING.] The commissioner of health shall compile relevant financial and accounting data concerning hospitals and outpatient surgical centers in order to have statistical information available for legislative policy making.

Subd. 3. [RATE SCHEDULE.] The commissioner of health shall obtain from each hospital and outpatient surgical center a current rate schedule. Any subsequent amendments or modifications of that schedule shall be

filed with the commissioner of health ~~at least 60 days in advance of~~ *on or before* their effective date.

Subd. 4. [FILING FEES.] Each report which is required to be submitted to the commissioner of health under sections 144.695 to 144.703 and which is not submitted to a voluntary, nonprofit reporting organization in accordance with section 144.702 shall be accompanied by a filing fee in an amount prescribed by rule of the commissioner of health. Fees received pursuant to this subdivision shall be deposited in the general fund of the state treasury. *Upon the withdrawal of approval of a reporting organization, or the decision of the commissioner to not renew a reporting organization, fees collected under section 144.702 shall be submitted to the commissioner and deposited in the general fund. The commissioner shall report the termination or nonrenewal of the voluntary reporting organization to the chair of the health and human services subdivision of the appropriations committee of the house of representatives, to the chair of the health and human services division of the finance committee of the senate, and the commissioner of finance.*

Sec. 13. Minnesota Statutes 1988, section 144.702, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF ORGANIZATION'S REPORTING PROCEDURES.] The commissioner of health may approve voluntary reporting procedures ~~which are substantially equivalent to reporting requirements and procedures adopted by the commissioner of health for reporting procedures under sections 144.695 to 144.703.~~ *consistent with written operating requirements for the voluntary, nonprofit reporting organization which shall be established annually by the commissioner. These written operating requirements shall specify reports, analyses, and other deliverables to be produced by the voluntary, nonprofit reporting organization, and the dates on which those deliverables must be submitted to the commissioner.* The commissioner of health shall, by rule, prescribe standards for ~~approval of voluntary reporting procedures, which~~ *submission of data by hospitals and outpatient surgical centers to the voluntary, nonprofit reporting organization or to the commissioner. These* standards shall provide for:

(a) The filing of appropriate financial information with the reporting organization;

(b) Adequate analysis and verification of that financial information; and

(c) Timely publication of the costs, revenues, and rates of individual hospitals and outpatient surgical centers prior to the effective date of any proposed rate increase. The commissioner of health shall annually review the procedures approved pursuant to this subdivision.

Sec. 14. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

*Subd. 7.* [STAFF SUPPORT.] *The commissioner may require as part of the written operating requirements for the voluntary, nonprofit reporting organization that the organization provide sufficient funds to cover the costs of one professional staff position who will directly administer the health care cost information system.*

Sec. 15. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

*Subd. 8.* [TERMINATION OR NONRENEWAL OF REPORTING

ORGANIZATION.] *The commissioner may withdraw approval of any voluntary, nonprofit reporting organization for failure on the part of the voluntary, nonprofit reporting organization to comply with the written operating requirements under subdivision 2. Upon the effective date of the withdrawal, all funds collected by the voluntary, nonprofit reporting organization under section 144.701, subdivision 4, but not expended shall be deposited in the general fund.*

*The commissioner may choose not to renew approval of a voluntary, nonprofit reporting organization if the organization has failed to perform its obligations satisfactorily under the written operating requirements under subdivision 2.*

Sec. 16. [144.851] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 144.851 to 144.862.*

*Subd. 2.* [ABATEMENT.] *"Abatement" means the use of the best available technology to remove or encapsulate deteriorating or intact lead paint or to reduce the availability of lead in soil and house dust, medicine, water, and any other sources considered a lead hazard by the commissioner.*

*Subd. 3.* [BOARD OF HEALTH.] *"Board of health" means an administrative authority established under section 145A.03 or 145A.07.*

*Subd. 4.* [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

*Subd. 5.* [ELEVATED BLOOD LEAD LEVEL.] *"Elevated blood lead level" means at least 25 micrograms per deciliter.*

*Subd. 6.* [ENCAPSULATION.] *"Encapsulation" refers to the covering or containment of a lead source in soil or paint to prevent harmful exposure to lead. Encapsulation includes, but is not limited to, covering of bare soil that contains more than acceptable levels of lead under rules adopted under section 144.862 with sod or soil that contains acceptable parts per million lead under rules adopted under section 144.862, seeding, and treatment for walkways and parking areas.*

*Subd. 7.* [LEAD ABATEMENT CONTRACTOR.] *"Lead abatement contractor" means an employer or other person or entity who, for financial gain, directly performs or causes to be performed, through subcontracting or similar delegation, work related to lead hazard abatement or immediate hazard removal.*

Sec. 17. [144.852] [PROACTIVE LEAD EDUCATION STRATEGY.]

*The commissioner shall contract with boards of health in communities at high risk for toxic lead exposure to children, lead advocacy organizations, and businesses to design and implement a uniform, proactive educational program to introduce sections 144.851 to 144.861 and promote the prevention of exposure to all sources of lead to target populations. Priority shall be given to provide ongoing education to health care and social service providers, registered lead abatement contractors, building trades professionals and nonprofessionals, property owners, and parents. Educational materials shall be multilingual and multicultural to meet the needs of diverse populations.*

Sec. 18. [144.853] [LEAD SCREENING FOR CHILDREN.]

*Within limits of available appropriations, the commissioner shall contract with the boards of health in Minneapolis, St. Paul, and Duluth to promote and subsidize a baseline blood lead test of all children at risk who live in the high risk areas served by these boards of health and who are under six years of age. The lead screening shall be advocated on a statewide basis through the proactive education efforts of boards of health. The lead screening shall be promoted to be carried out in conjunction with routine blood tests.*

*Medical laboratories performing blood lead analyses must provide copies of the laboratory report form for all blood levels of at least ten micrograms per deciliter to the commissioner and to the board of health of the city or county in which the patient resides.*

*The information obtained from the screenings shall be reported by census tract and made available for research and to the public.*

*The commissioner shall work through the statewide WIC program to ensure that erythrocyte protoporphyrin testing of children for lead toxicity is integrated as a state reimbursed screening component of WIC services. The commissioner shall also evaluate the accessibility and affordability of lead screening for children throughout the state as provided by other health care providers and report the findings to the legislature by January 1990.*

Sec. 19. [144.854] [ASSESSMENT AND ABATEMENT.]

*Subdivision 1.* [RESIDENCE ASSESSMENT.] *If a child or pregnant woman is identified as having a blood lead level that exceeds 25 micrograms per deciliter or the Center for Disease Control recommendation for elevated blood level, the board of health must do a timely assessment of the child's or pregnant woman's residence to determine the sources of lead contamination and must provide education to the residents and the owner on the best means of reducing the danger of the lead sources.*

*Subd. 2.* [ABATEMENT ORDERS.] *If the level of lead in paint, soil, or dust found during the assessment conducted under subdivision 1 exceeds the toxic level of lead standards established in rules adopted under section 144.862, the board of health must order the property owner to abate the lead sources.*

*Subd. 3.* [PROVISION OF EQUIPMENT.] *State matching funds shall be made available for a grant program to community-based organizations to purchase and provide paint removal equipment. Equipment shall include: drop cloth, secure containers, power water sprayers, scrapers, and any other equipment required by local health department or state health department rules. Equipment shall be made available to low-income households on a priority basis.*

*Subd. 4.* [PROTECTION OF RESIDENT AND YARD.] *No person shall be required to scrape loose paint or remove intact paint in response to a housing code violation order or environmental health or abatement order unless the municipality provides:*

*(1) specific information regarding personal safety precautions, and proper removal, containment, and cleanup of lead paint and debris;*

*(2) a referral to an organization with proper removal equipment; and*

*(3) a lead paint removal hot-line phone number for information and*

*technical assistance.*

*Subd. 5.* [WARNING NOTICE.] *A warning notice must be posted on all entrances to properties for which an order to abate a lead source has been issued by a board of health. This notice must remain posted until the abatement has been completed in accordance with the order, or until the board of health removes it. This warning must be at least 8-1/2 by 11 inches in size, and must include the following provisions, or provisions using substantially similar language:*

*(a) "This property contains dangerous amounts of lead to which children under age six and pregnant women should not be exposed."*

*(b) "It is unlawful to remove or deface this warning. This warning may be removed only upon the direction of the board of health."*

*Subd. 6.* [RELOCATION OF RESIDENTS.] *Relocation of residents is required from rooms or dwellings for removal of intact paint and the removal or disruption of lead painted surfaces and plaster walls during construction or remodeling projects. The commissioner shall contract with boards of health for safe housing for relocation requirements. Efforts must be made to minimize disruption and ensure that a family may return to their place of residence if they desire, after abatement is completed.*

*Subd. 7.* [RETESTING REQUIRED.] *After completion of the abatement as ordered, the board of health must retest the paint, soil, and dust previously in violation to assure the violations no longer exist.*

Sec. 20. [144.856] [REGISTRATION OF ABATEMENT CONTRACTORS.]

*After July 1, 1989, abatement contractors who contract for the removal of leaded soil, dust, or deteriorating paint must register by phone, mail, or in person with the commissioner and notify the board of health of all abatement projects undertaken in response to an abatement order. All abatement contractors shall be given instructional materials on safe abatement methods and the requirements of relocation from rooms or dwellings by residents. By July 1, 1990, the commissioner shall develop a training program for abatement contractors and adopt rules specifying the abatement methods that must be used by contractors to provide for the safe collection, handling, storage, encapsulation, removal, transportation, and disposal of lead containing material. The commissioner shall adopt emergency rules for abatement methods and standards for paint, bare soil, dust, and drinking water from public fountains for cities of the first class. By January 1, 1991, the commissioner shall report to the legislature concerning the need for licensure or certification of lead abatement contractors.*

Sec. 21. [144.860] [LEAD ABATEMENT ADVOCATE.]

*The commissioner shall create and administer a program to fund locally based advocates who, following the issuance of an abatement order, will visit the family in their residence to instruct them about safety measures, materials, and methods to be followed before, during, and after the abatement process.*

Sec. 22. [144.861] [STUDY ON ABATEMENT COSTS.]

*The commissioner of state planning shall convene a task force of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement*

*contractors, realtors, community residents including both tenants and landowners, lead advocacy organizations, and cultural groups at high risk of lead poisoning to evaluate the costs of providing assistance to property owners and local communities required to do abatement under this law and of providing subsidized programs to assist them. The task force shall also present recommendations for a statewide subsidized abatement service program. The agency shall report its findings and recommendations to the legislature by January 1990.*

Sec. 23. [144.862] [RULES.]

*By June 30, 1990, the commissioner of the pollution control agency and the commissioner of health shall jointly adopt rules to set toxic lead levels for paint, bare soil, dust, and drinking water from public fountains.*

Sec. 24. Minnesota Statutes 1988, section 144A.01, subdivision 5, is amended to read:

Subd. 5. "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in section 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential ~~facility~~ *program* licensed pursuant to sections ~~245.781 to 245.821~~ *245A.01 to 245A.16* or 252.28.

Sec. 25. Minnesota Statutes 1988, section 144A.45, subdivision 2, is amended to read:

Subd. 2. [REGULATORY FUNCTIONS.] (a) The commissioner shall:

(1) evaluate, monitor, and license home care providers in accordance with sections 144A.45 to 144A.49;

(2) inspect the office and records of a provider during regular business hours~~, provided that when conducting routine office visits or inspections, the commissioner shall provide at least 48 hours~~ *without* advance notice to the home care provider;

(3) with the consent of the consumer, visit the home where services are being provided;

(4) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8; and

(5) take other action reasonably required to accomplish the purposes of sections 144A.43 to 144A.49.

(b) In the exercise of the authority granted in sections 144A.43 to 144A.49, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act.

Sec. 26. Minnesota Statutes 1988, section 144A.46, is amended to read:

144A.46 [LICENSURE.]

Subdivision 1. [LICENSE REQUIRED.] (a) A home care provider may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The

acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

*(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122.*

Subd. 2. [EXEMPTIONS.] The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a person who provides services to a person with mental retardation under a program of semi-independent living services regulated by Minnesota Rules, parts 9525.0500 to 9525.0660; or

(6) a person who provides services to a person with mental retardation under contract with a county to provide home and community-based services that are reimbursed under the medical assistance program, chapter 256B, and regulated by Minnesota Rules, parts 9525.1800 to 9525.1930.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Subd. 3. [ENFORCEMENT.] The commissioner may refuse to grant or renew a license, or may suspend or revoke a license, for violation of statutes or rules relating to home care services or for conduct detrimental to the welfare of the consumer. Prior to any suspension, revocation, or refusal to renew a license, the home care provider shall be entitled to notice and a hearing as provided by sections 14.57 to 14.70. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 60 days if the commissioner determines that the health or safety of a consumer is in imminent danger, provided (1) advance notice is given to the provider; (2) after notice, the provider fails to correct the problem; (3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and (4) there is an opportunity for a contested case hearing within the 60 days. The

process of suspending or revoking a license must include a plan for transferring affected clients to other providers.

*Subd. 3a.* [INJUNCTIVE RELIEF] *In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a home care provider, or an employee of the home care provider from illegally engaging in activities regulated by sections 144A.43 to 144A.48. The commissioner may bring an action under this subdivision in the district court in Ramsey county or in the district in which a home care provider is providing services. The court may grant a temporary restraining order in the proceeding if continued activity by the person who is involved in the management, operation, or control of a home care provider, or by an employee of the home care provider, would create an imminent risk of harm to a recipient of home care services.*

*Subd. 3b.* [SUBPOENA.] *In matters pending before the commissioner under sections 144A.43 to 144A.48, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. If a person fails or refuses to comply with a subpoena or order of the commissioner to appear or testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, the commissioner may apply to the district court in any district, and the court shall order the person to comply with the commissioner's order or subpoena. The commissioner of health may administer oaths to witnesses, or take their affirmation. Depositions may be taken in or outside the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a named person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.*

Subd. 4. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 144A.43 to 144A.49, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 144A.44. For home care providers certified under the Medicare program, the state standards must not be inconsistent with the Medicare standards for Medicare services. To the extent possible, the commissioner shall coordinate the inspections required under sections 144A.45 to 144A.48 with the health facility licensure inspections required under sections 144.50 to 144.58 or 144A.10 when the health care facility is also licensed under the provisions of Laws 1987, chapter 378.

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] An applicant for a home care provider license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the provider. A home care provider shall require employees of the provider

and applicants for employment *in positions that involve contact with recipients of home care services* to disclose all criminal convictions. *The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the federal bureau of investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network.* No person may be employed by a home care provider ~~or~~ *in a position that involves contact with recipients of home care services nor may any person be* involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining *what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and* whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

Sec. 27. [144A.465] [LICENSURE; PENALTY.]

*A person involved in the management, operation, or control of a home care provider who violates section 144A.46, subdivision 1, paragraph (a), is guilty of a misdemeanor. This section does not apply to a person who had no legal authority to affect or change decisions related to the management, operation, or control of a home care provider.*

Sec. 28. Minnesota Statutes 1988, section 145.38, subdivision 1, is amended to read:

Subdivision 1. No person shall sell to a person under ~~19~~ *18* years of age any glue ~~or~~, cement, *or aerosol paint* containing toluene, benzene, xylene, *amyl nitrate, butyl nitrate, nitrous oxide,* or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system. This section does not apply if the glue ~~or~~, cement, *or aerosol paint* is contained in a packaged kit for the construction of a model automobile, airplane, or similar item.

Sec. 29. [145.385] [WARNING SIGNS.]

*A business establishment that offers for sale at retail any item as described in section 145.38, subdivision 1, must display a conspicuous sign that*

*contains the following, or substantially similar, language:*

*"NOTICE*

*It is unlawful for a person to sell glue, cement, or aerosol paint containing intoxicating substances to a person under 18 years of age, except as provided by law. Such an offense is a misdemeanor. It is also unlawful for a person to use or possess glue, cement, or aerosol paint with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. Such an offense is a misdemeanor. Such use can be harmful or fatal."*

Sec. 30. Minnesota Statutes 1988, section 145.39, subdivision 1, is amended to read:

Subdivision 1. No person ~~under 19 years of age~~ shall use or possess any glue, cement, *aerosol paint,* or any other substance containing toluene, benzene, xylene, *amyl nitrate, butyl nitrate, nitrous oxide,* or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system with the intent of inducing intoxication, excitement or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.

Sec. 31. [145.406] [INFORMATION ON THE SALE AND USE OF TOXIC SUBSTANCES.]

*The commissioner of health shall prepare and distribute materials designed to provide information to retail businesses on the requirements of sections 145.38 to 145.40.*

Sec. 32. [145.867] [PERSONS REQUIRING SPECIAL DIETS.]

*Subdivision 1.* [PUBLIC FACILITY.] *"Public facility" means an auditorium, concert hall, sports stadium, sports arena, or theater.*

*Subd. 2.* [IDENTIFICATION CARD FOR INDIVIDUALS NEEDING A SPECIAL DIET.] *The commissioner of health shall make special diet identification cards available to physicians and to persons with diabetes and other conditions requiring special diets. The identification card must contain spaces for: (1) the person's name, address, and signature; (2) the physician's name, phone number, and signature; (3) a description of the person's medical condition; and (4) an expiration date. The card must also contain the following provision, in identical or substantially similar language: "The owner of this card is exempted by the commissioner of health from prohibitions on bringing outside food and drink into a public facility." Persons with medical conditions requiring a special diet may ask their physician to fill out and sign the card. The physician shall fill out and sign the card if, in the physician's medical judgment, the person has a medical condition that requires a special diet. Persons with diabetes shall be automatically assumed by physicians to require special diets. Special diet identification cards shall be valid for five years. Persons with a medical condition requiring a special diet may request a new card from their physician up to six months before the expiration date.*

*Subd. 3.* [EXEMPTION FROM FOOD AND DRINK PROHIBITIONS.] *Persons with medical conditions requiring a special diet who present a valid special diet identification card to any employee of a public facility shall be allowed to bring in outside food and drink, subject to the limitations*

*in subdivision 4. To be valid, the card must be filled out according to subdivision 2 and must be current. Persons with special diet identification cards must obey all other food and drink regulations established by a public facility including prohibitions on eating or drinking in certain areas of the public facility.*

*Subd. 4.* [LIMITATION ON EXEMPTION.] *Public facilities may limit the amount of food and drink that may be brought into a public facility by a person with a special diet identification card to the amount that can reasonably be consumed by a single individual. Public facilities may also place limits on the size of any food or drink container carried in, if the container would be a safety hazard or interfere with other patrons or customers. Public facilities may also require persons displaying a special diet identification card to show some other form of identification.*

Sec. 33. Minnesota Statutes 1988, section 145.882, subdivision 1, is amended to read:

Subdivision 1. [~~CONTINUATION OF 1983 PROJECTS~~ *FUNDING LEVELS AND ADVISORY TASK FORCE REVIEW.*] ~~(a) Notwithstanding subdivisions 2 and 3, recipients of maternal and child health grants for special projects in state fiscal year 1983 shall continue to be funded at the same level as in state fiscal year 1983 until December 31, 1987. Beginning January 1, 1988, recipients of maternal and child health special project grants awarded in state fiscal year 1983 must receive:~~

~~(1) for calendar year 1988, no less than 80 percent of the amount awarded in state fiscal year 1983; and~~

~~(2) for calendar year 1989, no less than 70 percent of the amount awarded in state fiscal year 1983.~~

~~(b) The amount of grants awarded under this subdivision must be deducted from the allocation under subdivisions 3 and 4 for the community health services area within which the grantee is located. In order to receive money under this subdivision, recipients must continue to comply with sections 145.881 and 145.882 to 145.888. These recipients are also eligible to apply for grants under subdivisions 2, 3, and 4.~~ Any decrease in the amount of federal funding to the state for the maternal and child health block grant must be apportioned to reflect a proportional decrease for each recipient. Any increase in the amount of federal funding to the state must be distributed under subdivisions 2, 3, and 4.

~~(c)~~ The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects.

Sec. 34. Minnesota Statutes 1988, section 145.882, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION TO COMMUNITY HEALTH SERVICES AREAS.] *(a)* The maternal and child health block grant money remaining after distributions made under ~~subdivisions 1 and~~ *subdivision* 2 must be allocated according to the formula in subdivision 4 to community health services areas for distribution by community health boards as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area *as long as:*

*(1) the Minneapolis community health service area is allocated at least $1,626,215 per year;*

*(2) the St. Paul community health service area is allocated at least $822,931 per year; and*

*(3) all other community health service areas are allocated at least $30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.*

*(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a).*

Sec. 35. Minnesota Statutes 1988, section 145.882, subdivision 7, is amended to read:

Subd. 7. [USE OF BLOCK GRANT MONEY.] (a) Maternal and child health block grant money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth;

(2) specifically target pregnant women whose age, medical condition, or maternal history substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs; ~~or~~

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth~~.~~*; or*

*(5) specifically address the frequency and severity of childhood injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity. However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.*

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only ~~if~~ *under the following conditions:*

*(1)* the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision~~.~~*; or*

*(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.*

*(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.*

Sec. 36. [145.898] [SUDDEN INFANT DEATH.]

*The department of health shall develop uniform investigative guidelines and protocols for coroners and medical examiners conducting death investigations and autopsies of children under two years of age.*

Sec. 37. [145.9245] [GRANTS FOR CASE MANAGEMENT SERVICES FOR AIDS INFECTED PERSONS.]

*The commissioner may award special grants to community health boards as defined in section 145A.02, subdivision 5, or nonprofit corporations for the development, implementation, and evaluation of case management services for individuals infected with the human immunodeficiency virus to assist in preventing transmission of the human immunodeficiency virus to others.*

Sec. 38. Minnesota Statutes 1988, section 146.13, is amended to read:

146.13 [REGISTRATION FEES.]

Every person not hereinafter excepted from the provisions of this chapter authorized to practice healing in this state shall~~, in the month of January each year,~~ *annually* register with the director of the particular board of examiners which examined and registered or licensed the person to practice that branch or system of healing pursued; and shall, at that time, for the purpose of making such registration, sign and send to such director in writing the following: name, the name of the place, and the address, at which the practice of healing is engaged in, and pay to the director each year a fee in an amount to be fixed by rule of the respective board of examiners. Any person who shall change the address or place of practice during the year shall forthwith notify such director in writing of such change, giving such new address or place. The director of each board of examiners shall keep a proper register of all such persons and to each person so registering the proper board shall issue a certificate for the current year, signed by the president and the director and sealed with the seal of such board, setting forth name, the name of the place and the address at which the practice of healing is engaged in, and the branch or system of healing pursued. Any person not hereinafter excepted from the provisions of this chapter lawfully entitled to engage in the practice of healing in this state ~~after the month of January in any year~~, and who shall not be *currently* registered as provided in this section, shall, within 30 days after first so engaging in the practice of healing, register with the proper examining

board in the manner provided in this chapter, pay to the director of such board the fee above required, and received from such board a certificate as above prescribed for the balance of such year. Every person receiving a certificate, as herein provided, shall display the same in a conspicuous place in the office or other corresponding place where the practice of healing is pursued.

All fees received by the director of any examining board for registration required by this section shall be paid to the general fund. The expenses of keeping proper registers, furnishing the certificates herein provided for, employing inspectors for procuring evidence of any violation of the laws administered thereby and aiding in the enforcement of such laws, and for such other expenses as may be necessarily paid or incurred in the exercise of its powers or performance of its duties, shall be paid from the appropriation made to the examining board.

Sec. 39. Minnesota Statutes 1988, section 147.02, subdivision 1, is amended to read:

Subdivision 1. [UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.] The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed ~~an~~ *a comprehensive* examination *for initial licensure* prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by rule determine what constitutes a passing score in the examination.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

Sec. 40. Minnesota Statutes 1988, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION FROM EXAMINATION.] For two years from July 1, 1987, the board shall issue a license without examination to an applicant:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, *or within a longer time period as specified by the board*;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board; and, after receiving the degree, has practiced social work for at least two years in full-time employment or 4,000 hours under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline as approved by the board; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or 4,000 hours under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

Sec. 41. Minnesota Statutes 1988, section 148B.27, subdivision 2, is amended to read:

Subd. 2. [USE OF TITLES.] After the board adopts rules, no individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid license issued under sections 148B.18 to 148B.28. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.28 may use the title city agency social worker or county agency social worker or state agency social worker. *Hospital social workers who are not licensed under sections 148B.18 to 148B.28 may use the title hospital social worker while acting within the scope of their employment.*

Sec. 42. Minnesota Statutes 1988, section 148B.32, subdivision 2, is amended to read:

Subd. 2. [APPEARANCE AS LICENSEE PROHIBITED.] After adoption of rules by the board implementing sections 148B.29 to 148B.39, no individual shall be held out to be a marriage and family therapist unless that individual holds a valid license issued under sections 148B.29 to 148B.39,

*is a psychologist licensed by the board of psychology with a competency in marriage and family therapy, or is a person providing marriage and family therapy who is employed by a hospital licensed under chapter 144 and who is acting within the scope of the person's employment.*

Sec. 43. Minnesota Statutes 1988, section 148B.40, subdivision 3, is amended to read:

Subd. 3. [MENTAL HEALTH SERVICE PROVIDER.] "Mental health service provider" or "provider" means any person who provides, for a remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; or the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license. *In addition, the term does not include employees of the state of Minnesota or any of its political subdivisions while acting within the scope of their public employment; hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting as marriage and family counselors within the scope of their employment by the hospital or nursing home; persons employed by a program licensed by the commissioner of human services who are acting as mental health service providers within the scope of their employment; and persons certified as chemical dependency professionals by the Institute for Chemical Dependency Professionals of Minnesota, Inc. The Institute for Chemical Dependency Professionals shall provide the board of unlicensed mental health service providers with the name and address of any person whose certification has been discontinued, along with the reason for the discontinuance. Any chemical dependency treatment professional who does not maintain a current and valid certification with the Institute of Chemical Treatment Professionals of Minnesota, Inc., must register with the board of unlicensed mental health service providers in order to provide chemical dependency treatment services.*

Sec. 44. Minnesota Statutes 1988, section 149.02, is amended to read:

149.02 [EXAMINATION; LICENSING.]

The state commissioner of health is hereby authorized and empowered to examine, upon submission of an application therefor and fee as prescribed by the commissioner pursuant to section 144.122, all applicants for license to practice mortuary science or funeral directing and to determine whether or not the applicants possess the necessary qualifications to practice mortuary science or funeral directing. If upon examination the commissioner shall determine that an applicant is properly qualified to practice mortuary science or funeral directing, the commissioner shall grant a license to the person to practice mortuary science or funeral directing. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

On or after the thirty-first day of December, 1955, separate licenses as embalmer or funeral director shall not be issued, except that a license as funeral director shall be issued to those apprentices who have been registered under rules of the commissioner as apprentice funeral directors on the first day of July, 1955, qualify by examination for licensure under such

rules as funeral directors before the first day of August, 1957. Such applicants shall file an application for license as a funeral director in the manner as is required in section 149.03 for a license in mortuary science. It shall be accompanied by a fee in an amount prescribed by the commissioner pursuant to section 144.122. However, a single license as a funeral director shall be issued to those persons whose custom, rites, or religious beliefs forbid the practice of embalming. An applicant for a single license as a funeral director under this exception shall submit to the commissioner of health two affidavits substantiating the beliefs and convictions of the applicant and shall meet any other standards for licensure as are required by law or by rule of the commissioner. Such a funeral director shall only direct funerals for persons of the same customs, rites or religious beliefs as those of the funeral director. In the case of a funeral conducted for persons of such customs, rites or religious beliefs where embalming and funeral directing is necessary according to law, such embalming and funeral directing shall be performed only by a person licensed to do so in this state.

All licensees who on the thirty-first day of December, 1955, hold licenses as embalmers only shall be granted licenses to practice mortuary science and may renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122.

All licensees who on the thirty-first day of December, 1955, hold licenses as funeral director only may continue to renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122. If a licensee fails to renew, as in this chapter required, that person's license as a funeral director shall not thereafter be reinstated.

To assist in the holding of the examination and enforcement of the provisions of this chapter, the commissioner shall establish a mortuary sciences advisory council and shall appoint ~~four~~ *five* members to it. Two members shall be licensed in mortuary science and shall have had at least five years experience immediately preceding their appointment in the preparation and disposition of dead human bodies and in the practice of mortuary science. ~~A third member shall be a representative of the commissioner~~ *Two members must be public members as defined by section 214.02*, and the ~~fourth~~ *fifth* member shall be a full-time academic staff member of the course in mortuary science of the University of Minnesota. The terms, compensation and removal of members and expiration of the council shall be as provided in section 15.059.

Sec. 45. Minnesota Statutes 1988, section 149.06, is amended to read:

149.06 [VIOLATIONS, PENALTIES.]

Any person who shall embalm a dead human body, or who shall hold out as a mortician, embalmer, funeral director, or trainee, without being licensed or registered, shall be guilty of a misdemeanor and punished accordingly. This chapter shall not apply to or in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which the indigent dead human bodies are held subject to anatomical study, or to the custom or rites of any religious sect in the burial of their dead.

~~The name of a person registered as a trainee must not be used or caused or permitted to be used by the person, in any way, in the name, designation,~~

~~or title, or in the advertising of the funeral establishment with which the person is associated or in which the person may have acquired a proprietary or financial interest.~~

Nothing in this chapter shall in any way affect the operation of corporations or burial associations, providing all work of embalming or funeral directing is done by licensed morticians or funeral directors, as provided by this chapter. It shall be unlawful for any such corporation or burial association to:

(1) Violate any of the laws of this state relative to the burial or disposal of dead human bodies, or any of the rules of the state commissioner of health in relation to the care, custody, or disposition of dead human bodies, or the disinfecting of premises where contagion exists;

(2) Publish or disseminate misleading advertising;

(3) Directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business, other than by advertising, or for obtaining authority to dispose of any dead human bodies;

(4) Permit unlicensed persons to render or perform any of the services required to be performed by persons licensed under the provisions of this chapter.

Any corporation or burial association violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

Nothing in this chapter shall be construed as repealing any of the laws of this state in regard to the organizing or incorporating of cooperative associations.

Sec. 46. Minnesota Statutes 1988, section 153A.13, subdivision 4, is amended to read:

Subd. 4. [HEARING INSTRUMENT SELLING.] "Hearing instrument selling" means fitting and selling hearing instruments, assisting the consumer in instrument selection, selling hearing instruments at retail, ~~and~~ *or* testing human hearing in connection with these activities.

Sec. 47. Minnesota Statutes 1988, section 153A.15, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. *The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states.* Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14. *Procedures for sharing complaint information shall be consistent with the requirements for handling government data under chapter 13.*

Sec. 48. Minnesota Statutes 1988, section 153A.16, is amended to read:

153A.16 [BOND REQUIRED.]

A sole proprietor, partnership, association, or corporation engaged in hearing instrument sales shall provide a surety bond in favor of the state of Minnesota in the amount of $5,000 for every individual engaged in the practice of selling hearing instruments, up to a maximum of $25,000. The bond required by this section must be in favor of the state for the benefit of any person who suffers loss of payments for the purchase or repair of

a hearing instrument after July 1, 1988, due to insolvency or cessation of the business of the sole proprietor, partnership, association, or corporation engaged in hearing instrument sales. A copy of the bond must be filed with the ~~attorney general~~ *commissioner of health*. A person claiming against the bond may maintain an action at law against the surety and the sole proprietor, partnership, association, or corporation. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein must not exceed the amount of the bond.

Sec. 49. [157.031] [ADDITIONAL LICENSE REQUIRED FOR BOARD AND LODGING ESTABLISHMENTS; SPECIAL SERVICES.]

*Subdivision 1.* [DEFINITIONS.] *(a) "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, and dressing, grooming, or bathing. Supportive services also include providing reminders to residents to take medications that are self administered or providing storage for medications if requested.*

*(b) "Health supervision services" means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in bathing or with walking devices.*

*Subd. 2.* [REGISTRATION.] *A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the special license rules required by subdivision 5 are effective.*

*Subd. 3.* [RESTRICTION ON THE PROVISION OF SERVICES.] *Effective September 1, 1989, and until the rules required under subdivision 5 are adopted, a board and lodging establishment may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.*

*Subd. 4.* [SPECIAL LICENSE REQUIRED.] *Upon adoption of the rules required by subdivision 5, a board and lodging establishment that provides either supportive care or health supervision services must obtain a special license from the commissioner. The special license is required until rules resulting from the recommendations made in accordance with section 213 are implemented.*

*Subd. 5.* [RULES.] *By July 1, 1990, the commissioner of health shall adopt rules necessary to implement the special license provisions. The rules may address the type of services that can be provided, staffing requirements, and the training and qualifications of staff. The rules must set a fee for the issuance of the special service license. The special license*

*fee is in addition to the license fee prescribed in section 157.03. Nothing in section 157.031 and sections 213 and 214 is intended to prevent the promulgation of rules by the commissioner of human services governing the licensure or delivery of services to persons with mental illness or the requirement to comply with those rules.*

*Subd. 6.* [SERVICES THAT MAY NOT BE PROVIDED IN A BOARD AND LODGING ESTABLISHMENT.] *A board and lodging establishment may not admit or retain individuals who:*

*(1) would require assistance from facility staff because of the following needs: incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or*

*(2) require a level of care and supervision beyond supportive services or health supervision services.*

*Subd. 7.* [CERTAIN INDIVIDUALS MAY PROVIDE SERVICES.] *This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.*

*Subd. 8.* [EXEMPTION FOR ESTABLISHMENTS WITH A HUMAN SERVICES LICENSE.] *This section does not apply to a board and lodging establishment that is licensed by the commissioner of human services under chapter 245A.*

*Subd. 9.* [VIOLATIONS.] *The commissioner may revoke both the special service license, when issued, and the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.*

Sec. 50. Minnesota Statutes 1988, section 157.14, is amended to read:

157.14 [EXEMPTIONS.]

This chapter shall not be construed to apply to interstate carriers under the supervision of the United States Department of Health, Education and Welfare or to any building constructed and primarily used for religious worship, nor to any building owned, operated and used by a college or university in accordance with regulations promulgated by the college or university. Any person, firm or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05 is exempt at that premises from licensure as a place of refreshment or restaurant; provided, that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of the chapter or the rules of the state commissioner of health relating to food and beverage service establishments. This chapter does not apply to family day care homes or group family day care homes governed by sections 245.781 to 245.812 *and does not apply to nonprofit senior citizen centers for the sale of home-baked goods.*

Sec. 51. Minnesota Statutes 1988, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

The procedures established by the commissioner shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, ~~to the 75th percentile of usual and customary fees or charges~~ based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 52. Minnesota Statutes 1988, section 176.136, subdivision 5, is amended to read:

Subd. 5. [PERMANENT RULES.] Where permanent rules have been adopted to implement this section, the commissioner shall annually give notice in the State Register of the ~~75th percentile~~ *reimbursement allowance* to meet the requirements of subdivision 1. The notice shall be in lieu of the requirements of chapter 14 ~~if the 75th percentile for the service meets~~ *and shall be set at the 75th percentile of the billings for each service in the data base; provided that* the requirements of paragraphs (a) to (e) *are met.*

(a) The data base includes at least three different providers of the service.

(b) The data base contains at least 20 billings for the service.

(c) The ~~standard deviation as a percentage of the mean of billings for the service is 50 percent or less.~~ *data is taken from the data base of Blue Cross and Blue Shield of Minnesota where available; if not available from Blue Cross and Blue Shield of Minnesota, the data will be taken directly from the health care providers, professional associations, or other available sources.*

(d) The ~~means of the Blue Cross and Blue Shield data base and of the department of human services data base for the service are within 20 percent of each other.~~ *standard deviation is less than or equal to 50 percent of the mean of the billings for each service in the data base or the value of the 75th percentile is not greater than or equal to three times the value of the 25th percentile of the billings for each service in the data base.*

(e) The ~~data is taken from the data base of Blue Cross and Blue Shield or the department of human services~~ *75th percentile logically reflects the usual and customary charges for the service.*

Sec. 53. [196.27] [AGENT ORANGE SETTLEMENT PAYMENTS.]

*(a) Payments received by veterans or their dependents because of settlements between them and the manufacturers of Agent Orange or other chemical agents, as defined in section 196.21, must not be treated as income (or an available resource) of the veterans or their dependents for the purposes of any program of public assistance or benefit program administered by the department of veterans affairs, the department of human services, or other agencies of the state or political subdivisions of the state, except as provided in paragraph (b).*

*(b) The income and resource 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.*

Sec. 54. Minnesota Statutes 1988, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive secretary of each health-related and non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive secretaries and other employees of the following boards shall be hired by the board, and the executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

(1) dentistry;

(2) medical examiners;

(3) nursing;

(4) pharmacy;

(5) accountancy;

(6) architecture, engineering, land surveying and landscape architecture;

(7) barber examiners;

(8) cosmetology;

(9) electricity;

(10) teaching;

(11) peace officer standards and training;

(12) social work;

(13) marriage and family therapy;

(14) unlicensed mental health service providers; and

(15) office of social work and mental health boards.

The board of medical examiners shall set the salary of its executive director, which may not exceed 95 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. *The board of dentistry shall set the salary of its executive director, which may not exceed 80 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1.* The board shall submit a proposed salary increase to the legislative commission on employee relations and the full legislature for approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2.

The executive secretaries serving the remaining boards are hired by those

boards and are in the unclassified civil service, except for part-time executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 55. Minnesota Statutes 1988, section 245.73, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S DUTY.] The commissioner shall establish a statewide program to assist counties in ensuring provision of services to adult mentally ill persons. The commissioner shall make grants to county boards to provide community based services to mentally ill persons through ~~facilities~~ *programs* licensed under sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*.

Sec. 56. Minnesota Statutes 1988, section 245.73, subdivision 2, is amended to read:

Subd. 2. [APPLICATION; CRITERIA.] County boards may submit an application and budget for use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner for residential ~~facilities~~ *programs* for adult mentally ill persons to meet licensing requirements pursuant to sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*. Funds shall not be used to supplant or reduce local, state, or federal expenditure levels supporting existing resources unless the reduction in available moneys is the result of a state or federal decision not to refund an existing program. State funds received by a county pursuant to this section shall be used only for direct service costs. Both direct service and other costs, including but not limited to renovation, construction or rent of buildings, purchase or lease of vehicles or equipment as required for licensure as a ~~facility~~ *residential program* for adult mentally ill persons under sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*, may be paid out of the matching funds required under subdivision 3. Neither the state funds nor the matching funds shall be used for room and board costs.

Sec. 57. Minnesota Statutes 1988, section 245.91, is amended by adding a subdivision to read:

*Subd. 6.* [SERIOUS INJURY.] *"Serious injury" means:*

*(1) fractures;*

*(2) dislocations;*

*(3) evidence of internal injuries;*

*(4) head injuries with loss of consciousness;*

*(5) lacerations involving injuries to tendons or organs, and those for which complications are present;*

*(6) extensive second degree or third degree burns, and other burns for*

*which complications are present;*

*(7) extensive second degree or third degree frost bite, and others for which complications are present;*

*(8) irreversible mobility or avulsion of teeth;*

*(9) injuries to the eyeball;*

*(10) ingestion of foreign substances and objects that are harmful;*

*(11) near drowning;*

*(12) heat exhaustion or sunstroke; and*

*(13) all other injuries considered serious by a physician.*

Sec. 58. Minnesota Statutes 1988, section 245.94, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

*(f) The ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.*

~~(f)~~ *(g)* The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

~~(g)~~ *(h)* The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected client, other proceedings

affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

~~(h)~~ *(i)* The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 12 and 13, regarding services provided to clients with mental retardation or a related condition.

~~(i)~~ *(j)* To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

~~(j)~~ *(k)* Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Sec. 59. Minnesota Statutes 1988, section 245.94, is amended by adding a subdivision to read:

*Subd. 2a.* [MANDATORY REPORTING.] *Within 24 hours after a client suffers death or serious injury, the facility or program director shall notify the ombudsman of the death or serious injury.*

Sec. 60. Minnesota Statutes 1988, section 245A.02, subdivision 3, is amended to read:

Subd. 3. [APPLICANT.] "Applicant" means an individual, corporation, partnership, voluntary association, *controlling individual,* or other organization that has applied for licensure under sections 245A.01 to 245A.16 and the rules of the commissioner.

Sec. 61. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

*Subd. 5a.* [CONTROLLING INDIVIDUAL.] *"Controlling individual" means a public body, governmental agency, business entity, officer, program administrator, or director whose responsibilities include the direction of the management or policies of a program. Controlling individual also means an individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business association that is a controlling individual. Controlling individual does not include:*

*(1) a bank, savings bank, trust company, building and loan association, savings and loan association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;*

*(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer or director of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;*

*(3) an individual who owns less than five percent of the outstanding common shares of a corporation:*

*(i) whose securities are exempt under section 80A.15, subdivision 1, clause (f); or*

*(ii) whose transactions are exempt under section 80A.15, subdivision 2, clause (b); or*

*(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer or director of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation.*

Sec. 62. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

*Subd. 6a.* [DROP-IN CHILD CARE PROGRAM.] *"Drop-in child care program" means a nonresidential program of child care provided to children for a maximum per child of five hours in any one day and 40 hours in any one calendar month at a child care center that does not have a regularly scheduled, ongoing child care program with a stable enrollment, and that is licensed exclusively for that purpose.*

Sec. 63. Minnesota Statutes 1988, section 245A.02, subdivision 9, is amended to read:

Subd. 9. [LICENSE HOLDER.] "License holder" means an individual, corporation, partnership, voluntary association, or other organization that is legally responsible for the operation of the program ~~and~~, has been granted a license by the commissioner under sections 245A.01 to 245A.16 and the rules of the commissioner, *and is a controlling individual.*

Sec. 64. Minnesota Statutes 1988, section 245A.02, subdivision 10, is amended to read:

Subd. 10. [NONRESIDENTIAL PROGRAM.] "Nonresidential program" means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation *or a related condition* or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semi-independent living services for persons with mental retardation *or a related condition* that are provided in or outside of a person's own home.

Sec. 65. Minnesota Statutes 1988, section 245A.02, subdivision 14, is amended to read:

Subd. 14. [RESIDENTIAL PROGRAM.] "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more persons whose primary diagnosis is mental retardation *or a related condition* or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; *a program in an intermediate care facility for four or more persons with mental retardation or a related condition;* a nursing home or hospital that was licensed by the

commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Residential programs include home and community-based services and semi-independent living services for persons with mental retardation *or a related condition* that are provided in or outside of a person's own home.

Sec. 66. Minnesota Statutes 1988, section 245A.03, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] Unless licensed by the commissioner, an individual, corporation, partnership, voluntary association ~~or~~, other organization, *or controlling individual* must not:

(1) operate a residential or a nonresidential program;

(2) receive a child or adult for care, supervision, or placement in foster care or adoption;

(3) help plan the placement of a child or adult in foster care or adoption; or

(4) advertise *a* residential or nonresidential program.

Sec. 67. Minnesota Statutes 1988, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;

(6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered

by a county agency. This exclusion expires on July 1, ~~1989~~ *1990*;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs ~~not located in family or group family day care homes~~ whose primary purpose is to provide *social or recreational* activities ~~outside of the regular school day~~ for *adults or school-age* children ~~age five and older, until such time as appropriate rules have been adopted by the commissioner~~ *such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board*;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period; ~~or~~

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

*(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;*

*(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;*

*(19) until July 1, 1991, nonresidential programs for persons with mental illness; or*

*(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.*

Sec. 68. Minnesota Statutes 1988, section 245A.03, subdivision 3, is amended to read:

Subd. 3. [UNLICENSED PROGRAMS.] (a) It is a misdemeanor for an individual, corporation, partnership, voluntary association, ~~or~~ other organization, *or a controlling individual* to provide a residential or nonresidential program without a license and in willful disregard of sections 245A.01 to 245A.16 unless the program is excluded from licensure under subdivision 2.

(b) If, after receiving notice that a license is required, the individual, corporation, partnership, voluntary association, ~~or~~ other organization, *or controlling individual* has failed to apply for a license, the commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the

program. The county attorney and the attorney general have a duty to cooperate with the commissioner.

Sec. 69. Minnesota Statutes 1988, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION FOR LICENSURE.] *(a)* An individual, corporation, partnership, voluntary association, ~~or~~ other organization *or controlling individual that is* subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions.

*(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.*

Sec. 70. Minnesota Statutes 1988, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before ~~issuing~~ *the commissioner issues* a license, the commissioner shall conduct a study of the ~~applicant~~ *individuals specified in clauses (1) to (4) according to rules of the commissioner*. The applicant, *license holder*, the bureau of criminal apprehension, ~~county attorneys, county sheriffs,~~ *and* county agencies, ~~and local chiefs of police,~~ after *written* notice to the *individual who is the* subject of the ~~data~~ *study*, shall help with the study by giving the commissioner criminal conviction data~~, arrest information,~~ *and* reports about abuse or neglect of ~~children or~~ adults~~, and investigation results available from local, state, and national criminal record repositories, including the criminal justice data communications network, about~~ *substantiated under section 626.557 and the maltreatment of minors substantiated under section 626.556. The individuals to be studied shall include*:

(1) the applicant;

(2) persons *over the age of 13* living in the household where the licensed program will be provided;

(3) *current* employees or contractors of the applicant who will have direct contact with persons served by the program; and

(4) volunteers who have direct contact with persons served by the program *to provide program services*, if the contact is not directly supervised by the individuals listed in clause (1) or (3).

~~The commissioner and agencies required to help conduct the study may charge the applicant or the subject of the data a reasonable fee for conducting the study.~~

*For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.*

*A study of an individual in clauses (1) to (4) shall be conducted on at least an annual basis. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.*

(b) *The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.*

*(c)* A study must ~~meet the following minimum criteria:~~

~~(1) if the subject of the data has resided in the same county for at least the past five years, the study must~~ include information from ~~the county sheriff, the local chief of police, and~~ the county ~~agency~~

~~(2) if the subject of the data has resided in the state, but not in the same county, for the past five years, the study must include~~ *agency's record of substantiated abuse of adults, neglect of adults, and the maltreatment of minors, and* information from ~~the agencies listed in clause (1) and~~ the bureau of criminal apprehension~~; and~~

~~(3) if the subject of the data has not resided in the state for at least five years, the study must include information from the agencies listed in clauses (1) and (2) and the national criminal records repository and the state law enforcement agencies in the states where the subject of the data has maintained a residence during the past five years~~.

*The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to (4).*

~~(c)~~ *(d)* An applicant's *or license holder's* failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or *immediately suspend, suspend, or* revoke ~~or suspend~~ a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the

license holder's license to be immediately suspended, suspended, or revoked.

~~(d)~~ *(e)* The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

*(f) No person in paragraph (a), clause (1), (2), (3), or (4) who is disqualified as a result of this act may be retained by the agency in a position involving direct contact with persons served by the program.*

*(g) The commissioner shall not implement the procedures contained in this subdivision until appropriate rules have been adopted, except for the applicants and license holders for child foster care, adult foster care, and family day care homes.*

*(h) Termination of persons in paragraph (a), clause (1), (2), (3), or (4) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.*

*(i) The commissioner may establish records to fulfill the requirements of this section. The information contained in the records is only available to the commissioner for the purpose authorized in this section.*

Sec. 71. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

*Subd. 3a.* [NOTIFICATION TO SUBJECT OF STUDY RESULTS.] *The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program.*

*The commissioner shall notify the individual studied if the information contained in the study could cause disqualification from direct contact with persons served by the program. The commissioner shall disclose the information to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that could cause disqualification of the subject from direct contact with persons served by the program. However, the applicant or license holder shall not be told what that information is unless the data practices act provides for release of the information and the individual studied authorizes the release of the information.*

Sec. 72. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

*Subd. 3b.* [RECONSIDERATION OF DISQUALIFICATION.] *(a) Within 30 days after receiving notice of possible disqualification under subdivision 3a, the individual who is the subject of the study may request reconsideration of the notice of possible disqualification. The individual must submit the request for reconsideration to the commissioner in writing. The individual must present information to show that:*

*(1) the information the commissioner relied upon is incorrect; or*

*(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.*

*(b) The commissioner may set aside the disqualification if the commissioner finds that the information the commissioner relied upon is incorrect*

*or the individual does not pose a risk of harm to any person served by the applicant or license holder and rules adopted by the commissioner do not preclude reconsideration. The commissioner shall review the consequences of the event or events that could lead to disqualification, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event.*

*(c) The commissioner shall respond in writing to all reconsideration requests within 15 working days after receiving the request for reconsideration. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing of the decision.*

*(d) Except as provided in subdivision 3c, the commissioner's decision to grant or deny a reconsideration of disqualification under this subdivision, or to set aside or uphold the results of the study under subdivision 3, is the final administrative agency action.*

Sec. 73. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

*Subd. 3c.* [CONTESTED CASE.] *If a disqualification is not set aside, a person who, on or after the effective date of rules adopted under subdivision 3, paragraph (i), is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).*

Sec. 74. Minnesota Statutes 1988, section 245A.04, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER'S RIGHT OF ACCESS.] When the commissioner is exercising the powers conferred by sections 245A.01 to 245A.15, the commissioner must be given access to the physical plant and grounds where the program is provided, documents, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of abuse, neglect, *maltreatment,* or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 75. Minnesota Statutes 1988, section 245A.04, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER'S EVALUATION.] Before granting, suspending, revoking, or making probationary a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, consumer evaluations of the program, and information about the character and qualifications of the personnel employed by the applicant or license holder.

The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in rules adopted under this chapter. If any rule currently does not include these disqualification standards, the commissioner shall apply the standards in section 364.03, subdivision ~~2~~ *3*, until the rule is revised to include disqualification standards. The commissioner shall revise all rules authorized by this chapter to include disqualification standards. *Prior to the adoption of rules establishing disqualification standards, the commissioner shall forward the proposed rules to the commissioner of human rights for review and recommendation concerning the protection of individual rights. The recommendation of the commissioner of human rights is not binding on the commissioner of human services.* The provisions of chapter 364 do not apply to applicants or license holders governed by sections 245A.01 to 245A.16 except as provided in this subdivision.

Sec. 76. Minnesota Statutes 1988, section 245A.04, subdivision 7, is amended to read:

Subd. 7. [ISSUANCE OF A LICENSE; PROVISIONAL LICENSE.] (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

(1) the name of the license holder;

(2) the address of the program;

(3) the effective date and expiration date of the license;

(4) the type of license;

(5) the maximum number and ages of persons that may receive services from the program; and

(6) any special conditions of licensure.

(b) The commissioner may issue a provisional license for a period not to exceed one year if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

A provisional license must not be issued except at the time that a license

is first issued to an applicant.

A license shall not be transferable to another individual, corporation, partnership, voluntary association ~~or~~, other organization, *or controlling individual,* or to another location. All licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

Sec. 77. Minnesota Statutes 1988, section 245A.06, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS OF CORRECTION ORDERS.] *(a)* If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order to the applicant or license holder. The correction order must state:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated; and

(3) the time allowed to correct each violation.

*(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or fine.*

Sec. 78. Minnesota Statutes 1988, section 245A.06, subdivision 5, is amended to read:

Subd. 5. [FORFEITURE OF FINES.] The license holder shall pay the fines assessed ~~within 15 calendar days of receipt of notice of~~ *on or before the payment date specified in* the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.

Sec. 79. Minnesota Statutes 1988, section 245A.06, is amended by adding a subdivision to read:

*Subd. 5a.* [ACCRUAL OF FINES.] *A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. A fine assessed for a violation shall stop accruing when the commissioner receives the written notice. The commissioner shall reinspect the program within three working days after receiving the notice. If upon reinspection the commissioner determines that a violation has not been corrected as indicated*

*by the order to forfeit, accrual of the daily fine resumes on the date of reinspection and the amount of fines that otherwise would have accrued between the date the commissioner received the notice and date of the reinspection is added to the total assessment due from the license holder. The commissioner shall notify the license holder by certified mail that accrual of the fine has resumed. The license holder may challenge the resumption in a contested case under chapter 14 by written request within 15 days after receipt of the notice of resumption. Recovery of the resumed*

*fine must be stayed if a controlling individual or a legal representative on behalf of the license holder makes a written request for a hearing. The request for hearing, however, may not stay accrual of the daily fine for violations that have not been corrected. The cost of reinspection conducted under this subdivision for uncorrected violations must be added to the total amount of accrued fines due from the license holder.*

Sec. 80. Minnesota Statutes 1988, section 245A.07, subdivision 2, is amended to read:

Subd. 2. [IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS.] If the license holder's failure to comply with applicable law or rule has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner shall act immediately to suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under sections 245A.01 to 245A.16 while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a contested case hearing under chapter 14 must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license by notifying the commissioner in writing by certified mail within five calendar days after receiving notice that the license has been immediately suspended. A license holder *and any controlling individual* shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 81. Minnesota Statutes 1988, section 245A.08, subdivision 5, is amended to read:

Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14. The notice must also contain information about the appellant's rights under chapter 14. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder *and each controlling individual of a license holder* whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation.

Sec. 82. Minnesota Statutes 1988, section 245A.12, is amended to read:

245A.12 [VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL ~~FACILITIES~~ *PROGRAMS*.]

A majority of controlling ~~persons~~ *individuals* of a residential program may at any time ask the commissioner to assume operation of the residential program through appointment of a receiver. On receiving the request for a receiver, the commissioner may enter into an agreement with a majority of controlling ~~persons~~ *individuals* and provide for the appointment of a receiver to operate the residential program under conditions acceptable to

both the commissioner and the majority of controlling persons. The agreement must specify the terms and conditions of the receivership and preserve the rights of the persons being served by the residential program. A receivership set up under this section terminates at the time specified by the parties to the agreement or 30 days after either of the parties gives written notice to the other party of termination of the receivership agreement.

Sec. 83. Minnesota Statutes 1988, section 245A.13, is amended to read:

245A.13 [INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL ~~FACILITIES~~ *PROGRAMS.*]

Subdivision 1. [APPLICATION.] *In addition to any other remedy provided by law,* the commissioner may petition the district court in the county where the residential program is located for an order directing the controlling ~~persons~~ *individuals* of the residential program to show cause why the commissioner or the commissioner's designated representative should not be appointed receiver to operate the residential program. The petition to the district court must contain proof by affidavit: *(1)* that the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or *has* decided to deny an application for licensure of the residential program; *or (2) it appears to the commissioner that the health, safety, or rights of the residents may be in jeopardy because of the manner in which the residential program may close, the residential program's financial condition, or violations committed by the residential program of federal or state laws or rules.* If the license holder ~~or~~, applicant, *or controlling individual* operates more than one residential program, the commissioner's petition must specify and be limited to the residential program for which ~~the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or has decided to deny an application for licensure of the residential program~~ *it seeks receivership. The affidavit submitted by the commissioner must set forth alternatives to receivership that have been considered, including rate adjustments.* The order to show cause is returnable not less than five days after service is completed and must provide for personal service of a copy to the residential program administrator and to the persons designated as agents by the controlling ~~persons~~ *individuals* to accept service on their behalf.

Subd. 2. [APPOINTMENT OF RECEIVER; RENTAL.] If the court finds that involuntary receivership is necessary as a means of protecting the health, safety, or rights of persons being served by the residential program, the court shall appoint ~~the commissioner or the commissioner's designated representative as~~ a receiver to operate the residential program. *In the event that no receiver can be found who meets the conditions of this section, the commissioner or commissioner's designated representative may serve as the receiver.* The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors ~~including~~ *necessary to meet required arms-length obligations of controlling individuals such as mortgage payments, real estate taxes, special assessments, and* the conditions of the physical plant. The rental fee must be paid by the receiver to the appropriate controlling ~~persons~~ *individuals* for each month that the receivership remains in effect. No payment made to a controlling ~~person~~ *individual* by the receiver or any state agency during a period of involuntary receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

Subd. 3. [POWERS AND DUTIES OF THE RECEIVER.] Within ~~18~~ *36*

months after the receivership order, a receiver appointed to operate a residential program during a period of involuntary receivership shall provide for the orderly transfer of the persons served by the residential program to other residential programs or make other provisions to protect their health, safety, and rights. The receiver shall correct or eliminate deficiencies in the residential program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the residential program unless the correction or elimination of deficiencies involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver shall operate the residential program in a manner designed to ~~guarantee~~ *preserve* the health, safety, rights, adequate care, and supervision of the persons served by the residential program. The receiver may make contracts and incur lawful expenses. The receiver shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the receiver's functions including the receiver's fee set under subdivision 4. No security interest in any real or personal property comprising the residential program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver. The receiver shall pay all valid obligations of the residential program and may deduct these expenses, if necessary, from rental payments owed to any controlling ~~person~~ *individual* by virtue of the receivership.

Subd. 4. [RECEIVER'S FEE; LIABILITY; ASSISTANCE FROM THE COMMISSIONER.] A receiver appointed under an involuntary receivership is entitled to a reasonable receiver's fee as determined by the court. *The receiver's fee is governed by section 256B.495.* The receiver is liable only in an official capacity for injury to person and property by reason of the conditions of the residential program. The receiver is not personally liable, except for gross negligence and intentional acts.

Subd. 5. [TERMINATION.] An involuntary receivership terminates ~~12~~ *36* months after the date on which it was ordered or at any other time designated by the court or when any of the following events occurs:

(1) the commissioner determines that the residential program's license application should be granted or should not be suspended or revoked;

(2) a new license is granted to the residential program; or

(3) the commissioner determines that all persons residing in the residential program have been provided with alternative residential programs.

*Subd. 6.* [EMERGENCY PROCEDURE.] *If it appears from the petition filed under subdivision 1, from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath if the court determines it necessary, that there is probable cause to believe that an emergency exists in a residential program, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition must be served on the residential program administrator and on the persons designated as agents by the controlling individuals to accept service on their behalf. A hearing on the petition must be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.*

*Subd. 7.* [RATE RECOMMENDATION.] *The commissioner of human services may review rates of a residential program participating in the medical assistance program which is in involuntary receivership and that has needs or deficiencies documented by the department of health or the department of human services. If the commissioner of human services determines that a review of the rate established under section 256B.501 is needed, the commissioner shall:*

*(1) review the order or determination that cites the deficiencies or needs; and*

*(2) determine the need for additional staff, additional annual hours by type of employee, and additional consultants, services, supplies, equipment, repairs, or capital assets necessary to satisfy the needs or deficiencies.*

*Subd. 8.* [ADJUSTMENT TO THE RATE.] *Upon review of rates under subdivision 7, the commissioner may adjust the residential program's payment rate. The commissioner shall review the circumstances, together with the residential program cost report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating residential program staff, costs revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the residential program's actual resident days from the most recent desk-audited cost report or the estimated resident days in the projected receivership period. The payment rate adjustment must meet the conditions in Minnesota Rules, parts 9553.0010 to 9553.0080, and remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale or transfer of the residential program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.*

Sec. 84. Minnesota Statutes 1988, section 245A.14, subdivision 3, is amended to read:

Subd. 3. [CONDITIONAL LICENSE.] Until such time as the commissioner adopts appropriate rules for conditional licenses, no license holder or applicant for a family or group family day care license is required to spend more than $100 to meet fire safety rules in excess of those required to meet Group "R" occupancies under the Uniform Building Code, chapter 12, as incorporated by reference in Minnesota Rules, part 1305.0100.

When the commissioner determines that an applicant or license holder of a family or group family day care license would be required to spend over $100 for physical changes to ensure fire safety, the commissioner may issue a conditional license when all of the following conditions have been met:

(a) The commissioner shall notify the ~~provider~~ *license holder* or applicant in writing of the fire safety deficiencies.

(b) The commissioner shall notify the ~~provider~~ *license holder* or applicant

in writing of alternative compliance standards that would correct deficiencies, if available.

(c) The ~~provider~~ *license holder* or applicant agrees in writing to notify each parent, on a form prescribed by the commissioner that requires the signature of the parent, of the fire safety deficiencies, and the existence of the conditional license.

Sec. 85. Minnesota Statutes 1988, section 245A.14, is amended by adding a subdivision to read:

*Subd. 5a.* [DROP-IN CHILD CARE PROGRAMS.] *Except as expressly set forth in this subdivision, drop-in child care programs must be licensed as a drop-in program under the rules governing child care programs operated in a center. Drop-in child care programs are exempt from the requirements in Minnesota Rules, parts 9503.0040; 9503.0045, subpart 1, items F and G; 9503.0050, subpart 6, except for children less than two and one-half years old; one-half the requirements of 9503.0060, subpart 4, item A, subitems (2), (5), and (8), subpart 5, item A, subitems (2), (3), and (7), and subpart 6, item A, subitems (3) and (6); 9507.0070; and 9503.0090, subpart 2. A drop-in child care program must be operated under the supervision of a person qualified as a director and a teacher. A drop-in child care program must maintain a minimum staff ratio for children age two and one-half or greater of one staff person for each ten children, except that there must be at least two persons on staff whenever the program is operating. If the program has additional staff who are on call as a mandatory condition of their employment, the minimum ratio may be exceeded only for children age two and one-half or greater, by a maximum of four children, for no more than 20 minutes while additional staff are in transit. The minimum staff-to-child ratio for infants up to 16 months of age is one staff person for every four infants. The minimum staff-to-child ratio for children age 17 months to 30 months is one staff for every seven children. In drop-in care programs that serve both infants and older children, children up to age two and one-half may be supervised by assistant teachers, as long as other staff are present in appropriate ratios. The minimum staff distribution pattern for a drop-in child care program serving children age two and one-half or greater is: the first staff member must be a teacher; the second, third, and fourth staff members must have at least the qualifications of a child care aide; the fifth staff member must have at least the qualifications of an assistant teacher; the sixth, seventh, and eighth staff members must have at least the qualifications of a child care aide; and the ninth staff person must have at least the qualifications of an assistant teacher. A drop-in child care program serving children less than two and one-half years of age must serve these children in an area separated from older children. Children age two and one-half and older may be cared for in the same child care group.*

Sec. 86. Minnesota Statutes 1988, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] *(a)* County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, *to recommend correction orders and fines under section 245A.06,* or to recommend suspending, revoking, and making licenses probationary under

section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

*(b) By January 1, 1991, the commissioner shall study and make recommendations to the legislature regarding the licensing and provision of support services to child foster homes. In developing the recommendations, the commissioner shall consult licensed private agencies, county agencies, and licensed foster home providers.*

Sec. 87. Minnesota Statutes 1988, section 246.50, subdivision 3, is amended to read:

Subd. 3. [~~REGIONAL TREATMENT CENTER~~ *STATE FACILITY.*] "~~Regional treatment center~~ *State facility*" means a *any* state facility ~~for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established.~~ *owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner. State facility includes regional treatment centers; the state nursing homes; state-operated, community-based programs; and other facilities owned or operated by the state and under the commissioner's control.*

Sec. 88. Minnesota Statutes 1988, section 246.50, subdivision 4, is amended to read:

Subd. 4. [~~PATIENT OR RESIDENT~~ CLIENT.] "~~Patient~~ *Client*" means any person ~~with mental illness or chemical dependency.~~ *receiving services at a state facility, whether or not those services require occupancy of a bed overnight.*

Sec. 89. Minnesota Statutes 1988, section 246.50, subdivision 5, is amended to read:

Subd. 5. [COST OF CARE.] "Cost of care" means the commissioner's ~~determination of the anticipated average per capita cost of all maintenance, treatment and expense, including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements to state facilities, and indirect costs related to the operation other than that paid from the Minnesota state building fund, at all of the state facilities during the current year for which billing is being made. The commissioner shall determine the anticipated average per capita cost. The commissioner may establish one all inclusive rate or separate rates for each patient or resident disability group, and may establish separate charges for each facility. "Cost of care" for outpatient or day care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.~~

~~For purposes of this subdivision "resident patient" means a person who occupies a bed while housed in a state facility for observation, care, diagnosis, or treatment.~~

~~For purposes of this subdivision "outpatient" or "day care" patient or resident means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state facility or through state personnel but does not occupy a bed overnight.~~

~~For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the Social Security Act "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency.~~ *charge for services provided to any person admitted to a state facility.*

*For purposes of this subdivision, "charge for services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs.*

Sec. 90. Minnesota Statutes 1988, section 246.51, is amended by adding a subdivision to read:

*Subd. 3.* [APPLICABILITY.] *The commissioner may recover, under sections 246.50 to 246.55, the cost of any care provided in a state facility, including care provided prior to the effective date of this section regardless of the terminology used to designate the status or condition of the person receiving the care or the terminology used to identify the facility. For purposes of recovering the cost of care provided prior to the effective date of this section, the term "state facility" as used in sections 246.50 to 246.55 includes "state hospital," "regional treatment center," or "regional center"; and the term "client" includes, but is not limited to, persons designated as "mentally deficient," "inebriate," "chemically dependent," or "intoxicated."*

Sec. 91. Minnesota Statutes 1988, section 246.54, is amended to read:

246.54 [LIABILITY OF COUNTY; REIMBURSEMENT.]

Except for chemical dependency services provided under sections 254B.01 to 254B.09, the patient's or resident's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center to a patient or resident legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the ~~per capita rate~~ *cost of care*, as determined by the commissioner, for each day, or the portion thereof, that the patient or resident spends at a regional treatment center. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the ~~per capita rate~~ *cost of care*, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient or resident, the patient's or resident's estate, or from the patient's or resident's relatives, except as provided in section 246.53. No such payments shall be made for any patient or resident who was last committed prior to July 1, 1947.

Sec. 92. Minnesota Statutes 1988, section 252.27, subdivision 1, is amended to read:

Subdivision 1. Whenever any child who has mental retardation or a related condition, or a physical or emotional handicap is in 24 hour care outside the home including respite care, in a facility licensed by the commissioner of human services, the cost of care shall be paid by the county of financial responsibility determined pursuant to ~~section 256E.08, subdivision 7~~ *chapter 256G*. If the child's parents or guardians do not reside in this state, the cost shall be paid by ~~the county in which the child is found~~ *the responsible governmental agency in the state from which the child came, by the parents or guardians of the child if they are financially able, or, if no other payment source is available, by the commissioner of*

*human services.*

*Subd. 1a.* [DEFINITIONS.] A person has a "related condition" if that person has a severe, chronic disability that is (a) attributable to cerebral palsy, epilepsy, autism, *prader-willi syndrome,* or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (b) is likely to continue indefinitely; and (c) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living. For the purposes of this section, a child has an "emotional handicap" if the child has a psychiatric or other emotional disorder which substantially impairs the child's mental health and requires 24 hour treatment or supervision.

Sec. 93. Minnesota Statutes 1988, section 252.46, subdivision 1, is amended to read:

Subdivision 1. [RATES FOR CALENDAR YEARS ~~1988 AND~~ 1989 *AND 1990.*] Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board for calendar years ~~1988 and~~ 1989 *and 1990* are governed by subdivisions 2 to 10.

"Payment rate" as used in subdivisions 2 to 10 refers to three kinds of payment rates: a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site; a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

Sec. 94. Minnesota Statutes 1988, section 252.46, subdivision 2, is amended to read:

Subd. 2. [~~1988 AND~~ 1989 *AND 1990* MINIMUM.] Unless a variance is granted under subdivision 6, the minimum payment rates set by a county board for each vendor for calendar years ~~1988 and~~ 1989 *and 1990* must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, ~~1987~~ *1988*, and January 1, ~~1988~~ *1989*, respectively.

Sec. 95. Minnesota Statutes 1988, section 252.46, subdivision 3, is amended to read:

Subd. 3. [~~1988 AND~~ 1989 *AND 1990* MAXIMUM.] Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for calendar years ~~1988 and~~ 1989 *and 1990* must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, ~~1987~~ *1988*, and December 1, ~~1988~~ *1989*, respectively, increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year.

Sec. 96. Minnesota Statutes 1988, section 252.46, subdivision 4, is amended to read:

Subd. 4. [NEW VENDORS.] Payment rates established by a county for calendar years ~~1988 and~~ 1989 *and 1990*, for a new vendor for which there were no previous rates must not exceed 125 percent of the average payment rates in the regional development commission district under sections 462.381 to 462.396 in which the new vendor is located.

Sec. 97. Minnesota Statutes 1988, section 252.46, subdivision 6, is amended to read:

Subd. 6. [VARIANCES.] A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. *The commissioner shall develop by October 1, 1989, a uniform format for submission of documentation for the variance requests. This format shall be used by each vendor requesting a variance. The form shall be developed by the commissioner and shall be reviewed by representatives of advocacy and provider groups and counties.* A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, *capital costs required for continued licensure,* increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries *and benefits*, and transportation. The county board shall review all vendors' payment rates that are ten or more than ten percent lower than the statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates *and recommended an effective date for the change in the rate*.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards~~.~~, *or to provide community-integrated and supported employment services after a change in the vendor's existing services has been approved as provided in section 252.28*.

(4) The vendor documents that the changes cannot be achieved by reallocating current staff or by reallocating financial resources.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(7) The county board's recommended payment rates do not exceed 125 percent of the current calendar year's statewide median payment rates.

*The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.*

Sec. 98. Minnesota Statutes 1988, section 252.46, subdivision 12, is amended to read:

Subd. 12. [RATES ESTABLISHED AFTER ~~1989~~ *1990.*] Payment rates established by a county board to be paid to a vendor on or after January 1, ~~1990~~ *1991*, must be determined under permanent rules adopted by the commissioner. No county shall pay a rate that is less than the minimum rate determined by the commissioner.

In developing procedures for setting minimum payment rates and procedures for establishing payment rates, the commissioner shall consider the following factors:

(1) a vendor's payment rate and historical cost in the previous year;

(2) current economic trends and conditions;

(3) costs that a vendor must incur to operate efficiently, effectively and economically and still provide training and habilitation services that comply with quality standards required by state and federal regulations;

(4) increased liability insurance costs;

(5) costs incurred for the development and continuation of supported employment services;

(6) cost variations in providing services to people with different needs;

(7) the adequacy of reimbursement rates that are more than 15 percent below the statewide average; and

(8) other appropriate factors.

The commissioner may develop procedures to establish differing hourly rates that take into account variations in the number of clients per staff hour, to assess the need for day training and habilitation services, and to control the utilization of services.

In developing procedures for setting transportation rates, the commissioner may consider allowing the county board to set those rates or may consider developing a uniform standard.

Medical assistance rates for home and community-based services provided under section 256B.501 by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.47.

Sec. 99. Minnesota Statutes 1988, section 252.47, is amended to read:

252.47 [RULES.]

To implement sections 252.40 to 252.47, the commissioner shall adopt permanent rules under sections 14.01 to 14.38. The rules may include a plan for phasing in implementation of the procedures and rates established by the rules. The phase-in may occur prior to calendar year ~~1990~~ *1991*. The commissioner shall establish an advisory task force to advise and make recommendations to the commissioner during the rulemaking process. The

advisory task force must include legislators, vendors, residential service providers, counties, consumers, department personnel, and others as determined by the commissioner.

Sec. 100. Minnesota Statutes 1988, section 253B.03, subdivision 6a, is amended to read:

Subd. 6a. [ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.] (a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) A neuroleptic medication may be administered to a patient who is competent to consent to neuroleptic medications only if the patient has given written, informed consent to administration of the neuroleptic medication.

(c) A neuroleptic medication may be administered to a patient who is not competent to consent to neuroleptic medications only if a court approves the administration of the neuroleptic medication or:

(1) the patient does not object to or refuse the medication;

(2) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(3) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication.

(d) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

*(e) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.*

Sec. 101. Minnesota Statutes 1988, section 254A.08, subdivision 2, is amended to read:

Subd. 2. For the purpose of this section, a detoxification program means a social rehabilitation program established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. ~~Such~~ a *Evaluation of the person shall include verification by a professional, after preliminary examination, that the person is intoxicated or has symptoms of chemical dependency and appears to be in imminent danger of harming self or others. A detoxification* program shall have available the services of a licensed physician for medical emergencies and routine medical surveillance. *A detoxification program licensed by the department of human services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.*

Sec. 102. [254A.145] [INHALANT ABUSE DEMONSTRATION PROJECT.]

*Within the limits of the available appropriation and notwithstanding the*

*requirements of chapter 254B, the commissioner of human services shall create a demonstration project to provide intervention and to coordinate community services for inhalant abusers aged seven to 14. The project shall be established in a community that has been shown to be at great risk of such inhalant abuse and shall include assessment, education, and case management components. For individuals identified as inhalant abusers, case managers shall make referrals to services otherwise offered in the community. The case manager shall also monitor the progress of the individuals referred.*

*As part of this project, the commissioner of human services shall work with other agencies that provide services to youth and children, including education agencies and other drug treatment and counseling agencies, to increase public awareness concerning inhalant abuse among youth and children.*

Sec. 103. Minnesota Statutes 1988, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. [CHEMICAL DEPENDENCY TREATMENT ALLOCATION.] The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) The county non-Indian and over age 14 per capita-months of eligibility for aid to families with dependent children, general assistance, and medical assistance is divided by the total state non-Indian and over age 14 per capita-months of eligibility to determine the caseload factor for each county.

(b) The average median ~~family~~ *married couple* income for the previous three years for the state is divided by the average median ~~family~~ *married couple* income for the previous three years for each county to determine the income factor.

(c) The non-Indian and over age 14 population of the county is multiplied by the sum of the income factor and the caseload factor to determine the adjusted population.

(d) $15,000 shall be allocated to each county.

(e) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 104. Minnesota Statutes 1988, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency

shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

*(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.*

Sec. 105. Minnesota Statutes 1988, section 254B.03, subdivision 4, is amended to read:

Subd. 4. [DIVISION OF COSTS.] *Except for services provided by a county under section 254B.09, subdivision 1,* the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services. Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall pay the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, if the county financially responsible for the persons has exhausted its allocation.

Sec. 106. Minnesota Statutes 1988, section 254B.04, is amended by adding a subdivision to read:

*Subd. 2a.* [AMOUNT OF CONTRIBUTION.] *The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income is greater than the standard of assistance under sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The commissioner may adopt rules to amend existing fee scales. The commissioner may establish a separate fee scale for recipients of chemical dependency transitional and extended care rehabilitation services that provides for the collection of fees for board and lodging expenses. The fee schedule shall ensure that employed persons are allowed the income disregards and savings accounts that are allowed residents of community mental illness facilities under section 256D.06, subdivisions 1 and 1b. The*

*fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The required amount of contribution established by the fee scale in this subdivision is also the cost of care responsibility subject to collection under section 254B.06, subdivision 1.*

Sec. 107. Minnesota Statutes 1988, section 254B.06, subdivision 1, is amended to read:

Subdivision 1. [STATE COLLECTIONS.] The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under Laws 1986, chapter 394, sections 8 to 20. The commissioner *may initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid cost of care. The commissioner* may collect all third-party payments for chemical dependency services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance and federal medicaid and medicare financial participation. The commissioner shall deposit in a dedicated account a percentage of collections to pay for the cost of operating the chemical dependency consolidated treatment fund invoice processing and vendor payment system, billing, and collections. The remaining receipts must be deposited in the chemical dependency fund.

Sec. 108. Minnesota Statutes 1988, section 254B.09, subdivision 1, is amended to read:

Subdivision 1. [AMERICAN INDIAN CHEMICAL DEPENDENCY ACCOUNT.] The commissioner shall pay eligible vendors for chemical dependency services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body *or a county if the tribal governing body has not entered into an agreement under subdivision 2* on behalf of a current resident of the reservation under this section.

Sec. 109. Minnesota Statutes 1988, section 254B.09, subdivision 4, is amended to read:

Subd. 4. [TRIBAL ALLOCATION.] Forty-two and one-half percent of the American Indian chemical dependency account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: $10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs. *When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.*

Sec. 110. Minnesota Statutes 1988, section 254B.09, subdivision 5, is amended to read:

Subd. 5. [TRIBAL RESERVE ACCOUNT.] The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money

allocated under subdivision 4 according to agreements made under subdivision 2 *and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used.* An American Indian tribal governing body *or a county submitting invoices under subdivision 1* may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Sec. 111. Minnesota Statutes 1988, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require local agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of local agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require local agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform local agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to local agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to

the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) ~~The commissioner is~~ *Act as* designated ~~as~~ guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by local agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan including estimated project costs

and the proposed order establishing the waiver shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches $400,000. When the balance in the account exceeds $400,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing

shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

*(17) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.*

Sec. 112. Minnesota Statutes 1988, section 256.01, is amended by adding a subdivision to read:

*Subd. 12.* [CHILD MORTALITY REVIEW PANEL.] *(a) The commissioner shall establish a child mortality review panel for reviewing deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause. The commissioners of health, education, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to local agencies for improving the child protection system, including modifications in statute, rule, policy, and procedure.*

*(b) The commissioner may require a local agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.*

*(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.*

*(d) Notwithstanding the data's classification in the possession of any*

*other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency.*

*(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a local agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.*

Sec. 113. Minnesota Statutes 1988, section 256.018, is amended to read:

256.018 [COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.]

~~Beginning in 1990, $1,000,000 is appropriated from the general fund to the department in each fiscal year for~~ *The commissioner shall grant incentive* awards *of money specifically appropriated for this purpose* to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agencies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

Sec. 114. Minnesota Statutes 1988, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. [CONTINUING SUPPORT CONTRIBUTIONS.] In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency.

~~Except as provided in subdivision 4,~~ The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and for five months thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 115. Minnesota Statutes 1988, section 256.974, is amended to read:

256.974 [OFFICE OF OMBUDSMAN FOR OLDER MINNESOTANS; LOCAL PROGRAMS.]

The ombudsman for older Minnesotans serves in the classified service under section 256.01, subdivision 7, in an office within the Minnesota board on aging that incorporates the long-term care ombudsman program required by the Older Americans Act, Public Law Number ~~98-456~~ *100-75*, United States Code, title 42, section 3027(a)(12), and established within the Minnesota board on aging. The Minnesota board on aging may make grants to *and designate* local programs ~~or area agencies on aging~~ for the provision of ombudsman services to clients in county or multicounty areas. ~~Individuals providing local ombudsman services must be qualified to perform the duties required by section 256.9742.~~ *The local program may not be an agency engaged in the provision of nursing home care, hospital care, or home care services either directly or by contract, or have the responsibility for planning, coordinating, funding, or administering nursing home care, hospital care, or home care services.*

Sec. 116. Minnesota Statutes 1988, section 256.9741, subdivision 3, is amended to read:

Subd. 3. "Client" means an individual who requests, or on whose behalf a request is made for, ombudsman services and is (a) a resident of a long-term care facility or (b) a ~~patient in an acute care facility who is eligible for~~ Medicare ~~and~~ *beneficiary who* requests assistance relating to ~~admission or discharge from an acute care facility~~ *access, discharge, or denial of inpatient or outpatient services, or (c) an individual reserving or requesting a home care service.*

Sec. 117. Minnesota Statutes 1988, section 256.9741, subdivision 5, is amended to read:

Subd. 5. "Office" means the office of ombudsman established within the Minnesota board on aging or local ombudsman programs *that the board on aging designates.*

Sec. 118. Minnesota Statutes 1988, section 256.9741, is amended by adding a subdivision to read:

*Subd. 6. "Home care service" means health, social, or supportive services provided to an individual for a fee in the individual's residence and in the community to promote, maintain, or restore health, or maximize the individual's level of independence, while minimizing the effects of disability and illness.*

Sec. 119. Minnesota Statutes 1988, section 256.9742, is amended to read:

256.9742 [DUTIES AND POWERS OF THE OFFICE.]

Subdivision 1. [DUTIES.] The ombudsman shall:

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, *home care service provider,* or government agency that may adversely affect the health, safety, welfare, or rights of any client;

(2) mediate or advocate on behalf of clients;

(3) monitor the development and implementation of federal, state, or local laws, *rules,* regulations, and policies affecting the rights and benefits of clients;

(4) comment on and recommend to the legislature and public and private agencies regarding laws, *rules,* regulations, and policies affecting clients;

(5) inform public agencies about the problems of clients;

(6) provide for training of volunteers and promote the development of citizen participation in the work of the office;

(7) conduct public forums to obtain information about and publicize issues affecting clients;

(8) provide public education regarding the health, safety, welfare, and rights of clients; and

(9) collect and analyze data relating to complaints ~~and~~, conditions ~~in long-term care facilities~~, *and services.*

*Subd. 1a.* [DESIGNATION; LOCAL OMBUDSMAN REPRESENTATIVES.] *(a) In designating an individual to perform duties under this section, the ombudsman must determine that the individual is qualified to perform the duties required by this section.*

*(b) An individual designated under this section must successfully complete an orientation training conducted under the direction of the ombudsman or approved by the ombudsman. Orientation training shall be at least 20 hours and will consist of training in: investigation, dispute resolution, health care regulation, confidentiality, resident and patients' rights, and health care reimbursement.*

*(c) The ombudsman shall develop and implement a continuing education program for individuals designated under this section. The continuing education program shall be at least 60 hours annually.*

*(d) The ombudsman may withdraw an individual's designation if the individual fails to perform duties of this section or meet continuing education requirements. The individual may request a reconsideration of such action by the board on aging whose decision shall be final.*

Subd. 2. [IMMUNITY FROM LIABILITY.] ~~A person designated as an~~ *The* ombudsman *or designee* under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman, and do not constitute willful or reckless misconduct.

Subd. 3. [POSTING.] Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. *A home care service provider shall provide all recipients with the*

*address and telephone number of the office.* The posting *or notice* is subject to approval by the ombudsman.

Subd. 4. [ACCESS TO LONG-TERM CARE AND ACUTE CARE FACILITIES AND CLIENTS.] The ombudsman *or designee* may:

(1) enter any long-term care facility without notice at any time;

(2) enter any acute care facility without notice during normal business hours;

(3) *enter any acute care facility without notice at any time to interview a patient or observe services being provided to the patient as part of an investigation of a matter that is within the scope of the ombudsman's authority, but only if the ombudsman's or designee's presence does not intrude upon the privacy of another patient or interfere with routine hospital services provided to any patient in the facility;*

*(4)* communicate privately and without restriction with any client in accordance with section 144.651; ~~and~~

~~(4)~~ *(5)* inspect records of a long-term care facility, *home care service provider,* or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651~~.~~*; and*

*(6) with the consent of a client or client's legal guardian, have access to review records pertaining to the care of the client according to sections 144.335 and 144.651. If a client cannot consent and has no legal guardian, access to the records is authorized by this section.*

*A person who denies access to the ombudsman or designee in violation of this subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.*

Subd. 5. [ACCESS TO STATE RECORDS.] The ombudsman *or designee* has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman *or designee* shall first obtain the individual's consent. *If the individual cannot consent and has no legal guardian, then access to the data is authorized by this section.*

Each state agency responsible for licensing, regulating, and enforcing state and federal laws and regulations concerning long-term care, *home care service providers,* and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities ~~and~~, acute care facilities, *and home care service providers.*

*Subd. 6.* [PROHIBITION AGAINST DISCRIMINATION OR RETALIATION.] *(a) No entity shall take discriminatory, disciplinary, or retaliatory action against an employee or volunteer, or a patient, resident, or guardian or family member of a patient, resident, or guardian for filing in good faith a complaint with or providing information to the ombudsman or designee. A person who violates this subdivision or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.*

*(b) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of report, is discriminatory, disciplinary, or retaliatory. For the purpose of this clause, the term "adverse action" refers*

*to action taken by the entity involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:*

*(1) discharge or transfer from a facility;*

*(2) termination of service;*

*(3) restriction or prohibition of access to the facility or its residents;*

*(4) discharge from or termination of employment;*

*(5) demotion or reduction in remuneration for services; and*

*(6) any restriction of rights set forth in section 144.651 or 144A.44.*

Sec. 120. Minnesota Statutes 1988, section 256.9744, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATION.] Except as provided in this section, data maintained by the office under sections 256.974 to 256.9744 are private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained in accordance with the requirements of Public Law Number ~~98-459~~ *100-75*, United States Code, title 42, section 3027(a)(12)(D).

Sec. 121. Minnesota Statutes 1988, section 256.975, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The board shall carry out the following duties:

(a) to advise the governor and heads of state departments and agencies regarding policy, programs, and services affecting the aging;

(b) to provide a mechanism for coordinating plans and activities of state departments and citizens' groups as they pertain to aging;

(c) to create public awareness of the special needs and potentialities of older persons;

(d) to gather and disseminate information about research and action programs, and to encourage state departments and other agencies to conduct needed research in the field of aging;

(e) to stimulate, guide, and provide technical assistance in the organization of local councils on aging;

(f) to provide continuous review of ongoing services, programs and proposed legislation affecting the elderly in Minnesota; ~~and~~

(g) to administer and to make policy relating to all aspects of the older americans act of 1965, as amended, including implementation thereof~~.~~*; and*

*(h) to award grants, enter into contracts, and adopt rules the Minnesota board on aging deems necessary to carry out the purposes of this section.*

Sec. 122. Minnesota Statutes 1988, section 256C.28, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The council shall:

(1) *advise the commissioner, the governor, and the legislature on the nature of the issues and disabilities confronting hearing impaired persons in Minnesota;*

*(2)* advise the commissioner ~~and~~, *the* governor, *and the legislature* on the development of policies, programs, and services affecting ~~the~~ hearing impaired *persons*, and on the use of appropriate federal and state money;

~~(2)~~ *(3)* create a public awareness of the special needs and potential of hearing impaired persons; ~~and~~

~~(3)~~ *(4)* provide the commissioner ~~and~~, *the* governor, *and the legislature* with a review of ongoing services, programs, and proposed legislation affecting ~~the~~ hearing impaired~~.~~ *persons;*

*(5) advise the commissioner, the governor, and the legislature on statutes or rules necessary to ensure that hearing impaired persons have access to benefits and services provided to individuals in Minnesota;*

*(6) recommend to the commissioner, the governor, and the legislature legislation designed to improve the economic and social conditions of hearing impaired persons in Minnesota;*

*(7) propose solutions to problems of hearing impaired persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;*

*(8) recommend to the governor and the legislature any needed revisions in the state's affirmative action program and any other steps necessary to eliminate the underemployment or unemployment of hearing impaired persons in the state's work force;*

*(9) work with other state and federal agencies and organizations to promote economic development for hearing impaired Minnesotans; and*

*(10) coordinate its efforts with other state and local agencies serving hearing impaired persons.*

Sec. 123. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

*Subd. 4.* [STAFF.] *The council may appoint, subject to the approval of the governor, an executive director who must be experienced in administrative activities and familiar with the problems and needs of hearing impaired persons. The council may delegate to the executive director any powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by a majority vote of the council. The executive director shall coordinate the provision of necessary support services to the council with the state department of human services.*

Sec. 124. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

*Subd. 5.* [POWERS.] *The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.*

Sec. 125. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

*Subd. 6.* [REPORT.] *The council shall prepare and distribute a report to the commissioner, the governor, and the legislature by December 31 of each even-numbered year. The report must summarize the activities of the*

council since its prior report, list receipts and expenditures, identify the major problems and issues confronting hearing impaired persons, make recommendations regarding needed policy and program development on behalf of hearing impaired individuals in Minnesota, and list the specific objectives the council seeks to attain during the next biennium.

Sec. 126. Minnesota Statutes 1988, section 256E.03, subdivision 2, is amended to read:

Subd. 2. *(a)* "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1 to the following groups of persons:

~~(a)~~ *(1)* families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

~~(b)~~ *(2)* persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

~~(c)~~ *(3)* adults who are in need of protection and vulnerable as defined in section 626.557;

~~(d)~~ *(4)* persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

~~(e)~~ *(5)* emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

~~(f)~~ *(6)* persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1, who are unable to provide for their own needs or to independently engage in ordinary community activities;

~~(g)~~ *(7)* drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

~~(h)~~ *(8)* parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

~~(i)~~ *(9)* other groups of persons who, in the judgment of the county board, are in need of social services.

*(b) Except as provided in section 256E.08, subdivision 5,* community social services do not include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 127. Minnesota Statutes 1988, section 256E.05, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DUTIES.] The commissioner shall also:

(a) Provide necessary forms and instructions to the counties for plan format and information;

(b) ~~Identify and then amend or repeal the portions of all applicable department rules which mandate counties to provide specific community~~

~~social services or programs, unless state or federal law requires the commissioner to mandate a service or program. The commissioner shall be exempt from the rulemaking provisions of chapter 14 in amending or repealing rules pursuant to this clause. However, when the commissioner proposes to amend or repeal any rule under the authority granted by this clause, notice shall be provided by publication in the State Register. When the commissioner proposes to amend a rule, the notice shall include that portion of the existing rule necessary to provide adequate notice of the nature of the proposed change. On proposing to repeal an entire rule, the commissioner need only publish that fact, giving the exact citation to the rule to be repealed. In all cases, the notice shall contain a statement indicating that interested persons may submit comment on the proposed repeal or amendment for a period of 30 days after publication of the notice. The commissioner shall take no final action until after the close of the comment period. The commissioner's actions shall not be effective until five days after the commissioner publishes notice of adoption in the State Register. If the final action is the same as the action originally proposed, publication may be made by notice in the State Register that the amendment and repeals have been adopted as proposed, and by citing the prior publication. If the final action differs from the action as previously proposed in the State Register, the text which differs from the original proposal shall be included in the notice of adoption together with a citation to the prior State Register publication. The commissioner shall provide to all county boards separate notice of all final actions which become effective under this clause, advising the boards with respect to services or programs which have now become optional, to be provided at county discretion;~~ *To the extent possible, coordinate other categorical social service grant applications and plans required of counties so that the applications and plans are included in and are consistent with the timetable and other requirements for the community social services plan in subdivision 2 and section 256E.09;*

(c) Provide to the chair of each county board, in addition to notice required pursuant to sections 14.05 to 14.36, timely advance notice and a written summary of the fiscal impact of any proposed new rule or changes in existing rule which will have the effect of increasing county costs for community social services;

(d) Provide training, technical assistance, and other support services to county boards to assist in needs assessment, planning, implementing, and monitoring social services programs in the counties;

(e) Design and implement a method of monitoring and evaluating social services, including site visits that utilize quality control audits to assure county compliance with applicable standards, guidelines, and the county and state social services plans; *and*

(f) ~~Annually publish a report on community social services which shall reflect the contents of the individual county reports. The report shall be submitted to the governor and the legislature with an evaluation of community social services and recommendations for changes needed to fully implement state social service policies; and~~

~~(g)~~ Request waivers from federal programs as necessary to implement sections 256E.01 to 256E.12.

Sec. 128. Minnesota Statutes 1988, section 256E.08, subdivision 5, is amended to read:

Subd. 5. [COMMUNITY SOCIAL SERVICES FUND.] In the accounts and records of each county there shall be created a community social services fund. All moneys provided for community social services programs under sections 256E.06 and 256E.07 and all other revenues~~,~~; fees~~,~~; grants-in-aid, *including those from public assistance programs identified in section 256E.03, subdivision 2, paragraph (b), that pay for services such as child care, waivered services under the medical assistance programs, alternative care grants, and other services funded by these programs through federal or state waivers;* gifts~~,~~; or bequests designated for community social services purposes shall be identified in the record of the fund and in the report required in subdivision 8. This fund shall be used exclusively for planning and delivery of community social services as defined in section 256E.03, subdivision 2. If county boards have joined for purposes of administering community social services, the county boards may create a joint community social services fund. If a human service board has been established, the human service board shall account for community social services money as required in chapter 402.

Sec. 129. Minnesota Statutes 1988, section 256E.09, subdivision 1, is amended to read:

Subdivision 1. [PLAN PROPOSAL.] ~~In 1988, the county board shall publish a one-year update to its 1987-1988 biennial plan for calendar year 1989, and make it available upon request to all residents of the county.~~ Beginning in 1989, and every two years after that, the county board shall publish and make available upon request to all county residents a proposed biennial community social services plan for the next two calendar years.

Sec. 130. Minnesota Statutes 1988, section 256E.09, subdivision 3, is amended to read:

Subd. 3. [PLAN CONTENT.] The biennial community social services plan published by the county shall include:

(a) A statement of the goals of community social service programs in the county;

(b) Methods used pursuant to subdivision 2 to encourage participation of citizens and providers in the development of the plan and the allocation of money;

(c) Methods used to identify persons in need of service and the social problems to be addressed by the community social service programs, including efforts the county proposes to make in providing for early intervention, prevention and education aimed at minimizing or eliminating the need for services for groups of persons identified in section 256E.03, subdivision 2;

(d) A statement describing how the county will fulfill its responsibilities identified in section 256E.08, subdivision 1, to the groups of persons described in section 256E.03, subdivision 2, and a description of each community social service proposed and identification of the agency or person proposed to provide the service;

(e) A statement describing how the county proposes to make the following services available for persons identified by the county as in need of services: daytime developmental achievement services for children~~,~~; day training and habilitation services for adults~~,~~; extended employment program services for persons with disabilities~~,~~; *supported employment services as*

*defined in section 252.41, subdivision 8; community-based employment programs as defined in section 129A.01, subdivision 12;* subacute detoxification services~~,~~*; and* residential services and nonresidential social support services as appropriate for the groups identified in section 256E.03, subdivision 2;

(f) *A statement specifying how the county will collaboratively plan the development of supported employment services and community-based employment services with local representatives of public rehabilitation agencies and local education agencies, including, if necessary, how existing day or employment services could be modified to provide supported employment services and community-based employment services;*

*(g)* A statement describing how the county is fulfilling its responsibility to establish a comprehensive and coordinated system of early intervention services as required under section 120.17, subdivisions 11a, 12, and 14;

~~(g)~~ *(h)* The amount of money proposed to be allocated to each service;

~~(h)~~ *(i)* An inventory of public and private resources including associations of volunteers which are available to the county for social services;

~~(i)~~ *(j)* Evidence that serious consideration was given to the purchase of services from private and public agencies; and

~~(j)~~ *(k)* Methods whereby community social service programs will be monitored and evaluated by the county.

Sec. 131. [256E.115] [SAFE HOUSES.]

*The commissioner shall have authority to make grants for pilot programs when the legislature authorizes money to encourage innovation in the development of safe house programs to respond to the needs of homeless youth.*

Sec. 132. Minnesota Statutes 1988, section 256F.05, subdivision 2, is amended to read:

Subd. 2. [~~ADDITIONAL~~ MONEY *AVAILABLE.*] ~~Additional~~ Money appropriated for ~~family-based services~~ *permanency planning grants to counties*, together with an amount as determined by the commissioner of title IV-B funds distributed to Minnesota according to the Social Security Act, United States Code, title 42, section 621, must be distributed to counties according to the formula in subdivision 3.

Sec. 133. Minnesota Statutes 1988, section 256F.05, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS.] The commissioner shall make grant payments to each county whose biennial community social services plan includes a permanency plan under section 256F.04, subdivision 2. The payment must be made in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments must be made on April ~~1~~ *30*, July ~~1~~ *30*, and October ~~1~~ *30*, of each calendar year. *When an amount of title IV-B funds as determined by the commissioner is made available, it shall be reimbursed to counties on October 30.*

Sec. 134. [256F.08] [GRANTS FOR PLACEMENT PREVENTION AND FAMILY REUNIFICATION; AMERICAN INDIAN AND MINORITY CHILDREN.]

*Subdivision 1.* [GRANT PROGRAM.] *Within the limits of funds appropriated for this purpose, the commissioner shall establish a specialized grants program for placement prevention and family reunification for American Indian and minority children.*

*Subd. 2.* [REQUEST FOR PROPOSALS.] *The commissioner shall request proposals for the development and provision of services listed in 256E.07, subdivisions 3 and 3a.*

*Subd. 3.* [GRANT APPLICATIONS.] *Local social services agencies may apply for American Indian and minority children placement prevention and family reunification grants. Application may be made alone or in combination with neighboring local social services agencies.*

*Subd. 4.* [FORMS AND INSTRUCTIONS.] *The commissioner shall provide necessary forms and instructions to the counties to apply for an American Indian and minority child placement prevention and family reunification grant.*

*Subd. 5.* [MONITORING.] *The commissioner shall design and implement methods for monitoring, delivering, and evaluating the effectiveness of placement prevention and family reunification services for American Indian and minority children.*

Sec. 135. Minnesota Statutes 1988, section 256H.01, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of sections 256H.01 to ~~265H.19~~ *256H.19*, the following terms have the meanings given.

Sec. 136. Minnesota Statutes 1988, section 256H.01, subdivision 2, is amended to read:

Subd. 2. [CHILD CARE SERVICES.] "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, ~~play groups,~~ head start, ~~and parent cooperatives,~~ *and extended day school age child care programs* ~~or~~ in *or out of* the child's home.

Sec. 137. Minnesota Statutes 1988, section 256H.01, subdivision 7, is amended to read:

Subd. 7. [EDUCATION PROGRAM.] "Education program" means remedial or basic education or English as a second language instruction, ~~high school education,~~ a program leading to a general equivalency *or high school* diploma, ~~and post-secondary education excluding post-baccalaureate programs~~ *and other education and training needs as documented in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services. The employability plan must outline education and training needs of a recipient, meet state requirements for employability plans, and meet the requirements of other programs that provide federal reimbursement for child care services. The county must incorporate into a recipient's employability plan an educational plan developed by a post-secondary institution for a nonpriority AFDC recipient who is enrolled or planning to enroll at that institution.*

Sec. 138. Minnesota Statutes 1988, section 256H.01, subdivision 8, is amended to read:

Subd. 8. [EMPLOYMENT PROGRAM.] "Employment program" means employment of recipients financially eligible for ~~the~~ child care ~~sliding fee program, vocational assessment, and job readiness and job search activities.~~ *assistance, preemployment activities, or other activities approved in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services. The plans must meet the requirements of other programs that provide federal reimbursement for child care services.*

Sec. 139. Minnesota Statutes 1988, section 256H.01, subdivision 11, is amended to read:

Subd. 11. [INCOME.] "Income" means earned or unearned income received by all family members 16 years or older, including public assistance benefits, unless specifically excluded. The following are excluded from income: scholarships, *work study income,* and grants that cover costs for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; *earned income tax credits;* in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies; income from summer or part-time employment of 16-, 17-, and 18-year-old full-time secondary school students; grant awards under the family subsidy program; and nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid.

Sec. 140. Minnesota Statutes 1988, section 256H.01, subdivision 12, is amended to read:

Subd. 12. [PROVIDER.] "Provider" means ~~the~~ *a* child care license holder ~~or the legal nonlicensed caregiver~~ who operates a family day care home, a group family day care home, a day care center, a nursery school, ~~or~~ a day nursery, *an extended day school age child care program; a person exempt from licensure who meets child care standards established by the state board of education;* or ~~who functions in the child's home~~ *a legal nonlicensed caregiver who is at least 18 years of age.*

Sec. 141. Minnesota Statutes 1988, section 256H.02, is amended to read:

256H.02 [DUTIES OF COMMISSIONER.]

The commissioner shall develop standards for county and human services boards~~, and post-secondary educational systems~~ , to provide child care services to enable eligible families to participate in employment, training, or education programs. *Within the limits of available appropriations,* the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The commissioner shall maximize the use of federal money under the AFDC employment special needs program in section 256.736, subdivision 8, *and other programs that provide federal reimbursement for child care services* for recipients of aid to families with dependent children who are in education, training, job search, or other activities allowed under ~~that program~~ *those programs*. Money appropriated under this section must be coordinated with the AFDC employment special needs program *and other programs that provide federal reimbursement for child care services* to accomplish

this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under the AFDC employment special needs program *or other programs that provide federal reimbursement for child care services*. The counties shall use the federal money to expand services to AFDC recipients ~~under this section~~.

Sec. 142. Minnesota Statutes 1988, section 256H.03, is amended to read:

256H.03 [~~ALLOCATION OF FUNDS~~ *BASIC SLIDING FEE PROGRAM.*]

Subdivision 1. [COUNTIES; NOTICE OF ALLOCATION; ~~REPORT~~.] ~~By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and post-secondary educational systems of their allocation. If the appropriation is insufficient to meet the needs in all counties, the amount must be prorated among the counties.~~ *When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their biennial community social services plans required under section 256E.08, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By June 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.*

*Subd. 1a.* [WAITING LIST.] Each county that receives funds under this section *and section 256H.05* must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy *or have requested child care assistance*. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. *The waiting list must identify students in need of child care. When money is available counties shall expedite the processing of student applications during key enrollment periods.*

Subd. 2. [ALLOCATION; LIMITATIONS.] ~~Except for set-aside money allocated under sections 256H.04, 256H.05, 256H.06, and 256H.07, the commissioner shall allocate money appropriated~~ *The commissioner shall allocate 66 percent of the money appropriated under the child care fund for the basic sliding fee program and shall allocate those funds* between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area ~~so that no more than 55 percent of the total appropriation goes to either area after excluding allocations for statewide administrative costs. The commissioner shall allocate 50 percent of the money among counties on the basis of the number of families below the poverty level, as determined from the most recent special census, and 50 percent on the basis of caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner of human services.~~ *as follows:*

*(1) 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent census or special census; and*

*(2) 50 percent of the money shall be allocated among the counties on the basis of the counties' portion of the AFDC caseload for the preceding*

*state fiscal year .*

*If under the preceding formula, either the seven-county metropolitan area consisting of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties or the area consisting of counties outside the seven-county metropolitan area is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.*

*Subd. 2a.* [ELIGIBLE RECIPIENTS.] *Families that meet the eligibility requirements under sections 256H.10 and 256H.11 are eligible for child care assistance under the basic sliding fee program. Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.*

*Subd. 2b.* [FUNDING PRIORITY.] *(a) First priority for child care assistance under the basic sliding fee program must be given to eligible recipients who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment. Priority for child care assistance under the basic sliding fee program must be given to non-AFDC families for this first priority unless a county can demonstrate that funds available in the AFDC child care program allocation are inadequate to serve all AFDC families needing child care services. Within this priority, the following subpriorities must be used:*

*(1) child care needs of minor parents;*

*(2) child care needs of parents under 21 years of age; and*

*(3) child care needs of other parents within the priority group described in this paragraph.*

*(b) Second priority must be given to all other parents who are eligible for the basic sliding fee program.*

Subd. 3. [REVIEW OF USE OF FUNDS; REALLOCATION.] ~~Once~~ *After* each quarter, the commissioner shall review the use of ~~child care fund~~ *basic sliding fee program and AFDC child care program* allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full ~~portion~~ *allocation*. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 143. Minnesota Statutes 1988, section 256H.05, is amended to read:

256H.05 [~~SET ASIDE MONEY FOR AFDC PRIORITY GROUPS~~ *AFDC CHILD CARE PROGRAM*.]

Subdivision 1. [~~ALLOCATIONS; USE~~ *NOTICE OF ALLOCATION*.] ~~Set-aside money for AFDC priority groups must be allocated among the counties based on the average monthly number of caretakers receiving AFDC under the age of 21 and the average monthly number of AFDC cases open 24 or more consecutive months.~~ *By June 1 of each year, the commissioner shall notify all county and human services boards of their allocation under the AFDC child care fund program.*

*Subd. 1a.* [COUNTY ALLOCATION; LIMITATIONS.] *The commissioner shall allocate 34 percent of the money appropriated under the child care fund for the AFDC child care program and shall allocate those funds among the counties as follows:*

*(1) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC caretakers less than 21 years of age and the average number of AFDC cases which were open 24 or more consecutive months during the preceding fiscal year; and*

*(2) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC recipients for the preceding state fiscal year.* For each fiscal year the ~~average monthly caseload~~ *AFDC caseloads* shall be based on *counts taken at three-month intervals during* the 12-month period ending ~~March 31~~ *December 31* of the previous *state* fiscal year. ~~The commissioner may reallocate quarterly unexpended or unencumbered set-aside money to counties that expend their full allocation. The county shall use the set-aside money for AFDC priority groups and for former AFDC recipients who (1) have had their child care subsidized under the set-aside for AFDC priority groups; (2) continue to require a child care subsidy in order to remain employed; and (3) are on a waiting list for the basic sliding fee program.~~

*Subd. 1b.* [ELIGIBLE RECIPIENTS.] *Families eligible for child care assistance under the AFDC child care program are families receiving AFDC and former AFDC recipients who, during their first year of employment, continue to require a child care subsidy in order to retain employment. The commissioner shall designate between 20 to 60 percent of the AFDC child care program as the minimum to be reserved for AFDC recipients in an educational program. If a family meets the eligibility requirements of the AFDC child care program and the caregiver has an approved employability plan that meets the requirements of appropriate federal reimbursement programs, that family is eligible for child care assistance.*

*Subd. 1c.* [FUNDING PRIORITY.] *Priority for child care assistance under the AFDC child care program shall be given to AFDC priority groups who are engaged in an employment or education program consistent with their employability plan. If the AFDC recipient is employed, the AFDC child care disregard shall be applied before the remaining child care costs are subsidized by the AFDC child care program. AFDC recipients leaving AFDC due to their earned income, who have been on AFDC three out of the last six months and who apply for child care assistance under subdivision 1b within the first year after leaving AFDC, shall be entitled to one year of child care subsidies during the first year of employment. AFDC recipients must be put on a waiting list for the basic sliding fee program when they leave AFDC due to their earned income.*

Subd. 2. [COOPERATION WITH OTHER PROGRAMS.] The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for ~~aid to families with dependent children priority groups~~ *all AFDC recipients*. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall, as resources permit, be guaranteed ~~set-aside money for~~ child care assistance from the county of their residence.

Subd. 3. [CONTRACTS; OTHER USES ALLOWED.] Counties may

contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

*Subd. 3a.* [AFDC CHILD CARE PROGRAM REALLOCATION.] *The commissioner shall review the use of child care funds allocated under this section after every quarter. Priority for use of this money shall continue to be given to the AFDC priority groups.*

*The commissioner may reallocate to other counties AFDC child care program funds which a county has failed to encumber or expend according to the following procedure:*

*(a) Unexpended or unencumbered funds reserved for recipients in educational programs may be reallocated to counties that have expended their funds for recipients in educational programs.*

*(b) If any funds reserved for recipients in educational programs remain after this reallocation, or any funds remain unencumbered or unexpended from the entire AFDC child care program, the funds may be reallocated to counties that have expended their full allocation for the AFDC child care program.*

*(c) If any AFDC child care program funds remain after this reallocation, they may be reallocated to counties who have expended their full allocation for the basic sliding fee program.*

~~Subd. 4. [USE OF FUNDS FOR OTHER APPLICANTS.] If the commissioner finds, on or after January 1 of a fiscal year, that set-aside money for AFDC priority groups is not being fully utilized, the commissioner may permit counties to use set-aside money for other eligible applicants, as long as priority for use of the money will continue to be given to the AFDC priority groups.~~

Subd. 5. [FEDERAL REIMBURSEMENT.] ~~A county may claim~~ *Counties shall maximize their* federal reimbursement under the AFDC special needs program *or other federal reimbursement programs* for money spent for persons listed in *this* section ~~256H.04, subdivision 1, clause (1)~~ *and section 256H.03*. The commissioner shall allocate any federal earnings to the county~~. The county shall use the money~~ *to be used* to expand child care ~~sliding fee~~ services under ~~this subdivision~~ *these sections*.

Sec. 144. Minnesota Statutes 1988, section 256H.07, subdivision 1, is amended to read:

Subdivision 1. [ALLOCATION; USE.] ~~Each post-secondary educational system shall be allocated a portion of the set-aside money for persons listed in section 256H.04, subdivision 1, clause (3), based on the number of students with dependent children enrolled in each system in the preceding fiscal year. The post-secondary educational systems shall allocate their money among institutions under their authority based on the number of students with dependent children enrolled in each institution in the last fiscal year. For the purposes of this subdivision, "students with dependent children" means the sum of all Minnesota residents enrolled in public post-secondary institutions who report dependents on their applications to the state scholarship and grant program. The commissioner shall transfer the allocation for each post-secondary institution to the county board of the county in which the institution is located, to be held in an account for students found eligible for child care sliding fee assistance and attending~~

~~the institution.~~ *The higher education coordinating board will administer the non-AFDC post-secondary child care program utilizing the sliding fee scale developed by the department of human services. The board will determine eligibility for the child care subsidy based on family income and family size. For purposes of this determination, "income" means the income amount used to calculate eligibility for state scholarships and grants under section 136A.121. "Family size" means the family size used to calculate eligibility for state scholarships and grants under section 136A.121.*

*Students receiving subsidies shall:*

*(1) choose providers utilizing a licensed or legal unlicensed provider that meets the needs of their family;*

*(2) continue to receive a subsidy as long as they are eligible, to the limit of the allocation; and*

*(3) receive a subsidy to cover all eligible hours of education and employment.*

*The higher education coordinating board shall consult with the commissioner to ensure a program comparable to the child care subsidy program administered by the commissioner.*

Sec. 145. Minnesota Statutes 1988, section 256H.08, is amended to read:

256H.08 [USE OF MONEY.]

Money for persons listed in ~~section 256H.04, subdivision 1,~~

~~clauses (2) and (3)~~ *sections 256H.03, subdivision 2a, and 256H.05, subdivision 1b*, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. ~~The county may plan for and provide child care assistance to persons listed in section 256H.04, subdivision 1, clauses (2) and (3), from the regular sliding fee fund to supplement the set-aside funds.~~ *Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan.* Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under ~~section 256H.06 or 256H.07 are available~~ *sections 256H.03 and 256H.05. If a student who is receiving AFDC child care assistance under this chapter moves to another county as specified in their employability plan, continues to be enrolled in a post-secondary institution, and continues to be eligible for AFDC child care assistance under this chapter, the student must receive continued child care assistance from their county of origin without interruption to the limit of the county's allocation.*

Sec. 146. Minnesota Statutes 1988, section 256H.09, is amended to read:

256H.09 [REPORTING AND PAYMENTS.]

Subdivision 1. [QUARTERLY REPORTS.] Counties ~~and post-secondary~~

~~educational systems~~ shall submit on forms prescribed by the commissioner a quarterly financial and program activity report which is due 20 calendar days after the end of each quarter. *The failure to submit a complete report by the end of the quarter in which the report is due may result in a reduction of child care fund allocations equal to the next quarter's allocation.* The financial and program activity report must include:

(1) a detailed accounting of the expenditures and revenues for the program during the preceding quarter by funding source and by eligibility group;

(2) a description of activities and concomitant expenditures that are federally reimbursable under the AFDC employment special needs program *and other federal reimbursement programs*;

(3) a description of activities and concomitant expenditures of ~~set-aside~~ *child care* money;

(4) information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in ~~section~~ *sections 256H.03, subdivision 3, and* 256H.05, subdivision 4 *1a*; ~~256H.06, subdivision 3; and 256H.07, subdivision 3;~~ and

(5) other data the commissioner considers necessary to account for the program or to evaluate its effectiveness in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children.

Subd. 2. [QUARTERLY PAYMENTS.] ~~The commissioner shall make payments to each county in quarterly installments. The commissioner may certify an advance for the first quarter of the fiscal year. Later payments must be based on actual expenditures as reported in the quarterly financial and program activity report.~~ *The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures, and may be adjusted for anticipated spending patterns. Payments may be withheld if quarterly reports are incomplete or untimely.*

Subd. 3. [CHILD CARE FUND PLAN.] *Effective January 1, 1992, the county will include the plan required under this subdivision in its biennial community social services plan required in this section, for the group described in section 256E.03, subdivision 2, paragraph (h). For the period July 1, 1989, to December 31, 1991, the county shall submit separate child care fund plans required under this subdivision for the periods July 1, 1989, to June 30, 1990; and July 1, 1990, to December 31, 1991. The commissioner shall establish the dates by which the county must submit these plans. The county and designated administering agency shall submit to the commissioner an annual child care fund allocation plan. The plan shall include:*

*(1) a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;*

*(2) the number of families that requested a child care subsidy in the previous year, the number of families receiving child care assistance, the number of families on a waiting list, and the number of families projected to be served during the fiscal year;*

*(3) the methods used by the county to inform eligible groups of the*

*availability of child care assistance and related services;*

*(4) the provider rates paid for all children by provider type;*

*(5) the county prioritization policy for all eligible groups under the basic sliding fee program and AFDC child care program;*

*(6) a report of all funds available to be used for child care assistance, including demonstration of compliance with the maintenance of funding effort required under section 256H.12; and*

*(7) other information as requested by the department to insure compliance with the child care fund statutes and rules promulgated by the commissioner.*

*The commissioner shall notify counties within 60 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.*

*Subd. 4.* [TERMINATION OF ALLOCATION.] The commissioner may withhold, reduce, or terminate the allocation of any county ~~or post-secondary educational system~~ that does not meet the reporting or other requirements of this program. The commissioner shall reallocate to other counties ~~or post-secondary educational systems~~ money so reduced or terminated.

Sec. 147. Minnesota Statutes 1988, section 256H.10, subdivision 3, is amended to read:

Subd. 3. [PRIORITIES; ALLOCATIONS.] If ~~a disproportionate amount~~ *more than 75 percent* of the available money is provided to any one of the groups described in ~~subdivision 1~~ *section 256H.03 or 256H.05*, the county board shall document to the commissioner the reason the group received a disproportionate share *unless approved in the plan*. If a county projects that its child care allocation is insufficient to meet the needs of all eligible groups, it may prioritize among the groups *that remain* to be served *after the county has complied with the priority requirements of sections 256H.03 and 256H.05*. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program prior to July 1, 1987, continues to receive assistance, providing the person meets all other eligibility criteria. Set aside money must be prioritized by the state, and counties do not have discretion over the use of this money.~~ *Counties that have established a priority must submit the policy in the annual allocation plan.*

Sec. 148. Minnesota Statutes 1988, section 256H.10, is amended by adding a subdivision to read:

*Subd. 5.* [PROVIDER CHOICE.] *Parents may choose child care providers as defined under section 256H.01, subdivision 12, that best meet the needs of their family. Counties shall make resources available to parents in choosing quality child care services. Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 256H.01, subdivision 12. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county*

*may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 256H.01, subdivision 12.*

Sec. 149. Minnesota Statutes 1988, section 256H.11, is amended to read:

256H.11 [EMPLOYMENT OR TRAINING ELIGIBILITY.]

Subdivision 1. [ASSISTANCE FOR PERSONS SEEKING *AND RETAINING* EMPLOYMENT.] Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive the equivalent of one month of child care. Employed persons who work at least ten hours a week and receive at least a minimum wage for all hours worked are eligible for *continued* child care assistance.

Subd. 2. [FINANCIAL ELIGIBILITY REQUIRED.] Persons participating in employment programs, training programs, or education programs are eligible for *continued* assistance from the child care ~~sliding fee program~~ *fund*, if they are financially eligible under the sliding fee scale set by the commissioner in section 256H.14. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program while attending a post-secondary institution prior to July 1, 1987, continues to receive assistance from the regular sliding fee program, or the set-asides in section 256H.06 or 256H.07, providing the person meets all other eligibility criteria.~~

Sec. 150. Minnesota Statutes 1988, section 256H.12, is amended to read:

256H.12 [COUNTY CONTRIBUTION.]

Subdivision 1. [COUNTY CONTRIBUTIONS REQUIRED.] In addition to payments from parents, ~~the program must be funded by county contributions. Except for set-aside money,~~ counties shall contribute from county tax *or other* sources a minimum of 15 percent of the cost of the *basic sliding fee* program. The commissioner shall recover *funds* from the county as necessary to bring county expenditures into compliance with this subdivision.

Subd. 2. [FEDERAL MONEY; STATE RECOVERY.] The commissioner shall recover from counties any state or federal money *that was spent for persons* found to be ineligible. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Subd. 3. [~~OTHER SOURCES MUST BE MAINTAINED~~ *MAINTENANCE OF FUNDING EFFORT.*] To receive money through this program, each county shall certify, *in its annual plan* to the commissioner, that the county has not reduced allocations from other federal, state, and county sources, which, in the absence of *the* child care ~~sliding fee or wage subsidy money~~ *fund*, would have been available for child care ~~services~~ *assistance*.

Sec. 151. Minnesota Statutes 1988, section 256H.15, is amended to read:

256H.15 [CHILD CARE RATES.]

*Subdivision 1.* [SUBSIDY RESTRICTIONS.] The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The *maximum* rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median

rate *in that county* for like care arrangements ~~in that county~~ *for all types of care, including special needs and handicapped care, as determined by the commissioner. If the county sets a maximum rate, it must pay the provider's rate for each child receiving a subsidy, up to the maximum rate set by the county.* In order to be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers. *If a county does not set a maximum provider rate, it shall pay the provider's rate for every child in care. The maximum state payment is 125 percent of the median provider rate. If the county has not set a maximum provider rate and the provider rate is greater than 125 percent of the median provider rate in the county, the county shall pay the amount in excess of 125 percent of the median provider rate from county funding sources. When the provider charge is greater than the maximum provider rate set by the county, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.*

*Subd. 2.* [PROVIDER RATE BONUS FOR ACCREDITATION.] *Currently accredited child care centers shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the center can demonstrate that its staff wages are greater than 110 percent of the average wages in the county for similar care, up to the actual provider rate. A family day care provider shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the provider holds a current child development associate certificate, up to the actual provider rate. A county is not required to review wages under this subdivision unless the county has set a maximum above 110 percent for all providers with employees in their county.*

*Subd. 3.* [PROVIDER RATE FOR CARE OF CHILDREN WITH HANDICAPS OR SPECIAL NEEDS.] *Counties shall reimburse providers for the care of children with handicaps or special needs, at a special rate to be set by the county for care of these children, subject to the approval of the commissioner.*

Sec. 152. Minnesota Statutes 1988, section 256H.18, is amended to read:

256H.18 [ADMINISTRATIVE EXPENSES.]

A county ~~must~~ *may* not use more than seven percent of its allocation for ~~its~~ administrative expenses under ~~this section, except a county may not use any of its allocation of the set-aside funds under subdivisions 3b and 3c for administrative expenses~~ *the basic sliding fee program.* ~~A county may use up to four percent of the funds transferred to it under subdivision 3d for administrative expenses.~~

Sec. 153. Minnesota Statutes 1988, section 256H.20, subdivision 3, is amended to read:

Subd. 3. [PROGRAM SERVICES.] The commissioner may make grants to public or private nonprofit entities to fund child care resource and referral programs. Child care resource and referral programs must serve a defined geographic area.

*Subd. 3a.* [GRANT REQUIREMENTS AND PRIORITY.] *Priority for awarding resource and referral grants shall be given in the following order:*

*(1) start up resource and referral programs in areas of the state where they do not exist; and*

*(2) improve resource and referral programs.*

*Resource and referral programs shall meet the following requirements:*

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, *special needs services,* and transportation available to the program. The file may also include program information and special ~~needs services~~ *program features.*

(b) Each program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A program ~~may~~ *shall* collect and maintain the following information:

(1) ages of children served;

(2) time category of child care request for each child;

(3) special time category, such as nights, weekends, and swing shift; and

(4) reason that the child care is needed.

(d) Each program shall ~~have~~ *make* available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) *On or after one year of operation* a program ~~may~~ *shall* provide technical assistance to *employers and* existing and potential providers of all types of child care services ~~and employers~~. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served;

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is $60,000 per year. A local match of up to 25 percent is required.

Sec. 154. [256H.21] [CHILD CARE SERVICES GRANT DEFINITIONS.]

*Subdivision 1.* [DEFINITIONS.] *As used in sections 256H.20 to 256H.23, the words defined in this section shall have the meanings given them.*

*Subd. 2.* [CHILD.] *"Child" means a person 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.*

*Subd. 3.* [CHILD CARE.] *"Child care" means the care of a child by someone other than a parent or legal guardian outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.*

*Subd. 4.* [CHILD CARE SERVICES.] *"Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, and extended day school age child care programs.*

*Subd. 5.* [CHILD CARE WORKER.] *"Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, a person who has applied for a license as a provider, or a person who meets the standards established by the state board of education.*

*Subd. 6.* [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

*Subd. 7.* [FACILITY IMPROVEMENT EXPENSES.] *"Facility improvement expenses" means funds for building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility or a child care program under the jurisdiction of the state board of education.*

*Subd. 8.* [INTERIM FINANCING.] *"Interim financing" means funds to carry out such activities as are necessary for family day care homes, group family day care homes, and child care centers to receive and maintain*

*state licensing, to expand an existing program or to improve program quality, and to provide operating funds for a period of six consecutive months after a family day care home, group family day care home, or child care center becomes licensed or satisfies standards of the state board of education. Interim financing may not exceed a period of 18 months.*

*Subd. 9.* [MINI-GRANTS.] *"Mini-grants" means child care grants for facility improvements that are less than $1,000. Mini-grants include, but are not limited to, improvements to meet licensing requirements, improvements to expand a child care facility or program, toys and equipment, start-up costs, staff training, and development costs.*

*Subd. 10.* [RESOURCE AND REFERRAL PROGRAM.] *"Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.*

*Subd. 11.* [STAFF TRAINING OR DEVELOPMENT EXPENSES.] *"Staff training or development expenses" include the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.*

*Subd. 12.* [TRAINING PROGRAM.] *"Training program" means child development courses offered by an accredited post-secondary institution or similar training approved by a county board or the department of human services. To qualify as a training program under this section, a course of study must teach specific skills that meet licensing requirements or requirements of the state board of education.*

Sec. 155. [256H.22] [CHILD CARE SERVICES GRANTS.]

*Subdivision 1.* [GRANTS ESTABLISHED.] *The commissioner shall award grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. Child care services grants may include mini-grants up to $1,000. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.*

*The commissioner may renew grants to existing resource and referral agencies that have met state standards and have been designated as the child care resource and referral service for a particular geographical area. The recipients of renewal grants are exempt from the proposal review process.*

*Subd. 2.* [DISTRIBUTION OF FUNDS.] *(a) The commissioner shall allocate grant money appropriated for child care service (development and resource and referral services) among the development regions designated by the governor under section 462.385, as follows:*

*(1) 50 percent of the child care service development grant appropriation shall be allocated to the metropolitan area; and*

*(2) 50 percent of the child care service development grant appropriation shall be allocated to greater Minnesota counties.*

*(b) The following formulas shall be used to allocate grant appropriations among the counties:*

*(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the total number of children under 12 years of age in all counties; and*

*(2) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the number of licensed child care spaces currently available in each county.*

*(c) Out of the amount allocated for each development region and county, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses. The commissioner shall award no more than 50 percent of the money for resource and referral services to maintain or improve an existing resource and referral until all regions are served by resource and referral programs.*

*(d) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the advisory task force but were not awarded due to insufficient funds.*

*Subd. 3.* [CHILD CARE REGIONAL ADVISORY COMMITTEES.] *Child care regional advisory committees shall review and make recommendations to the commissioner on applications for service development grants under this section. The commissioner shall appoint the child care regional advisory committees in each governor's economic development regions. People appointed under this subdivision must represent the following constituent groups: family child care providers, group center providers, parent users, health services, social services, public schools, and other citizens with demonstrated interest in child care issues. Members of the advisory task force with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. Committee members may be reimbursed for their actual travel expenses for up to six committee meetings per year. The child care regional advisory committees shall complete their reviews and forward their recommendations to the commissioner by the date specified by the commissioner.*

*Subd. 4.* [PURPOSES FOR WHICH A CHILD CARE SERVICES GRANT MAY BE AWARDED.] *The commissioner may award grants for any of the following purposes:*

*(1) for creating new licensed day care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;*

*(2) for improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, priority must be given to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;*

*(3) for supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;*

*(4) for carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;*

*(5) for interim financing; and*

*(6) for carrying out the resource and referral program services identified in section 256H.20, subdivision 3.*

*Subd. 5.* [FUNDING PRIORITIES; FACILITY IMPROVEMENT AND INTERIM FINANCING.] *In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall rank and give priority to:*

*(1) new programs or projects, or the expansion or improvement of existing programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;*

*(2) new programs and projects, or the expansions or enrichment of existing programs or projects that serve sick children, infants or toddlers, children with special needs, and children from low-income families;*

*(3) unlicensed providers who wish to become licensed; and*

*(4) improvement of existing programs.*

*Subd. 6.* [FUNDING PRIORITIES; TRAINING GRANTS.] *In evaluating applications for training grants and making recommendations to the commissioner, the grant review advisory task force shall give priority to:*

*(1) applicants who will work in facilities caring for sick children, infants, toddlers, children with special needs, and children from low-income families;*

*(2) applicants who will work in geographic areas where there is a shortage of child care;*

*(3) unlicensed providers who wish to become licensed;*

*(4) child care programs seeking accreditation and child care providers seeking certification; and*

*(5) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.*

*Subd. 7.* [ELIGIBLE GRANT RECIPIENTS.] *Eligible recipients of child care grants are licensed providers of child care, or those in the process of being licensed, resource and referral programs, or corporations or public agencies, or any combination thereof. With the exception of mini-grants, priority for child care grants shall be given to grant applicants as follows:*

*(1) public and private nonprofit agencies;*

*(2) employer-based child care centers;*

*(3) for-profit child care centers; and*

*(4) family day care providers.*

*Subd. 8.* [GRANT MATCH REQUIREMENTS.] *Child care grants for facility improvements, interim financing, resource and referral, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a mini-grant.*

*Subd. 9.* [CHILD CARE MINI-GRANTS.] *Mini-grants for child care service development must be used by the grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, toys and equipment, start-up costs, interim financing, or staff training and development. Priority for child care mini-grants shall be given to grant applicants as follows:*

*(1) family day care providers;*

*(2) public and private nonprofit agencies;*

*(3) employer-based child care centers; and*

*(4) for-profit child care centers.*

*Subd. 10.* [ADVISORY TASK FORCE.] *The commissioner shall convene a statewide advisory task force which shall advise the commissioner on grants and other child care issues. The statewide advisory task force shall review and make recommendations to the commissioner on child care resource and referral grants and on statewide child care training grants. Members of the advisory task force with a direct financial interest in a resource and referral or a statewide training proposal may not provide a recommendation or participate in the ranking of that grant proposal. Each regional grant review committee formed under subdivision 3, shall appoint a representative to the advisory task force. The commissioner may convene meetings of the task force as needed. Terms of office and removal from office are governed by the appointing body. The commissioner may compensate members for their expenses of travel to meetings of the task force. The members of the child care advisory task force shall also meet once with the interagency advisory committee on child care under section 256H.25.*

*Subd. 11.* [ADVISORY COMMITTEE COSTS.] *The commissioner may use money appropriated for services under this section for administrative expenses associated with advisory committees and task forces authorized by this section.*

Sec. 156. [256H.23] [OTHER AUTHORIZATION TO MAKE GRANTS.]

*Subdivision 1.* [AUTHORITY.] *In addition to the commissioner's authority to make child care services grants, the county board is authorized to provide child care services, or to make grants from the community social service fund, special tax revenue, or its general fund, or other sources to any municipality, corporation, or combination thereof, for the cost of providing technical assistance and child care services. The county board is also authorized to contract for services with any licensed day care facility, as the board deems necessary or proper to carry out the purposes of this section.*

*The county board may also make grants to or contract with any municipality, licensed child care facility, or resource and referral program, or corporation or combination thereof, for any of the following purposes:*

*(1) creating new licensed day care facilities and expanding existing facilities including, but not limited to, supplies, equipment, and facility renovation and remodeling;*

*(2) improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, counties must give priority to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;*

*(3) supportive child development services, including, but not limited to, in-service training, curriculum development, consulting specialists, resource centers, and program and resource materials;*

*(4) carrying out programs, including, but not limited to, staff, supplies, equipment, facility renovation, and training;*

*(5) interim financing; and*

*(6) carrying out the resource and referral program services identified in section 256H.20, subdivision 3.*

*Subd. 2.* [DONATED MATERIALS AND SERVICES; MATCHING SHARE OF COST.] *For the purposes of this section, donated professional and volunteer services, program materials, equipment, supplies, and facilities may be approved as part of a matching share of the cost, provided that total costs shall be reduced by the costs charged to parents if a sliding fee scale has been used.*

*Subd. 3.* [BIENNIAL PLAN.] *The county board shall biennially develop a plan for the distribution of money for child care services as part of the community social services plan described in section 256E.09. All licensed child care programs shall be given written notice concerning the availability of money and the application process.*

Sec. 157. [256H.24] [DUTIES OF COMMISSIONER.]

*In addition to the powers and duties already conferred by law, the commissioner of human services shall:*

*(1) by September 1, 1990, and by September 1 of each subsequent even-numbered year, survey and report on all components of the child care system, including, but not limited to, availability of licensed child care slots, the number of children in various kinds of child care settings, staff wages, rate of staff turnover, qualifications of child care workers, cost of child care by type of service and ages of children, and child care availability through school systems;*

*(2) by September 1, 1990, and September 1 of each subsequent even-numbered year, survey and report on the extent to which existing child care services fulfill the need for child care, giving particular attention to the need for part-time care and for care of infants, sick children, children with special needs, low-income children, toddlers, and school-age children;*

*(3) administer the child care fund, including the sliding fee program authorized under sections 256H.01 to 256H.19;*

*(4) monitor the child care resource and referral programs established under section 256H.20; and*

*(5) encourage child care providers to participate in a nationally recognized accreditation system for early childhood programs. The commissioner shall reimburse licensed child care providers for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.*

Sec. 158. [256H.25] [INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.]

*Subdivision 1.* [MEMBERSHIP.] *By January 1, 1990, the commissioner of the state planning agency shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: health, human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.*

*Subd. 2.* [DUTIES.] *The committee shall advise its member agencies on*

*matters related to child care policy and planning. Specifically, the committee shall:*

*(1) develop a consistent policy on issues related to child care;*

*(2) advise the member agencies on implementing policies and developing rules that are consistent with the committee's policy on child care;*

*(3) advise the member agencies on state efforts to increase the supply and improve the quality of child care facilities and options; and*

*(4) perform other advisory tasks related to improving child care options throughout the state.*

*Subd. 3.* [MEETINGS.] *The committee shall meet as often as necessary to perform its duties. The committee shall meet at least once per year with the members of the child care advisory task force.*

Sec. 159. [256H.26] [CHILD CARE INFORMATION SERVICE.]

*The commissioner shall establish, on a pilot project basis, a toll-free information service for child care providers, potential providers, and parents to assist callers to find existing child care services at the state or local level and to facilitate expansion and marketing of child care services. The telephone must be staffed during regular business hours to respond promptly to questions and during regular business hours to respond promptly to questions and concerns. The information and assistance must be made available free to all callers. The commissioner shall report to the legislature by January 1, 1991 on the effectiveness of this service and shall recommend how and by whom the operation should be administered. The commissioner shall consult with local resource and referral agencies, both public and private, in making its recommendations. The commissioner may use money appropriated for child care resource and referral grants for the administrative costs incurred under this section.*

Sec. 160. Minnesota Statutes 1988, section 257.071, subdivision 7, is amended to read:

Subd. 7. [RULES.] By December 31, ~~1988~~ *1989*, the commissioner shall revise Minnesota Rules, parts 9545.0010 to ~~9545.0269~~ *9545.0260*, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on the importance of protecting cultural heritage within the meaning of Laws 1983, chapter 278, the Indian Child Welfare Act, Public Law Number 95-608, and the Minnesota Indian family preservation act, sections 257.35 to 257.357; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

Sec. 161. Minnesota Statutes 1988, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child; or

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

*(f) Evidence of statistical probability of paternity based on blood testing establishes that the likelihood that the man is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater.*

Sec. 162. Minnesota Statutes 1988, section 257.57, subdivision 1, is amended to read:

Subdivision 1. A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, clause (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c); or

(b) *Within three years after the child's birth* for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c) ~~only if the action is brought~~

~~within a reasonable time after the person bringing the action has obtained knowledge of relevant facts, but in no event later than three years after the child's birth~~. *However, if the presumed father was divorced from the child's mother after service by publication, and, if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority.* After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Sec. 163. Minnesota Statutes 1988, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] *(a)* If the results of ~~the~~ blood tests *completed in a laboratory accredited by the American Association of Blood Banks* indicate that the likelihood of the alleged father's paternity, *calculated with a prior probability of no more than 0.5 (50 percent),* is ~~more than~~ 92 percent *or greater*, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

*(b) If the results of blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.*

Sec. 164. [259.44] [REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.]

*The commissioner of human services shall provide reimbursement of up to $2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676.*

Sec. 165. Minnesota Statutes 1988, section 259.47, subdivision 5, is amended to read:

Subd. 5. [CHARGES.] ~~Agencies~~ *The commissioner, the commissioner's agents, and licensed child-placing agencies* may require a reasonable expense reimbursement for providing services required in this section. *Reimbursements received by the commissioner according to this subdivision shall be deposited in the general fund.*

Sec. 166. [259.471] [POSTADOPTION SERVICE GRANTS PROGRAM.]

*Subdivision 1.* [PURPOSE.] *The commissioner of human services shall establish and supervise a postadoption service grants program to be administered by local social service agencies for the purpose of preserving and strengthening adoptive families. The program will provide financial assistance to adoptive parents to meet the special needs of an adopted child that cannot be met by other resources available to the family.*

*Subd. 2.* [ELIGIBILITY CRITERIA.] *A child may be certified by the*

*local social service agency as eligible for a postadoption service grant after a final decree of adoption and before the child's 18th birthday if:*

*(a) The child was a ward of the commissioner or a Minnesota licensed child placing agency before adoption;*

*(b) The child had special needs at the time of adoption. For the purposes of this section, "special needs" means a child who had a physical, mental, emotional, or behavioral disability at the time of an adoption or has a preadoption background to which the current development of such disabilities can be attributed; and*

*(c) The adoptive parents have exhausted all other available resources. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.*

*Subd. 3.* [CERTIFICATION STATEMENT.] *The local social service agency shall certify a child's eligibility for a postadoption service grant in writing to the commissioner. The certification statement shall include:*

*(1) a description and history of the special needs upon which eligibility is based; and*

*(2) applicable supporting documentation including:*

*(i) the child's individual service plan;*

*(ii) medical, psychological, or special education evaluations;*

*(iii) documentation that all other resources have been exhausted; and*

*(iv) an estimate of the costs necessary to meet the special needs of the child.*

*Subd. 4.* [COMMISSIONER REVIEW.] *The commissioner shall review the facts upon which eligibility is based and shall award postadoption service grants to eligible adoptive parents to the extent funds are appropriated consistent with subdivision 5.*

*Subd. 5.* [GRANT PAYMENTS.] *The amount of the postadoption service grant payment shall be based on the special needs of the child and the determination that other resources to meet those special needs are not available. The amount of any grant payments shall be based on the severity of the child's disability and the effect of the disability on the family and must not exceed $10,000 annually.*

*Permissible expenses that may be paid from grants shall be limited to:*

*(1) medical expenses not covered by the family's health insurance or medical assistance;*

*(2) therapeutic expenses, including individual and family therapy; and*

*(3) nonmedical services, items, or equipment required to meet the special needs of the child.*

*The grants under this section shall not be used for maintenance for out-of-home placement of the child in substitute care.*

Sec. 167. Minnesota Statutes 1988, section 259.49, subdivision 2, is amended to read:

259.49 [ACCESS TO ~~ADOPTION RECORDS~~ *ORIGINAL BIRTH CERTIFICATE INFORMATION.*]

Subd. 2. [SEARCH.] Within six months after receiving notice of the request of the adopted person, the commissioner of human services shall make complete and reasonable efforts to notify each parent identified on the original birth certificate of the adopted person. The commissioner, *the commissioner's agents, and licensed child-placing agencies* may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the genetic parents named on the original birth certificate of the adopted person. The contact shall not be by mail and shall be by an employee or agent of the licensed child placing agency which processed the pertinent adoption or some other licensed child placing agency designated by the commissioner of human services. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

(a) The nature of the information requested by the adopted person;

(b) The date of the request of the adopted person;

(c) The right of the parent to file, within 120 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth certificate should not be disclosed;

(d) The right of the parent to file a consent to disclosure with the commissioner of health at any time; and

(e) The effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth certificate should not be disclosed.

Sec. 168. 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. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.*

(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 for a child, the examination 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. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. 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.*

Sec. 169. Minnesota Statutes 1988, section 268.08, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt;

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner, *is a dislocated worker as defined in section 268.975, subdivision 3, who is in training approved by the commissioner,* or in training approved pursuant to section 236 of the Trade Act of 1974, as amended.

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college, or university unless a majority of the wage credits earned in the base period were for services performed during weeks in which the student was attending school as a full-time student.

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty; and

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. However, payment for the waiting week, not to exceed $20, shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment. No individual is required to serve a waiting period of more than one week within the one-year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 170. Minnesota Statutes 1988, section 268.31, is amended to read:

268.31 [DEVELOPMENT OF YOUTH EMPLOYMENT OPPORTUNITIES.]

*(a)* To the extent of available funding, the commissioner of jobs and training shall establish a program to employ individuals from the ages of 14 years up to 22 years. Available money may be used to operate this program on a full calendar year basis, to *provide transitional services,* link basic skills training and remedial education to job training and school completion, and for support services. The amount spent on support services in any one fiscal year may not exceed 15 percent of the total annual appropriation for this program. Individuals employed in this program will be placed in service with departments, agencies, and instrumentalities of the state, county, local governments, school districts, with nonprofit organizations, and private sector employers. The maximum number of hours that an individual may be employed in a position supported under this program is 480 hours. Program funds may not be used for private sector placements. Program operators must use the targeted jobs tax credit, other federal, state, and local government resources, as well as private sector resources to fund private sector placements. The commissioner shall cooperate with the commissioner of human services in determining and implementing the most effective means of disregarding a youth's earnings from family income for purposes of the aid to families with dependent children program, to the extent permitted by the federal government.

*(b) Upon request of the commissioner of the department of natural*

*resources, the commissioner will contract for or provide available services for remedial skills, life skills, and career counseling activities to youth in the Minnesota conservation corps program.*

*(c) The commissioner shall evaluate the services provided under this section. The evaluation shall include information on the effectiveness of program services in promoting the employability of young people. In order to measure the long-term effectiveness of the program, the evaluation shall include follow-up information on each participant.*

Sec. 171. [268.912] [HEAD START PROGRAM.]

*The department of jobs and training is the state agency responsible for administering the head start program. The commissioner of jobs and training may make grants to public or private nonprofit agencies for the purpose of providing supplemental funds for the federal head start program.*

Sec. 172. [268.913] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *As used in sections 268.914 to 268.916, the terms defined in this section have the meanings given them.*

*Subd. 2.* [PROGRAM ACCOUNT 20.] *"Program account 20" means the federally designated and funded account limited to training activities.*

*Subd. 3.* [PROGRAM ACCOUNT 22.] *"Program account 22" means the federally designated and funded account for basic services.*

*Subd. 4.* [PROGRAM ACCOUNT 26.] *"Program account 26" means the federally designated and funded account that can only be used to provide special services to handicapped diagnosed children.*

*Subd. 5.* [PROGRAM ACCOUNT 23.] *"Program account 23" means the federally designated and funded account for all day services.*

*Subd. 6.* [START-UP COSTS.] *"Start-up costs" means one-time costs incurred in expanding services to additional children.*

Sec. 173. [268.914] [DISTRIBUTION OF APPROPRIATION.]

*(a) The commissioner of jobs and training shall distribute money appropriated for that purpose to head start program grantees to expand services to additional low-income children. Money must be allocated to each project head start grantee in existence on the effective date of this act. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A head start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20 to 26 at the start of the fiscal year. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner shall notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of additional low-income children it will be able to serve. For any grantee that cannot serve additional children to its full allocation, the commissioner shall reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible*

*grantees.*

*(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local head start agencies to provide funds for innovative programs designed either to target head start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal head start regulations. The commissioner shall award funds for innovative programs under this paragraph on a competitive basis.*

Sec. 174. [268.915] [FEDERAL REQUIREMENTS.]

*Grantees and the commissioner shall comply with federal regulations governing the federal head start program, except for innovative programs funded under section 268.914, paragraph (b), which may operate differently than federal head start regulations, and except that when a state statute or regulation conflicts with a federal statute or regulation, the state statute or regulation prevails.*

Sec. 175. [268.916] [REPORTS.]

*Each grantee shall submit an annual report to the commissioner on the format designated by the commissioner, including program information report data. By January 1 of each year, the commissioner shall prepare an annual report to the health and human services committees of the legislature concerning the uses and impact of head start supplemental funding, including a summary of innovative programs and the results of innovative programs and an evaluation of the coordination of head start programs with employment and training services provided to AFDC recipients.*

Sec. 176. [268.971] [HOSPITALITY HOST PROGRAM.]

*Subdivision 1.* [ESTABLISHMENT.] *A hospitality host older worker tourism program is established in the department of jobs and training to assist economically disadvantaged older workers to gain employment in the promotion of the tourism industry in Minnesota and to become self-sufficient. The objectives of the program are to:*

*(1) assist in the diversification of industry in rural areas by stimulating and promoting tourism;*

*(2) create full-time and part-time employment for low-income persons 55 years old or older;*

*(3) raise the income of older persons living in poverty; and*

*(4) promote tourism in selected local areas throughout the state, thereby improving local economies.*

*Subd. 2.* [DEFINITIONS.] *(a)* [SCOPE.] *As used in this section, the terms defined in this section have the meanings given them.*

*(b)* [COMMISSIONER.] *"Commissioner" means the commissioner of the department of jobs and training.*

*(c)* [OLDER WORKER.] *"Older worker" means an economically disadvantaged person 55 years or older.*

*(d)* [ECONOMICALLY DISADVANTAGED.] *"Economically disadvantaged" means a person having an income of 125 percent or less of the federal poverty income guidelines. In determining income, the federal Job Training Partnership Act definition of family and family income will prevail.*

*(e)* [PROGRAM.] *"Program" means the hospitality host older worker program created in subdivision 1.*

*(f)* [COORDINATING AGENCY.] *"Coordinating agency" means the Arrowhead economic opportunity agency.*

*Subd. 3.* [DISTRIBUTION AND USE OF STATE MONEY.] *Money allocated to the coordinating agency by the commissioner must be used for activities consistent with the objectives of the program including, but not limited to: outreach, selection of eligible participants, program sites, individual work sites, classroom training, on-the-job training opportunities, and program marketing. Program funds shall be used to provide training-related costs to enrollees during orientation and classroom training segments. Program funds shall be used to subsidize up to 50 percent of enrollee wages during contracted on-the-job training periods with the employer being responsible for the remainder. Salaries upon employment shall be at least the state or federal minimum wage, whichever is higher.*

*Subd. 4.* [RESPONSIBILITIES OF COORDINATING AGENCY.] *The commissioner shall enter into written agreement with the coordinating agency for the design, delivery, and general administration of the program. The commissioner shall set program goals and objectives, and monitor the program.*

*Subd. 5.* [REPORTS.] *The coordinating agency shall submit an annual report to the commissioner one year from the effective date of this act and annually thereafter. In addition, the coordinating agency shall submit to the commissioner such other reports as required to document the status and progress of the program. The annual report must include: information on the number and types of jobs created; status of program sites; wages paid program participants; types of services provided by programs; the retention of program participants; and other information to assess the progress and status of the program.*

Sec. 177. [268.975] [DEFINITIONS.]

*Subdivision 1.* [TERMS.] *For the purposes of sections 268.975 to 268.98, the following terms have the meanings given them.*

*Subd. 2.* [COMMISSIONER.] *"Commissioner" means the commissioner of jobs and training.*

*Subd. 3.* [DISLOCATED WORKER.] *"Dislocated worker" means an individual who:*

*(1) has been terminated or has received a notice of termination of employment as a result of a plant closing or any substantial layoff at a plant, facility, or enterprise located in the state;*

*(2) was a resident of the state at the time of termination of employment or at the time of receiving the notification of termination of employment; and*

*(3) is eligible for or has exhausted unemployment compensation and is unlikely to return to the previous industry or occupation.*

*Subd. 4.* [ELIGIBLE ORGANIZATION.] *"Eligible organization" means a local government unit, nonprofit organization, community action agency, business organization or association, or labor organization that has applied for a prefeasibility grant under section 268.978.*

*Subd. 5.* [LOCAL GOVERNMENT UNIT.] *"Local government unit" means a statutory or home rule charter city, county, or town.*

*Subd. 6.* [PLANT CLOSING.] *"Plant closing" means the announced or actual permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for (a) 50 or more employees excluding employees who work less than 20 hours per week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.*

*Subd. 7.* [PREFEASIBILITY STUDY GRANT; GRANT.] *"Prefeasibility study grant" or "grant" means the grant awarded under section 268.978.*

*Subd. 8.* [SUBSTANTIAL LAYOFF.] *"Substantial layoff" means a reduction in the work force, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for (a) at least 50 employees excluding those employees that work less than 20 hours a week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.*

Sec. 178. [268.976] [EARLY WARNING SYSTEM.]

*Subdivision 1.* [EARLY WARNING INDICATORS.] *The commissioner, in cooperation with the commissioners of revenue and trade and economic development, shall establish and oversee an early warning system to identify industries and businesses likely to experience large losses in employment including a plant closing or a substantial layoff, by collecting and analyzing information which may include, but not be limited to, products and markets experiencing declining growth rates, companies and industries subject to competition from production in low wage counties, changes in ownership, layoff and employment patterns, payments of unemployment compensation contributions, and state tax payments. The commissioner may request the assistance of businesses, business organizations, and trade associations in identifying businesses, industries, and specific establishments that are likely to experience large losses in employment. The commissioner may request information and other assistance from other state agencies for the purposes of this subdivision.*

*Subd. 2.* [NOTICE.] *The commissioner shall encourage those business establishments considering a decision to effect a plant closing, substantial layoff or relocation of operations located in this state to give notice of that decision as early as possible to the commissioner, the employees of the affected establishment, any employee organization representing the employees, and the local government unit in which the affected establishment is located. This notice shall be in addition to any notice required under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101.*

*Subd. 3.* [EMPLOYER RESPONSIBILITY.] *An employer providing notice of a plant closing, substantial layoff, or relocation of operations under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101, or under subdivision 2 must report to the commissioner the names, addresses, and occupations of the employees who will be or have been terminated.*

Sec. 179. [268.977] [RAPID RESPONSE PROGRAM.]

*Subdivision 1.* [PROGRAM ESTABLISHMENT.] *(a) The commissioner shall establish a rapid response program to assist employees, employers, business organizations or associations, labor organizations, local government units, and community organizations to quickly and effectively respond to announced or actual plant closings and substantial layoffs.*

*(b) The program must include or address at least the following:*

*(1) within five working days after becoming aware of an announced or actual plant closing or substantial layoff, establish on-site contact with the employer, employees, labor organizations if there is one representing the employees, and leaders of the local government units and community organizations to provide coordination of efforts to formulate a communitywide response to the plant closing or substantial layoff, provide information on the public and private service and programs that might be available, inform the affected parties of the prefeasibility study grants under section 268.978, and collect any information required by the commissioner to assist in responding to the plant closing or substantial layoff;*

*(2) provide ongoing technical assistance to employers, employees, business organizations or associations, labor organizations, local government units, and community organizations to assist them in reacting to or developing responses to plant closings or substantial layoffs;*

*(3) establish and administer the prefeasibility study grant program under section 268.978 to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs;*

*(4) work with employment and training service providers, employers, business organizations or associations, labor organizations, local government units, and community organizations in providing training, education, community support service, job search programs, job clubs, and other services to address the needs of potential or actual dislocated workers;*

*(5) coordinate with providers of economic development related financial and technical assistance services so that communities that are experiencing plant closings or substantial layoffs have immediate access to economic development related services; and*

*(6) collect and make available information on programs that might assist dislocated workers and the communities affected by plant closings or substantial layoffs.*

*Subd. 2.* [APPLICABILITY.] *Notwithstanding section 268.975, subdivisions 6 and 8, the commissioner may waive the threshold requirements for finding a plant closing or substantial layoff in special cases where the governor's job training council recommends waiver to the commissioner following a finding by the council that the number of workers dislocated as a result of a plant closing or substantial layoff would have a substantial impact on the community or labor market where the closure or layoff occurs and, in the absence of intervention through the rapid response program, would overwhelm the capacity of other programs to provide effective assistance.*

Sec. 180. [268.978] [PREFEASIBILITY STUDIES.]

*Subdivision 1.* [PREFEASIBILITY STUDY GRANTS.] *(a) The commissioner may make grants for up to $10,000 to eligible organizations to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs. The alternatives may include employee*

*ownership, other new ownership, new products or production processes, or public financial or technical assistance to keep a plant open. Two or more eligible organizations may jointly apply for a grant under this section.*

*(b) Interested organizations shall apply to the commissioner for the grants. As part of the application process, applicants must provide a statement of need for a grant, information relating to the workforce at the plant, the area's unemployment rate, the community's and surrounding area's labor market characteristics, information of efforts to coordinate the community's response to the plant closing or substantial layoff, a timetable of the prefeasibility study, a description of the organization applying for the grant, a description of the qualifications of persons conducting the study, and other information required by the commissioner.*

*(c) The commissioner shall respond to the applicant within five working days of receiving the organization's application. The commissioner shall inform each organization that applied for but did not receive a grant the reasons for the grant not being awarded. The commissioner may request further information from those organizations that did not receive a grant, and the organization may reapply for the grant.*

*Subd. 2.* [PREFEASIBILITY STUDY.] *(a) The prefeasibility study must explore the current and potential viability, profitability, and productivity of the plant that may close or experience a substantial layoff and alternative uses for the plant. The study is not intended to be a major examination of each possible alternative, but rather is meant to quickly determine if further action or examination is feasible and should be fully explored.*

*(b) The prefeasibility study must contain:*

*(1) a description of the plant's present products, production techniques, management structure, and history;*

*(2) a brief discussion of the feasibility of the various alternatives for ownership, production technique, and products;*

*(3) an estimate of the financing required to keep the plant open and the potential sources of that financing;*

*(4) a description of the employer's, employees', and community's efforts to maintain the operation of the plant; and*

*(5) other information the commissioner may require.*

*Subd. 3.* [REPORTS.] *(a) The commissioner shall report monthly to the program subcommittee of the governor's job training council on the grants made and studies completed during the previous month.*

*(b) The commissioner shall provide an annual report to the governor, legislature, and the governor's job training council on the administration of the prefeasibility study grant program. The report must also include details of actions taken as a result of a grant.*

Sec. 181. [268.979] [DISLOCATED WORKER COORDINATION.]

*The commissioner shall coordinate the actions taken by state agencies and public post-secondary educational institutions to respond to or address the specific needs of dislocated workers and to provide services to dislocated workers including education and retraining. The commissioner shall also assist local government units, community groups, business associations or organizations, labor organizations, and others in coordinating*

*their efforts in providing services to dislocated workers.*

Sec. 182. [268.98] [PERFORMANCE STANDARDS.]

*The commissioner shall establish performance standards for the programs and activities administered or funded through the rapid response program under section 268.977. The commissioner may use existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the rapid response program are effectively administered.*

Sec. 183. Minnesota Statutes 1988, section 326.78, subdivision 2, is amended to read:

Subd. 2. [ISSUANCE OF LICENSES AND CERTIFICATES.] The commissioner may issue licenses to employers ~~and certificates to employees~~ who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates shall be valid for at least 12 months, *except that the initial certificate will be issued to expire one year after the completion date on the approved training course diploma.*

Sec. 184. Minnesota Statutes 1988, section 327C.02, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION OF RULES.] The park owner must give the resident at least 60 days notice in writing of any rule change. A rule adopted or amended after the resident initially enters into a rental agreement may be enforced against that resident only if the new or amended rule is reasonable and is not a substantial modification of the original agreement. *Any security deposit increase is a substantial modification of the rental agreement.* A reasonable rent increase made in compliance with section 327C.06 is not a substantial modification of the rental agreement and is not considered to be a rule for purposes of section 327C.01, subdivision 8. A rule change necessitated by government action is not a substantial modification of the rental agreement. A rule change requiring all residents to maintain their homes, sheds and other appurtenances in good repair and safe condition shall not be deemed a substantial modification of a rental agreement. If a part of a resident's home, shed or other appurtenance becomes so dilapidated that repair is impractical and total replacement is necessary, the park owner may require the resident to make the replacement in conformity with a generally applicable rule adopted after the resident initially entered into a rental agreement with the park owner.

In any action in which a rule change is alleged to be a substantial modification of the rental agreement, a court may consider the following factors in limitation of the criteria set forth in section 327C.01, subdivision 11:

(a) any significant changes in circumstances which have occurred since the original rule was adopted and which necessitate the rule change; and

(b) any compensating benefits which the rule change will produce for the residents.

Sec. 185. Minnesota Statutes 1988, section 357.021, subdivision 2, is amended to read:

Subd. 2. [FEE AMOUNTS.] The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of $30, except that in an action for marriage dissolution, the fee is ~~$55~~ *$75*.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of $30.

The party requesting a trial by jury shall pay $30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under sections 106A.005 to 106A.811, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding $5, plus 25 cents per page after the first page and $3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena $3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, $5.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, $5.

(6) Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, $5.

(7) Certificate as to existence or nonexistence of judgments docketed, $1 for each name certified to and $3 for each judgment certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians or optometrists, $5.

(9) For the filing of each partial, final, or annual account in all trusteeships, $10.

(10) All other services required by law for which no fee is provided such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 186. Minnesota Statutes 1988, section 357.021, subdivision 2a, is amended to read:

Subd. 2a. [CERTAIN FEE PURPOSES.] Of the marriage dissolution fee collected pursuant to subdivision 1, the court administrator shall pay ~~$35~~ *$55* to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~$15~~ *$35* for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96; and $20 is appropriated to the commissioner of corrections for the purpose of funding emergency shelter services and support services to battered women, on a matching basis with local money for 20 percent of the costs and state money for 80 percent. Of

the ~~$15~~ *$35* for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96, ~~$6.75~~ *$16.75* is appropriated to the commissioner of corrections and ~~$8.25~~ *$18.25* is appropriated to the commissioner of jobs and training. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 187. Minnesota Statutes 1988, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE.] The court administrator shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, the court administrator shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the district court seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the county court or a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. The court administrator shall collect from the applicant a fee of ~~$45~~ *$65* for administering

the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the court administrator for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A court administrator who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed $1,000.

Sec. 188. Minnesota Statutes 1988, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay ~~$30~~ *$50* to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~$6.75~~ *$16.75* is appropriated to the commissioner of corrections for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36, and ~~$23.25~~ *$33.25* is appropriated to the commissioner of jobs and training for displaced homemaker programs under section 268.96. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 189. Minnesota Statutes 1988, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an

independent contractor, workers' compensation, unemployment compensation, annuity, military and naval retirement, pension and disability payments. *Benefits received under sections 256.72 to 256.87 and chapter 256D are not income under this section.*

Sec. 190. Minnesota Statutes 1988, section 518.551, is amended by adding a subdivision to read:

*Subd. 5a.* [ORDER FOR COMMUNITY SERVICES.] *If the court finds that the obligor earns $400 or less per month and does not have the ability to provide support based on the guidelines and factors under subdivision 5, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this subdivision, the court shall consider whether the obligor has the physical capability of performing community services, and shall order community services that are appropriate for the obligor's abilities.*

Sec. 191. Minnesota Statutes 1988, section 518.551, subdivision 10, is amended to read:

Subd. 10. [ADMINISTRATIVE PROCESS *FOR* CHILD *AND MEDICAL* SUPPORT ~~PILOT PROJECT~~ *ORDERS.*] ~~A pilot project~~ *An administrative process* is established to obtain, modify, and enforce child and medical support orders and maintenance ~~through administrative process, to evaluate the efficiency of the administrative process. The pilot project shall begin when the procedures have been established and end on June 30, 1989~~.

~~During the pilot project,~~ *The commissioner of human services may designate counties to participate in the administrative process established by this section.* All proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance *and adjudicating uncontested parentage proceedings,* required to be conducted in ~~Dakota county~~ *counties designated by the commissioner of human services* in which ~~Dakota~~ *the* county human services *agency* is a party or represents a party to the action must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

(1) adjudication of ~~paternity~~ *contested parentage*;

(2) motions to set aside a paternity adjudication or declaration of parentage;

(3) evidentiary hearing on contempt motions; and

(4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.

An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a ~~county or~~ district judge.

For the purpose of this ~~pilot project~~ *process*, all powers, duties, and responsibilities conferred on judges of the ~~county or~~ district court to obtain and enforce child and medical support obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

~~During fiscal year 1988~~ *Before implementing the process in a county*, the chief administrative law judge, the commissioner of human services,

the director of ~~Dakota~~ *the* county human services *agency*, the ~~Dakota~~ county attorney, and the ~~clerk of the Dakota~~ county court *administrator* shall jointly establish procedures *and the county shall provide hearing facilities* for ~~the implementation of~~ *implementing* this ~~pilot project~~ *process in a county*.

Nonattorney employees of ~~Dakota county human services~~ *the public agency responsible for child support in the counties designated by the commissioner*, acting at the direction of the county attorney, may prepare, sign, serve, and file *complaints and* motions for obtaining, modifying, or enforcing child and medical support orders and maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

~~For the purpose of this pilot project,~~ The hearings shall be conducted under the ~~conference contested case rules adopted by the chief administrative law judge. Any discovery required in a proceeding shall be conducted under the rules of family court and the rules of civil procedure.~~ *rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. All other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure and chapter 518. The administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order.* Orders issued by an administrative law judge ~~shall be~~ *are* enforceable by the contempt powers of the county ~~or~~ *and* district courts.

~~The administrative law judge shall make a report to the chief administrative law judge or the chief administrative law judge's designee, stating findings of fact and conclusions and recommendations concerning the proposed action, in accordance with sections 14.48 to 14.56. The chief administrative law judge or a designee shall render the final decision and order in accordance with sections 14.61 and 14.62.~~ The decision and order of the ~~chief~~ administrative law judge ~~or a designee~~ shall be a final agency decision for purposes of sections 14.63 to 14.69.

Sec. 192. Minnesota Statutes 1988, section 518.611, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2, paragraph (b) and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. *The payor shall identify on the remittance information the date the obligor is paid the remainder of the income.* Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not

discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld.

Sec. 193. Minnesota Statutes 1988, section 518.613, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, *enforced by the public authority,* is initially determined and ordered *or modified* by the court in a county in which this section applies, the amount of child support or maintenance ordered by the court must be withheld from the income, regardless of source, of the person obligated to pay the support.

Sec. 194. Minnesota Statutes 1988, section 518.613, subdivision 2, is amended to read:

Subd. 2. [ORDER; COLLECTION SERVICES.] Every order for child support must include the obligor's social security number and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for support or maintenance, the court shall mail a copy of the court's *automatic income withholding* order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and to the public ~~agency~~ *authority* responsible for child support enforcement. An obligee who is not a recipient of public assistance shall apply for the collection services of the public authority when an order for support is entered *unless the requirements of this section have been waived under subdivision 6. No later than January 1, 1990, the supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.*

Sec. 195. Minnesota Statutes 1988, section 518.613, subdivision 4, is amended to read:

Subd. 4. [APPLICATION.] On and after August 1, ~~1987, and prior to August 1,~~ 1989, this section applies in a county selected under Laws 1987, chapter 403, article 3, section 93 and in a county that chooses to have this section apply by resolution of a majority vote of its county board. *On and after*

*November 1, 1990, this section applies to all child support and maintenance obligations that are initially ordered or modified on and after November 1, 1990, and that are being enforced by the public authority.*

Sec. 196. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

*Subd. 6.* [NOTICE OF SERVICES.] *The department of human services shall prepare and make available to the courts a form notice of child support and maintenance collection services available through the public authority responsible for child support enforcement, including automatic income withholding under this section. Promptly upon the filing of a petition for dissolution of marriage or legal separation by parties who have a minor child, the court administrator shall send the form notice to the*

*petitioner and respondent at the addresses given in the petition. The rule-making provisions of chapter 14 shall not apply to the preparation of the form notice.*

Sec. 197. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

*Subd. 7.* [WAIVER.] *(a) The court may waive the requirements of this section if the court finds that there is no arrearage in child support or maintenance as of the date of the hearing, that it would not be contrary to the best interests of the child, and: (1) one party demonstrates and the court finds that there is good cause to waive the requirements of this section or to terminate automatic income withholding on an order previously entered under this section; or (2) all parties reach a written agreement that provides for an alternative payment arrangement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. If the court waives the requirements of this section:*

*(1) in all cases where the obligor is at least 30 days in arrears, withholding must be carried out pursuant to section 518.611;*

*(2) the obligee may at any time and without cause request the court to issue an order for automatic income withholding under this section; and*

*(3) the obligor may at any time request the public authority to begin withholding pursuant to this section, by serving upon the public authority the request and a copy of the order for child support or maintenance. Upon receipt of the request, the public authority shall serve a copy of the court's order and the provisions of section 518.611 and this section on the obligor's employer or other payor of funds. The public authority shall notify the court that withholding has begun at the request of the obligor pursuant to this clause.*

*(b) For purposes of this subdivision, "parties" includes the public authority in cases when it is a party pursuant to section 518.551, subdivision 9.*

Sec. 198. Minnesota Statutes 1988, section 540.08, is amended to read:

540.08 [INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.]

A parent may maintain an action for the injury of a minor son or daughter. A general guardian may maintain an action for an injury to the ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction, may maintain an action for the injury of the child. If no action is brought by the father or mother, an action for the injury may be brought by a guardian ad litem, either before or after the death of the parent. Before a parent receives property as a result of the action, the parent shall file a bond as the court prescribes and approves as security therefor. In lieu of this bond, upon petition of the parent, the court may order that the property received be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or that the property be invested in a savings account, savings certificate, or certificate of deposit, in a bank, savings and loan association, or trust company, or an annuity or other form of structured settlement, subject to the order of the court. A copy of the court's order and the evidence of the deposit shall be filed with the court administrator. *Money or assets in an account established by the court under this section are not available to the minor child or the child's parent or guardian until released by the court to the child*

*or the child's parent or guardian.* No settlement or compromise of the action is valid unless it is approved by a judge of the court in which the action is pending.

Sec. 199. Minnesota Statutes 1988, section 609.378, is amended to read:

609.378 [NEGLECT *OR ENDANGERMENT* OF A CHILD.]

*Subdivision 1.* [PERSONS GUILTY OF NEGLECT OR ENDANGERMENT.] *The following people are guilty of neglect or endangerment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.*

(a) [NEGLECT.] *(1)* A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and ~~which~~ *the* deprivation substantially harms the child's physical or emotional health ~~or (b)~~ *is guilty of neglect of a child. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.*

*(2)* A parent, legal guardian, or ~~foster parent~~ *caretaker* who knowingly permits the continuing physical or sexual abuse of a child~~,~~ is guilty of neglect of a child ~~and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both~~.

*(b)* [ENDANGERMENT.] *A parent, legal guardian, or caretaker who endangers the child's person or health by intentionally causing or permitting a child to be placed in a situation likely to substantially harm the child's physical or mental health or cause the child's death is guilty of child endangerment. This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).*

*Subd. 2.* [DEFENSES.] It is a defense to a prosecution under ~~clause (b)~~ *subdivision 1, paragraph (a), clause (2), or paragraph (b),* that at the time of the neglect *or endangerment* there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect *or endangerment* would result in substantial bodily harm to the defendant or the child in retaliation.

~~If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment shall constitute "health care" as used in clause (a).~~

Sec. 200. Minnesota Statutes 1988, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321

to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to ~~(1)~~ mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child~~, or (2)~~ *in lieu of medical care; except that there is a duty to report if a lack of medical care may cause imminent and serious danger to the child's health. This section does not* impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~10~~ *2a*, clause ~~(c)~~ *(5)*.

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 201. Minnesota Statutes 1988, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

(1) an assault, as defined in section 609.02, subdivision 10, or any physical contact not exempted by section 609.379, where the assault or physical contact is either severe or recurring and causes either injury or significant risk of injury to the child;

(2) neglect as defined in subdivision 2, paragraph (c); or

(3) sexual abuse as defined in subdivision 2, paragraph (a).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

*(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in imminent and serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.*

Sec. 202. Minnesota Statutes 1988, section 626.558, is amended to read:

626.558 [MULTIDISCIPLINARY CHILD PROTECTION TEAM.]

Subdivision 1. [ESTABLISHMENT OF THE TEAM.] A county may establish a multidisciplinary child protection team ~~comprised of~~ *that may include, but not be limited to,* the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, ~~and~~ representatives of health and education~~. In addition~~, representatives of mental health or other appropriate human service agencies, and parent groups ~~may be added to the child protection team~~.

Subd. 2. [DUTIES OF TEAM.] A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its child protection functions under section 626.556 and the community social services act. *As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family.* Case consultation ~~must~~ *may* be performed by a committee *or subcommittee* of ~~the team composed of the team~~ members representing ~~social~~ *human* services, *including mental health and chemical dependency;* law enforcement, *including probation and parole;* the county attorney~~,~~*;* health care~~,~~*;* education~~,~~*; and other necessary agencies;* and persons directly involved in an individual case as ~~determined~~ *designated* by ~~the case consultation committee. Case consultation is a case review process that results in recommendations about services to be provided to the identified children and family~~ *other members performing case consultation.*

Subd. 2a. [JUVENILE PROSTITUTION OUTREACH PROGRAM.] A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for juveniles who are engaging in prostitution. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. The county may finance these services by means of the penalty assessment authorized by section 609.3241. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3. [INFORMATION SHARING.] *(a)* The local welfare agency may make available to the case consultation committee ~~of the team~~ *or subcommittee*, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. ~~Any member of the~~ *A* case consultation committee *or subcommittee member* may share information acquired in the member's professional capacity with the committee *or subcommittee* to assist ~~the committee~~ in ~~its function~~ *case consultation*.

*(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.*

*(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.*

*(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.*

*A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.*

Sec. 203. [626.5593] [PEER REVIEW OF LOCAL AGENCY RESPONSE.]

*Subdivision 1.* [ESTABLISHMENT.] *By January 1, 1991, the commissioner of human services shall establish a pilot program for peer review of local agency responses to child maltreatment reports made under section 626.556. The peer review program shall examine agency assessments of maltreatment reports and delivery of child protection services in at least two counties. The commissioner shall designate the local agencies to be reviewed, and shall appoint a peer review panel composed of child protection workers, as defined in section 626.559, and law enforcement personnel who are responsible for investigating reports of child maltreatment under section 626.556, subdivision 10, within the designated counties.*

*Subd. 2.* [DUTIES.] *The peer review panel shall meet at least quarterly to review case files representative of child maltreatment reports that were investigated or assessed by the local agency. These cases shall be selected randomly from local welfare agency files by the commissioner. Not public data, as defined in section 13.02, subdivision 8, may be shared with panel members in connection with a case review.*

*The panel shall review each case for compliance with relevant laws, rules, agency policies, appropriateness of agency actions, and case determinations. The panel shall issue a report to the designated agencies after each meeting which includes findings regarding the agency's compliance with relevant laws, rules, policies, case practice, and any recommendations to be considered by the agency. The panel shall also issue a semiannual report concerning its activities. This semiannual report shall be available to the public, but may not include any information that is classified as not public data.*

*Subd. 3.* [REPORT TO LEGISLATURE.] *By January 1, 1992, the commissioner shall report to the legislature regarding the activities of the peer review panel, compliance findings, barriers to the effective delivery of child protection services, and recommendations for the establishment of a permanent peer review system for child protection services.*

*Subd. 4.* [FUNDS.] *The commissioner may use funds allocated for child protection services, training, and grants to pay administrative expenses associated with the peer review panel pilot program created by this section.*

Sec. 204. Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended by Laws 1987, chapter 75, section 1, and by Laws 1988, chapter 689, article 2, section 238, is amended to read:

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.] Through June 30, 1990, the following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied prior to the date of enactment of this act if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site prior to the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another~~,~~; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building; ~~or~~

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota; *or*

*(10) a project to replace a 130-bed or less hospital if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds.*

Sec. 205. Laws 1988, chapter 689, article 2, section 248, is amended to read:

Sec. 248. [LOCAL INCOME ASSISTANCE FROM FEDERAL FOOD STAMPS.]

To the extent of available appropriations, the commissioner of human services shall contract with community outreach programs to encourage participation in the food stamp program of *eligible low-income households, including, but not limited to,* seniors, *disabled persons,* farmers, veterans, unemployed workers, low-income working heads of households, battered women residing in shelters, migrant workers, *refugee* families with children, and ~~other eligible~~ individuals who are homeless. ~~For purposes of this section, "homeless" means that the individual lacks a fixed and regular nighttime residence or has a primary nighttime residence that is:~~

~~(1) a publicly supervised or privately operated shelter, including a welfare hotel or congregate shelter, designed to provide temporary living accommodations;~~

~~(2) an institution that provides a temporary residence for individuals who will be institutionalized;~~

~~(3) a temporary accommodation in the residence of another individual; or~~

~~(4) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

The commissioner shall seek federal reimbursement for state money used for grants and contracts under this section. Federal money received is appropriated to the commissioner for purposes of this section. The commissioner shall convene an advisory committee to help establish criteria for awarding grants, to make recommendations regarding grant proposals, to assist in the development of training and educational materials, and to participate in the evaluation of grant programs. The grantees shall provide training for program workers, offer technical assistance, and prepare educational materials. Grantees must demonstrate that grants were used to increase participation in the food stamp program by creating new outreach activities, and not by replacing existing activities. No more than five percent of the appropriation for community outreach programs shall be used by the commissioner for the department's administrative costs. The rulemaking requirements of Minnesota Statutes, chapter 14 do not apply to the procedures used by the commissioner to request and evaluate grant proposals and to award grants and contracts under this section. Distribution of grant money must begin within three months after any transfer of funds from the commissioner of health to the commissioner of human services.

Sec. 206. Laws 1988, chapter 689, article 2, section 269, subdivision 2, is amended to read:

Subd. 2. Section 248 is repealed effective July 1, ~~1990~~ *1991*.

Sec. 207. Laws 1988, chapter 719, article 8, section 32, is amended to read:

Sec. 32. [TRANSFER OF COUNTY FOOD STAMP QUALITY CONTROL SYSTEM EMPLOYEES.]

(a) All positions covered by the Minnesota merit system located in Crow Wing county family social service center and in the Redwood county welfare department classified as food stamp corrective action specialist I and II and as financial assistant supervisor I, if the positions supervise food stamp

corrective action specialists, are transferred to the department of human services and become state civil service positions.

(b) All incumbent employees affected by this transfer, who choose to transfer to state civil service positions in the department of human services, must be transferred with no reduction in salary. Salaries of individual employees who transfer must be adjusted to the minimum salary or to the nearest equal or higher step on the state compensation plan for their class, whichever is greater.

(c) Existing sick leave and vacation accruals for an employee who transfers must be transferred to the department of human services and the employee shall accrue additional vacation and sick leave under the provisions of the appropriate state collective bargaining agreement based on the employee's years of service in either Crow Wing county family service center or in the Redwood county welfare department.

(d) If an employee who transfers chooses to retain the county coverage for employee and dependent health, dental, and life insurance, the department of human services shall reimburse the employee for one month of continued enrollment in the health, dental, and life insurance plans in an amount equal to what their former county employer would have paid for the coverage had the employee remained a county employee, until the employee is eligible for coverage under the state insurance plans.

(e) ~~Classification seniority for an employee who transfers must be calculated according to the provisions of the appropriate state collective bargaining agreement based upon the employee's years of service in the county merit system.~~ *The state must negotiate with the exclusive representative for the bargaining unit to which food stamp quality control employees are transferring regarding their classification seniority. For purposes of calculating classification seniority for employees transferring into state service, a transferred employee must retain the same seniority ranking the employee had within the employee's current classification within the county relative to the other employees with that classification within the county. Classification seniority for classifications outside of the bargaining unit into which the employee is transferring must be calculated according to the provisions of the appropriate state collective bargaining agreement based upon the employee's years of service in the county merit system.*

Sec. 208. [REPORT ON INHALANT ABUSE DEMONSTRATION PROJECT.]

*The commissioner shall prepare a report on the outcome of the inhalant abuse demonstration project in Minnesota Statutes, section 254A.145, to be presented to the legislature by February 1, 1991. In that report, the commissioner shall include information on the effectiveness of the chemical dependency treatment system for children under 14 years of age, particularly children who are inhalant abusers, and shall issue recommendations for the appropriate provision of services for this population group.*

Sec. 209. [PLANNING GRANT.]

*The commissioner of human services is authorized to award, for the biennium ending June 30, 1991, a planning grant to a public or private agency or program experienced in working with youth and inhalant/chemical abuse, in order to establish a treatment program for children under*

*age 12 identified as inhalant abusers. This treatment program shall evaluate clients, provide treatment and aftercare services, and coordinate services provided with existing agencies. The agency or program receiving the planning grant must report program results and recommendations to the commissioner of human services by February 15, 1991.*

Sec. 210. [COMMUNITY ACTION PROGRAM LEGISLATIVE TASK FORCE.]

*Subdivision 1.* [PURPOSE.] *On this 25th anniversary of the Economic Opportunity Act of 1964, the legislature recognizes the need to evaluate how Minnesota can, through community action programs, meet the needs of its low-income residents and provide them with opportunities to escape poverty. With the population of low-income residents increasing, and federal financial support for community action programs decreasing, the legislature must evaluate the ability of community action programs to serve low-income residents. The purpose of the task force is to chart a course for community action programs to ensure that the needs of low-income residents are met.*

*Subd. 2.* [MEMBERSHIP.] *There is established a legislative task force consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate majority leader. At least two members should be of the minority caucus.*

*Subd. 3.* [CHAIR.] *The members of the task force shall elect one member to serve as chair of the task force.*

*Subd. 4.* [STAFF.] *The task force shall use legislative staff to carry out its duties.*

*Subd. 5.* [DUTIES.] *The task force shall examine the role and future of community action programs in Minnesota. At least three hearings shall be held in the area of Minnesota outside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. Community action programs shall organize regional presentations as well as selected tours for the task force. The task force shall examine and make recommendations on how community action programs can better address the needs of Minnesota's low-income residents. The task force shall also examine programs, advocacy efforts, funding trends, and local initiatives to reduce poverty, as well as the state's role in supporting community action programs in Minnesota. The task force shall submit a report on its findings and recommendations to the legislature by January 15, 1990.*

Sec. 211. [RULES FOR DROP-IN CARE.]

*By April 1, 1990, the commissioner of human services must adopt permanent rules to amend Minnesota Rules, part 9503.0075, to bring that rule part into conformity with the requirements of section 245A.14, subdivision 6.*

Sec. 212. [RULES PROVIDING VARIANCES.]

*The commissioner of human services is authorized to amend Minnesota Rules, part 9503.0170, subpart 6, item D, to permit variances from the staff distribution requirements of part 9503.0040, subpart 2, item D; to permit variances from the age category grouping requirements of part 9503.0040, subpart 3, item B, subitem (1); and to permit variances from the transportation requirements of part 9503.0150, item E. Variance requests*

*submitted to the commissioner according to the amendments authorized in this section must comply in all respects with the provisions of part 9503.0170, subpart 6, items A to C. The commissioner's authority to adopt rules under this section expires on April 1, 1990.*

Sec. 213. [SUPPORTIVE RESIDENTIAL PROGRAMS REPORT.]

*Subdivision 1.* [SUPPORTIVE RESIDENTIAL PROGRAM REGULATION RECOMMENDATION.] *By February 1, 1990, the commissioners of health and human services shall jointly make a recommendation to the legislature on the regulation and licensure of facilities and programs that provide housing services and provide or coordinate supportive services or health supervision services to residents. The recommendations must address:*

*(1) the existing use of residential arrangements with a lodging, hotel, or food service license under Minnesota Statutes, chapter 157;*

*(2) existing county board and local human service agency administrative or certification standards for board and lodging houses or supportive living residences;*

*(3) county referral and placement practices for persons who, in addition to food or lodging services, need assistance with health or supportive services;*

*(4) the status of persons in these facilities with respect to the vulnerable adults abuse reporting act and their need for referral to protective services or social services for assessment prior to placement by the county or referral to the residence by the county;*

*(5) the applicability of laws governing the rights of patients and residents specified in Minnesota Statutes, section 144.651, and the rights of tenants in housing;*

*(6) a determination as to the need for and degree of regulation of these services;*

*(7) recommendations for repeal or revision of existing facility and program statutes and regulations; and*

*(8) a fiscal analysis of the current costs associated with the provision of supportive programs and facilities, recommendations for methods for maximizing all funding sources used for these services, and an analysis of the costs for licensure and regulation.*

*Subd. 2.* [CONSULTATION WITH AFFECTED PARTIES.] *In developing the recommendations, the commissioners may consult other state departments and agencies, the interagency board for quality assurance established under Minnesota Statutes, section 144A.31, counties and other affected political subdivisions, advocacy groups, representatives or owners of facilities and programs, lodging houses and assisted or supportive living services, and service consumers.*

*Subd. 3.* [COUNTY REPORTING.] *No later than September 1, 1989, and annually after that date, the county board or human services board in each county shall report to the commissioner of human services the names and addresses of the owners and operators of all facilities and programs with which the county has a negotiated rate agreement and which are not licensed under Minnesota Statutes, chapter 144, 144A, or 245A. The report must identify the amount of the negotiated rate for each facility or program, services other than the provision of lodging that the owner*

*or operator is responsible for coordinating or providing, the number of persons receiving services, and the per unit cost for the services. No later than September 1, 1989, the county board or human services agency in each county shall also provide the commissioner of human services with a copy of any administrative standards or certification standards adopted by or used by the county for board and lodging facilities and supervised living residences that are in addition to or different from those contained in Minnesota Rules, chapter 4625, or that are for facilities and programs not licensed under Minnesota Statutes, chapter 144, 144A, or 245A.*

Sec. 214. [LICENSURE EXCLUSIONS.]

*Until July 1, 1990, Minnesota Statutes, sections 245A.01 to 245A.16, do not apply to board and lodging establishments licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness and who have refused an appropriate residential program offered by a county agency.*

Sec. 215. [STUDY; BOND REQUIREMENT FOR HEARING INSTRUMENT SELLERS.]

*The commissioner of health shall study issues relating to the requirement in Minnesota Statutes, section 153A.16, that hearing instruments obtain a surety bond. The study must address the availability of bonds, the costs of obtaining the bonds, and the underwriter financial requirements for obtaining bonds. The commissioner of health shall report to the legislature by January 1, 1990, with the results of the study and the commissioner's recommendations, including findings and recommendations on whether other mechanisms are available to protect purchasers of hearing instrument products and services.*

Sec. 216. [STUDY OF EXEMPTIONS TO REGISTRATION WITH THE BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS.]

*The commissioner of human services, in consultation with the board of unlicensed mental health service providers, shall study and report to the legislature by February 15, 1990, on whether any of the persons exempted from registration by reason of their employment in a program licensed by the commissioner of human services should be required to register with the board.*

Sec. 217. [IRIS COORDINATING COMMITTEE.]

*Subdivision 1.* [MEMBERSHIP.] *The coordinating committee for the inventory, referral, and intake system (IRIS) required under Minnesota Statutes, section 268.86, subdivision 10, consists of the commissioners or their designees of the departments of human services, administration, and jobs and training; a representative of the information policy office; two members of the senate appointed under the rules of the senate; and two members of the house of representatives appointed under the rules of the house.*

*Subd. 2.* [DUTIES.] *The IRIS coordinating committee shall:*

*(1) monitor the implementation of IRIS;*

*(2) oversee a delivery system study to determine the scope and nature of the current delivery system problems;*

*(3) oversee the development of a strategic plan for human service delivery which must include, in addition to planned improvements in delivery*

*systems, information system objectives and policy requirements accomplished through IRIS; and*

*(4) evaluate the IRIS prototype pilot project conducted jointly by the department of human services and the department of jobs and training.*

*Subd. 3.* [REPORT.] *The IRIS coordinating committee shall report to the legislature every six months beginning July 1, 1989, on the activities of the committee.*

*Subd. 4.* [EXPIRATION.] *The IRIS coordinating committee expires on July 1, 1991, or six months after full implementation of IRIS, whichever occurs later.*

Sec. 218. [INSTRUCTION TO REVISOR.]

*In Minnesota Statutes 1989 Supplement and subsequent editions of the statutes, the revisor of statutes shall change the words "resident" and "patient," wherever they appear in Minnesota Statutes, sections 246.50 to 246.55, to "client."*

Sec. 219. [REPEALER.]

*Subdivision 1.* [HEALTH DEPARTMENT HOSPITAL INFORMATION.] *Minnesota Rules, parts 4650.0162 and 4650.0164, are repealed.*

*Subd. 2.* [HUMAN SERVICES LICENSING.] *Laws 1987, chapter 403, article 5, section 1, is repealed.*

*Subd. 3.* [CHEMICAL DEPENDENCY FUND.] *Section 254B.09, subdivision 3, is repealed effective the day following final enactment. Section 254B.10 is repealed effective July 1, 1989.*

*Subd. 4.* [PERMANENCY PLANNING.] *Minnesota Statutes 1988, section 256F.05, subdivision 1, is repealed.*

*Subd. 5.* [CHILD SUPPORT.] *Minnesota Statutes 1988, section 518.613, subdivision 5; and 256.87, subdivision 4, are repealed. Laws 1988, chapter 719, article 8, section 34, is repealed.*

*Subd. 6.* [CHILD CARE.] *Minnesota Statutes 1988, sections 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; and 256H.13, are repealed.*

*Subd. 7.* [STATE FACILITY COST OF CARE.] *Minnesota Statutes, section 246.50, subdivisions 3a, 4a, and 9, are repealed.*

Sec. 220. [EFFECTIVE DATE.]

*Subdivision 1.* [HEALTH DEPARTMENT ADMINISTRATION.] *Sections 3 to 6 are effective the day following final enactment.*

*Subd. 2.* [HUMAN SERVICES LICENSING.] *Sections 62, 82, 83, 85, 210, and 211 are effective the day following final enactment.*

*Subd. 3.* [CHEMICAL DEPENDENCY FUND.] *Sections 105, 106, and 108 to 110 are effective the day following final enactment.*

*Subd. 4.* [HEAD START.] *Sections 171 to 175 are effective the day following final enactment.*

*Subd. 5.* [HOSPITALITY HOST PROGRAM.] *Section 176 is effective the day following final enactment.*

*Subd. 6.* [CHILD SUPPORT.] *Section 162 is effective the day following final enactment and applies to actions brought after January 1, 1986. Section 197 is effective the day following final enactment and applies to support and maintenance orders entered or modified before, on, or after the effective date.*

*Subd. 7.* [CHILD MORTALITY REVIEW PANELS.] *Section 112 is effective the day following final enactment.*

*Subd. 8.* [LEAD ABATEMENT.] *Section 19 is effective the day following final enactment.*

*Subd. 9.* [BOARD OF SOCIAL WORK.] *Section 40 is effective the day following final enactment.*

*Subd. 10.* [MARRIAGE AND DISSOLUTION FEES.] *Sections 185 to 188 are effective the day following final enactment.*

*Subd. 11.* [MARRIAGE AND FAMILY THERAPISTS.] *Section 42 is effective retroactively to December 28, 1988.*

*Subd. 12.* [COURT-SUPERVISED SETTLEMENT ACCOUNTS.] *Section 198 is effective the day following final enactment and applies to issues concerning the availability of funds that arise on and after the effective date.*

*Subd. 13.* [REPEALER SECTION.] *Section 219, subdivisions 3 and 5, are effective the day following final enactment.*

ARTICLE 3

HEALTH CARE AND MEDICAL ASSISTANCE

Section 1. Minnesota Statutes 1988, section 62A.045, is amended to read:

62A.045 [PAYMENTS ~~TO~~ *ON BEHALF OF* WELFARE RECIPIENTS.]

No policy of accident and sickness insurance *regulated under this chapter; vendor of risk management services regulated under section 60A.23; nonprofit health service plan corporation regulated under chapter 62C; health maintenance organization regulated under chapter 62D; or self-insured plan regulated under chapter 62E* shall contain any provision denying or reducing benefits because services are rendered to ~~an insured or dependent~~ *a person* who is eligible for or receiving medical ~~assistance~~ *benefits* pursuant to chapter 256B *or 256D* or services pursuant to section 252.27; *256.936;* 260.251, subdivision 1a; 261.27; or 393.07, subdivision 1 or 2.

*Notwithstanding any law to the contrary, when a person covered under a policy of accident and sickness insurance, risk management plan, nonprofit health service plan, health maintenance organization, or self-insured plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the provider must be issued directly to the provider. If a person was receiving medical benefits through the department of human services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the insurer for those services. If the commissioner of human services notifies the insurer that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the insurer must be issued directly to the*

*commissioner. Submission by the department to the insurer of the claim on a department of human services claim form is proper notice and shall be considered proof of payment of the claim to the provider, and supersedes any contract requirements of the insurer relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the insurer to the provider or the commissioner.*

Sec. 2. Minnesota Statutes 1988, section 62A.046, is amended to read:

62A.046 [COORDINATION OF BENEFITS.]

(1) No group contract providing coverage for hospital and medical treatment or expenses issued or renewed after August 1, 1984, which is responsible for secondary coverage for services provided, may deny coverage or payment of the amount it owes as a secondary payor solely on the basis of the failure of another group contract, which is responsible for primary coverage, to pay for those services.

(2) A group contract which provides coverage of a claimant as a dependent of a parent who has legal responsibility for the dependent's medical care pursuant to a court order under section 518.171 must make payments directly to the provider of care. In such cases, liability to the insured is satisfied to the extent of benefit payments made to the provider.

(3) This section applies to an insurer, a vendor of risk management services regulated under section 60A.23, a nonprofit health service plan corporation regulated under chapter 62C and a health maintenance organization regulated under chapter 62D. Nothing in this section shall require a secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

*(4) Payments made by an enrollee or by the commissioner on behalf of an enrollee in the children's health plan under section 256.936, or a person receiving benefits under chapter 256B or 256D, for services that are covered by the policy or plan of health insurance shall, for purposes of the deductible, be treated as if made by the insured.*

*(5) The commissioner of human services shall recover payments made by the children's health plan from the responsible insurer, for services provided by the children's health plan and covered by the policy or plan of health insurance.*

Sec. 3. [144.0723] [CLIENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.]

*Subdivision 1.* [CLIENT REIMBURSEMENT CLASSIFICATIONS.] *The commissioner of health shall establish reimbursement classifications based upon the assessment of each client in intermediate care facilities for the mentally retarded conducted after December 31, 1988, under section 256B.501, subdivision 3g, or under rules established by the commissioner of human services under section 256B.501, subdivision 3j. The reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services to set payment rates for intermediate care facilities for the mentally retarded beginning on or after October 1, 1990.*

*Subd. 2.* [NOTICE OF CLIENT REIMBURSEMENT CLASSIFICATION.] *The commissioner of health shall notify each client and intermediate care facility for the mentally retarded in which the client resides of the reimbursement classification established under subdivision 1. The notice must inform the client of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification. The notice of classification must be sent by first-class mail. The individual client notices may be sent to the client's intermediate care facility for the mentally retarded for distribution to the client. The facility must distribute the notice to the client's case manager and to the client or to the client's representative. This notice must be distributed within three working days after the facility receives the notices from the department. For the purposes of this section, "representative" includes the client's legal representative as defined in Minnesota Rules, part 9525.0015, subpart 18, the person authorized to pay the client's facility expenses, or any other individual designated by the client.*

*Subd. 3.* [REQUEST FOR RECONSIDERATION.] *The client, client's representative, or the intermediate care facility for the mentally retarded may request that the commissioner reconsider the assigned classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days after the receipt of the notice of client classification. The request for reconsideration must include the name of the client, the name and address of the facility in which the client resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the client at the time of the assessment resulting in the disputed classification justify a change of classification.*

*Subd. 4.* [ACCESS TO INFORMATION.] *Upon written request, the intermediate care facility for the mentally retarded must give the client's case manager, the client, or the client's representative a copy of the assessment form and the other documentation that was given to the department to support the assessment findings. The facility shall also provide access to and a copy of other information from the client's record that has been requested by or on behalf of the client to support a client's reconsideration request. A copy of any requested material must be provided within three working days after the facility receives a written request for the information. If the facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment. Notwithstanding this section, any order issued by the commissioner under this subdivision must require that the facility immediately comply with the request for information and that as of the date the order is issued, the facility shall forfeit to the state a $100 fine the first day of noncompliance, and an increase in the $100 fine by $50 increments for each day the noncompliance continues.*

*Subd. 5.* [FACILITY'S REQUEST FOR RECONSIDERATION.] *(a) In addition to the information required in subdivision 3, a reconsideration request from an intermediate care facility for the mentally retarded must contain the following information:*

*(1) the date the reimbursement classification notices were received by the facility;*

*(2) the date the classification notices were distributed to the client's case manager and to the client or to the client's representative; and*

*(3) a copy of a notice sent to the client's case manager, and to the client or client's representative that tells the client or the client's representative (i) that a reconsideration of the client's reimbursement classification is being requested; (ii) the reason for the request; (iii) that the client's rate may change if the request is approved by the department; (iv) that copies of the facility's request and supporting documentation are available for review; and (v) that the client also has the right to request a reconsideration.*

*(b) If the facility fails to provide this information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.*

*Subd. 6.* [RECONSIDERATION.] *The commissioner's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under subdivisions 3 and 5. If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. At the commissioner's discretion, the commissioner may review the reimbursement classifications assigned to all clients in the facility. Within 15 working days after receiving the request for reconsideration, the commissioner shall affirm or modify the original client classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the status of the client at the time of the assessment. The client and the intermediate care facility for the mentally retarded shall be notified within five working days after the decision is made. The commissioner's decision under this subdivision is the final administrative decision of the agency.*

*Subd. 7.* [AUDIT AUTHORITY.] *The department of health may audit assessments of clients in intermediate care facilities for the mentally retarded. The audits may be conducted at the facility, and the department may conduct the audits on an unannounced basis.*

*Subd. 8.* [RULEMAKING.] *The commissioner of health shall adopt rules necessary to implement these provisions.*

Sec. 4. Minnesota Statutes 1988, section 144.50, is amended by adding a subdivision to read:

*Subd. 7.* [RESIDENTS WITH AIDS OR HEPATITIS.] *Boarding care homes and supervised living facilities licensed by the commissioner of health must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot meet the needs of the person under Minnesota Rules, part 4665.0200, subpart 5, or part 4655.1500, subpart 2, or the person is otherwise not eligible for admission to the facility under state laws or rules.*

Sec. 5. Minnesota Statutes 1988, section 144.651, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Patient" also means a minor who is admitted to a residential program as defined in

section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and ~~board and~~ *boarding* care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

Sec. 6. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

*Subd. 3a. "Certified" means certified for participation as a provider in the Medicare or Medicaid programs under title XVIII or XIX of the Social Security Act.*

Sec. 7. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

*Subd. 4a. "Emergency" means a situation or physical condition that creates or probably will create an immediate and serious threat to a resident's health or safety.*

Sec. 8. Minnesota Statutes 1988, section 144A.04, subdivision 7, is amended to read:

Subd. 7. [MINIMUM NURSING STAFF REQUIREMENT.] Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel

in *certified* nursing homes is as follows:

(a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

(b) For purposes of this subdivision, "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in Minnesota Rules, parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart 2, calculated on the basis of a facility's census for any given day.

(c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

*(d) A nursing home that is issued a notice of noncompliance under section 144A.10, subdivision 5, for a violation of this subdivision, shall be assessed a civil fine of $300 for each day of noncompliance, subject to section 144A.10, subdivisions 7 and 8.*

Sec. 9. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

*Subd. 8.* [RESIDENTS WITH AIDS OR HEPATITIS.] *A nursing home must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot provide appropriate care for the person under Minnesota Rules, part 4655.1500, subpart 2, or the person is otherwise not eligible for admission under state laws and rules.*

Sec. 10. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

*Subd. 9.* [CARDIOPULMONARY RESUSCITATION TRAINING.] *Effective October 1, 1989, a nursing home must have on duty at all times at least one staff member who is trained in single rescuer adult cardiopulmonary resuscitation and who has completed the initial training or a refresher course within the previous two years.*

Sec. 11. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving

items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) ~~the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and (2)~~ the nursing home beds are not certified for participation in the medical assistance program; *and (2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;*

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; ~~or~~

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the

city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause; *or*

*(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements.*

Sec. 12. Minnesota Statutes 1988, section 144A.073, subdivision 1, is amended to read:

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

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or $200,000, whichever is less.

(c) "Replacement" means the demolition ~~and~~ *or* reconstruction of all or part of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

Sec. 13. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

*Subd. 6b.* [FINES FOR FEDERAL CERTIFICATION DEFICIENCIES.] *If the commissioner determines that a nursing home or certified boarding care home does not meet a requirement of section 1919(b), (c), or (d), of the Social Security Act, or any regulation adopted under that section of the Social Security Act, the nursing home or certified boarding care home may be assessed a civil fine for each day of noncompliance and until a*

*notice of correction is received by the commissioner under subdivision 7. Money collected because of these fines must be applied to the protection of the health or property of residents of nursing facilities the commissioner finds deficient. A fine for a specific deficiency may not exceed $500 for each day of noncompliance. The commissioner shall adopt rules establishing a schedule of fines.*

Sec. 14. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

*Subd. 6c.* [OVERLAP OF FINES.] *If a nursing home is subject to fines under both subdivisions 6 and 6b for the same requirement, condition, situation, or practice, the commissioner shall assess either the fine provided by subdivision 6 or the fine provided by subdivision 6b.*

Sec. 15. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

*Subd. 6d.* [SCHEDULE OF FINES.] *(a) The schedule of fines for noncompliance with correction orders issued to nursing homes that was adopted under the provisions of section 144A.10, subdivision 6, and in effect on May 1, 1989, is effective until repealed, modified, or superseded by rule.*

*(b) By September 1, 1990, the commissioner shall amend the schedule of fines to increase to $250 the fines for violations of section 144.561, subdivisions 18, 20, 21, 22, 27, and 30, and for repeated violations.*

*(c) The commissioner shall adopt rules establishing the schedule of fines for deficiencies in the requirements of section 1919(b), (c), and (d), of the Social Security Act, or regulations adopted under that section of the Social Security Act.*

Sec. 16. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

*Subd. 8a.* [FINE FOR MISALLOCATION OF NURSING STAFF.] *Upon issuing a correction order to a nursing home under subdivision 4 for a violation of Minnesota Rules, part 4655.5600, because of nursing staff performing duties such as washing wheelchairs or beds of discharged residents, or other housekeeping or laundry duties not related to the direct nursing care of residents, the commissioner shall impose a civil fine of $500 per day. A fine under this subdivision accrues in accordance with subdivision 6 and is subject to subdivision 8 for purposes of recovery and hearings.*

Sec. 17. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

*Subd. 8b.* [RESIDENT ADVISORY COUNCIL.] *Each nursing home or boarding care home shall establish a resident advisory council and a family council, unless fewer than three persons express an interest in participating. If one or both councils do not function, the nursing home or boarding care home shall document its attempts to establish the council or councils at least once each calendar year. This subdivision does not alter the rights of residents and families provided by section 144.651, subdivision 27. A nursing home or boarding care home that is issued a notice of noncompliance with a correction order for violation of this subdivision shall be assessed a civil fine of $100 for each day of noncompliance.*

Sec. 18. [144A.103] [PENALTY FOR DEATH OF A RESIDENT.]

*Subdivision 1.* [DEFINITIONS.] *For purposes of this section, "abuse" and "neglect" have the meanings given in section 626.557, subdivision 2, paragraphs (d) and (e).*

*Subd. 2.* [PENALTY.] *Whenever the commissioner substantiates that a situation existed that constituted abuse or neglect by a nursing home and that could foreseeably result in death or injury to a resident, and the abuse or neglect contributed to the resident's death, the nursing home must be assessed a civil fine of $1,000. The assessment of a fine under this section does not preclude the use of any other remedy.*

*Subd. 3.* [RECOVERY OF FINES; HEARING.] *A nursing home that is assessed a fine under this section must pay the fine no later than 15 days after receipt of the notice of assessment. The assessment shall be stayed if the nursing home makes a written request for a hearing on the assessment within 15 days after receipt of the notice of assessment. After submission of a timely request, a hearing must be conducted as a contested case hearing under chapter 14 no later than 30 days after the request. If a nursing home does not pay the fine as required by this section, the commissioner of health shall notify the commissioner of human services, who shall deduct the amount of the fine from reimbursement payments due or to be due the nursing home under chapter 256B.*

Sec. 19. [144A.105] [SUSPENSION OF ADMISSIONS.]

*Subdivision 1.* [CIRCUMSTANCES FOR SUSPENSIONS.] *The commissioner of health may suspend admissions to a nursing home or certified boarding care home when:*

*(1) the commissioner has issued a penalty assessment or the nursing home has a repeated violation for noncompliance with section 144A.04, subdivision 7, or the portion of Minnesota Rules, part 4655.5600, subpart 2, that establishes minimum nursing personnel requirements;*

*(2) the commissioner has issued a penalty assessment or the nursing home or certified boarding care home has repeated violations for not maintaining a sufficient number or type of nursing personnel to meet the needs of the residents, as required by Minnesota Rules, parts 4655.5100 to 4655.6200;*

*(3) the commissioner has determined that an emergency exists;*

*(4) the commissioner has initiated proceedings to suspend, revoke, or not renew the license of the nursing home or certified boarding care home; or*

*(5) the commissioner determines that the remedy of denial of payment, as provided by subparagraph 1919(h)(2)(A)(i) of the Social Security Act, is to be imposed under section 1919(h) of the Social Security Act, or regulations adopted under that section of the Social Security Act.*

*Subd. 2.* [ORDER.] *If the commissioner suspends admissions under subdivision 1, the commissioner shall notify the nursing home or certified boarding care home, by written order, that admissions to the nursing home or certified boarding care home will be suspended beginning at a time specified in the order. The suspension is effective no earlier than 48 hours after the nursing home or certified boarding care home receives the order, unless the order is due to an emergency under subdivision 1, clause (3). The order may be served on the administrator of the nursing home or certified boarding care home, or the designated agent in charge of the*

*home, by personal service or by certified or registered mail with a return receipt of delivery. The order shall specify the reasons for the suspension, the corrective action required to be taken by the nursing home or certified boarding care home, and the length of time the suspension will be in effect. The nursing home or certified boarding care home shall not admit any residents after the effective time of the order. In determining the length of time for the suspension, the commissioner shall consider the reasons for the suspension, the performance history of the nursing home, and the needs of the residents.*

*Subd. 3.* [CONFERENCE.] *After receiving the order for suspension, the nursing home or certified boarding care home may request a conference with the commissioner to present reasons why the suspension should be modified or should not go into effect. The request need not be in writing. If a conference is requested within 24 hours after receipt of the order, the commissioner shall hold the conference before the effective time of the suspension, unless the order for suspension is due to an emergency under subdivision 1, clause (3). If a conference is not requested within 24 hours after receipt of the order, the nursing home or certified boarding care home may request a conference and the commissioner shall schedule the conference as soon as practicable. The conference may be held in person or by telephone. After a conference, the commissioner may affirm, rescind, or modify the order.*

*Subd. 4.* [CORRECTION.] *The nursing home or certified boarding care home shall notify the commissioner, in writing, when any required corrective action has been completed. The commissioner may verify the corrective action by inspection under section 144A.10. The commissioner may extend the initial suspension period by written notice to the nursing home or certified boarding care home.*

*Subd. 5.* [NOTIFICATION OF COMMISSIONER OF HUMAN SERVICES.] *Whenever the commissioner suspends admissions to a nursing home or certified boarding care home, the commissioner shall notify the commissioner of human services of the order and of any modifications to the order.*

*Subd. 6.* [HEARING.] *A nursing home or certified boarding care home may appeal from an order for suspension of admissions issued under subdivision 1. To appeal, the nursing home or certified boarding care home shall file with the commissioner a written notice of appeal. The appeal must be received by the commissioner within ten days after the date of receipt of the order for suspension by the nursing home or certified boarding care home. Within 15 calendar days after receiving an appeal, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement of the parties. Regardless of any appeal, the order for suspension of admissions remains in effect until final resolution of the appeal.*

Sec. 20. Minnesota Statutes 1988, section 144A.11, is amended by adding a subdivision to read:

*Subd. 2a.* [NOTICE TO RESIDENTS.] *Within five working days after proceedings are initiated by the commissioner to revoke, suspend, or not renew a nursing home license, the controlling person of the nursing home or a designee must provide to the commissioner and the ombudsman for older Minnesotans the names of residents and the names and addresses of*

*the residents' guardians, representatives, and designated family contacts. The controlling person or designees must provide updated information each month until the proceeding is concluded. If the controlling person or designee fails to provide the information within this time, the nursing home is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a $100 fine the first day of noncompliance, and an increase in the $100 fine by $50 increments for each day the noncompliance continues. Information provided under this subdivision may be used by the commissioner or the ombudsman only for the purpose of providing affected consumers information about the status of the proceedings. Within ten working days after the commissioner initiates proceedings to revoke, suspend, or not renew a nursing home license, the commissioner of health shall send a written notice of the action and the process involved to each resident of the nursing home and the resident's legal guardian, representative, or designated family contact. The commissioner shall provide the ombudsman with monthly information on the department's actions and the status of the proceedings.*

Sec. 21. Minnesota Statutes 1988, section 144A.11, subdivision 3, is amended to read:

Subd. 3. [HEARING.] No nursing home license may be suspended or revoked, *and renewal may not be denied,* without a hearing held as a contested case in accordance with chapter 14. *The hearing must commence within 60 days after the proceedings are initiated.* If the controlling person designated under section 144A.03, subdivision 2, as an agent to accept service on behalf of all of the controlling persons of the nursing home has been notified by the commissioner of health that the facility will not receive an initial license or that a license renewal has been denied, the controlling person or a legal representative on behalf of the nursing home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.

Sec. 22. Minnesota Statutes 1988, section 144A.12, subdivision 1, is amended to read:

Subdivision 1. [INJUNCTIVE RELIEF.] In addition to any other remedy provided by law, the commissioner of health may bring an action in the district court in Ramsey *or Hennepin* county or in the district in which a nursing home is located to enjoin a controlling person or an employee of the nursing home from illegally engaging in activities regulated by sections 144A.01 to 144A.16. A temporary restraining order may be granted by the court in the proceeding if continued activity by the controlling person or employee would create an imminent risk of harm to a resident of the facility.

Sec. 23. Minnesota Statutes 1988, section 144A.15, subdivision 1, is amended to read:

Subdivision 1. [PETITION, NOTICE.] In addition to any other remedy provided by law, the commissioner of health may petition the district court in Ramsey *or Hennepin* county or in the district in which a nursing home *or certified boarding care home* is located for an order directing the controlling persons of the nursing home *or certified boarding care home* to

show cause why the commissioner of health or a designee should not be appointed receiver to operate the facility. The petition to the district court shall contain proof by affidavit that the commissioner of health has either commenced license suspension or revocation proceedings, suspended or revoked a license, or decided not to renew the nursing home license, *or that violations of section 1919(b), (c), or (d), of the Social Security Act, or the regulations adopted under that section, or violations of state law or rules, create an emergency*. The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy to the nursing home administrator and to the persons designated as agents by the controlling persons to accept service on their behalf pursuant to section 144A.03, subdivision 2.

Sec. 24. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

*Subd. 2a.* [EMERGENCY PROCEDURE.] *If it appears from the petition filed under subdivision 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in a nursing home or certified boarding care home, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition shall be served personally on the nursing home administrator and on the persons designated as agents by the controlling persons to accept service on their behalf according to section 144A.03, subdivision 2. A hearing on the petition shall be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.*

Sec. 25. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

*Subd. 6.* [RATE RECOMMENDATION.] *The commissioner may recommend to the commissioner of human services a review of the rates for a nursing home or boarding care home that participates in the medical assistance program that is in involuntary receivership, and that has needs or deficiencies documented by the department of health. If the commissioner of health determines that a review of the rate under section 256B.431 is needed, the commissioner shall provide the commissioner of human services with:*

*(1) a copy of the order or determination that cites the deficiency or need; and*

*(2) the commissioner's recommendation for additional staff and additional annual hours by type of employee and additional consultants, services, supplies, equipment, or repairs necessary to satisfy the need or deficiency.*

Sec. 26. [144A.135] [TRANSFER AND DISCHARGE APPEALS.]

*The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.*

Sec. 27. [144A.155] [PLACEMENT OF MONITOR.]

*Subdivision 1.* [AUTHORITY.] *The commissioner may place a person*

*to act as a monitor in a nursing home or certified boarding care home in any of the circumstances listed in clause (1) or (2):*

*(1) in any situation for which a receiver may be appointed under section 144A.15; or*

*(2) when the commissioner determines that violations of sections 144.651, 144A.01 to 144A.16, 626.557, or section 1919(b), (c), or (d), of the Social Security Act, or rules or regulations adopted under those provisions, require extended surveillance to enforce compliance or protect the health, safety, or welfare of the residents.*

*Subd. 2.* [DUTIES OF MONITOR.] *The monitor shall observe the operation of the home, provide advice to the home on methods of complying with state and federal rules and regulations, where documented deficiencies from the regulations exist, and periodically shall submit a written report to the commissioner on the ways in which the home meets or fails to meet state and federal rules and regulations.*

*Subd. 3.* [SELECTION OF MONITOR.] *The commissioner may select as monitor an employee of the department or may contract with any other individual to serve as a monitor. The commissioner shall publish a notice in the State Register that requests proposals from individuals who wish to be considered for placement as monitors, and that sets forth the criteria for selecting individuals as monitors. The commissioner shall maintain a list of individuals who are not employees of the department who are interested in serving as monitors. The commissioner may contract with those individuals determined to be qualified.*

*Subd. 4.* [PAYMENT OF MONITOR.] *A nursing home or certified boarding care home in which a monitor is placed shall pay to the department the actual costs associated with the placement, unless payment would create an undue hardship for the home.*

Sec. 28. Minnesota Statutes 1988, section 144A.61, is amended to read:

144A.61 [NURSING ASSISTANT TRAINING.]

Subdivision 1. [~~PURPOSE~~ *AUTHORITY.*] ~~The purpose of this section and section 144A.611 is to improve the quality of care provided to patients of nursing homes by assuring that approved programs for the training of nursing assistants are established as necessary throughout the state.~~ *The commissioner of health, in consultation with the commissioner of human services, shall implement the provisions of Public Law Number 100-203, the Omnibus Budget Reconciliation Act of 1987, that relate to training and competency evaluation programs, testing, and the establishment of a registry for nursing assistants in nursing homes and boarding care homes certified for participation in the medical assistance or Medicare programs. The commissioner of health may adopt permanent rules that may be necessary to implement Public Law Number 100-203 and provisions of this section. The commissioner of health may contract with outside parties for the purpose of implementing the provisions of this section. At the request of the commissioner, the board of nursing may establish training and competency evaluation standards; review, evaluate, and approve curricula; review and approve training programs; and establish a registry of nursing assistants.*

Subd. 2. [NURSING ASSISTANTS.] For the purposes of this section

and section 144A.611 "nursing assistant" means a nursing home *or certified boarding care home* employee, including a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of ~~direct patient care~~ *nursing or nursing-related* services under the supervision of a registered nurse. *"Nursing assistant" includes nursing assistants employed by nursing pool companies but does not include a licensed health professional.* The commissioner of ~~education~~ *health* may, by rule, establish categories of nursing assistants who are not required to comply with the educational requirements of this section and section 144A.611.

Subd. 3. [CURRICULA; ~~TEST~~.] The ~~commissioner of~~ *state director of vocational technical* education shall develop curricula ~~and a test~~ to be used for nursing assistant training programs for employees of nursing homes *and boarding care homes*. The curricula, as reviewed, *approved,* and evaluated by the board of nursing, shall be utilized by all facilities, institutions, or programs offering nursing assistant training programs. ~~The test may be given by any technical institute or community college in accordance with instructions from the commissioner of education. The commissioner of education may prescribe a fee for the administration of the test not to exceed $30.~~

*Subd. 3a.* [COMPETENCY EVALUATION PROGRAM.] *The commissioner of health shall approve the competency evaluation program. A test must be administered to nursing assistants who complete an approved training program and desire to be listed in the nursing assistant registry. The tests may only be administered by technical institutes and community colleges.*

Subd. 4. [TECHNICAL ASSISTANCE.] The ~~commissioner of~~ *state director of vocational technical* education shall, upon request, provide necessary and appropriate technical assistance in the development of nursing assistant training programs.

Subd. 6. [TRAINING PROGRAM.] Each nursing assistant hired to work in a nursing home on or after January 1, 1979, ~~shall~~ *but before January 1, 1990, must* have successfully completed an approved nursing assistant training program or shall be enrolled in the first available approved training program which is scheduled to commence within 60 days of the date of the assistant's employment. Approved training programs shall be offered at the location most reasonably accessible to the enrollees in each class.

*Subd. 6a.* [NURSING ASSISTANTS HIRED IN 1990 AND AFTER.] *Each nursing assistant hired to work in a nursing home or in a certified boarding care home on or after January 1, 1990, must have successfully completed an approved nursing assistant training program and competency evaluation within four months from the date of employment.*

Subd. 7. [VIOLATION, PENALTY.] Violation of this section ~~and section 144A.611~~ by a nursing home *or certified boarding care home* shall be grounds for the issuance of a correction order ~~to the nursing home by the state commissioner of health~~. *Under the provisions of sections 144.653 or 144A.10,* the failure of the nursing home *or certified boarding care home* to ~~correct the deficiency or deficiencies specified in~~ *comply with* the correction order shall result in the assessment of a fine in ~~accordance with the schedule of fines promulgated by rule of the state commissioner of health~~ *the amount of $300*.

Subd. 8. [EXCEPTIONS.] Employees of nursing homes conducted in

accordance with the teachings of the body known as the Church of Christ, Scientist, shall be exempt from the requirements of this section and section 144A.611.

Sec. 29. Minnesota Statutes 1988, section 144A.611, is amended to read:

144A.611 [REIMBURSABLE EXPENSES PAYABLE TO NURSING ASSISTANTS.]

Subdivision 1. [NURSING HOMES *AND CERTIFIED BOARDING CARE HOMES*.] The actual costs of tuition and reasonable expenses for ~~that approved program deemed by the commissioner of education to be minimally necessary to protect the health and welfare of nursing home residents~~ *the nursing assistant training program approved under section 144A.61*, which are paid to nursing ~~home~~ assistants pursuant to subdivision 2, ~~shall be~~ *are* a reimbursable expense for nursing homes *and certified boarding care homes* under the provisions of chapter 256B and the rules promulgated thereunder.

Subd. 2. [NURSING ASSISTANTS.] A nursing assistant who has completed an approved training program shall be reimbursed by the nursing home *or certified boarding care home* for actual costs of tuition and reasonable expenses for the training program 90 days after the date of employment, or upon completion of the approved training program, whichever is later.

Subd. 3. [RULES.] The commissioner of human services shall promulgate any rules necessary to implement the provisions of this section. The rules shall include, but not be limited to:

(a) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to a nursing home, *certified boarding care home*, or ~~a~~ nursing assistant for the assistant's *simultaneous* training in more than one approved program;

(b) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to more than one nursing home *or certified boarding care home* for the training of any individual nursing assistant; and

(c) Provisions permitting the reimbursement by the commissioner to nursing homes, *certified boarding care homes*, and nursing assistants for the retraining of a nursing assistant after an absence from the labor market of not less than ~~five years~~ *24 months*.

Sec. 30. Minnesota Statutes 1988, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a *nonprofit organization acting according to clause (k) or a* committee whose membership is limited to professionals and administrative staff, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in chapter 62D, by a nonprofit health service plan corporation as defined in chapter 62C ~~or~~, by a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., *or by a medical review agent established to meet the requirements of section 256B.04, subdivision 15,*

*or 256D.03, subdivision 7, paragraph (b), or by the department of human services,* to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution or whether a professional's staff privileges should be limited, suspended or revoked; ~~or~~

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers or health maintenance organizations and their insureds or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof; ~~or~~

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists~~.~~*;*

*(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b); or*

*(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service.*

Sec. 31. Minnesota Statutes 1988, section 145.63, is amended to read:

145.63 [LIMITATION ON LIABILITY FOR SPONSORING ORGANIZATIONS, *REVIEW ORGANIZATIONS,* AND MEMBERS OF REVIEW ORGANIZATIONS.]

Subdivision 1. [MEMBERS.] No *review organization and no* person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by the person of any duty, function, or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No *review organization and no* person shall be liable for damages or other relief in any action by reason of the performance of the *review organization or* person of any duty, function, or activity as a *review organization or a* member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made, except that any corporation designated as a review organization under the Code of Federal Regulations, title 42, section 466 (1983) shall be subject to actions for damages or other relief by reason of any failure of a person, whose care or treatment is required to be scrutinized or reviewed by the review organization, to receive medical care or treatment as a result of a determination by the review organization that medical care was unnecessary or inappropriate.

Subd. 2. [ORGANIZATIONS.] No state or local association of professionals or organization of professionals from a particular area shall be liable for damages or other relief in any action brought by a person whose activities have been or are being scrutinized or reviewed by a review organization established by the association or organization, unless the association or organization was motivated by malice towards the person affected by the review or scrutiny.

Sec. 32. Minnesota Statutes 1988, section 214.06, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by health-related licensing boards must be credited to the special revenue fund. ~~Any balance remaining in the special revenue fund at the end of each fiscal year, after payment of health-related licensing board expenses including salaries, attorney general fees, and indirect costs, must be credited to the public health fund.~~

Sec. 33. Minnesota Statutes 1988, section 256.936, subdivision 1, is amended to read:

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

(a) "Eligible persons" means children who are one year of age or older but less than ~~nine~~ *18* years of age who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes ~~nine~~ *18* years old.

(b) "Covered services" means children's health services.

(c) "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, *special education services*, private duty nursing services, orthodontic services, medical transportation services, personal care assistant and case management services, hospice care services, nursing home or intermediate care facilities services, and ~~mental health and~~ chemical dependency services.

(d) "Eligible providers" means those health care providers who provide children's health services to medical assistance ~~clients~~ *recipients* under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance.

(e) "Commissioner" means the commissioner of human services.

*(f) "Gross family income" for farm and nonfarm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease.*

Sec. 34. Minnesota Statutes 1988, section 256.936, subdivision 2, is amended to read:

Subd. 2. [PLAN ADMINISTRATION.] The children's health plan is established to promote access to appropriate primary health care to assure healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide children's health services for eligible persons. Payment for these services shall be made to all eligible providers. *The commissioner may adopt rules to administer this section.* The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program and about other medical care programs administered or supervised by the department of human services. A toll-free telephone number must be used to provide information about medical programs and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Sec. 35. Minnesota Statutes 1988, section 256.936, subdivision 4, is amended to read:

Subd. 4. [ENROLLMENT FEE.] An annual enrollment fee of $25, not to exceed $150 per family, is required from eligible persons for children's health services. Enrollment fees ~~must be deposited in the public health fund and~~ are ~~appropriated~~ *dedicated* to the commissioner for the children's health plan program. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

Sec. 36. [256.9685] [ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.]

*Subdivision 1.* [AUTHORITY.] *The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.*

*Subd. 2.* [FEDERAL REQUIREMENTS.] *If it is determined that a provision of this section or section 256.9686, 256.969, or 256.9695 conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the medicare limitations.*

Sec. 37. [256.9686] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *For purposes of this section and sections 256.9685, 256.969, and 256.9695, the following terms and phrases have the meanings given.*

*Subd. 2.* [BASE YEAR.] *"Base year" means a hospital's fiscal year that is recognized by the Medicare program or a hospital's fiscal year specified by the commissioner if a hospital is not required to file information by the Medicare program from which cost and statistical data are used to establish medical assistance and general assistance medical care payment rates.*

*Subd. 3.* [CASE MIX INDEX.] *"Case mix index" means a hospital's distribution of relative values among the diagnostic categories.*

*Subd. 4.* [CHARGES.] *"Charges" means the usual and customary payment requested of the general public.*

*Subd. 5.* [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

*Subd. 6.* [HOSPITAL.] *"Hospital" means a facility licensed under sections 144.50 to 144.58 or an out-of-state facility licensed under the requirements of that state in which it is located.*

*Subd. 7.* [MEDICAL ASSISTANCE.] *"Medical assistance" means the*

*program established under chapter 256B and Title XIX of the Social Security Act. Medical assistance includes general assistance medical care established under chapter 256D, unless otherwise specifically stated.*

*Subd. 8.* [RATE YEAR.] *"Rate year" means a calendar year from January 1 to December 31.*

*Subd. 9.* [RELATIVE VALUE.] *"Relative value" means the average allowable cost of inpatient services provided within a diagnostic category divided by the average allowable cost of inpatient services provided in all diagnostic categories.*

Sec. 38. Minnesota Statutes 1988, section 256.969, is amended to read:

256.969 [~~INPATIENT HOSPITALS~~ *PAYMENT RATES.*]

Subdivision 1. [~~ANNUAL~~ *HOSPITAL* COST INDEX.] ~~The commissioner of human services shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates established for licensed hospitals for rate years beginning during the fiscal biennium ending June 30, 1987, shall not exceed an annual hospital cost index for the final rate allowed to the hospital for the preceding year not to exceed five percent in any event.~~ The ~~annual~~ hospital cost index shall be obtained from an independent source ~~representing~~ *and shall represent* a ~~statewide~~ *weighted* average of ~~inflation~~ *historical and projected cost change* estimates determined for expense categories to include *wages and* salaries, employee benefits, medical *and professional* fees, raw food, ~~medical supplies, pharmaceuticals,~~ utilities, ~~repairs and maintenance,~~ insurance ~~other than~~ *including* malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect ~~the regional differences within the state and include a one percent increase to reflect changes in technology. The annual hospital cost index shall be published 30 days before the start of each calendar quarter and shall be applicable to all hospitals whose fiscal years start on or during the calendar quarter.~~ *Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.*

Subd. 2. [~~RATES FOR INPATIENT HOSPITALS~~ *DIAGNOSTIC CATEGORIES.*] ~~On July 1, 1984,~~ The commissioner shall ~~begin to utilize~~ *use* to the extent possible existing *diagnostic* classification systems, including *the system used by the* Medicare *program to determine the relative values of inpatient services and case mix indices.* ~~The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee.~~ *The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed and shall not be determined on a hospital specific basis. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative*

*value determinations shall not include property cost data, Medicare crossover data, and data from the transferring hospital on transfer discharges, except data on transfer discharges with a burn diagnostic classification or data on transfer discharges for the patient's convenience that have been reported by the hospital to the commissioner by the October 1 preceding the rate year.* The computation of the base year cost per admission ~~and the computation of the relative values of the diagnostic categories~~ must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs ~~and days~~ *recognized in outlier payments* beyond that point. ~~Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates, unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration.~~ The commissioner may ~~reconstitute~~ *recategorize* the diagnostic ~~categories~~ *classifications and recalculate relative values and case mix indices* to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. ~~After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index described in subdivision 1. When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc. consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments, the commissioner shall use the hospital cost index for the month in which the hospital's fiscal year ends compared to the same month one year earlier.~~

~~Subd. 2a. [AUDIT ADJUSTMENTS TO INPATIENT HOSPITAL RATES.] Inpatient hospital rates established under subdivision 2 using 1981 historical medicare cost report data may be adjusted based on the findings of audits of hospital billings and patient records performed by the commissioner that identify billings for services that were not delivered or never ordered. The audit findings may be based on a statistically valid sample of billings of the hospital. After the audits are complete, the commissioner shall adjust rates paid in subsequent years to reflect the audit findings and recover payments in excess of the adjusted rates or reimburse hospitals when audit findings indicate that underpayments were made to~~

~~the hospital.~~

*Subd. 2b.* [OPERATING PAYMENT RATES.] *In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.*

*Subd. 2c.* [PROPERTY PAYMENT RATES.] *For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before the effective date of this section. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. For admissions occurring on or after January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program in effect during the base year.*

*The property payment rate per admission shall be adjusted for positive percentage change differences in the net book value of hospital property and equipment by increasing the property payment rate per admission 85 percent of the percentage change from the base year through the most recent year ending prior to the rate year for which required information is available. The percentage change shall be derived from equivalent audited information in both years and shall be adjusted to account for changes in generally accepted accounting principles, reclassification of assets, allocations to non-hospital areas, and fiscal years. The cost, audit, and charge data used to establish property rates shall only reflect inpatient services covered by medical assistance and shall not include operating cost information. To be eligible for the property payment rate per admission adjustment, the hospital must provide the necessary information to the commissioner, in a format specified by the commissioner, by the October 1 preceding the rate year. The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.*

~~Subd. 3. [SPECIAL CONSIDERATIONS.] (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:~~

~~(1) minimal medical assistance and general assistance medical care~~

~~utilization;~~

~~(2) unusual length of stay experience; and~~

~~(3) disproportionate numbers of low-income patients served.~~

~~(b) To the extent of available appropriations, the commissioner shall provide supplemental grants directly to a hospital described in section 256B.031, subdivision 10, paragraph (a), that receives medical assistance payments through a county-managed health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 256B.031, subdivision 4.~~

~~(c) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.~~

~~(d) Indian health service facilities are exempt from the rate establishment methods required by this section and section 256D.03, subdivision 4, and shall be reimbursed at the facility's usual and customary charges to the general public.~~

~~(e) Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule and hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.~~

~~(f) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have rates established as provided in paragraph (e) or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not be affected by negotiated rates.~~

~~(g) For inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989, hospitals with 100 or fewer medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 30 percent. Hospitals with more than 100 but fewer than 250 medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 20 percent for inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989. This provision applies only to hospitals that have 100 or fewer licensed beds on March 1, 1988.~~

*Subd. 3a.* [PAYMENTS.] *Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party liability, for admissions occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation is not applicable and shall not be calculated to include general assistance medical care services. Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.*

~~Subd. 4. [APPEALS BOARD.] An appeals board shall be established for purposes of hearing reports for changes in the rate per admission. The appeals board shall consist of two public representatives, two representatives of the hospital industry, and one representative of the business or consumer community. The appeals board shall advise the commissioner on adjustments to hospital rates under this section.~~

*Subd. 4a.* [REPORTS.] *If, under this section or section 256.9685, 256.9686, or 256.9695, a hospital is required to report information to the commissioner by a specified date, the hospital must report the information on*

*time. If the hospital does not report the information on time, the commissioner may determine the information that will be used and may disregard the information that is reported late. If the Medicare program does not require or does not audit information that is needed to establish medical assistance rates, the commissioner may, after consulting the affected hospitals, require reports to be provided, in a format specified by the commissioner, that are based on allowable costs and cost-finding methods of the Medicare program in effect during the base year. The commissioner may require any information that is necessary to implement this section and sections 256.9685, 256.9686, and 256.9695 to be provided by a hospital within a reasonable time period.*

~~Subd. 5. [APPEAL RIGHTS.] Nothing in this section supersedes the contested case provisions of chapter 14, the administrative procedure act.~~

*Subd. 5a.* [AUDITS AND ADJUSTMENTS.] *Inpatient hospital rates and payments must be established under this section and sections 256.9685, 256.9686, and 256.9695. The commissioner may adjust rates and payments based on the findings of audits of payments to hospitals, hospital billings, costs, statistical information, charges, or patient records performed by the commissioner or the Medicare program that identify billings, costs, statistical information, or charges for services that were not delivered, never ordered, in excess of limits, not covered by the medical assistance program, paid separately from rates established under this section and sections 256.9685, 256.9686, and 256.9695, or for charges that are not consistent with other payor billings. Charges to the medical assistance program must be less than or equal to charges to the general public. Charges to the medical assistance program must not exceed the lowest charge to any other payor. The audit findings may be based on a statistically valid sample of hospital information that is needed to complete the audit. If the information the commissioner uses to establish rates or payments is not audited by the Medicare program, the commissioner may require an audit using Medicare principles and may adjust rates and payments to reflect any subsequent audit.*

~~Subd. 6. [RULES.] The commissioner of human services shall promulgate emergency and permanent rules to implement a system of prospective payment for inpatient hospital services pursuant to chapter 14, the administrative procedure act. Notwithstanding section 14.53, emergency rule authority authorized by Laws 1983, chapter 312, article 5, section 9, subdivision 6, shall extend to August 1, 1985.~~

*Subd. 6a.* [SPECIAL CONSIDERATIONS.] *(a) In determining the payment rates, the commissioner shall consider whether the following circumstances exist:*

*(1)* [MINIMAL MEDICAL ASSISTANCE USE.] *Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph,*

*the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. This paragraph shall be applied to all payment rates of the affected hospital.*

*(2)* [UNUSUAL COST OR LENGTH OF STAY EXPERIENCE.] *The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the geometric mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost calculated by dividing the operating payment rate per admission, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment, by the arithmetic mean length of stay for the diagnostic category. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the geometric mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative percentage outlier payment to a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.*

*(3)* [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] *For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For admissions occurring on or after January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.*

*(4)* [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] *Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.*

*(5)* [SPECIAL RATES.] *The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital*

*and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of paragraph (7), except that hospice rates shall not exceed the amount allowed under federal law and payment shall be secondary to any other medical assistance hospice program. Rates and payments established under this paragraph must meet the requirements of section 256.9685, subdivisions 1 and 2, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.*

*(6)* [REHABILITATION DISTINCT PARTS.] *Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment established separately from other inpatient hospital services, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.*

*(7)* [NEONATAL TRANSFERS.] *For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to paragraph (8). The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.*

*(8)* [TRANSFERS.] *Except as provided in paragraphs (5) and (7), operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined in subdivisions 2b and 2c, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under paragraph (2) and subdivisions*

*2b and 2c.*

*(b) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.*

*(c) Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at the facility's usual and customary charges to the general public. This exemption is not effective for payments under general assistance medical care.*

*(d) Except as provided in paragraph (a), clauses (1) and (3), out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule. Hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.*

*(e) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this paragraph. Payments, including third party liability, established under this paragraph may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.*

*(f) Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.*

*(g) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.*

*(h) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June*

*30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.*

Sec. 39. [256.9695] [APPEALS OF RATES; PROHIBITED PRACTICES FOR HOSPITALS; TRANSITION RATES.]

*Subdivision 1.* [APPEALS.] *A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections 14.48 to 14.56, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.*

*(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. A change to a payment rate or payments that results from a successful appeal to the Medicare program of the base year information establishing rates for the rate year beginning in 1991 and after is a prospective adjustment to subsequent rate years. After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.*

*(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 60 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed. For this paragraph, hospital means a facility holding the provider number as an inpatient service facility.*

*Subd. 2.* [PROHIBITED PRACTICES.] *(a) Hospitals that have a provider agreement with the department may not limit medical assistance admissions to percentages of certified capacity or to quotas unless patients from all payors are limited in the same manner. This requirement does not apply to certified capacity that is unavailable due to contracts with payors for specific occupancy levels.*

*(b) Hospitals may not transfer medical assistance patients to or cause medical assistance patients to be admitted to other hospitals without the explicit consent of the receiving hospital when service needs of the patient are available and within the scope of the transferring hospital. The transferring hospital is liable to the receiving hospital for patient charges and ambulance services without regard to medical assistance payments plus the receiving hospital's reasonable attorney fees if found in violation of this prohibition.*

*Subd. 3.* [TRANSITION.] *Except as provided in section 256.969, subdivision 6a, paragraph (a), clause (3), the commissioner shall establish a transition period for the calculation of payment rates from the effective date of this section to December 31, 1990, as follows:*

*(a) Changes resulting from section 256.969, subdivision 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8), shall not be implemented.*

*(b) Rates established for hospital fiscal years beginning on or after July 1, 1989, shall not be adjusted for the one percent technology factor included in the hospital cost index.*

*(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. Payments made for admissions occurring after July 1, 1990, shall not include the one percent technology factor.*

*(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through December 31, 1990. The laws in effect on the day before the effective date of this section apply to the retroactive settlement from the effective date of this section to December 31, 1990.*

*Subd. 4.* [STUDY.] *The commissioner shall contract for an evaluation of the inpatient and outpatient hospital payment systems. The study shall include recommendations concerning:*

*(1) more effective methods of assigning operating and property payment rates to specific services or diagnoses;*

*(2) effective methods of cost control and containment;*

*(3) fiscal impacts of alternative payment systems;*

*(4) the relationships of the use of and payment for inpatient and outpatient hospital services;*

*(5) methods to relate reimbursement levels to the efficient provision of services; and*

*(6) methods to adjust reimbursement levels to reflect cost differences between geographic areas.*

*The commissioner shall report the findings to the legislature by January 15, 1991, along with recommendations for implementation.*

*Subd. 5.* [RULES.] *The commissioner of human services shall adopt permanent rules to implement this section and sections 256.9685, 256.9686, and 256.969 under chapter 14, the administrative procedure act.*

Sec. 40. Minnesota Statutes 1988, section 256B.031, subdivision 5, is amended to read:

Subd. 5. [FREE CHOICE LIMITED.] (a) The commissioner may require recipients of aid to families with dependent children to enroll in a prepaid health plan and receive services from or through the prepaid health plan, with the following exceptions:

(1) recipients who are refugees and whose health services are reimbursed 100 percent by the federal government ~~for the first 24 months after entry into the United States~~; and

(2) recipients who are placed in a foster home or facility. If placement occurs before the seventh day prior to the end of any month, the recipient will be disenrolled from the recipient's prepaid health plan effective the first day of the following month. If placement occurs after the seventh day before the end of any month, that recipient will be disenrolled from the prepaid health plan on the first day of the second month following placement. The prepaid health plan must provide all services set forth in subdivision 2 during the interim period.

Enrollment in a prepaid health plan is mandatory only when recipients have a choice of at least two prepaid health plans.

(b) Recipients who become eligible on or after December 1, 1987, must choose a health plan within 30 days of the date eligibility is determined. At the time of application, the local agency shall ask the recipient whether the recipient has a primary health care provider. If the recipient has not chosen a health plan within 30 days but has provided the local agency with the name of a primary health care provider, the local agency shall determine whether the provider participates in a prepaid health plan available to the recipient and, if so, the local agency shall select that plan on the recipient's behalf. If the recipient has not provided the name of a primary health care provider who participates in an available prepaid health plan, commissioner shall randomly assign the recipient to a health plan.

(c) If possible, the local agency shall ask whether the recipient has a primary health care provider and the procedures under paragraph (b) shall apply. If a recipient does not choose a prepaid health plan by this date, the commissioner shall randomly assign the recipient to a health plan.

(d) The commissioner shall request a waiver from the federal Health Care Financing Administration to limit a recipient's ability to change health plans to once every six or 12 months. If such a waiver is obtained, each recipient must be enrolled in the health plan for a minimum of six or 12 months. A recipient may change health plans once within the first 60 days after initial enrollment.

(e) Women who are receiving medical assistance due to pregnancy and later become eligible for aid to families with dependent children are not required to choose a prepaid health plan until 60 days postpartum. An infant born as a result of that pregnancy must be enrolled in a prepaid health plan at the same time as the mother.

(f) If third-party coverage is available to a recipient through enrollment in a prepaid health plan through employment, through coverage by the former spouse, or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551, the obligee or recipient shall participate in the prepaid health plan in which the obligee has

enrolled provided that the commissioner has contracted with the plan.

Sec. 41. Minnesota Statutes 1988, section 256B.04, subdivision 14, is amended to read:

Subd. 14. [COMPETITIVE BIDDING.] *When determined to be effective, economical, and feasible,* the commissioner ~~shall~~ *may* utilize volume purchase through competitive bidding *and negotiation* under the provisions of chapter ~~16~~ *16B*, to provide ~~the following~~ items *under the medical assistance program including but not limited to the following*:

(1) eyeglasses;

(2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;

(3) hearing aids and supplies; and

(4) durable medical equipment, including but not limited to:

(a) hospital beds;

(b) commodes;

(c) glide-about chairs;

(d) patient lift apparatus;

(e) wheelchairs and accessories;

(f) oxygen administration equipment;

(g) respiratory therapy equipment;

(h) electronic diagnostic, therapeutic and life support systems;

(5) ~~wheelchair~~ *special* transportation services; and

(6) drugs.

Sec. 42. Minnesota Statutes 1988, section 256B.04, is amended by adding a subdivision to read:

*Subd. 17.* [PRENATAL CARE OUTREACH.] *(a) The commissioner of human services shall award a grant to an eligible organization to conduct a statewide media campaign promoting early prenatal care. The goals of the campaign are to increase public awareness of the importance of early and continuous prenatal care and to inform the public about public and private funds available for prenatal care.*

*(b) In order to receive a grant under this section, an applicant must:*

*(1) have experience conducting prenatal care outreach;*

*(2) have an established statewide constituency or service area; and*

*(3) demonstrate an ability to accomplish the purposes in this subdivision.*

*(c) Money received under this subdivision may be used for purchase of materials and supplies, staff fees and salaries, consulting fees, and other goods and services necessary to accomplish the goals of the campaign. Money may not be used for capital expenditures.*

Sec. 43. Minnesota Statutes 1988, section 256B.055, subdivision 7, is amended to read:

Subd. 7. [AGED, BLIND, OR DISABLED PERSONS.] Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program and the other eligibility requirements of this section. The methodology for calculating ~~disregards and deductions from~~ income must be ~~as specified in section 256D.37, subdivisions 6 to 14~~ *the same methodology used for calculating income for the supplemental security income program except as specified otherwise by state or federal law, rule or regulation.*

*Effective February 1, 1989, and to the extent allowed by federal law the commissioner shall deduct state and federal income taxes and federal insurance contributions act payments withheld from the individual's earned income in determining eligibility under this subdivision.*

Sec. 44. Minnesota Statutes 1988, section 256B.055, subdivision 8, is amended to read:

Subd. 8. [MEDICALLY NEEDY PERSONS WITH EXCESS INCOME OR ASSETS.] Medical assistance may be paid for a person who, except for the amount of income or assets, would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children, and who meets the other eligibility requirements of this section. However, in the case of families and children ~~who meet the categorical eligibility requirements for aid to families with dependent children~~, the methodology for calculating assets shall be as specified in section 256.73, subdivision 2, except that the exclusion for an automobile shall be as in subdivision 3, clause (g), as long as acceptable to the health care financing administration, and the methodology for calculating deductions from earnings for child care and work expenses shall be as specified in section 256.74, subdivision 1.

Sec. 45. Minnesota Statutes 1988, section 256B.056, subdivision 3, is amended to read:

Subd. 3. [ASSET LIMITATIONS.] To be eligible for medical assistance, a person must not individually own more than $3,000 in ~~cash or liquid~~ assets, or if a member of a household with two family members (husband and wife, or parent and child), the household must not own more than $6,000 in ~~cash or liquid~~ assets, plus $200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. ~~Cash and liquid assets may include a prepaid funeral contract and insurance policies with cash surrender value. The value of the following shall not be included:~~ *The value of the items in paragraphs (a) to (i) are not considered in determining medical assistance eligibility.*

(a) The homestead~~,~~ *is not considered.*

(b) Household goods and personal effects ~~with a total equity value of $2,000 or less,~~ *are not considered.*

(c) Personal property used as a regular abode by the applicant or recipient~~,~~ *is not considered.*

(d) A lot in a burial plot for each member of the household~~,~~ *is not*

*considered.*

(e) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income~~;~~ *are not considered.*

(f) For a period of six months, insurance settlements to repair or replace damaged, destroyed, or stolen property~~;~~ *are not considered.*

(g) One motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit~~;~~ ~~and (h) other items which may be required by federal law or statute~~ *is not considered.*

To be excluded, the vehicle must have a market value of less than $4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the ~~cash or liquid~~ asset limit.

*(h) Life insurance policies and assets designated as burial expenses, according to the standards and restrictions of the supplemental security income (SSI) program.*

*(i) Other items which may be excluded by federal law are not considered.*

Sec. 46. Minnesota Statutes 1988, section 256B.056, subdivision 4, is amended to read:

Subd. 4. [INCOME.] To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of ~~115~~ *120* percent of the income standards by family size used in the aid to families with dependent children program, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. Notwithstanding any laws or rules to the contrary, in computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509.

Sec. 47. Minnesota Statutes 1988, section 256B.056, subdivision 5, is amended to read:

Subd. 5. [EXCESS INCOME.] A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4. The person shall elect to have the medical expenses deducted ~~monthly~~ *at the beginning of a one-month budget period* or at the beginning of ~~the~~ *a six-month* budget period~~; or who is a pregnant woman or infant up to one year of age who meets the requirements of section 256B.055, subdivisions 1 to 9, except that her anticipated income is in excess of the income standards by family size used in the aid to families with dependent children program, but is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant up to one year of age with respect to this clause shall be without regard to the asset standards specified in subdivisions 2 and 4. For persons who reside in~~

~~licensed nursing homes, regional treatment centers, or medical institutions, the income over and above that required in section 256B.35 for personal needs allowance is to be applied to the cost of institutional care. In addition, income may be retained by an institutionalized person (a) to support dependents in the amount that, together with the income of the spouse and child under age 18, would provide net income equal to the medical assistance standard for the family size of the dependents excluding the person residing in the facility; or (b) for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility, if the person has expenses of maintaining a residence in the community, and if a physician certifies that the person is expected to reside in the long-term care facility on a short-term basis. For purposes of this section, persons are determined to be residing in licensed nursing homes, regional treatment centers, or medical institutions if the persons are expected to remain for a period expected to last longer than three months. The commissioner of human services may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care.~~ *The commissioner shall seek applicable waivers from the Secretary of Health and Human Services to allow persons eligible for assistance on a spend-down basis under this subdivision to elect to pay the monthly spend-down amount to the local agency in order to maintain eligibility on a continuous basis for medical assistance and to simplify payment to health care providers. If the local agency has not received payment of the spend-down amount by the 15th day of the month, the recipient is ineligible for this option for the following month. The commissioner may seek a waiver of the requirement of the Social Security Act that all requirements be uniform statewide, to phase in this option over a six-month period.*

Sec. 48. [256B.057] [ELIGIBILITY; INCOME AND ASSET LIMITATIONS FOR SPECIAL CATEGORIES.]

*Subdivision 1.* [PREGNANT WOMEN AND INFANTS.] *An infant less than one year of age or a pregnant woman, as certified in writing by a physician or nurse midwife, is eligible for medical assistance if countable family income is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.*

*Subd. 2.* [CHILDREN.] *A child one through seven years of age in a family whose countable income is less than 100 percent of the federal poverty guidelines for the same family size is eligible for medical assistance. Eligibility for children under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.*

*Subd. 3.* [QUALIFIED MEDICARE BENEFICIARIES.] *A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 85 percent of the federal poverty guidelines, and whose assets are no*

*more than twice the asset limit used to determine eligibility for the supplemental security income program, is eligible for medical assistance reimbursement of Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; to 95 percent on January 1, 1991; and to 100 percent on January 1, 1992. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.*

Sec. 49. [256B.0575] [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

*When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.*

*(a) The following amounts must be deducted from the institutionalized person's income in the following order:*

*(1) the personal needs allowance under section 256B.35;*

*(2) the personal allowance for disabled individuals under section 256B.36;*

*(3) if the institutionalized person has a legally-appointed guardian or conservator, five percent of the recipient's gross monthly income up to $100 as reimbursement for guardianship or conservatorship services;*

*(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;*

*(5) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member; and*

*(6) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.*

*For purposes of clause (5), family member includes only minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse if the sibling resides with the community spouse.*

*(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:*

*(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;*

*(2) if the person has expenses of maintaining a residence in the community; and*

*(3) if one of the following circumstances apply:*

*(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or*

*(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.*

*For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.*

Sec. 50. [256B.058] [TREATMENT OF INCOME OF INSTITUTIONALIZED SPOUSE.]

*Subdivision 1.* [INCOME NOT AVAILABLE.] *The income described in subdivisions 2 and 3 shall be deducted from an institutionalized spouse's monthly income and is not considered available for payment of the monthly costs of an institutionalized person in the institution after the person has been determined eligible for medical assistance.*

*Subd. 2.* [MONTHLY INCOME ALLOWANCE FOR COMMUNITY SPOUSE.] *(a) For an institutionalized spouse with a spouse residing in the community, monthly income may be allocated to the community spouse as a monthly income allowance for the community spouse. Beginning with the first full calendar month the institutionalized spouse is in the institution, the monthly income allowance is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution as long as the income is made available to the community spouse.*

*(b) The monthly income allowance is the amount by which the community spouse's monthly maintenance needs allowance under paragraphs (c) and (d) exceeds the amount of monthly income otherwise available to the community spouse.*

*(c) The community spouse's monthly maintenance needs allowance is the lesser of $1,500 or 122 percent of the monthly federal poverty guideline for a family of two plus an excess shelter allowance. The excess shelter allowance is for the amount of shelter expenses that exceed 30 percent of 122 percent of the federal poverty guideline line for a family of two. Shelter expenses are the community spouse's expenses for rent, mortgage payments including principal and interest, taxes, insurance, required maintenance charges for a cooperative or condominium that is the community spouse's principal residence, and the standard utility allowance under section 5(e) of the federal Food Stamp Act of 1977. If the community spouse has a required maintenance charge for a cooperative or condominium, the standard utility allowance must be reduced by the amount of utility expenses included in the required maintenance charge.*

*If the community or institutionalized spouse establishes that the community spouse needs income greater than the monthly maintenance needs allowance determined in this paragraph due to exceptional circumstances resulting in significant financial duress, the monthly maintenance needs allowance may be increased to an amount that provides needed additional income.*

*(d) The percentage of the federal poverty guideline used to determine*

*the monthly maintenance needs allowance in paragraph (c) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes. The $1,500 maximum must be adjusted January 1, 1990, and every January 1 after that by the same percentage increase in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers.*

*(e) If a court has entered an order against an institutionalized spouse for monthly income for support of the community spouse, the community spouse's monthly income allowance under this subdivision shall not be less than the amount of the monthly income ordered.*

*Subd. 3.* [FAMILY ALLOWANCE.] *(a) A family allowance determined under paragraph (b) is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution.*

*(b) The family allowance is equal to one-third of the amount by which 122 percent of the monthly federal poverty guideline for a family of two exceeds the monthly income for that family member.*

*(c) For purposes of this subdivision, the term family member only includes a minor or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse if the sibling resides with the community spouse.*

*(d) The percentage of the federal poverty guideline used to determine the family allowance in paragraph (b) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes.*

*Subd. 4.* [TREATMENT OF INCOME.] *(a) No income of the community spouse will be considered available to an eligible institutionalized spouse, beginning the first full calendar month of institutionalization, except as provided in this subdivision.*

*(b) In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined eligible for medical assistance, the following rules apply.*

*(1) For income that is not from a trust, availability is determined according to items (i) to (v), unless the instrument providing the income otherwise specifically provides:*

*(i) if payment is made solely in the name of one spouse, the income is considered available only to that spouse;*

*(ii) if payment is made in the names of both spouses, one-half of the income is considered available to each;*

*(iii) if payment is made in the names of one or both spouses together with one or more other persons, the income is considered available to each spouse according to the spouse's interest, or one-half of the joint interest is considered available to each spouse if each spouse's interest is not specified;*

*(iv) if there is no instrument that establishes ownership, one-half of the income is considered available to each spouse; and*

*(v) either spouse may rebut the determination of availability of income by showing by a preponderance of the evidence that ownership interests are different than provided above.*

*(2) For income from a trust, income is considered available to each spouse as provided in the trust. If the trust does not specify an amount available to either or both spouses, availability will be determined according to items (i) to (iii):*

*(i) if payment of income is made only to one spouse, the income is considered available only to that spouse;*

*(ii) if payment of income is made to both spouses, one-half is considered available to each; and*

*(iii) if payment is made to either or both spouses and one or more other persons, the income is considered available to each spouse in proportion to each spouse's interest, or if no such interest is specified, one-half of the joint interest is considered available to each spouse.*

Sec. 51. [256B.059] [TREATMENT OF ASSETS WHEN A SPOUSE IS INSTITUTIONALIZED.]

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

*(b) "Community spouse" means the spouse of an institutionalized person.*

*(c) "Spousal share" means one-half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of institutionalization.*

*(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).*

*(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.*

*Subd. 2.* [ASSESSMENT OF SPOUSAL SHARE.] *At the beginning of a continuous period of institutionalization of a person, at the request of either the institutionalized spouse or the community spouse, or upon application for medical assistance, the total value of assets in which either the institutionalized spouse or the community spouse had an interest at the time of institutionalization shall be assessed and documented and the spousal share shall be assessed and documented.*

*Subd. 3.* [COMMUNITY SPOUSE ASSET ALLOWANCE.] *(a) An institutionalized spouse may transfer assets to the community spouse solely for the benefit of the community spouse. Except for increased amounts allowable under subdivision 4, the maximum amount of assets allowed to be transferred is the amount which, when added to the assets otherwise available to the community spouse, is the greater of:*

*(1) $12,000;*

*(2) the lesser of the spousal share or $60,000; or*

*(3) the amount required by court order to be paid to the community spouse.*

*If the assets available to the community spouse are already at the limit permissible under this section, or the higher limit attributable to increases*

*under subdivision 4, no assets may be transferred from the institutionalized spouse to the community spouse. The transfer must be made as soon as practicable after the date the institutionalized spouse is determined eligible for medical assistance, or within the amount of time needed for any court order required for the transfer. On January 1, 1990, and every January 1 thereafter, the $12,000 and $60,000 limits shall be adjusted by the same percentage change in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers. These adjustments shall also be applied to the $12,000 and $60,000 limits in subdivision 5.*

*Subd. 4.* [INCREASED COMMUNITY SPOUSE ASSET ALLOWANCE; WHEN ALLOWED.] *(a) If either the institutionalized spouse or community spouse establishes that the community spouse asset allowance under subdivision 3 (in relation to the amount of income generated by such an allowance) is not sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance in section 256B.058, subdivision 2, paragraph (c), there shall be substituted for the amount allowed to be transferred an amount sufficient, when combined with the monthly income otherwise available to the spouse, to provide the minimum monthly maintenance needs allowance.*

*(b) The community spouse asset allowance under subdivision 3 can be increased by court order or hearing that complies with the requirements of United States Code, title 42, section 1924.*

*Subd. 5.* [ASSET AVAILABILITY.] *(a) At the time of application for medical assistance benefits, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the greater of:*

*(1) $12,000; or*

*(2) the lesser of the spousal share or $60,000; or*

*(3) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.*

*(b) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse.*

*(c) For purposes of this section, assets do not include assets excluded under section 256B.056, without regard to the limitations on total value in that section.*

Sec. 52. [256B.0595] [PROHIBITIONS ON TRANSFER; EXCEPTIONS.]

*Subdivision 1.* [PROHIBITED TRANSFERS.] *If an institutionalized person has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under section 256B.056, subdivision 3, within 30 months of the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months of the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care*

*services for the period of time determined under subdivision 2. For purposes of this section, long-term care services include nursing facility services, and home and community-based services provided pursuant to section 256B.491. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility, or who is receiving home and community-based services under section 256B.491.*

*Subd. 2.* [PERIOD OF INELIGIBILITY.] *For any uncompensated transfer, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.*

*Subd. 3.* [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] *(a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:*

*(1) title to the homestead was transferred to the individual's*

*(i) spouse;*

*(ii) child who is under age 21;*

*(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;*

*(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or*

*(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;*

*(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or*

*(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.*

*(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within 30 months of the transfer or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.*

*Subd. 4.* [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] *An institutionalized person receiving medical assistance on the date of institutionalization who has transferred assets for less than fair market value within the 30 months immediately before the date of institutionalization or an institutionalized person who was not receiving medical assistance on the date of institutionalization and who has transferred assets for less than fair market value within 30 months immediately before the month of application is not ineligible for long-term care services if one of the following conditions apply:*

*(1) the assets were transferred to the community spouse, as defined in section 256B.059; or*

*(2) the institutionalized spouse, prior to being institutionalized, transferred assets to his or her spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or*

*(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or*

*(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or*

*(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship, and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within 30 months of the transfer, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256B.*

Sec. 53. Minnesota Statutes 1988, section 256B.062, is amended to read:

256B.062 [CONTINUED ELIGIBILITY.]

~~Subdivision 1. Any family which was eligible for aid to families with dependent children in at least three of the six months immediately preceding the month in which the family became ineligible for aid to families with dependent children because of increased income from employment shall, while a member of the family is employed, remain eligible for medical assistance for four calendar months following the month in which the family would otherwise be determined to be ineligible due to the income and resources limitations of this chapter.~~

~~Subd. 2. A family whose eligibility for aid to families with dependent children is terminated because of the loss of the $30, or the $30 and one-third earned income disregard is eligible for medical assistance for 12 calendar months following the month in which the family loses medical assistance eligibility as an aid to families with dependent children recipient.~~ *Medical assistance may be paid for persons who received aid to families with dependent children in at least three of the six months preceding the*

*month in which the person became ineligible for aid to families with dependent children, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.*

Sec. 54. Minnesota Statutes 1988, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. [SKILLED AND INTERMEDIATE NURSING CARE.] Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562~~, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided in section 256B.091; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year~~.

Sec. 55. Minnesota Statutes 1988, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner. The commissioner shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication

shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, ~~prenatal vitamins,~~ and vitamins for children under the age of seven *and pregnant or nursing women*; or any other over-the-counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless

the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

Sec. 56. Minnesota Statutes 1988, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] *(a)* Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

*(b) Special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.*

Sec. 57. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 26.* [SPECIAL EDUCATION SERVICES.] *Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.*

Sec. 58. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 27.* [ORGAN AND TISSUE TRANSPLANTS.] *Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program, provided those procedures comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program.*

Sec. 59. [256B.0642] [FEDERAL FINANCIAL PARTICIPATION.]

*The commissioner may, in the aggregate, prospectively reduce payment rates for medical assistance providers receiving federal funds to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare limitations.*

Sec. 60. Minnesota Statutes 1988, section 256B.091, subdivision 3, is

amended to read:

Subd. 3. [SCREENING TEAM; DUTIES.] Local screening teams shall seek cooperation from other public and private agencies in the community which offer services to the disabled and elderly. The responsibilities of the agency responsible for screening shall include:

(a) Provision of information and education to the general public regarding availability of the screening program;

(b) Acceptance of referrals from individuals, families, human service professionals and nursing home personnel of the community agencies;

(c) Assessment of health and social needs of referred individuals and identification of services needed to maintain these persons in the least restrictive environments;

(d) Identification of available noninstitutional services to meet the needs of individuals referred;

(e) Recommendations for individuals screened regarding:

(1) Nursing home or boarding care home admission; and

(2) Maintenance in the community with specific service plans and referrals and designation of a lead agency to implement each individual's plan of care;

(f) *Assessment of active treatment needs:*

*(1) in cooperation with a qualified mental health professional for persons with a primary or secondary diagnosis of mental illness; and*

*(2) in cooperation with a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions.*

*For purposes of this subdivision, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;*

*(g)* Provision of follow up services as needed; and

~~(g)~~ *(h)* Preparation of reports which may be required by the commissioner of human services.

Sec. 61. Minnesota Statutes 1988, section 256B.092, subdivision 7, is amended to read:

Subd. 7. [SCREENING TEAMS ESTABLISHED.] Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, *and* a qualified

mental retardation professional, as defined in the Code of Federal Regulations, title 42, section ~~442.401~~ *483.430*, as amended through ~~December 31, 1987.~~ *June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service and habilitation planning process. The contract shall be limited to public guardianship representation for the screening and individual service and habilitation planning activities. The contract shall require compliance with the commissioner's instructions, and may be for paid or voluntary services.* For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

Sec. 62. [256B.093] [SERVICES FOR PERSONS WITH BRAIN INJURIES.]

*Subdivision 1.* [STATE COORDINATOR.] *The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with brain injuries.*

*Subd. 2.* [ELIGIBILITY.] *The commissioner may contract with qualified agencies or persons to provide case management services to medical assistance recipients who are at risk of institutionalization and meet one of the following criteria:*

*(a) The person has a brain injury.*

*(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:*

*(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;*

*(2) the person is unable to direct the person's own care;*

*(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;*

*(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);*

*(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or*

*(6) the person has received or will receive home care services for longer than six months.*

*Subd. 3.* [CASE MANAGEMENT DUTIES.] *The department shall fund*

*the case management contracts using medical assistance administrative funds. The contractor must:*

*(1) assess the person's individual needs for services required to prevent institutionalization;*

*(2) assure that a care plan that meets the person's needs is developed by the appropriate agency or individual;*

*(3) assist the person in obtaining services necessary to allow the person to remain in the community;*

*(4) coordinate home care services with other medical assistance services under section 256B.0625;*

*(5) assure cost effectiveness of medical assistance services;*

*(6) make recommendations to the commissioner on the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;*

*(7) assist the person with problems related to the provision of home care services;*

*(8) assure the quality of home care services; and*

*(9) reassess the person's need for and level of home care services at a frequency determined by the commissioner.*

*Subd. 4.* [DEFINITIONS.] *For purposes of this section, the following definitions apply:*

*(a) "Brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative nature. The insult or damage may produce an altered state of consciousness or a decrease in mental, cognitive, behavioral, or physical functioning resulting in partial or total disability.*

*(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions 6, 7, and 19.*

Sec. 63. Minnesota Statutes 1988, section 256B.14, is amended to read:

256B.14 [RELATIVE'S RESPONSIBILITY.]

Subdivision 1. [IN GENERAL.] Subject to the provisions of sections 256B.055, 256B.056, and 256B.06, responsible relative means the ~~spouse of a medical assistance recipient or~~ parent of a minor recipient of medical assistance.

Subd. 2. [ACTIONS TO OBTAIN PAYMENT.] The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of medical assistance furnished to recipients for whom they are responsible. ~~No resource contribution is required of a spouse at the time of the first approved medical assistance application.~~ These rules shall not require repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27, subdivision 2, for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(e)(3), while living

in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care. The county agency shall give the responsible relative notice of the amount of the repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 64. Minnesota Statutes 1988, section 256B.25, is amended by adding a subdivision to read:

*Subd. 4.* [PAYMENT DURING SUSPENDED ADMISSIONS.] *A nursing home or boarding care home that has received a notice to suspend admissions under section 144A.10, subdivision 4a, shall be ineligible to receive payment for admissions that occur during the effective dates of the suspension. Upon termination of the suspension by the commissioner of health, payments may be made for eligible persons, beginning with the day after the suspension ends.*

Sec. 65. Minnesota Statutes 1988, section 256B.421, subdivision 14, is amended to read:

Subd. 14. [FRINGE BENEFITS.] "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, *except for public employee retirement act contributions,* and uniform allowances.

Sec. 66. Minnesota Statutes 1988, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING COSTS, AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical

operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing homes that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing homes licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing homes referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application

of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing home as an operating cost of that nursing home. Allowable costs under this subdivision for payments made by a nonprofit nursing home that are in lieu of real estate taxes shall not exceed the amount which the nursing home would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home. *For rate years beginning on or after July 1, 1989, the commissioner shall include a nursing home's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories and other operating cost categories multiplied by the appropriate composite index or indices established pursuant to paragraph (e) as costs under this paragraph.* Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, *the indexed public employee retirement act contribution,* and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the ~~60th percentile~~ *care-related operating cost limits* or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e), *unless otherwise indicated in this paragraph.*

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing home that meets the criteria for the special dietary needs of its residents as specified in section 144A.071, subdivision 3, clause (c), and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing home's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

Sec. 67. Minnesota Statutes 1988, section 256B.431, subdivision 2e, is amended to read:

Subd. 2e. [CONTRACTS FOR SERVICES FOR VENTILATOR DEPENDENT PERSONS.] The commissioner may contract with a nursing home eligible to receive medical assistance payments to provide services to a ventilator dependent person identified by the commissioner according to criteria developed by the commissioner, including:

(1) nursing home care has been recommended for the person by a preadmission screening team;

(2) the person has been assessed at case mix classification K;

(3) the person has been hospitalized for at least six months and no longer requires inpatient acute care hospital services; and

(4) the commissioner has determined that necessary services for the person cannot be provided under existing nursing home rates.

The commissioner may issue a request for proposals to provide services to a ventilator dependent person to nursing homes eligible to receive medical assistance payments and shall select nursing homes from among respondents according to criteria developed by the commissioner, including:

(1) the cost effectiveness and appropriateness of services;

(2) the nursing home's compliance with federal and state licensing and certification standards; and

(3) the proximity of the nursing home to a ventilator dependent person identified by the commissioner who requires nursing home placement.

The commissioner may negotiate an adjustment to the operating cost payment rate for a nursing home selected by the commissioner from among respondents to the request for proposals. The negotiated adjustment must reflect only the actual additional cost of meeting the specialized care needs of a ventilator dependent person identified by the commissioner for whom necessary services cannot be provided under existing nursing home rates and which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or 9505.0170 to 9505.0475. *The negotiated payment rate must not exceed 200 percent of the highest multiple bedroom payment rate for a Minnesota nursing home, as initially established by the commissioner for the rate year for case mix classification K.* The negotiated adjustment shall not affect the payment rate charged to private paying residents under the provisions of section 256B.48, subdivision 1. The negotiated adjustment paid pursuant to this paragraph is specifically exempt from the definition of "rule" and the rulemaking procedures required by chapter 14 and section 256B.502.

Sec. 68. Minnesota Statutes 1988, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. [OPERATING COSTS AFTER JULY 1, 1988.] (a) [OTHER OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per

diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

(b) [CARE-RELATED OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

(c) [SALARY ADJUSTMENT PER DIEM.] For the rate period October 1, 1988, to June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

(d) ~~[PENSION CONTRIBUTIONS.] For rate years beginning on or after July 1, 1989, the commissioner shall exempt allowable employee pension contributions separately reported by a nursing home on its annual cost report from the care-related operating cost limits and the other operating cost limits. Hospital-attached homes that provide allowable employee pension contributions may report the costs that are allocated to nursing home operations independently for verification by the commissioner. For rate years beginning on or after July 1, 1989, amounts verified as allowable employee pension contributions are exempt from care-related operating cost limits and other operating cost limits. For purposes of this paragraph, "employee pension contributions" means contributions required under the~~

~~Public Employee Retirement Act and contributions to other employee pension plans if the pension plan existed on March 1, 1988.~~

~~(c)~~ [NEW BASE YEAR.] ~~The commissioner shall establish the reporting year ending September 30, 1989, as a new base year.~~ *The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:*

*(1) statutory changes made in geographic groups;*

*(2) redefinitions of cost categories; and*

*(3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.*

Sec. 69. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 2j.* [HOSPITAL-ATTACHED NURSING HOME STATUS.] *(a) For the purpose of setting rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for rate years beginning after June 30, 1989, a hospital-attached nursing home means a nursing home recognized by the federal Medicare program to be a hospital-based nursing facility for purposes of being subject to*

*higher cost limits accorded hospital-based nursing facilities under the Medicare program, or, prior to June 30, 1983, was classified as a hospital-attached nursing home under Minnesota Rules, parts 9510.0010 to 9510.0480, provided that the nursing home's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program.*

*(b) For rate years beginning after June 30, 1989, a nursing home and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year or the nine-month period following the nursing home's reporting year, shall be considered a hospital-attached nursing home for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for the rate year following the reporting year or the nine-month period in which the facility made its Medicare application. The nursing home must file its cost report or an amended cost report for that reporting year before the following rate year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing home. For each subsequent rate year, the nursing home must meet the definition requirements in paragraph (a). If the nursing home is denied hospital-based nursing facility status under the Medicare program, the nursing home's payment rates for the rate years the nursing home was considered to be a hospital-attached nursing home pursuant to this paragraph shall be recalculated treating the nursing home as a non-hospital-attached nursing home.*

Sec. 70. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 2k.* [OPERATING COSTS AFTER JULY 1, 1989.] *For rate years beginning on or after July 1, 1989, a nursing home that is exempt under subdivision 2b, paragraph (d), clause (2); whose total number of licensed*

*beds are licensed under Minnesota Rules, parts 9570.2000 to 9570.3600; and that maintains an average length of stay of less than 365 days during each reporting year, is limited to 140 percent of the other-operating-cost limit for hospital-attached nursing homes as established by Minnesota Rules, part 9549.0055, subpart 2, item E, subitem (2), as modified by subdivision 2i, paragraph (a). For purposes of this subdivision, the nursing home's average length of stay must be computed by dividing the nursing home's actual resident days for the reporting year by the nursing home's total discharges for that reporting year.*

Sec. 71. Minnesota Statutes 1988, section 256B.431, subdivision 3a, is amended to read:

Subd. 3a. [PROPERTY-RELATED COSTS AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner, by permanent rule, shall reimburse nursing home providers that are vendors in the medical assistance program for the rental use of real estate and depreciable equipment. "Real estate" means land improvements, buildings, and attached fixtures used directly for resident care. "Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.

(b) In developing the method for determining payment rates for the rental use of nursing homes, the commissioner shall consider factors designed to:

(1) simplify the administrative procedures for determining payment rates for property-related costs;

(2) minimize discretionary or appealable decisions;

(3) eliminate any incentives to sell nursing homes;

(4) recognize legitimate costs of preserving and replacing property;

(5) recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on May 1, 1983;

(6) address the current value of, if used directly for patient care, land improvements, buildings, attached fixtures, and equipment;

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

(11) phase-in implementation of the rental reimbursement method.

(c) No later than January 1, 1984, the commissioner shall report to the legislature on any further action necessary or desirable in order to implement the purposes and provisions of this subdivision.

(d) For rate years beginning on or after July 1, 1987, a nursing home which has reduced licensed bed capacity after January 1, 1986, shall be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed prior to the reduction; and

(2) establish capacity days for each rate year following the licensure reduction based on the number of beds licensed on the previous April 1 if the commissioner is notified of the change by April 4. The notification

must include a copy of the delicensure request that has been submitted to the commissioner of health.

(e) Until the rental reimbursement method is fully phased in, a nursing home whose final property-related payment rate is the rental rate shall continue to have its property-related payment rates established based on the rental reimbursement method.

*(f) For rate years beginning on or after July 1, 1989, the interest expense that results from a refinancing of a nursing home's demand call loan, when the loan that must be refinanced was incurred before May 22, 1983, is an allowable interest expense if:*

*(1) the demand call loan or any part of it was in the form of a loan that was callable at the demand of the lender;*

*(2) the demand call loan or any part of it was called by the lender through no fault of the nursing home;*

*(3) the demand call loan or any part of it was made by a government agency operating under a statutory or regulatory loan program;*

*(4) the refinanced debt does not exceed the sum of the allowable remaining balance of the demand call loan at the time of payment on the demand call loan and refinancing costs;*

*(5) the term of the refinanced debt does not exceed the remaining term of the demand call loan, had the debt not been subject to an on-call payment demand; and*

*(6) the refinanced debt is not a debt between related organizations as defined in Minnesota Rules, part 9549.0020, subpart 38.*

Sec. 72. Minnesota Statutes 1988, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. [PROPERTY COSTS AFTER JULY 1, 1988.] (a) [INVESTMENT PER BED LIMIT.] For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be $32,571 per licensed bed in multiple bedrooms and $48,857 per licensed bed in a single bedroom. *For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be $49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).* Beginning January 1, ~~1989~~ *1990*, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).

(b) [RENTAL FACTOR.] For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) [OCCUPANCY FACTOR.] For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days.

For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) [EQUIPMENT ALLOWANCE.] For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.

~~(e) [REFINANCING.] If a nursing home is refinanced, the commissioner shall adjust the nursing home's property-related payment rate for the savings that result from refinancing. The adjustment to the property-related payment rate must be as follows:~~

~~(1) The commissioner shall recalculate the nursing home's rental per diem by substituting the new allowable annual principle and interest payments for those of the refinanced debt.~~

~~(2) The nursing home's property-related payment rate must be decreased by the difference between the nursing home's current rental per diem and the rental per diem determined under clause (1).~~

~~If a nursing home payment rate is adjusted according to this paragraph, the adjusted payment rate is effective the first of the month following the date of the refinancing for both medical assistance and private paying residents. The nursing home's adjusted property-related payment rate is effective until June 30, 1990.~~

*(e)* [POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.] *For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing home demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.*

*(f)* [BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.] *For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.*

Sec. 73. Minnesota Statutes 1988, section 256B.431, subdivision 3g, is amended to read:

Subd. 3g. [PROPERTY COSTS AFTER JULY 1, 1990, FOR CERTAIN FACILITIES.] For rate years beginning on or after July 1, 1990, ~~non-hospital-attached~~ nursing homes that, on or after January 1, 1976, but prior to ~~December 31, 1985~~ *January 1, 1987*, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement-cost-new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property-related payment rate equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement-cost-new per bed limit *divided by their capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), from the preceding reporting year,* plus their equipment allowance. A nursing home that is eligible for a property-related payment rate under this subdivision and whose property-related payment rate in a subsequent rate year is its rental per diem must continue to have its property-related payment rates established for all future rate years based on the rental reimbursement method in Minnesota Rules, part 9549.0060.

The commissioner may require the nursing home to apply for refinancing as a condition of receiving special rate treatment under this subdivision.

Sec. 74. Minnesota Statutes 1988, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, but before January 1, 1988, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the fiscal year beginning on January 1, 1988, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted prior year's payment rate plus the real estate tax and special assessment per diem.

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

(6) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

(d) A facility that meets the criteria of paragraph (c) shall submit annual cost reports on forms prescribed by the commissioner.

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of

the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

(f) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

(1) the sale or transfer of a nursing home upon death of an owner;

(2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;

(3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;

(4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;

(5) a sale and leaseback to the same licensee which does not constitute a change in facility license;

(6) a transfer of an interest to a trust;

(7) gifts or other transfers for no consideration;

(8) a merger of two or more related organizations;

(9) a transfer of interest in a facility held in receivership;

(10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;

(11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or

(12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(g) ~~For rate years beginning on or after July 1, 1986, the commissioner may exclude from a provision of Minnesota Rules, parts 9549.0010 to 9549.0080, any facility that is certified by the commissioner of health as an intermediate care facility, licensed by the commissioner of human services as a chemical dependency treatment program, and enrolled in the medical assistance program as an institution for mental disease. The commissioner of human services shall establish a medical assistance payment rate for these facilities. Chapter 14 does not apply to the procedures and criteria used to establish the ratesetting structure. The ratesetting method is not appealable.~~ *Upon receiving a recommendation from the commissioner*

*of health for a review of rates under section 144A.15, subdivision 6, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report to determine whether or not the deficiency or need can be corrected or met by reallocating nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report. The payment rate adjustment must meet the conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets.*

*Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.*

Sec. 75. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 7.* [ONE-TIME ADJUSTMENT TO NURSING HOME PAYMENT RATES TO COMPLY WITH OMNIBUS BUDGET RECONCILIATION ACT.] *The commissioner shall determine a one-time nursing staff adjustment to the payment rate to adjust payment rates to upgrade certain nursing homes' professional nursing staff complement to meet the minimum standards of 1987 Public Law Number 100-203. The adjustments to the payment rates determined under this subdivision cover cost increases to meet minimum standards for professional nursing staff. For a nursing home to be eligible for the payment rate adjustment, a nursing home must have all of its current licensed beds certified solely for the intermediate level of care. When the commissioner establishes that it is not cost effective to upgrade an eligible nursing home to the new minimum staff standards, the commissioner may exclude the nursing home if it is either an institution for mental disease or a nursing home that would have been determined to be an institution for mental disease, but for the fact that it has 16 or fewer licensed beds.*

*(a) The increased cost of professional nursing for an eligible nursing home shall be determined according to clauses (1) to (4):*

*(1) subtract from the number 8760 the compensated hours for professional nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by $4.55;*

*(2) subtract from the number 2920 the compensated hours for registered nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by $9.30;*

*(3) if an eligible nursing home has less than 61 licensed beds, the director of nurses' compensated hours must be included in the compensated hours for professional nurses in clause (1). If the director of nurses is also a*

*registered nurse, the director of nurses' hours must be included in the compensated hours for registered nurses in clause (2); and*

*(4) the one-time nursing staff adjustment to the payment rate shall be the sum of clauses (1) and (2) as adjusted by clause (3), if appropriate, and then divided by the nursing home's actual resident days for the reporting year ending September 30, 1988.*

*(b) The one-time nursing staff adjustment to the payment rate is effective from January 1, 1990, to June 30, 1991.*

*(c) If a nursing home is granted a waiver to the minimum professional nursing staff standards under Public Law Number 100-203 for either the professional nurse adjustment referred to in clause (1), or the registered nurse adjustment in clause (2), the commissioner must recover the portion of the nursing home's payment rate that relates to a one-time nursing staff adjustment granted under this subdivision. The amount to be recovered shall be based on the type and extent of the waiver granted.*

Sec. 76. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 8.* [ONETIME PER DIEM RATE ADJUSTMENT FOR INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT.] *For the rate period January 1, 1990, through June 30, 1991, the commissioner shall add 30 cents per resident per day to the nursing home's payment rate. The adjustment must not be paid to freestanding boarding care homes.*

Sec. 77. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 9.* [ONETIME ADJUSTMENT FOR FREESTANDING BOARDING CARE HOMES TO COVER INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT.] *(a) The commissioner shall determine a onetime adjustment to the payment rate of a freestanding boarding care home necessary for that home to comply with the provisions of Public Law Number 100-203 except those requirements outlined in subdivision 7. The adjustment to the payment rate determined under this subdivision covers increased costs for a medical director, nurse aide training for newly hired aides, ongoing in-service training for nurses aides, and other requirements identified by the commissioner that are required because of the Omnibus Budget Reconciliation Act of 1987. These costs will only be reimbursed if they are required in the final regulations pertaining to Public Law Number 100-203.*

*(b) Each facility eligible for this adjustment shall submit to the commissioner a detailed estimate of the cost increases the facility will incur for these costs.*

*(c) The costs that are determined by the commissioner to be reasonable and necessary for a freestanding boarding care home to comply with Public Law Number 100-203, except those costs outlined in subdivision 7, must be included in the calculation of the adjustment.*

*(d) The maximum allowable annual adjustment per bed is $300.*

*(e) The onetime adjustment is the cost allowed in paragraph (c), subject to the limits in paragraph (d), divided by the nursing home's actual resident days for the reporting year that ended September 30, 1988.*

*(f) The onetime adjustment determined is effective from January 1, 1990, to June 30, 1991.*

Sec. 78. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

*Subd. 10.* [APPRAISAL SAMPLE STABILIZATION AND SPECIAL REAPPRAISALS.] *(a) The percentage change in appraised values for nursing homes in the sample used for routine updating of appraised values under Minnesota Rules, part 9549.0060, subpart 2, shall be stabilized by eliminating from the sample of nursing home those appraisals that represent the five highest and the five lowest deviations from those nursing homes' previously established appraised values.*

*(b) A special reappraisal request must be submitted to the commissioner within 60 days after the project's completion date to be considered eligible for a special reappraisal. If a project has multiple completion dates or involves multiple projects, only projects or parts of projects with completion dates within one year of the completion date associated with a special reappraisal request can be included for the purpose of establishing the nursing home's eligibility for a special reappraisal. A facility which is eligible to request, has requested, or has received a special reappraisal during the calendar year must not be included in the random sample process used to determine the average percentage change in appraised value of nursing homes in the sample.*

Sec. 79. Minnesota Statutes 1988, section 256B.47, subdivision 3, is amended to read:

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

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

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

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

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

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

sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

*(f) The cost of property must be allocated to the therapy service and removed from the rental per diem, based on the ratio of service area square footage to total facility square footage multiplied by the building capital allowance.*

Sec. 80. Minnesota Statutes 1988, section 256B.48, subdivision 1, is amended to read:

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

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

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

(c) Requiring any resident of the nursing home to utilize a vendor of

health care services who is a licensed physician or pharmacist chosen by the nursing home.

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

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

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

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately *or an applicant's refusal to pay for a special service*.

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

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

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

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

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

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

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

account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

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

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

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

Sec. 81. Minnesota Statutes 1988, section 256B.48, subdivision 6, is amended to read:

Subd. 6. [MEDICARE CERTIFICATION.] *(a)* [DEFINITION.] *For purposes of this subdivision, "nursing facility" means a nursing home that is certified as a skilled nursing facility or, after September 30, 1990, a nursing home licensed under chapter 144A that is certified as a nursing facility.*

*(b)* [FULL MEDICARE PARTICIPATION REQUIRED.] All ~~nursing homes certified as skilled~~ nursing facilities ~~under the medical assistance program~~ shall *fully* participate in Medicare part A and part B unless, after submitting an application, Medicare certification is denied by the federal health care financing administration. Medicare review shall be conducted at the time of the annual medical assistance review. Charges for medicare-covered services provided to residents who are simultaneously eligible for medical assistance and Medicare must be billed to Medicare part A or part B before billing medical assistance. Medical assistance may be billed only for charges not reimbursed by Medicare.

~~Until September 30, 1987, the commissioner of health may grant exceptions from this requirement when a nursing home submits a written request for exception and it is determined that there is sufficient participation in the Medicare program to meet the needs of Medicare beneficiaries in that region of the state. For the purposes of this section, the relevant region is the county in which the nursing home is located together with contiguous Minnesota counties. There is sufficient participation in the Medicare program in a particular region when the proportion of skilled resident days paid by the Medicare program is at least equal to the national average~~

~~based on the most recent figure that can be supplied by the federal health care financing administration. A nursing home that is granted an exception under this subdivision must give appropriate notice to all applicants for admission that Medicare coverage is not available in the nursing home and publish this fact in all literature and advertisement related to the nursing home.~~

*(c)* [UNTIL SEPTEMBER 30, 1990.] *Until September 30, 1990, a nursing facility satisfies the requirements of paragraph (b) if: (1) at least 50 percent of the facility's beds that are licensed under section 144A and certified as skilled nursing beds under the medical assistance program are Medicare certified; or (2) if a nursing facility's beds are licensed under section 144A, and some are medical assistance certified as skilled nursing beds and others are Medical assistance certified as intermediate care facility I beds, at least 50 percent of the facility's total skilled nursing beds and intermediate care facility I beds or 100 percent of its skilled nursing beds, whichever is less, are Medicare certified.*

*(d)* [OCTOBER 1, 1990, TO JUNE 30, 1991.] *After September 30, 1990, and until June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if at least 50 percent of the facility's beds certified as nursing facility beds under the medical assistance program are Medicare certified.*

*(e)* [AFTER JUNE 30, 1991.] *After June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if 100 percent of the facility's beds that are certified as nursing facility beds under the medical assistance program are Medicare certified.*

*(f)* [PROHIBITED TRANSFERS.] *A resident in a skilled nursing bed or, after September 30, 1990, a resident in any nursing facility bed, who is eligible for medical assistance and who becomes eligible for Medicare has the right to refuse an intrafacility skilled nursing bed transfer if the commissioner approves the exception request based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident. A resident who is occupying a skilled nursing bed or, after September 30, 1990, a nursing facility bed certified by the medical assistance and Medicare programs, has the right to refuse a transfer if the resident's bed is needed for a Medicare-eligible patient or private-pay patient and if the commissioner approves the exception based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident.*

*(g)* [INSTITUTIONS FOR MENTAL DISEASE.] *The commissioner may grant exceptions to the requirements of paragraph (b) for nursing facilities that are designated as institutions for mental disease.*

*(h)* [NOTICE OF RIGHTS.] *The commissioner shall inform recipients of their rights under this subdivision and section 144.651, subdivision 29.*

Sec. 82. Minnesota Statutes 1988, section 256B.48, subdivision 8, is amended to read:

Subd. 8. [NOTIFICATION TO A SPOUSE.] When a private pay resident who has not yet been screened by the preadmission screening team is admitted to a nursing home or boarding care facility, the nursing home or boarding care facility must notify the resident and the resident's spouse of the following:

(1) their right to retain certain resources under sections 256B.14, subdivision 2, and 256B.17; and

(2) that the federal Medicare hospital insurance benefits program covers posthospital extended care services in a qualified skilled nursing facility for up to ~~100~~ *150* days and that there are several limitations on this benefit. The resident and the resident's family must be informed about all mechanisms to appeal limitations imposed under this federal benefit program.

This notice may be included in the nursing home's or boarding care facility's admission agreement and must clearly explain what resources the resident and spouse may retain if the resident applies for medical assistance. The department of human services must notify nursing homes and boarding care facilities of changes in the determination of medical assistance eligibility that relate to resources retained by a resident and the resident's spouse.

The preadmission screening team has primary responsibility for informing all private pay applicants to a nursing home or boarding care facility of the resources the resident and spouse may retain.

Sec. 83. [256B.495] [LONG-TERM CARE RECEIVERSHIP FEES.]

*Subdivision 1.* [PAYMENT OF RECEIVERSHIP FEES.] *The commissioner in consultation with the commissioner of health may establish a receivership fee payment that exceeds a long-term care facility payment rate when the commissioner of health determines a long-term care facility is subject to the receivership provisions under section 144A.14 or 144A.15 or the commissioner of human services determines that a facility is subject to the receivership under section 245A.12 or 245A.13. In establishing the receivership fee payment, the commissioner must reduce the receiver's requested receivership fee by amounts that the commissioner determines are included in the long-term care facility's payment rate and that can be used to cover part or all of the receivership fee. Amounts that can be used to reduce the receivership fee shall be determined by reallocating facility staff or costs that were formerly paid by the long-term care facility before the receivership and are no longer required to be paid. The amounts may include any efficiency incentive, allowance, and other amounts not specifically required to be paid for expenditures of the long-term care facility.*

*If the receivership fee cannot be covered by amounts in the long-term care facility's payment rate, a receivership fee payment shall be set according to paragraphs (a) and (b) and payment shall be according to paragraphs (c) to (e).*

*(a) The receivership fee per diem shall be determined by dividing the annual receivership fee payment by the long-term care facility's resident days from the most recent cost report for which the commissioner has established a payment rate or the estimated resident days in the projected receivership fee period.*

*(b) The receivership fee per diem shall be added to the long-term care facility's payment rate.*

*(c) Notification of the payment rate increase must meet the requirements of section 256B.47, subdivision 2.*

*(d) The payment rate in paragraph (b) for a nursing home shall be effective the first day of the month following the receiver's compliance with the notice conditions in paragraph (c). The payment rate in paragraph (b)*

*for an intermediate care facility for the mentally retarded shall be effective on the first day of the rate year in which the receivership fee per diem is determined.*

*(e) The commissioner may elect to make a lump sum payment of a portion of the receivership fee to the receiver. In this case, the commissioner and the receiver shall agree to a repayment plan. Regardless of whether the commissioner makes a lump sum payment under this paragraph, the provisions of paragraphs (a) to (d) and subdivision 2 also apply.*

*Subd. 2.* [DEDUCTION OF RECEIVERSHIP FEE PAYMENTS UPON TERMINATION OF RECEIVERSHIP.] *If the commissioner has established a receivership fee per diem for a long-term care facility in receivership, the commissioner must deduct the receivership fee payments according to paragraphs (a) to (c).*

*(a) The total receivership fee payments shall be the receivership fee per diem multiplied by the number of resident days for the period of the receivership fee payments. If actual resident days for the receivership fee payment period are not made available within two weeks of the commissioner's written request, the commissioner shall compute the resident days by prorating the facility's resident days based on the number of calendar days from each portion of the long-term care facility's reporting years covered by the receivership period.*

*(b) The amount determined in paragraph (a) must be divided by the long-term care facility's resident days for the reporting year in which the receivership period ends.*

*(c) The per diem amount in paragraph (b) shall be subtracted from the long-term care facility's operating cost payment rate for the rate year following the reporting year in which the receivership period ends.*

*Subd. 3.* [REESTABLISHMENT OF RECEIVERSHIP FEE PAYMENT.] *The commissioner of health may request the commissioner to reestablish the receivership fee payment when the original terms of the receivership fee payment have significantly changed with regard to the cost or duration of the receivership agreement. The commissioner, in consultation with the commissioner of health, may reestablish the receivership fee payment when the commissioner determines the cost or duration of the receivership agreement has significantly changed. The provisions of developing a receivership fee payment in subdivisions 1 and 2 apply to the reestablishment process.*

Sec. 84. Minnesota Statutes 1988, section 256B.501, subdivision 3, is amended to read:

Subd. 3. [RATES FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] The commissioner shall establish, by rule, procedures for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions. The procedures shall be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of residents in efficiently and economically operated facilities. In developing the procedures, the commissioner shall include:

(a) cost containment measures that assure efficient and prudent management of capital assets and operating cost increases which do not exceed increases in other sections of the economy;

(b) limits on the amounts of reimbursement for property, general and administration, and new facilities;

(c) requirements to ensure that the accounting practices of the facilities conform to generally accepted accounting principles;

(d) incentives to reward accumulation of equity;

(e) a revaluation on sale *between unrelated organizations* for a facility that, for at least three years before its use as an intermediate care facility, has been used by the seller as a single family home and been claimed by the seller as a homestead, and was not revalued immediately prior to or upon entering the medical assistance program, provided that the facility revaluation not exceed the amount permitted by the Social Security Act, section 1902(a)(13); and

(f) appeals procedures that satisfy the requirements of section 256B.50 for appeals of decisions arising from the application of standards or methods pursuant to Minnesota Rules, parts 9510.0500 to 9510.0890, 9553.0010 to 9553.0080, and 12 MCAR 2.05301 to 2.05315 (temporary).

In establishing rules and procedures for setting rates for care of residents in intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall consider the recommendations contained in the February 11, 1983, Report of the Legislative Auditor on Community Residential Programs for the Mentally Retarded and the recommendations contained in the 1982 Report of the Department of Public Welfare Rule 52 Task Force. Rates paid to supervised living facilities for rate years beginning during the fiscal biennium ending June 30, 1985, shall not exceed the final rate allowed the facility for the previous rate year by more than five percent.

Sec. 85. Minnesota Statutes 1988, section 256B.501, subdivision 3g, is amended to read:

Subd. 3g. [ASSESSMENT OF RESIDENTS.] For rate years beginning on or after October 1, 1990, the commissioner shall establish program operating cost rates for care of residents in facilities that take into consideration service characteristics of residents in those facilities. To establish the service characteristics of residents, the quality assurance and review teams in the department of health shall assess all residents annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the client's behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. The commissioner may ~~establish procedures to adjust the program operating costs of facilities based on a comparison of client services characteristics, resource needs, and costs.~~ *adjust the program operating cost rates of facilities based on a comparison of client service characteristics, resource needs, and costs. The commissioner may adjust a facility's payment rate during the rate year when accumulated changes in the facility's average service units exceed the minimums established in the rules required by subdivision 3j.*

Sec. 86. Minnesota Statutes 1988, section 256B.501, is amended by adding a subdivision to read:

*Subd. 3k.* [EXPERIMENTAL PROJECT.] *The commissioner of human services may conduct and administer experimental projects to determine*

*the effects of competency-based wage adjustments for direct-care staff on the quality of care and active treatment for persons with mental retardation or related conditions. The commissioner shall authorize one project under the following conditions:*

*(a) One service provider will participate in the project.*

*(b) The vendor must have an existing competency-based training curriculum and a proposed salary schedule that is coordinated with the training package.*

*(c) The University of Minnesota affiliated programs must approve the content of the training package and assist the vendor in studying the impact on service delivery and outcomes for residents under a competency-based salary structure. The study and its conclusions must be presented to the commissioner at the conclusion of the project.*

*(d) The project will last no more than 21 months from its inception.*

*(e) The project will be funded by Title XIX, medical assistance and the costs incurred shall be allowable program operating costs for future rate years under Minnesota Rules, parts 9553.0010 to 9553.0080. The project's total annual cost must not exceed $49,500. The commissioner shall establish an adjustment to the selected facility's per diem by dividing the $49,500 by the facility's actual resident days for the reporting year ending December 31, 1988. The facility's experimental training project per diem shall be effective on October 1, 1989, and shall remain in effect for the 21-month period ending June 30, 1991.*

*(f) Only service vendors who have submitted a determination of need pursuant to Minnesota Rules, parts 9525.0015 to 9525.0165, and Minnesota Statutes, section 252.28, requesting the competency-based training program cost increase are eligible. Furthermore, they are only eligible if their determination of need was approved prior to January 1, 1989, and funds were not available to implement the plan.*

Sec. 87. Minnesota Statutes 1988, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1, or who are in foster placement; ~~and~~ (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless they are 65 years of age or older; *(3) recipients who currently have private coverage through a health maintenance organization; and (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense*. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. *If a demonstration provider ends participation in the project for any reason, a recipient enrolled*

*with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.*

Sec. 88. Minnesota Statutes 1988, section 256B.69, subdivision 5, is amended to read:

Subd. 5. [PROSPECTIVE PER CAPITA PAYMENT.] The ~~project advisory committees with the~~ commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. Notwithstanding section 62D.02, subdivision 1, payments for services rendered as part of the project may be made to providers that are not licensed health maintenance organizations on a risk-based, prepaid capitation basis.

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. *For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.*

Sec. 89. Minnesota Statutes 1988, section 256B.69, subdivision 11, is amended to read:

Subd. 11. [APPEALS.] A recipient may appeal to the commissioner a demonstration provider's delay or refusal to provide services, *according to section 256.045*. ~~The commissioner shall appoint a panel of health practitioners, including social service practitioners, as necessary to determine the necessity of services provided or refused to a recipient. The deliberations and decisions of the panel replace the administrative review process otherwise available under chapter 256. The panel shall follow the time requirements and other provisions of the Code of Federal Regulations, title 42, sections 431.200 to 431.246. The time requirements shall be expedited based on request by the individual who is appealing for emergency services. If a service is determined to be necessary and is included among the benefits for which a recipient is enrolled, the service must be provided by the demonstration provider as specified in subdivision 5. The panel's decision is a final agency action.~~

Sec. 90. Minnesota Statutes 1988, section 256B.69, is amended by adding a subdivision to read:

*Subd. 17.* [CONTINUATION OF PREPAID MEDICAL ASSISTANCE.] *The commissioner may continue the provisions of this section after June*

*30, 1990, in any or all of the participating counties if necessary federal authority is granted. The commissioner may adopt permanent rules to continue prepaid medical assistance in these areas.*

Sec. 91. Minnesota Statutes 1988, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) *(i)* who is a resident of Minnesota; ~~whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B;~~ and whose equity in ~~resources~~ *assets* is not in excess of $1,000 per assistance unit. Exempt ~~real and liquid~~ assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B~~.~~*; and*

*(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. The earned income deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except for the disregard of the first $50 of earned income; or*

*(3) who is over age 18 and who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.*

(b) Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care may be paid for a person, regardless of age, who is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, if the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the local agency to meet the requirements of medical assistance.

*(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care,*

*unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired.*

Sec. 92. Minnesota Statutes 1988, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by Medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and X-ray services, physician's services, medical transportation, chiropractic services as covered under the medical assistance program, podiatric services, and dental care. In addition, payments of state aid shall be made for:

(1) outpatient services provided by a mental health center or clinic that is under contract with the county board and is certified under Minnesota Rules, parts ~~9520.0750~~ *9520.0010* to ~~9520.0870~~ *9520.0230*;

(2) day treatment services *for mental illness* provided under contract with the county board; ~~and~~

(3) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization~~.~~*;*

*(4) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;*

*(5) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments for a person who would be eligible for medical assistance except that the person resides in an institution for mental diseases; and*

*(6) equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision.*

(b) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary

services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. ~~The rates payable under this section must be calculated according to section 256B.031, subdivision~~ 4 *For payments made during fiscal year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.*

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below

the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical ~~$~~ payments for which state payments are not made.

(e) Chemical dependency services that are reimbursed under Laws 1986, chapter 394, sections 8 to 20, must not be reimbursed under general assistance medical care.

(f) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

*(g) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.*

Sec. 93. Minnesota Statutes 1988, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT.] Revenues received from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota future resources account;

(2) the revenue produced by two mills of the tax on cigarettes weighing

not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;

(3) ~~the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;~~

~~(4)~~ the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 94. [STUDY AND REPORT ON NURSING HOME PROPERTY PAYMENTS VERSUS COSTS.] *(a) If a nursing home has rental per diem established by the commissioner under Minnesota Rules, part 9549.0060, for the rate year beginning July 1, 1989, that is inadequate to minimally cover their annual principle and interest payments, that nursing home must submit copies of their amortization schedules to the commissioner by June 30, 1989, for all debts except working capital debt. The term "inadequate to minimally cover their annual principle and interest" means the annual principle and interest payments on the nursing home's debt for its land, land improvements, buildings, attached fixtures, and depreciable equipment used directly for resident care are more than the July 1, 1989, rental per diem multiplied by the nursing home's resident days for the reporting year ending September 30, 1988. The information regarding the nursing home's amortization schedules which must be submitted to the commissioner for each debt shall include:*

*(1) a monthly amortization schedule starting the later of October 1, 1983, or the date the debt was incurred, through the remaining term of the debt;*

*(2) the interest rate, if fixed;*

*(3) if the interest rate is variable, the current variable interest rate and the method by which the interest rate may be changed;*

*(4) the original amount borrowed;*

*(5) the assets or other collateral pledged as security for the debt;*

*(6) the cost of the assets purchased or the amount of the debt refinanced;*

*(7) a copy of the loan, bond, or mortgage agreement may be supplied or made available for inspection by the commissioner;*

*(8) sinking fund requirements and balances, if any;*

*(9) the lender's name and relationship to the nursing home's owners, if any; and*

*(10) other information that may be requested by the commissioner regarding the nursing home's debt upon review of the information provided in clauses (1) to (9).*

*(b) The commissioner shall contract with an independent financial consultant to review and analyze the financial data in paragraph (a) and to study the concept of a capital asset replacement fund, and the consultant shall assist the commissioner in the development of a report which must be submitted to the legislative commission on long-term care by January 1, 1990.*

*(c) The report shall identify the underlying reasons why each nursing home in paragraph (a) is unable to meet its annual debt obligations, possible actions or resources available to the nursing home that could be used to address its debt obligations such as the nursing home's efficiency incentive, investments, or related organization transactions or investments. The report shall include suggested solutions and recommendations for each nursing home. The report must also address the need for a capital asset replacement fund and the relative need for such a fund given the provision for capital reimbursement under the rental reimbursement system, the varying levels of property reimbursement among nursing homes, the various debt and financial structures of nursing homes, their actual property costs in terms of their annual principal and interest requirements, the cost of replacing or repairing capital assets under the reimbursement system, and the adequacy of the equipment allowance.*

Sec. 95. [STUDY OF NURSING HOME WORKERS' COMPENSATION COSTS.]

*The commissioner of human services, in consultation with an advisory committee, shall study workers' compensation costs of nursing homes and make recommendations to the legislature by January 1, 1990, regarding changes to the nursing home rate system that will ensure adequate reimbursement to cover workers' compensation costs without reducing incentives for nursing homes to control costs by taking action to reduce the risk of work-related injuries to employees.*

Sec. 96. [STUDY.]

*The commissioner of health shall review the provisions of Minnesota Statutes, chapter 144A, regarding the revocation, suspension, and nonrenewal of nursing home licenses and provisions relating to controlling persons and managerial employees. The results of the commissioner's review and any recommendations for change must be submitted to the legislature by February 15, 1990. The commissioner shall consult with consumer and nursing home provider organizations during this review.*

Sec. 97. [TEMPORARY PROVISIONS RELATING TO INSTITUTIONS FOR MENTAL DISEASES.]

*Subdivision 1.* [ELIGIBILITY FOR GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTA SUPPLEMENTAL AID.] *For the period beginning January 1, 1989 and ending June 30, 1989, general assistance medical care and Minnesota supplemental aid may be paid for any person who is over age 18 and would be eligible for medical assistance except*

*that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases.*

*Subd. 2.* [COVERED SERVICES.] *For the period beginning January 1, 1989 and ending June 30, 1989, reimbursement under general assistance medical care includes, in addition to services covered under Minnesota Statutes 1988, section 256D.03, subdivision 4, the following services for a person who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases:*

*(1) case management services for a person with serious and persistent mental illness;*

*(2) medical supplies and equipment; and*

*(3) psychological services.*

*Subd. 3.* [EXCEPTION TO RESIDENTIAL FACILITY LIMITS.] *For the period beginning January 1, 1989 and ending June 30, 1989, a residential facility certified to participate in the medical assistance program, licensed as a boarding care home or nursing home, and determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases is exempt from the maximum negotiated rate in Minnesota Statutes, section 256D.37. The rate for eligible individuals residing in these facilities is the individual's medical assistance rate using the individual's assigned case mix classification. Counties must be reimbursed for payments made between January 1, 1989 and June 30, 1989, to certified nursing homes and boarding care homes declared institutions for mental diseases by January 1, 1989, on behalf of persons otherwise eligible for medical assistance. The reimbursement must not exceed the state share of supplemental aid funds expended for each person at the appropriate medical assistance rate.*

Sec. 98. [REPEALER.]

*Subdivision 1.* [NURSING HOMES.] *Minnesota Statutes 1988, section 144A.10, subdivision 4a, is repealed. Laws 1988, chapter 689, article 2, section 269, subdivision 4, is repealed. Minnesota Statutes 1988, section 144A.61, subdivision 6, is repealed effective January 1, 1990.*

*Subd. 2.* [BRAIN INJURIES.] *Minnesota Statutes 1988, section 256B.0625, subdivision 21, is repealed.*

*Subd. 3.* [HEALTH CARE PROGRAMS.] *Minnesota Statutes 1988, sections 256.969, subdivisions 2a, 3, 4, 5, and 6; and 256B.69, subdivisions 12, 13, 14, and 15, are repealed.*

*Subd. 4. Minnesota Statutes 1988, section 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8, are repealed.*

*Subd. 5. Minnesota Statutes 1988, section 256B.17, subdivision 7, is repealed effective October 1, 1989.*

Sec. 99. [EFFECTIVE DATE.]

*Sections 33, 34, and 35 are effective the day after final enactment, except that the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (a), is not effective until January 1,*

*1991 and the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (c), striking "mental health and" is effective July 1, 1990. However, a child enrolled in the children's health plan who reached or will reach age nine between the date of initial implementation of the children's health plan and January 1, 1991, remains eligible for the plan after the child's ninth birth date until January 1, 1991, if the child meets all other program requirements.*

*Section 61 is effective the day after final enactment.*

*Section 46 is effective July 1, 1990.*

*Section 48, subdivision 2, is effective June 30, 1989.*

*Section 50 is effective October 1, 1989, for spousal income calculations for anyone who resides in an institution on or after that date.*

*Section 51 is effective October 1, 1989, for anyone who enters an institution on or after that date.*

*Section 1 is effective for claims filed with the insurer after June 30, 1989.*

*Section 52 is effective July 1, 1988, for all assets transferred on or after that date except for interspousal transfers under section 256B.17, subdivision 7.*

*Section 53 is effective April 1, 1990, for families who become ineligible for AFDC on or after that date.*

*Section 57 is effective September 1, 1989.*

*Section 89 is effective for all appeals that are filed after June 30, 1989.*

*Section 54 is effective July 1, 1990.*

*Section 81, except paragraph (f), is effective 30 days following final enactment. Section 81, paragraph (f), is effective the day following final enactment.*

*Section 89 is effective for all appeals that are filed after June 30, 1989.*

*Section 13 is effective the day following final enactment.*

ARTICLE 4

MENTAL HEALTH

Section 1. Minnesota Statutes 1988, section 245.461, is amended to read:

245.461 [POLICY AND CITATION.]

Subdivision 1. [CITATION.] Sections 245.461 to 245.486 may be cited as the "Minnesota comprehensive *adult* mental health act."

Subd. 2. [MISSION STATEMENT.] The commissioner shall create and ensure a unified, accountable, comprehensive *adult* mental health service system that:

(1) recognizes the right of ~~people~~ *adults* with mental illness to control their own lives as fully as possible;

(2) promotes the independence and safety of ~~people~~ *adults* with mental illness;

(3) reduces chronicity of mental illness;

(4) ~~reduces~~ *eliminates* abuse of ~~people~~ *adults* with mental illness;

(5) provides services designed to:

(i) increase the level of functioning of ~~people~~ *adults* with mental illness or restore them to a previously held higher level of functioning;

(ii) stabilize ~~individuals~~ *adults* with mental illness;

(iii) prevent the development and deepening of mental illness;

(iv) support and assist ~~individuals~~ *adults* in resolving ~~emotional~~ *mental health* problems that impede their functioning;

(v) promote higher and more satisfying levels of emotional functioning; and

(vi) promote sound mental health; and

(6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

*Subd. 4.* [HOUSING MISSION STATEMENT.] *The commissioner shall ensure that the housing services provided as part of a comprehensive mental health service system:*

*(1) allow all persons with mental illness to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance;*

*(2) allow persons with mental illness to actively participate in the selection of their housing from those living environments available to the general public; and*

*(3) provide necessary support regardless of where persons with mental illness choose to live.*

Sec. 2. Minnesota Statutes 1988, section 245.462, is amended to read:

245.462 [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. [CASE MANAGEMENT ~~ACTIVITIES~~ *SERVICES.*] "Case management ~~activities~~ *services*" means activities that are coordinated with the community support services program as defined in subdivision 6 and are designed to help ~~people~~ *adults* with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs.

Case management ~~activities~~ *services* include developing *a functional assessment,* an individual community support plan, referring *and assisting* the person to *obtain* needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Subd. 4. [CASE MANAGER.] "Case manager" means an individual employed by the county or other entity authorized by the county board to provide ~~the~~ case management ~~activities~~ *services* specified in ~~subdivision 3 and~~ sections 245.471 and 245.475. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of ~~persons~~ *adults* with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

*Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.*

*Subd. 4a.* [CLINICAL SUPERVISION.] *"Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.*

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM.] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help ~~people~~ *adults* with serious and persistent mental illness to function and remain in the community. A community support services program includes:

(1) client outreach,

(2) medication ~~management~~ *monitoring*,

(3) assistance in independent living skills,

(4) development of employability and ~~supportive~~ work *related* opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) the development, identification, and monitoring of living arrangements.

The community support services program must be coordinated with the case management ~~activities~~ *services* specified in ~~subdivision 3 and sections 245.471 and 245.475~~ *section 245.4711*.

Subd. 7. [COUNTY BOARD.] "County board" means the county board of commissioners or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. [DAY TREATMENT SERVICES.] "Day treatment," "*day treatment* services," ~~means a structured program of intensive therapeutic and rehabilitative services at least one day a week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program.~~ *or "day treatment program" means a structured program of treatment and care provided to an adult in: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4711, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services.*

Subd. 9. [DIAGNOSTIC ASSESSMENT.] "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and general service needs of ~~a person~~ *an adult* with *a* mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional used in developing an individual treatment plan or individual community support plan.

Subd. 10. [EDUCATION AND PREVENTION SERVICES.] "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase

the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning. *The services include the distribution of information to individuals and agencies identified by the county board and the local mental health advisory council, on predictors and symptoms of mental disorders, where mental health services are available in the county, and how to access the services.*

Subd. 11. [EMERGENCY SERVICES.] "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis, *a mental health crisis,* or emergency.

*Subd. 11a.* [FUNCTIONAL ASSESSMENT.] *"Functional assessment" means an assessment by the case manager of the adult's:*

*(1) mental health symptoms as presented in the adult's diagnostic assessment;*

*(2) mental health needs as presented in the adult's diagnostic assessment;*

*(3) use of drugs and alcohol;*

*(4) vocational and educational functioning;*

*(5) social functioning, including the use of leisure time;*

*(6) interpersonal functioning, including relationships with the adult's family;*

*(7) self-care and independent living capacity;*

*(8) medical and dental health;*

*(9) financial assistance needs;*

*(10) housing and transportation needs; and*

*(11) other needs and problems.*

Subd. 12. [INDIVIDUAL COMMUNITY SUPPORT PLAN.] "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment *and functional assessment.* The plan identifies specific services needed by ~~a person~~ *an adult* with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Subd. 13. [INDIVIDUAL PLACEMENT AGREEMENT.] "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of an individual ~~client~~ *adult* to provide residential treatment services.

Subd. 14. [INDIVIDUAL TREATMENT PLAN.] "Individual treatment plan" means a written plan of intervention, treatment, and services for ~~a person~~ *an adult* with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to

the ~~person~~ *adult* with mental illness.

Subd. 15. [LOCAL MENTAL HEALTH PROPOSAL.] "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.463.

Subd. 16. [MENTAL HEALTH FUNDS.] "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 17. [MENTAL HEALTH PRACTITIONER.] "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of mental illness.

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse ~~with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent,~~ who is licensed under sections 148.171 to 148.285, ~~with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness~~ *and who is certified as a clinical specialist by the American nurses association*;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. [MENTAL HEALTH SERVICES.] "Mental health services" means at least all of the treatment services and case management activities that are provided to ~~persons~~ *adults* with mental illness and are described in sections 245.461 to 245.486.

Subd. 20. [MENTAL ILLNESS.] (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) ~~A "person~~ *An "adult* with acute mental illness" means ~~a person~~ *an adult* who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of case management and community support services, a "person with serious and persistent mental illness" means ~~a person~~ *an adult* who has a mental illness and meets at least one of the following criteria:

(1) the ~~person~~ *adult* has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months;

(2) the ~~person~~ *adult* has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months;

(3) the ~~person~~ *adult*:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional stating that the ~~person~~ *adult* is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the ~~person~~ *adult* has been committed by a court as a mentally ill person under chapter 253B, or the ~~person's~~ *adult's* commitment has been stayed or continued.

Subd. 21. [OUTPATIENT SERVICES.] "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to ~~persons~~ *adults* with ~~a~~ mental illness who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. [REGIONAL TREATMENT CENTER INPATIENT SERVICES.] "Regional treatment center inpatient services" means the *24-hour-a-day comprehensive* medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. [RESIDENTIAL TREATMENT.] "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center *inpatient unit*, that must be licensed as a residential treatment ~~facility~~ *program* for ~~persons~~ *adults* with mental illness under Minnesota Rules, parts 9520.0500 to 9520.0690 ~~for adults, 9545.0900 to 9545.1090 for children,~~ or other ~~rule~~ *rules* adopted by the commissioner.

Subd. 24. [SERVICE PROVIDER.] "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides *adult* mental health services funded by sections 245.461 to 245.486.

~~Subd. 25. [CLINICAL SUPERVISION.] "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.~~

Sec. 3. Minnesota Statutes 1988, section 245.463, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section ~~245.479~~ *245.478*, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of ~~persons~~ *adults* with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 4. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

*Subd. 3. The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.*

Sec. 5. Minnesota Statutes 1988, section 245.464, is amended to read:

245.464 [COORDINATION OF MENTAL HEALTH SYSTEM.]

Subdivision 1. [~~SUPERVISION~~ *COORDINATION*.] The commissioner shall supervise the development and coordination of locally available *adult* mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health

service proposals developed by county boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's *adult* mental health proposals~~, quarterly reports,~~ and other information as required by sections 245.461 to 245.486.

Subd. 2. [PRIORITIES.] By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are developed for ~~persons~~ *adults* with mental illness within available resources based on the following ranked priorities:

(1) the provision of locally available emergency services;

(2) the provision of locally available services to all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;

(3) the provision of specialized services regionally available to meet the special needs of all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;

(4) the provision of locally available services to ~~persons~~ *adults* with other mental illness; and

(5) the provision of education and preventive mental health services targeted at high-risk populations.

Sec. 6. Minnesota Statutes 1988, section 245.465, is amended to read:

245.465 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available *adult* mental health services in accordance with sections 245.461 to 245.486;

(2) provide for case management services to ~~persons~~ *adults* with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; ~~245.471~~; ~~245.475~~ *245.4711*; and 245.486;

(3) provide for screening of ~~persons~~ *adults* specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; ~~and~~

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; *and*

*(5) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.*

Sec. 7. Minnesota Statutes 1988, section 245.466, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board in each county is responsible for using all available resources to develop and

coordinate a system of locally available and affordable *adult* mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the local mental health services proposal approved by the commissioner under section 245.478.

Sec. 8. Minnesota Statutes 1988, section 245.466, subdivision 2, is amended to read:

Subd. 2. [*ADULT* MENTAL HEALTH SERVICES.] The *adult* mental health service system developed by each county board must include the following services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with ~~sections 245.471 and 245.475~~ *section 245.4711*;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474;

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; ~~245.471;~~ and ~~245.475~~ *245.4711*.

Sec. 9. Minnesota Statutes 1988, section 245.466, subdivision 5, is amended to read:

Subd. 5. [LOCAL ADVISORY COUNCIL.] The county board, individually or in conjunction with other county boards, shall establish a local *adult* mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of ~~a person~~ *an adult* with mental illness, one mental health professional, and one community support services program representative. The local *adult* mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local *adult mental health* advisory council or mental health subcommittee of an existing advisory council shall:

*(1)* arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services;

*(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10; and*

*(3) coordinate its review, evaluation, and recommendations regarding the local mental health system with the state advisory council on mental health.*

The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 10. Minnesota Statutes 1988, section 245.466, subdivision 6, is amended to read:

Subd. 6. [OTHER LOCAL AUTHORITY.] The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.461 to 245.486 regarding local *adult* mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

Sec. 11. Minnesota Statutes 1988, section 245.467, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All providers of outpatient *services, day treatment services*, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individual treatment plan for each of their *adult* clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the *adult* client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten days of client intake and reviewed every 90 days thereafter.

Sec. 12. Minnesota Statutes 1988, section 245.467, subdivision 4, is amended to read:

Subd. 4. [REFERRAL FOR CASE MANAGEMENT.] Each provider of emergency services, *day treatment services,* outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Sec. 13. Minnesota Statutes 1988, section 245.467, subdivision 5, is amended to read:

Subd. 5. [INFORMATION FOR BILLING.] Each provider of outpatient treatment, community support services, *day treatment services,* emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to

the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Sec. 14. Minnesota Statutes 1988, section 245.468, is amended to read:

245.468 [EDUCATION AND PREVENTION SERVICES.]

By July 1, 1988, county boards must provide or contract for education and prevention services to ~~persons~~ *adults* residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public ~~or~~ *and* special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on ~~people's~~ *adults'* mental health functioning; ~~and~~

(4) prevent development or deepening of mental illness*; and*

*(5) refer adults with additional mental health needs to appropriate mental health services.*

Sec. 15. Minnesota Statutes 1988, section 245.469, is amended to read:

245.469 [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of ~~persons~~ *adults* in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee ~~based on their ability to pay~~ *according to section 245.481*. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of ~~people~~ *adults* with mental illness or emotional crises;

(2) minimize further deterioration of ~~people~~ *adults* with mental illness or emotional crises;

(3) help ~~people~~ *adults* with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that all service providers of emergency services *to adults with mental illness* provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or *until January 1, 1991*, a designated person with training in human services who receives clinical supervision from a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional,

a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 16. Minnesota Statutes 1988, section 245.470, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county to meet the needs of ~~persons~~ *adults* with mental illness residing in the county. Clients may be required to pay a fee ~~based on their ability to pay~~ *according to section 245.481*. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating ~~a person's~~ *an adult's* mental health needs through therapy;

(6) prescribing and managing medication *and evaluating the effectiveness of prescribed medication*; and

(7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Sec. 17. [245.4711] [CASE MANAGEMENT AND COMMUNITY SUPPORT SERVICES.]

*Subdivision 1.* [AVAILABILITY OF CASE MANAGEMENT SERVICES.] *(a) By January 1, 1989, the county board shall provide case management activities for all adults with serious and persistent mental illness residing in the county who request or consent to the services and to each adult for whom the court appoints a case manager. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.*

*(b) Case management services provided to adults with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.*

*Subd. 2.* [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] *The county board shall notify the client of the person's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4. The county board shall send a written notice to the client and the client's representative, if any, that identifies the designated case management providers.*

*Subd. 3.* [DUTIES OF CASE MANAGER.] *(a) The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 245.467, subdivision 2, to determine the applicant's eligibility as an adult with serious and persistent mental illness for community support services. The county board shall*

*notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.*

*(b) Upon a determination of eligibility for community support services, the case manager shall develop an individual community support plan for an adult according to subdivision 4, paragraph (a), review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.*

*Subd. 4.* [INDIVIDUAL COMMUNITY SUPPORT PLAN.] *(a) The case manager must develop an individual community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual or family community support plan.*

*(b) The client's individual community support plan must state:*

*(1) the goals of each service;*

*(2) the activities for accomplishing each goal;*

*(3) a schedule for each activity; and*

*(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual community support plan.*

*Subd. 5.* [COORDINATION BETWEEN CASE MANAGER AND COMMUNITY SUPPORT SERVICES.] *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support services program as well as other mental health services.*

*Subd. 6.* [AVAILABILITY OF COMMUNITY SUPPORT SERVICES.] *County boards must provide or contract for sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. The community support services program must be designed to improve the ability of adults with serious and persistent mental illness to:*

*(1) work in a regular or supported work environment;*

*(2) handle basic activities of daily living;*

*(3) participate in leisure time activities;*

*(4) set goals and plans;*

*(5) obtain and maintain appropriate living arrangements; and*

*(6) reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.*

*Subd. 7.* [DAY TREATMENT SERVICES PROVIDED.] *(a) By July 1, 1989, day treatment services must be developed as a part of the community support services available to adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

*(1) provide a structured environment for treatment;*

*(2) provide community support;*

*(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need;*

*(4) coordinate with or be offered in conjunction with a local education agency's special education program; and*

*(5) operate on a continuous basis throughout the year.*

*(b) County boards may request a waiver from including day treatment services if they can document that:*

*(1) an alternative plan of care exists through the county's community support services for clients who would otherwise need day treatment services;*

*(2) day treatment, if included, would be duplicative of other components of the community support services; and*

*(3) county demographics and geography make the provision of day treatment services cost ineffective and infeasible.*

*Subd. 8.* [BENEFITS ASSISTANCE.] *The county board must offer help to adults with serious and persistent mental illness in applying for federal benefits, including supplemental security income, medical assistance, and Medicare. The help must be offered as a part of the community support program available to adults with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits.*

Sec. 18. Minnesota Statutes 1988, section 245.472, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all ~~persons~~ *adults* with mental illness residing in the county *and needing this level of care*. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills to ~~be referred to a community support services program or outpatient services~~ *function in a less structured setting*; and

(4) stabilize crisis admissions.

Sec. 19. Minnesota Statutes 1988, section 245.472, is amended by adding a subdivision to read:

*Subd. 3.* [TRANSITION TO COMMUNITY.] *Residential treatment programs must plan for and assist clients in making a transition from residential treatment facilities to other community-based services. In coordination with the client's case manager, if any, residential treatment facilities must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the residential treatment facility must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.*

Sec. 20. Minnesota Statutes 1988, section 245.473, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF ACUTE CARE INPATIENT SERVICES.] By July 1, 1988, county boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible ~~to meet the needs of persons~~ *for adults* with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical *and mental health* condition ~~of people with acute or serious and persistent mental illness~~ *for which admission is required*;

(2) improve functioning *to the point where discharge to residential treatment or community-based mental health services is possible*; and

(3) facilitate appropriate referrals~~,~~ *for* follow-up~~, and placements~~ *mental health care in the community*.

Sec. 21. Minnesota Statutes 1988, section 245.474, is amended to read:

245.474 [REGIONAL TREATMENT CENTER INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.] By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to ~~people~~ *adults* with mental illness throughout the state *who need this level of care*. Regional treatment centers are responsible to:

(1) stabilize the medical *and mental health* condition of the ~~person with mental illness~~ *adult requiring the admission*;

(2) improve functioning *to the point where discharge to community-based mental health services is possible*;

(3) strengthen family and community support; and

(4) facilitate appropriate discharge~~, aftercare,~~ and *referrals for* follow-up ~~placements~~ *mental health care* in the community.

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all ~~mentally ill patients~~ *adults with mental illness who are* served by regional treatment centers by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment.

The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

*Subd. 3.* [TRANSITION TO COMMUNITY.] *Regional treatment centers must plan for and assist clients in making a transition from regional treatment centers to other community-based services. In coordination with the client's case manager, if any, regional treatment centers must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.*

Sec. 22. Minnesota Statutes 1988, section 245.476, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] No later than January 1, ~~1991~~ *1992*, the county board shall screen all ~~persons~~ *adults* before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. If ~~a person~~ *an adult* is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. ~~Persons~~ *Adults* must be screened within ten days before or within five days after admission to ensure that:

(1) an admission is necessary,

(2) the length of stay is as short as possible consistent with individual client need, and

(3) the case manager, if assigned, is developing an individual community support plan.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

Sec. 23. Minnesota Statutes 1988, section 245.476, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.] The county board shall enter into an individual placement agreement with a provider of residential *treatment* services to ~~a person~~ *an adult* eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

Sec. 24. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

*Subd. 4.* [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR ADULTS.] *The commissioner of human services shall appoint a task force on residential and inpatient treatment services for adults. The task force must include representatives from each of the mental health professional categories defined in section 245.462, subdivision 18, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the Minnesota mental health law project, the Minnesota association of mental health residential facilities, the Minnesota hospital association, department of human services staff, the department of education, the department of corrections, the ombudsman for mental health and mental retardation, and counties. The task force shall examine and evaluate existing mechanisms that have as their purpose review of appropriate admission and need for continued care for clients admitted to residential treatment, acute care hospital inpatient treatment, and regional treatment center inpatient treatment. These mechanisms shall include at least the following: precommitment screening, licensure and reimbursement rules, county monitoring, technical assistance, nursing home preadmission screening, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in subdivision 1.*

Sec. 25. Minnesota Statutes 1988, section 245.477, is amended to read:

245.477 [APPEALS.]

Any ~~person~~ *adult* who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the *individual* community ~~service~~ *support* plan *or individual treatment plan* is reviewed. Any ~~person~~ *adult* whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated *by action or inaction for which the county board is responsible under sections 245.461 to 245.486* may contest that action *or inaction* before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 26. Minnesota Statutes 1988, section 245.478, subdivision 2, is amended to read:

Subd. 2. [PROPOSAL CONTENT.] The local *adult* mental health proposal must include:

(1) the local *adult* mental health advisory council's or *adult* mental health subcommittee of an existing advisory council's report on unmet needs *of adults* and any other needs assessment used by the county board in preparing the local *adult* mental health proposal;

(2) a description of the local *adult* mental health advisory council's or the *adult* mental health subcommittee of an existing advisory council's involvement in preparing the local *adult* mental health proposal and methods used by the county board to ~~obtain~~ *ensure adequate and timely* participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures for each mental health service

*and service waiting lists; and*

(4) ~~for the first proposal period only, information for the year during which the proposal is being prepared:~~

~~(i) a description of the current mental health system identifying each mental health service listed in sections 245.468 to 245.476;~~

~~(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the mental health services described in sections 245.468 to 245.476 or that provides over $10,000 of mental health services per year for the county;~~

~~(iii) a description of how the mental health services in the county are unified and coordinated;~~

~~(iv) the estimated number of clients receiving each mental health service;~~

~~(v) estimated expenditures for each mental health service; and~~

~~(5)~~ the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each *adult* mental health service listed in sections ~~245.468~~ *245.461* to ~~245.476~~ *245.486*;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the *adult* mental health services described in sections ~~245.468~~ *245.461* to ~~245.476~~ *245.486* or to provide over $10,000 of *adult* mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the *adult* mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each *adult* mental health service; and

(v) estimated expenditures for each *adult* mental health service and revenues for the entire proposal.

Sec. 27. Minnesota Statutes 1988, section 245.478, subdivision 3, is amended to read:

Subd. 3. [PROPOSAL FORMAT.] The local *adult* mental health proposal must be made in a format prescribed by the commissioner.

Sec. 28. Minnesota Statutes 1988, section 245.479, is amended to read:

245.479 [COUNTY OF FINANCIAL RESPONSIBILITY.]

For purposes of sections 245.461 to 245.486 *and 245.487 to 245.4887*, the county of financial responsibility is determined under section 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

Sec. 29. Minnesota Statutes 1988, section 245.48, is amended to read:

245.48 [MAINTENANCE OF EFFORT.]

Counties must continue to spend for mental health services *specified in*

*sections 245.461 to 245.486 and 245.487 to 245.4887*, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 30. [245.481] [FEES FOR MENTAL HEALTH SERVICES.]

*A client or, in the case of a child, the child or the child's parent may be required to pay a fee for mental health services provided under sections 245.461 to 245.486 and 245.487 to 245.4887. The fee must be based on the person's ability to pay according to the fee schedule adopted by the county board. In adopting the fee schedule for mental health services, the county board may adopt the fee schedule provided by the commissioner or adopt a fee schedule recommended by the county board and approved by the commissioner. Agencies or individuals under contract with a county board to provide mental health services under sections 245.461 to 245.486 and 245.487 to 245.4887 must not charge clients whose mental health services are paid wholly or in part from public funds fees which exceed the county board's adopted fee schedule. This section does not apply to regional treatment center fees, which are governed by sections 246.50 to 246.55.*

Sec. 31. Minnesota Statutes 1988, section 245.482, is amended to read:

245.482 [REPORTING AND EVALUATION.]

Subdivision 1. [FISCAL REPORTS.] The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, *245.487 to 245.4887*, and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than ~~15~~ *30* days after the end of each quarter.

Subd. 2. [PROGRAM REPORTS.] The commissioner shall develop ~~a~~ unified ~~format~~ *formats* for ~~an annual program report that~~ *reporting, which* will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, *245.487 to 245.4887*, and section 256E.10. The county board shall submit ~~a~~ completed program ~~report~~ *reports* in the required format ~~by March 15 of each year~~ *according to the reporting schedule developed by the commissioner*.

Subd. 3. [PROVIDER REPORTS.] The commissioner may develop ~~a format~~ *formats* and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 *and 245.487 to 245.4887*. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. [COMMISSIONER'S CONSOLIDATED REPORTING RECOMMENDATIONS.] *The commissioner's reports of February 15, 1990, required under sections 245.461, subdivision 3, and 245.487, subdivision 4, shall include recommended measures to provide coordinated, interdepartmental efforts to ensure early identification and intervention for children with, or at risk of developing, emotional disturbance, to improve the efficiency of the mental health funding mechanisms, and to standardize*

*and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible. The commissioner shall consider the advice of the state advisory council and the children's subcommittee in developing these recommendations.*

Subd. 4 *5.* [INACCURATE OR INCOMPLETE REPORTS.] The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. ~~5~~ *6.* [STATEWIDE EVALUATION.] The commissioner shall use the county and provider reports required by this section to complete the statewide report required in ~~section~~ *sections* 245.461 *and 245.487.*

Sec. 32. Minnesota Statutes 1988, section 245.483, is amended to read:

245.483 [TERMINATION OR RETURN OF AN ALLOCATION.]

Subdivision 1. [FUNDS NOT PROPERLY USED.] If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 *and 245.487 to 245.4887*, or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Subd. 2. [USE OF RETURNED FUNDS.] The commissioner may reallocate the funds returned.

Subd. 3. [DELAYED PAYMENTS.] If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486 *and 245.487 to 245.4887*, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. [STATE ASSUMPTION OF RESPONSIBILITY.] If the commissioner determines that services required by sections 245.461 to 245.486 *and 245.487 to 245.4887* will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486 *and 245.487 to 245.4887*, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486 *and 245.487 to 245.4887*. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 *and 245.487 to 245.4887* can be assured.

Sec. 33. Minnesota Statutes 1988, section 245.484, is amended to read:

245.484 [RULES.]

The commissioner shall adopt permanent rules as necessary to carry out ~~Laws 1987, chapter 403~~ *sections 245.461 to 245.486 and sections 1 to 53.*

Sec. 34. Minnesota Statutes 1988, section 245.485, is amended to read:

245.485 [NO RIGHT OF ACTION.]

Sections 245.461 to 245.484 *and 245.487 to 245.4887* do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

Sec. 35. Minnesota Statutes 1988, section 245.486, is amended to read:

245.486 [LIMITED APPROPRIATIONS.]

Nothing in sections 245.461 to 245.485 *and 245.487 to 245.4887* shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 36. [245.4861] [PUBLIC/ACADEMIC LIAISON INITIATIVE.]

*Subdivision 1.* [ESTABLISHMENT OF LIAISON INITIATIVE.] *The commissioner of human services, in consultation with the appropriate post-secondary institutions, shall establish a public/academic liaison initiative to coordinate and develop brain research and education and training opportunities for mental health professionals in order to improve the quality of staffing and provide state-of-the-art services to residents in regional treatment centers and other state facilities.*

*Subd. 2.* [CONSULTATION.] *The commissioner of human services shall consult with the Minnesota department of health, the regional treatment centers, the post-secondary educational system, mental health professionals, and citizen and advisory groups.*

*Subd. 3.* [LIAISON INITIATIVE PROGRAMS.] *The liaison initiative, within the extent of available funding, shall plan, implement, and administer programs which accomplish the objectives of subdivision 1. These shall include but are not limited to:*

*(1) encourage and coordinate joint research efforts between academic research institutions throughout the state and regional treatment centers, community mental health centers, and other organizations conducting research on mental illness or working with individuals who are mentally ill;*

*(2) sponsor and conduct basic research on mental illness and applied research on existing treatment models and community support programs;*

*(3) seek to obtain grants for research on mental illness from the National Institute of Mental Health and other funding sources;*

*(4) develop and provide grants for training, internship, scholarship, and fellowship programs for mental health professionals, in an effort to combine academic education with practical experience obtained at regional treatment centers and other state facilities, and to increase the number of mental health professionals working in the state.*

*Subd. 4.* [PRIVATE AND FEDERAL FUNDING.] *The liaison initiative shall seek private and federal funds to supplement the appropriation provided by the state. Individuals, businesses, and other organizations may contribute to the liaison initiative. All money received shall be administered by the commissioner of human services to implement and administer the programs listed in subdivision 3.*

*Subd. 5.* [REPORT.] *By February 15 of each year, the commissioner of human services shall submit to the legislature a liaison initiative report. The annual report shall be part of the commissioner's February 15 report to the legislature required by section 245.487, subdivision 4.*

Sec. 37. [245.487] [CITATION; DECLARATION OF POLICY; MISSION.]

*Subdivision 1.* [CITATION.] *Sections 245.487 to 245.4887 may be cited as the "Minnesota comprehensive children's mental health act."*

*Subd. 2.* [FINDINGS.] *The legislature finds there is a need for further development of existing clinical services for emotionally disturbed children and their families and the creation of new services for this population. Although the services specified in sections 245.487 to 245.4887 are mental health services, sections 245.487 to 245.4887 emphasize the need for a child-oriented and family-oriented approach of therapeutic programming and the need for continuity of care with other community agencies. At the same time, sections 245.487 to 245.4887 emphasize the importance of developing special mental health expertise in children's mental health services because of the unique needs of this population.*

*Nothing in this act shall be construed to abridge the authority of the court to make dispositions under chapter 260.*

*Subd. 3.* [MISSION OF CHILDREN'S MENTAL HEALTH SERVICE SYSTEM.] *As part of the comprehensive children's mental health system established under sections 245.487 to 245.4887, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children as specified in section 256F.01 and that:*

*(1) identifies children who are eligible for mental health services;*

*(2) makes preventive services available to all children;*

*(3) assures access to a continuum of services that:*

*(i) educate the community about the mental health needs of children;*

*(ii) address the unique physical, emotional, social, and educational needs of children;*

*(iii) are coordinated with the range of social and human services provided to children and their families by the departments of education, human services, health, and corrections;*

*(iv) are appropriate to the developmental needs of children; and*

*(v) are sensitive to cultural differences and special needs;*

*(4) includes early screening and prompt intervention to:*

*(i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and*

*(ii) prevent further deterioration;*

*(5) provides mental health services to children and their families in the context in which the children live and go to school;*

*(6) addresses the unique problems of paying for mental health services for children, including:*

*(i) access to private insurance coverage; and*

*(ii) public funding;*

*(7) includes the child and the child's family in planning the child's program of mental health services, unless clinically inappropriate to the child's needs; and*

*(8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.*

*Subd. 4.* [IMPLEMENTATION.] *(a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by January 1, 1992.*

*(b) Annually until February 15, 1992, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections.*

*Subd. 5.* [CONTINUATION OF EXISTING MENTAL HEALTH SERVICES FOR CHILDREN.] *Counties shall make available case management, community support services, and day treatment to children eligible to receive these services under Minnesota Statutes 1988, section 245.471. No later than August 1, 1989, the county board shall notify providers in the local system of care of their obligations to refer children eligible for case management and community support services as of January 1, 1989. The notice shall indicate which children are eligible, a description of the services, and the name of the county employee designated to coordinate case management activities.*

Sec. 38. [245.4871] [DEFINITIONS.]

*Subdivision 1.* [DEFINITIONS.] *The definitions in this section apply to sections 245.487 to 245.4887.*

*Subd. 2.* [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] *"Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.*

*Subd. 3.* [CASE MANAGEMENT SERVICES.] *"Case management services" means activities designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include obtaining a comprehensive diagnostic assessment, developing a functional assessment, developing an individual family community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of*

*care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of these services over time.*

*Subd. 4.* [CASE MANAGER.] *(a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.*

*(b) A case manager must:*

*(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;*

*(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;*

*(3) have experience and training in identifying and assessing a wide range of children's needs; and*

*(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.*

*(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.*

*(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.*

*(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:*

*(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and*

*(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.*

*(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.*

*(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.*

*(h) Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:*

*(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;*

*(2) completes 40 hours of training as specified in this subdivision; and*

*(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.*

*Subd. 5.* [CHILD.] *"Child" means a person under 18 years of age.*

*Subd. 6.* [CHILD WITH SEVERE EMOTIONAL DISTURBANCE.] *For purposes of eligibility for case management and family community support services, "child with severe emotional disturbance" means a child who has an emotional disturbance and who meets one of the following criteria:*

*(1) the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance; or*

*(2) the child is a Minnesota resident and is receiving inpatient treatment or residential treatment for an emotional disturbance through the interstate compact; or*

*(3) the child has one of the following as determined by a mental health professional:*

*(i) psychosis or a clinical depression; or*

*(ii) risk of harming self or others as a result of an emotional disturbance; or*

*(iii) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or*

*(4) the child, as a result of an emotional disturbance, has significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.*

*The term "child with severe emotional disturbance" shall be used only for purposes of county eligibility determinations. In all other written and oral communications, case managers, mental health professionals, mental health practitioners, and all other providers of mental health services shall use the term "child eligible for mental health case management" in place of "child with severe emotional disturbance."*

*Subd. 7.* [CLINICAL SUPERVISION.] *"Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision does not include authority to make or terminate court-ordered placements of the child. Clinical supervision must be accomplished by full-time or part-time employment of or contracts with mental health professionals. The mental health professional must document the clinical supervision by cosigning individual treatment plans and by making entries in the client's record on supervisory activities.*

*Subd. 8.* [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

*Subd. 9.* [COUNTY BOARD.] *"County board" means the county board of commissioners or board established under the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.*

*Subd. 10.* [DAY TREATMENT SERVICES.] *"Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:*

*(1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55;*

*(2) a community mental health center under section 245.62;*

*(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475; or*

*(4) an entity that operates a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.*

*Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. Day treatment services for a child are an integrated set of education, therapy, and family interventions.*

*A day treatment service must be available to a child at least five days a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.*

*Subd. 11.* [DIAGNOSTIC ASSESSMENT.] *"Diagnostic assessment" means a written evaluation by a mental health professional of:*

*(1) a child's current life situation and sources of stress, including reasons for referral;*

*(2) the history of the child's current mental health problem or problems, including important developmental incidents, strengths, and vulnerabilities;*

*(3) the child's current functioning and symptoms;*

*(4) the child's diagnosis including a determination of whether the child meets the criteria of severely emotionally disturbed as specified in subdivision 6; and*

*(5) the mental health services needed by the child.*

*Subd. 12.* [EARLY IDENTIFICATION AND INTERVENTION SERVICES.] *"Early identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.*

*Subd. 13.* [EDUCATION AND PREVENTION SERVICES.] *(a) "Education and prevention services" means services designed to:*

*(1) educate the general public and groups identified as at risk of developing emotional disturbance under section 245.4872, subdivision 3;*

*(2) increase the understanding and acceptance of problems associated with emotional disturbances;*

*(3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning; and*

*(4) refer specific children or their families with mental health needs to mental health services.*

*(b) The services include distribution to individuals and agencies identified by the county board and the local children's mental health advisory council of information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services.*

*Subd. 14.* [EMERGENCY SERVICES.] *"Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for each child having a psychiatric crisis, a mental health crisis, or a mental health emergency.*

*Subd. 15.* [EMOTIONAL DISTURBANCE.] *"Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:*

*(1) is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III; and*

*(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.*

*"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in DSM-MD, current edition as "usually first evident in childhood or adolescence."*

*Subd. 16.* [FAMILY.] *"Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.*

*Subd. 17.* [FAMILY COMMUNITY SUPPORT SERVICES.] *"Family community support services" means services provided under the clinical supervision of a mental health professional and designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Family community support services do not include acute care hospital inpatient treatment, residential treatment services, or regional treatment center services. Family community support services include:*

*(1) client outreach to each child with severe emotional disturbance and the child's family;*

*(2) medication monitoring where necessary;*

*(3) assistance in developing independent living skills;*

*(4) assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;*

*(5) assistance with leisure and recreational activities;*

*(6) crisis assistance, including crisis placement and respite care;*

*(7) professional home-based family treatment;*

*(8) foster care with therapeutic supports;*

*(9) day treatment;*

*(10) assistance in locating respite care and special needs day care; and*

*(11) assistance in obtaining potential financial resources, including those benefits listed in section 245.4881, subdivision 10.*

*Subd. 18.* [FUNCTIONAL ASSESSMENT.] *"Functional assessment" means an assessment by the case manager of the child's:*

*(1) mental health symptoms as presented in the child's diagnostic assessment;*

*(2) mental health needs as presented in the child's diagnostic assessment;*

*(3) use of drugs and alcohol;*

*(4) vocational and educational functioning;*

*(5) social functioning, including the use of leisure time;*

*(6) interpersonal functioning, including relationships with the child's family;*

*(7) self-care and independent living capacity;*

*(8) medical and dental health;*

*(9) financial assistance needs;*

*(10) housing and transportation needs; and*

*(11) other needs and problems.*

*Subd. 19.* [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.] *"Individual family community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:*

*(1) treat the symptoms and dysfunctions determined in the diagnostic assessment;*

*(2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;*

*(3) improve family functioning;*

*(4) enhance daily living skills;*

*(5) improve functioning in education and recreation settings;*

*(6) improve interpersonal and family relationships;*

*(7) enhance vocational development; and*

*(8) assist in obtaining transportation, housing, health services, and employment.*

*Subd. 20.* [INDIVIDUAL PLACEMENT AGREEMENT.] *"Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of a child to provide residential treatment services.*

*Subd. 21.* [INDIVIDUAL TREATMENT PLAN.] *"Individual treatment*

*plan" means a written plan of intervention, treatment, and services for a child with an emotional disturbance that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. An individual treatment plan for a child must be developed in conjunction with the family unless clinically inappropriate. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.*

*Subd. 22.* [LEGAL REPRESENTATIVE.] *"Legal representative" means a guardian, conservator, or guardian ad litem of a child with an emotional disturbance authorized by the court to make decisions about mental health services for the child.*

*Subd. 23.* [LOCAL MENTAL HEALTH PROPOSAL.] *"Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.4872.*

*Subd. 24.* [LOCAL SYSTEM OF CARE.] *"Local system of care" means services that are locally available to the child and the child's family. The services are mental health, social services, correctional services, education services, health services, and vocational services.*

*Subd. 25.* [MENTAL HEALTH FUNDS.] *"Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.*

*Subd. 26.* [MENTAL HEALTH PRACTITIONER.] *"Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:*

*(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;*

*(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;*

*(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or*

*(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.*

*Subd. 27.* [MENTAL HEALTH PROFESSIONAL.] *"Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:*

*(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in psychiatric or mental health nursing by the American nurses association;*

*(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;*

*(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;*

*(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or*

*(5) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.*

*Subd. 28.* [MENTAL HEALTH SERVICES.] *"Mental health services" means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and are described in sections 245.487 to 245.4887.*

*Subd. 29.* [OUTPATIENT SERVICES.] *"Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.*

*Subd. 30.* [PARENT.] *"Parent" means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights have been terminated in relation to the child.*

*Subd. 31.* [PROFESSIONAL HOME-BASED FAMILY TREATMENT.] *"Professional home-based family treatment" means intensive mental health services provided to children (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement because of an emotional disturbance. Services are provided to the child and the child's family primarily in the child's home environment or other location appropriate to the child. Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child. Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed to meet the specific mental health needs of the child and the child's family. Services include family and individual therapy and family living skills training and must be coordinated with other service providers.*

*Subd. 32.* [RESIDENTIAL TREATMENT.] *"Residential treatment" means*

*a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for children with emotional disturbances under Minnesota Rules, parts 9545.0900 to 9545.1090, or other rules adopted by the commissioner.*

*Subd. 33.* [SERVICE PROVIDER.] *"Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides children's mental health services funded under sections 245.487 to 245.4887.*

*Subd. 34.* [THERAPEUTIC SUPPORT OF FOSTER CARE.] *"Therapeutic support of foster care" means the mental health training and mental health support services and clinical supervision provided by a mental health professional to foster families caring for children with severe emotional disturbance to provide a therapeutic family environment and support for the child's improved functioning.*

Sec. 39. [245.4872] [PLANNING FOR A CHILDREN'S MENTAL HEALTH SYSTEM.]

*Subdivision 1.* [PLANNING EFFORT.] *Starting on the effective date of sections 245.487 to 245.4887 and ending January 1, 1992, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide children's mental health system. The system must be planned and developed by stages until it is operating at full capacity.*

*Subd. 2.* [TECHNICAL ASSISTANCE.] *The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 245.4887, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.*

*Subd. 3.* [INFORMATION TO COUNTIES.] *By January 1, 1990, the commissioner shall provide each county with information about the predictors and symptoms of children's emotional disturbances and information about groups identified as at risk of developing emotional disturbance.*

Sec. 40. [245.4873] [COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.]

*Subdivision 1.* [STATE AND LOCAL COORDINATION.] *Coordination of the development and delivery of mental health services for children shall occur on the state and local levels to assure the availability of services to meet the mental health needs of children in a cost-effective manner.*

*Subd. 2.* [STATE LEVEL; COORDINATION.] *The commissioners or designees of commissioners of the departments of human services, health, education, state planning, and corrections, and a representative of the Minnesota district judges association juvenile committee, in conjunction with the commissioner of commerce or a designee of the commissioner shall meet at least quarterly through 1992 to:*

*(1) educate each agency about the policies, procedures, funding, and*

*services for children with emotional disturbances of all agencies represented;*

*(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;*

*(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;*

*(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;*

*(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and*

*(6) prepare an annual report on the policy and procedural changes needed to implement a coordinated, effective, and cost-efficient children's mental health delivery system.*

*This report shall be submitted to the legislature and the state mental health advisory council annually until February 15, 1992, as part of the report required under section 245.487, subdivision 4. The report shall include information from each department represented on:*

*(1) the number of children in each department's system who require mental health services;*

*(2) the number of children in each system who receive mental health services;*

*(3) how mental health services for children are funded within each system;*

*(4) how mental health services for children could be coordinated to provide more effectively appropriate mental health services for children; and*

*(5) recommendations for the provision of early screening and identification of mental illness in each system.*

*Subd. 3.* [LOCAL LEVEL COORDINATION.] *(a) Each agency represented in the local system of care coordinating council, including mental health, social services, education, health, corrections, and vocational services as specified in section 245.4875, subdivision 6, is responsible for local coordination and delivery of mental health services for children. The county board shall establish a coordinating council that provides at least:*

*(1) written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children; and*

*(2) an annual report of the council to the local county board and the children's mental health advisory council about the unmet children's needs and service priorities.*

*(b) Each coordinating council shall collect information about the local system of care and report annually to the commissioner of human services on forms and in the manner provided by the commissioner. The report must include a description of the services provided through each of the service systems represented on the council, the various sources of funding for services and the amounts actually expended, a description of the numbers and characteristics of the children and families served during the previous*

*year, and an estimate of unmet needs. Each service system represented on the council shall provide information to the council as necessary to compile the report.*

*Subd. 4.* [INDIVIDUAL CASE COORDINATION.] *The case manager designated under section 245.4881 is responsible for ongoing coordination with any other person responsible for planning, development, and delivery of social services, education, corrections, health, or vocational services for the individual child. The family community support plan developed by the case manager shall reflect the coordination among the local service system providers.*

*Subd. 5.* [DUTIES OF THE COMMISSIONER.] *The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4887. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.4872 and provide technical assistance to county boards in developing and maintaining locally available and coordinated children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to 245.4887.*

*Subd. 6.* [PRIORITIES.] *By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities:*

*(1) the provision of locally available mental health emergency services;*

*(2) the provision of locally available mental health services to all children with severe emotional disturbance;*

*(3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;*

*(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;*

*(5) the provision of locally available services to children with emotional disturbances; and*

*(6) the provision of education and preventive mental health services.*

Sec. 41. [245.4874] [DUTIES OF COUNTY BOARD.]

*The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:*

*(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;*

*(2) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services*

*to children and the cost effectiveness of their delivery;*

*(3) assure that mental health services delivered according to sections 245.487 to 245.4887 are appropriate to the child's diagnostic assessment and individual treatment plan;*

*(4) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;*

*(5) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;*

*(6) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;*

*(7) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;*

*(8) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; and*

*(9) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age.*

Sec. 42. [245.4875] [LOCAL SERVICE DELIVERY SYSTEM.]

*Subdivision 1.* [DEVELOPMENT OF CHILDREN'S SERVICES.] *The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the local children's mental health services proposal approved by the commissioner under section 245.4887.*

*Subd. 2.* [CHILDREN'S MENTAL HEALTH SERVICES.] *The children's mental health service system developed by each county board must include the following services:*

*(1) education and prevention services according to section 245.4877;*

*(2) early identification and intervention services according to section 245.4878;*

*(3) emergency services according to section 245.4879;*

*(4) outpatient services according to section 245.488;*

*(5) family community support services according to section 245.4881;*

*(6) day treatment services according to section 245.4881, subdivision 7;*

*(7) residential treatment services according to section 245.4882;*

*(8) acute care hospital inpatient treatment services according to section 245.4883;*

*(9) screening according to section 245.4885;*

*(10) case management according to section 245.4881;*

*(11) therapeutic support of foster care according to section 245.4881, subdivision 9; and*

*(12) professional home-based family treatment according to section 245.4881, subdivision 9.*

*Subd. 3.* [LOCAL CONTRACTS.] *The county board shall review all proposed county agreements, grants, or other contracts related to children's mental health services from any local, state, or federal governmental sources. Contracts with service providers must:*

*(1) name the commissioner as a third party beneficiary;*

*(2) identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;*

*(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.487 to 245.4887 and all other applicable laws, rules, and standards; and*

*(4) require financial controls and auditing procedures.*

*Subd. 4.* [JOINT COUNTY MENTAL HEALTH AGREEMENTS.] *To efficiently provide the children's mental health services required by sections 245.487 to 245.4887, counties are encouraged to join with one or more county boards to establish a multicounty local children's mental health authority under the joint powers act, section 471.59, the human service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.*

*Subd. 5.* [LOCAL CHILDREN'S ADVISORY COUNCIL.] *(a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The following individuals must serve on the local children's mental health advisory council, the children's mental health subcommittee of an existing local mental health advisory council, or be included on an existing mental health advisory council: (1) at least one person who was in a mental health program as a child or adolescent; (2) at least one parent of a child or adolescent with severe emotional disturbance; (3) one children's mental*

*health professional; (4) representatives of minority populations of significant size residing in the county; (5) a representative of the children's mental health local coordinating council; and (6) one family community support services program representative.*

*(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local children's mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:*

*(1) arrange for input from the local system of care providers regarding coordination of care between the services; and*

*(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4877, clause (2).*

*(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.*

*Subd. 6.* [LOCAL SYSTEM OF CARE; COORDINATING COUNCIL.] *The county board shall establish, by January 1, 1990, a council representing all members of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services. The council shall include a representative of an Indian reservation authority where a reservation exists within the county. When possible, the council must also include a representative of juvenile court or the court responsible for juvenile issues and law enforcement. The members of the coordinating council shall meet at least quarterly to develop recommendations to improve coordination and funding of services to children with severe emotional disturbances. A county may use an existing child-focused interagency task force to fulfill the requirements of this subdivision if the representatives and duties of the existing task force are expanded to include those specified in this subdivision and section 245.4873, subdivision 3.*

*Subd. 7.* [OTHER LOCAL AUTHORITY.] *The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.487 to 245.4887 regarding local children's mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.487 to 245.4887.*

Sec. 43. [245.4876] [QUALITY OF SERVICES.]

*Subdivision 1.* [CRITERIA.] *Children's mental health services required by sections 245.487 to 245.4887 must be:*

*(1) based, when feasible, on research findings;*

*(2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;*

*(3) delivered in a manner that improves family functioning when clinically appropriate;*

*(4) provided in the most appropriate, least restrictive setting available*

*to the county board to meet the child's treatment needs;*

*(5) accessible to all age groups of children;*

*(6) appropriate to the developmental age of the child being served;*

*(7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;*

*(8) provided by qualified individuals as required in sections 245.487 to 245.4887;*

*(9) coordinated with children's mental health services offered by other providers;*

*(10) provided under conditions that protect the rights and dignity of the individuals being served; and*

*(11) provided in a manner and setting most likely to facilitate progress toward treatment goals.*

*Subd. 2.* [DIAGNOSTIC ASSESSMENT.] *All residential treatment facilities and acute care hospital inpatient treatment services that provide mental health services for children must complete a diagnostic assessment for each of their child clients within five working days of admission. Providers of outpatient and day treatment services for children must complete a diagnostic assessment within ten working days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.*

*Subd. 3.* [INDIVIDUAL TREATMENT PLANS.] *All outpatient services, day treatment services, family community support services, professional home-based family treatment, residential treatment facilities, acute care hospital inpatient treatment facilities, and regional treatment centers that provide mental health facilities for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten working days of client intake or admission and reviewed every 90 days after that date, except that the administrative review of the treatment plan of a child placed in a residential facility shall be as specified in section 257.071, subdivisions 2 and 4.*

*Subd. 4.* [REFERRAL FOR CASE MANAGEMENT.] *Each provider of emergency services, outpatient treatment, community support services, family community support services, day treatment services, screening under section 245.4885, professional home-based family treatment services, residential treatment facilities, acute care hospital inpatient treatment facilities, or regional treatment center services must inform each child with severe emotional disturbance, and the child's parent or legal representative, of the availability and potential benefits to the child of case management. The information shall be provided as specified in subdivision 5. If consent is obtained according to subdivision 5, the provider must refer the child by notifying the county employee designated by the county board to coordinate case management activities of the child's name and address and by informing the child's family of whom to contact to request case management. The provider must document compliance with this subdivision in the child's record.*

*Subd. 5.* [CONSENT FOR SERVICES OR FOR RELEASE OF INFORMATION.] *(a) Although sections 245.487 to 245.4887 require each county board, within the limits of available resources, to make the mental health services listed in those sections available to each child residing in the county who needs them, the county board shall not provide any services, either directly or by contract, unless consent to the services is obtained under this subdivision. The case manager assigned to a child with a severe emotional disturbance shall not disclose to any person other than the case manager's immediate supervisor and the mental health professional providing clinical supervision of the case manager information on the child, the child's family, or services provided to the child or the child's family without informed written consent unless required to do so by statute or under the Minnesota government data practices act. Informed written consent must comply with section 13.05, subdivision 4, paragraph (d), and specify the purpose and use for which the case manager may disclose the information.*

*(b) The consent or authorization must be obtained from the child's parent unless: (1) the parental rights are terminated; or (2) consent is otherwise provided under sections 144.341 to 144.347; 253B.04, subdivision 1; 260.133; 260.135; and 260.191, subdivision 1, the terms of appointment of a court-appointed guardian or conservator, or federal regulations governing chemical dependency services.*

*Subd. 6.* [INFORMATION FOR BILLING.] *Each provider of outpatient treatment, family community support services, day treatment services, emergency services, professional home-based family treatment services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each child for whom services are included on a bill submitted to a county, if the release of that information under subdivision 5 has been obtained and if the county requests the information. Each provider must try to obtain the consent of the child's family. Each provider must explain to the child's family that the information can only be released with the consent of the child's family and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the child's record.*

*Subd. 7.* [RESTRICTED ACCESS TO DATA.] *The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:*

*(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and*

*(2) staff who provide treatment services or case management and their clinical supervisors.*

*Release of mental health data on individuals submitted under subdivisions 5 and 6, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 5 and 6, results in civil or criminal liability under section 13.08 or 13.09.*

Sec. 44. [245.4877] [EDUCATION AND PREVENTION SERVICES.]

*Education and prevention services must be available to all children residing in the county. Education and prevention services must be designed to:*

*(1) convey information regarding emotional disturbances, mental health*

*needs, and treatment resources to the general public and groups identified as at high risk of developing emotional disturbance under section 245.4872, subdivision 3;*

*(2) at least annually, distribute to individuals and agencies identified by the county board and the local children's mental health advisory council information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services;*

*(3) increase understanding and acceptance of problems associated with emotional disturbances;*

*(4) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning;*

*(5) prevent development or deepening of emotional disturbances; and*

*(6) refer each child with emotional disturbance or the child's family with additional mental health needs to appropriate mental health services.*

Sec. 45. [245.4878] [EARLY IDENTIFICATION AND INTERVENTION.]

*By January 1, 1991, early identification and intervention services must be available to meet the needs of all children and their families residing in the county, consistent with section 245.4873. Early identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and offer treatment services to each child who is identified as needing mental health services. The county board must offer intervention services to each child who is identified as being at risk of needing mental health services.*

Sec. 46. [245.4879] [EMERGENCY SERVICES.]

*Subdivision 1.* [AVAILABILITY OF EMERGENCY SERVICES.] *County boards must provide or contract for enough mental health emergency services within the county to meet the needs of children in the county who are experiencing an emotional crisis or emotional disturbance. A child or the child's parent may be required to pay a fee according to section 245.481. Emergency service providers shall not delay the timely provision of emergency service because of delays in determining this fee or because of the unwillingness or inability of the parent to pay the fee. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:*

*(1) promote the safety and emotional stability of children with emotional disturbances or emotional crises;*

*(2) minimize further deterioration of the child with emotional disturbance or emotional crisis;*

*(3) help each child with an emotional disturbance or emotional crisis to obtain ongoing care and treatment; and*

*(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs.*

*Subd. 2.* [SPECIFIC REQUIREMENTS.] *The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and*

*holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional. When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.*

Sec. 47. [245.488] [OUTPATIENT SERVICES.]

*Subdivision 1.* [AVAILABILITY OF OUTPATIENT SERVICES.] *(a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing in the county and the child's family. A child or a child's parent may be required to pay a fee based in accordance with section 245.481. Outpatient services include:*

*(1) conducting diagnostic assessments;*

*(2) conducting psychological testing;*

*(3) developing or modifying individual treatment plans;*

*(4) making referrals and recommending placements as appropriate;*

*(5) treating the child's mental health needs through therapy; and*

*(6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.*

*(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.*

*(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.*

*Subd. 2.* [SPECIFIC REQUIREMENTS.] *The county board shall require that a service provider of outpatient services to children:*

*(1) meets the professional qualifications contained in sections 245.487 to 245.4887;*

*(2) uses a multidisciplinary mental health professional staff including, at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;*

*(3) develops individual treatment plans; and*

*(4) provides initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.4879.*

Sec. 48. [245.4881] [CASE MANAGEMENT AND FAMILY COMMUNITY SUPPORT SERVICES.]

*Subdivision 1.* [AVAILABILITY OF CASE MANAGEMENT SERVICES.] *(a) By July 1, 1991, the county board shall provide case management activities for each child with severe emotional disturbance residing in the county and the child's family who request or consent to the services.*

*Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.*

*(b) Case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.*

*Subd. 2.* [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] *The county board shall notify, as appropriate, the child, child's parent, or legal representative of the child's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.4876, subdivision 4.*

*The county board shall send a written notice that identifies the designated case management providers. The county board shall send the notice, as appropriate, to the child, the child's parent, or the child's legal representative, if any.*

*Subd. 3.* [DUTIES OF CASE MANAGER.] *(a) The case manager shall promptly arrange for a diagnostic assessment of the child when one is not available as described in section 245.4876, subdivision 2, to determine the child's eligibility as a child with severe emotional disturbance for family community support services. The county board shall notify in writing, as appropriate, the child, the child's parent, or the child's legal representative, if any, if the child is determined ineligible for family community support services.*

*(b) Upon a determination of eligibility for family support services, the case manager shall develop an individual family community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.*

*The case manager shall perform a functional assessment and note in the client's record the services needed by the child and the child's family, the services requested by the family, services that are not available, and the child and family's unmet needs. The information required under section 245.4886 shall be provided in writing to the child and the child's family. The case manager shall note this provision in the client record.*

*Subd. 4.* [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.] *(a) For each child, the case manager must develop an individual family community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family community support plan. The case manager is responsible for developing the individual family community support plan within 30 days of intake based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual family community support plan. The case manager must review the plan every 90 calendar days after it is developed. To the extent appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family community support plan.*

*Notwithstanding the lack of a community support plan, the case manager shall assist the child and family in accessing the needed services listed in subdivision 6.*

*(b) The child's individual family community support plan must state:*

*(1) the goals and expected outcomes of each service and criteria for evaluating the effectiveness and appropriateness of the service;*

*(2) the activities for accomplishing each goal;*

*(3) a schedule for each activity; and*

*(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual family community support plan.*

*Subd. 5.* [COORDINATION BETWEEN CASE MANAGER AND FAMILY COMMUNITY SUPPORT SERVICES.] *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child.*

*Subd. 6.* [AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.] *By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.*

*Family community support services must be designed to improve the ability of children with severe emotional disturbance to:*

*(1) handle basic activities of daily living;*

*(2) improve functioning in school settings;*

*(3) participate in leisure time or community youth activities;*

*(4) set goals and plans;*

*(5) reside with the family in the community;*

*(6) participate in after school and summer activities;*

*(7) make a smooth transition between mental health services provided to children; and*

*(8) make a smooth transition into the adult mental health system as appropriate.*

*In addition, family community support services must be designed to improve overall family functioning if clinically*

*appropriate to the child's needs, and to reduce the use of placements more intensive, costly, or restrictive both in number of admissions and lengths of stay than indicated by the child's diagnostic assessment.*

*Subd. 7.* [DAY TREATMENT SERVICES PROVIDED.] *(a) Day treatment services must be part of the family community support services available to each child with severe emotional disturbance residing in the county. A child or the child's parent may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

*(1) provide a structured environment for treatment;*

*(2) provide family and community support;*

*(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's need;*

*(4) coordinate with or be offered in conjunction with the school's education program;*

*(5) provide therapy and family intervention for children that are coordinated with education services provided and funded by schools; and*

*(6) operate during all 12 months of the year.*

*(b) County boards may request a waiver from including day treatment services if they can document that:*

*(1) alternative services exist through the county's family community support services for each child who would otherwise need day treatment services; and*

*(2) county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.*

*Subd. 8.* [PROFESSIONAL HOME-BASED FAMILY TREATMENT PROVIDED.] *(a) By January 1, 1991, county boards must provide or contract for sufficient professional home-based family treatment within the county to meet the needs of each child with severe emotional disturbance who is at risk of out-of-home placement due to the child's emotional disturbance or who is returning to the home from out-of-home placement. The child or the child's parent may be required to pay a fee according to section 245.481. The county board shall require that all service providers of professional home-based family treatment set fee schedules approved by the county board that are based on the child's or family's ability to pay. The professional home-based family treatment must be designed to assist each child with severe emotional disturbance who is at risk of or who is returning from out-of-home placement and the child's family to:*

*(1) improve overall family functioning in all areas of life;*

*(2) treat the child's symptoms of emotional disturbance that contribute to a risk of out-of-home placement;*

*(3) provide a positive change in the emotional, behavioral, and mental well-being of children and their families; and*

*(4) reduce risk of out-of-home placement for the identified child with severe emotional disturbance and other siblings or successfully reunify and reintegrate into the family a child returning from out-of-home placement due to emotional disturbance.*

*(b) Professional home-based family treatment must be provided by a team consisting of a mental health professional and others who are skilled in the delivery of mental health services to children and families in conjunction with other human service providers. The professional home-based family treatment team must maintain flexible hours of service availability and must provide or arrange for crisis services for each family, 24 hours a day, seven days a week. Case loads for each professional home-based family treatment team must be small enough to permit the delivery of intensive services and to meet the needs of the family. Professional home-based family treatment providers shall coordinate services and service*

*needs with case managers assigned to children and their families. Individual treatment plans must be developed that identify the specific treatment objectives for both the child and the family.*

*Subd. 9.* [THERAPEUTIC SUPPORT OF FOSTER CARE.] *By January 1, 1992, county boards must provide or contract for foster care with therapeutic support as defined in section 245.4871, subdivision 34. Foster families caring for children with severe emotional disturbance must receive training and supportive services, as necessary, at no cost to the foster families within the limits of available resources.*

*Subd. 10.* [BENEFITS ASSISTANCE.] *The county board must offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare.*

Sec. 49. [245.4882] [RESIDENTIAL TREATMENT SERVICES.]

*Subdivision 1.* [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] *County boards must provide or contract for enough residential treatment services to meet the needs of each child with emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be subject to the six-month review process established in section 257.071, subdivisions 2 and 4. Services must be made available as close to the county as possible. Residential treatment must be designed to:*

*(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;*

*(2) help the child improve family living and social interaction skills;*

*(3) help the child gain the necessary skills to return to the community;*

*(4) stabilize crisis admissions; and*

*(5) work with families throughout the placement to improve the ability of the families to care for children with emotional disturbance in the home.*

*Subd. 2.* [SPECIFIC REQUIREMENTS.] *A provider of residential services to children must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.*

*Subd. 3.* [TRANSITION TO COMMUNITY.] *Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Residential treatment facilities must also arrange for*

*appropriate follow-up care in the community. Before a child is discharged, the residential treatment facility or regional treatment center shall provide notification to the child's case manager, if any, so that the case manager can monitor and coordinate the transition and make timely arrangements for the child's appropriate follow-up care in the community.*

Sec. 50. [245.4883] [ACUTE CARE HOSPITAL INPATIENT SERVICES.]

*Subdivision 1.* [AVAILABILITY OF ACUTE CARE HOSPITAL INPATIENT SERVICES.] *County boards must make available through contract or direct provision enough acute care hospital inpatient treatment services*

*as close to the county as possible for children with emotional disturbances residing in the county needing this level of care. Acute care hospital inpatient treatment services must be designed to:*

*(1) stabilize the medical and mental health condition for which admission is required;*

*(2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible;*

*(3) facilitate appropriate referrals for follow-up mental health care in the community;*

*(4) work with families to improve the ability of the families to care for those children with emotional disturbances at home; and*

*(5) assist families and children in the transition from inpatient services to community-based services or home setting, and provide notification to the child's case manager, if any, so that the case manager can monitor the transition and make timely arrangements for the child's appropriate follow-up care in the community.*

*Subd. 2.* [SPECIFIC REQUIREMENTS.] *Providers of acute care hospital inpatient services for children must meet applicable standards established by the commissioners of health and human services.*

Sec. 51. [245.4885] [SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.]

*Subdivision 1.* [SCREENING REQUIRED.] *The county board shall ensure that all children are screened upon admission for treatment of emotional disturbance to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment of emotional disturbance or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five working days of admission. Screening shall determine whether the proposed treatment:*

*(1) is necessary;*

*(2) is appropriate to the child's individual treatment needs;*

*(3) cannot be effectively provided in the child's home;*

*(4) the length of stay is as short as possible consistent with the individual child's need; and*

*(5) the case manager, if assigned, is developing an individual family community support plan.*

*Screening shall be in compliance with section 256F.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.*

*The screening process and placement decision must be documented in the child's record.*

*An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (3).*

*Subd. 2.* [QUALIFICATIONS.] *No later than January 1, 1992, screening of children for residential and inpatient services must be conducted by a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation in sparsely populated areas.*

*Subd. 3.* [INDIVIDUAL PLACEMENT AGREEMENT.] *The county board shall enter into an individual placement agreement with a provider of residential treatment services to a child eligible for county-paid services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.*

*Subd. 4.* [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR CHILDREN.] *The commissioner of human services shall appoint a task force on residential and inpatient treatment services for children that includes representatives from each of the mental health professional categories defined in section 245.4871, subdivision 27, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the children's mental health initiative, the Minnesota mental health law project, the Minnesota district judges association juvenile committee, department of human services staff, the department of education, local community-based corrections, the department of corrections, the ombudsman for mental health and mental retardation, residential treatment facilities for children, inpatient hospital facilities for children, and counties. The task force shall examine and evaluate existing and available mechanisms that have as their purpose determination of and review of appropriate admission and need for continued care for all children with emotional disturbances who are admitted to residential treatment facilities or acute care hospital inpatient treatment. These mechanisms shall include at least the following: precommitment screening, preplacement screening for children, licensure and reimbursement rules, county monitoring, technical assistance, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in section 245.4885, subdivision 1.*

Sec. 52. [245.4886] [APPEALS.]

*A child or a child's family, as appropriate, who requests mental health services under sections 245.487 to 245.4887 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4887 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4887 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.*

Sec. 53. [245.4887] [CHILDREN'S SECTION OF LOCAL MENTAL HEALTH PROPOSAL.]

*Subdivision 1.* [TIME PERIOD.] *The county board shall submit its first complete children's section of its local mental health proposal to the commissioner by November 15, 1989. Subsequent proposals must be on the same two-year cycle as community social service plans. If a proposal complies with sections 245.487 to 245.4887, it satisfies the requirement of the community social service plan for the emotionally disturbed target population as required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.*

*Subd. 2.* [PROPOSAL CONTENT.] *The children's section of the local mental health proposal must include:*

*(1) a report of the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council on unmet needs of children and any other needs assessment used by the county board in preparing the local mental health proposal, including the report of the local coordinating council or local interagency task force specified in section 245.4875, subdivision 6;*

*(2) a description of the involvement of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council in preparing the local mental health proposal and methods used by the county board to ensure adequate and timely participation of citizens, mental health professionals, and providers in development of the local mental health proposal;*

*(3) information for the preceding year, including the actual number of children who received each of the mental health services listed in sections 245.487 to 245.4887, and actual expenditures for each mental health service and service waiting lists; and*

*(4) the following information describing how the county board intends to meet the requirements of sections 245.487 to 245.4887 during the proposal period:*

*(i) specific objectives and outcome goals for each mental health service listed in sections 245.487 to 245.4887;*

*(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the mental health services described in sections 245.487 to 245.4887 or to provide over $10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;*

*(iii) a description of how the mental health services in the county will be unified and coordinated, including the mechanism established by the county board providing for interagency coordination as specified in section 245.4875, subdivision 6;*

*(iv) the estimated number of children who will receive each mental health service; and*

*(v) estimated expenditures for each mental health service and revenues for the entire proposal.*

*Subd. 3.* [PROPOSAL FORMAT.] *The children's section of the local mental health proposal must be made in a format prescribed by the commissioner.*

*Subd. 4.* [PROVIDER APPROVAL.] *The commissioner's review of the children's section of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the children's section of the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:*

*(1) the provider does not meet the professional qualifications contained in sections 245.487 to 245.4887;*

*(2) the provider does not have adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or*

*(3) the provider is not in compliance with other applicable state laws or rules.*

*Subd. 5.* [SERVICE APPROVAL.] *The commissioner's review of the children's section of the local mental health proposal must include a review of the appropriateness of the amounts and types of children's mental health services in the children's section of the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed are not cost effective, do not meet the child's needs, or do not comply with sections 245.487 to 245.4887.*

*Subd. 6.* [PROPOSAL APPROVAL.] *The commissioner shall review each children's section of the local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 245.487 to 245.4887. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.*

*Subd. 7.* [PARTIAL OR CONDITIONAL APPROVAL.] *If the children's section of the local mental health proposal is in substantial compliance, but not in full compliance with sections 245.487 to 245.4887, and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's mental health and community social service act funds until full compliance is achieved.*

*Subd. 8.* [AWARD NOTICE.] *Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal and funding conditions may result in withholding or repayment of funds according to section 245.483.*

*Subd. 9.* [PLAN AMENDMENT.] *If the county board finds it necessary to make significant changes in the approved children's section of the local mental health proposal, it must present the proposed changes to the commissioner for approval at least 30 days before the changes take effect. "Significant changes" means:*

*(1) the county board proposes to provide a children's mental health service through a provider other than the provider listed for that service in the approved local proposal;*

*(2) the county board expects the total annual expenditures for any single children's mental health service to vary more than ten percent or $5,000, whichever is greater, from the amount in the approved local proposal;*

*(3) the county board expects a combination of changes in expenditures per children's mental health service to exceed more than ten percent of the total children's mental health services expenditures; or*

*(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local children's mental health proposal.*

Sec. 54. Minnesota Statutes 1988, section 245.62, subdivision 3, is amended to read:

Subd. 3. [CLINICAL ~~DIRECTOR~~ *SUPERVISOR.*] All community mental health center services shall be provided under the clinical ~~direction~~ *supervision* of a licensed consulting psychologist licensed under sections 148.88 to 148.98, or a physician who is board certified or eligible for board certification in psychiatry, and who is licensed under section 147.02.

Sec. 55. Minnesota Statutes 1988, section 245.696, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC DUTIES.] In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

(4) ~~as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;~~

~~(5)~~ adopt rules for minimum standards in community mental health services as directed by the legislature;

~~(6)~~ *(5)* cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

~~(7)~~ *(6)* convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for ~~children with mental illness and~~ children with emotional or behavioral disorders;

~~(8)~~ *(7)* evaluate the needs of people with mental illness as they relate to assistance payments, medical benefits, nursing home care, and other state and federally funded services;

~~(9)~~ *(8)* provide data and other information, as requested, to the advisory council on mental health;

~~(10)~~ *(9)* develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

~~(11)~~ *(10)* apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering

mental health services;

~~(12)~~ *(11)* study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(13)~~ *(12)* provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

~~(14)~~ *(13)* promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

~~(15)~~ *(14)* conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

~~(16)~~ *(15)* enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 56. Minnesota Statutes 1988, section 245.697, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] A state advisory council on mental health is created. The council must have ~~25~~ *30* members appointed by the governor in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059~~, except that members shall not receive a~~

~~per diem~~. The council ~~expires~~ *does not expire* as provided in section 15.059.

Sec. 57. Minnesota Statutes 1988, section 245.697, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The state advisory council on mental health shall:

(1) advise the governor, the legislature, and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;

(2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;

(3) advise the governor and the legislature about the development of innovative mechanisms for providing and financing services to people with mental illness;

(4) encourage state departments and other agencies to conduct needed research in the field of mental health;

(5) review recommendations of the subcommittee on children's mental health;

(6) educate the public about mental illness and the needs and potential of people with mental illness; ~~and~~

(7) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans*; and*

*(8) coordinate the work of local children's and adult mental health advisory councils and subcommittees.*

Sec. 58. Minnesota Statutes 1988, section 245.697, subdivision 2a, is amended to read:

Subd. 2a. [SUBCOMMITTEE ON CHILDREN'S MENTAL HEALTH.] The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, *state planning,* and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with ~~mental illness~~ *emotional disturbances*;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have ~~mental illness or~~ emotional ~~or behavioral disorders~~ *disturbances*;

(6) a present or former consumer of adolescent mental health services;

(7) educators ~~experienced in~~ *currently* working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; ~~and~~

(11) *one person from the local corrections department and one representative of the Minnesota district judges association juvenile committee; and*

*(12)* county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

Sec. 59. Minnesota Statutes 1988, section 245.713, subdivision 2, is amended to read:

Subd. 2. [TOTAL FUNDS AVAILABLE; ALLOCATION.] Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed ~~ten~~ *five* percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the

commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(d) The amount required under federal law, for federally mandated expenditures.

(e) An amount not to exceed ~~ten~~ *15* percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

Sec. 60. Minnesota Statutes 1988, section 245.73, subdivision 4, is amended to read:

Subd. 4. [RULES; REPORTS.] The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. *As a part of the report required by section 245.461,* the commissioner shall report to the legislature ~~no later than December 31 of each even-numbered year~~ as to the effectiveness of this program and recommendations regarding continued funding.

Sec. 61. Minnesota Statutes 1988, section 245A.095, is amended to read:

245A.095 [REVIEW OF RULES FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESSES.]

Subdivision 1. [LICENSE REQUIRED.] Residential programs ~~for~~ *with* five or more persons with a mental illness must be licensed under sections 245A.01 to 245A.16. To assure that this requirement is met, the commissioner of health, in cooperation with the commissioner of human services, shall monitor licensed boarding care homes, board and lodging houses, and supervised living facilities.

By January 1, 1989, the commissioner of health shall recommend to the legislature an appropriate method for enforcing this requirement.

*Subd. 1a.* [RULES.] *In developing rules for serving persons with mental illness, the commissioner of human services shall assure that persons with mental illness are provided with needed treatment or support in the least restrictive, most appropriate environment, that supportive residential care in small homelike settings is available for persons needing that care, and that a mechanism is developed to ensure that no person is placed in a care or treatment setting inappropriate for meeting the person's needs. To the maximum extent possible, the rule shall assure that length of stay is governed solely by client need and shall allow for a variety of innovative and flexible approaches in meeting residential and support needs of persons with mental illness.*

Subd. 2. [SPECIFIC REVIEW OF RULES.] The commissioner shall:

(1) provide in rule for ~~various levels of care~~ *additional types of programs and services, including but not limited to supportive small group residential care, semi-independent and apartment living services, and crisis and respite services,* to address the residential treatment *and support* needs of

persons with mental illness;

(2) review category I and II programs established in Minnesota Rules, parts 9520.0500 to 9520.0690 to ensure that the categories of programs provide a continuum of residential service programs for persons with mental illness, *including but not limited to programs meeting needs for intensive treatment, crisis and respite care, and rehabilitation and training*;

(3) provide in rule for a definition of the term "treatment" as used in relation to persons with mental illness;

(4) adjust funding mechanisms by rule as needed to reflect the requirements established by rule for services being provided;

(5) review and recommend staff educational requirements and staff training as needed; ~~and~~

(6) review and make changes in rules relating to residential care and service programs for persons with mental illness as the commissioner may determine necessary*; and*

*(7) the commissioner shall report to the legislature by February 15, 1990, on the status of rulemaking with respect to clauses (1) to (6).*

Subd. 3. [HOUSING SERVICES FOR PERSONS WITH MENTAL ILLNESS.] The commissioner of human services shall study the housing needs of people with mental illness and shall articulate a continuum of services from residential treatment as the most intensive service through housing programs as the least intensive. The commissioner shall develop recommendations for implementing the continuum of services and shall present the recommendations to the legislature by January 31, 1988.

Sec. 62. [246.0175] [OFFICE OF MEDICAL DIRECTOR.]

*Subdivision 1.* [ESTABLISHED.] *The office of medical director within the department of human services is established.*

*Subd. 2.* [MEDICAL DIRECTOR.] *The commissioner of human services shall appoint a medical director. The medical director must be a psychiatrist certified by the board of psychiatry.*

*Subd. 3.* [DUTIES.] *The medical director shall:*

*(1) oversee the clinical provision of inpatient mental health services provided in the state's regional treatment centers;*

*(2) recruit and retain psychiatrists to serve on the state medical staff established in subdivision 4;*

*(3) consult with the commissioner of human services, the assistant commissioner of mental health, community mental health center directors, and the regional treatment center governing bodies to develop standards for treatment and care of patients in regional treatment centers and outpatient programs;*

*(4) develop and oversee a continuing education program for members of the regional treatment center medical staff;*

*(5) consult with the commissioner on the appointment of the chief executive officers for regional treatment centers; and*

*(6) participate and cooperate in the development and maintenance of a quality assurance program for regional treatment centers that assures that*

*residents receive quality inpatient care and continuous quality care once they are discharged or transferred to an outpatient setting.*

*Subd. 4.* [REGIONAL TREATMENT CENTER MEDICAL STAFF] *(a) The commissioner of human services shall establish a regional treatment center medical staff which shall be under the clinical direction of the office of medical director.*

*(b) The medical director, in conjunction with the regional treatment center medical staff, shall:*

*(1) establish standards and define qualifications for physicians who care for residents in regional treatment centers;*

*(2) monitor the performance of physicians who care for residents in regional treatment centers; and*

*(3) recommend to the commissioner changes in procedures for operating regional treatment centers that are needed to improve the provision of medical care in those facilities.*

Sec. 63. [STUDY.]

*The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding: (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.*

Sec. 64. [REPEALER.]

*Minnesota Statutes 1988, sections 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; and 245A.095, subdivision 3, are repealed.*

Sec. 65. [EFFECTIVE DATE.]

*Section 37, subdivision 5, is effective the day following final enactment.*

ARTICLE 5

INCOME MAINTENANCE AND WELFARE REFORM

Section 1. Minnesota Statutes 1988, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation, prosecution, criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system; *and to verify receipt of energy assistance for the telephone assistance plan;*

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons; or

(11) data maintained by residential facilities as defined in section 245A.02, subdivision 6, may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

(b) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1988, section 237.70, subdivision 7, is amended to read:

Subd. 7. [ADMINISTRATION.] The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the telephone companies. *The application must contain the applicant's social security number. Applications without a social security number will be denied.* Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE

CONTACT . . . . . .

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

(2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;

(3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of public service with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of public service shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 3. Minnesota Statutes 1988, section 237.701, subdivision 1, is amended to read:

Subdivision 1. [TELEPHONE ASSISTANCE FUND.] The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing

the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the administrative expenses of the department of human services ~~from January 1, 1988, to June 30, 1989,~~ to implement sections 237.69 to 237.71, not to exceed ~~$90,000~~ *$180,000 annually*; and

(3) reimbursement of the administrative expenses of the commission not to exceed $25,000 annually.

Sec. 4. Minnesota Statutes 1988, section 245.771, subdivision 3, is amended to read:

Subd. 3. [EMPLOYMENT AND TRAINING PROGRAMS.] *The commissioner of human services, in consultation with the commissioner of jobs and training, is authorized to implement and allocate money to food stamp employment and training programs in as many counties as is necessary to meet federal participation requirements and comply with federal laws and regulations.* The commissioner of human services may contract with the commissioner of jobs and training to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

Sec. 5. Minnesota Statutes 1988, section 256.014, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF SYSTEMS.] The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

(1) management and administration of the food stamp and income maintenance programs;

(2) ~~the central clearinghouse project for~~ *management and administration of* the child support enforcement program; and

(3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage, *except that the nonfederal share of the costs of the MAXIS computer system and child support enforcement systems shall be born entirely by the commissioner*. Development costs must not be assessed against local agencies.

Sec. 6. [256.031] [MINNESOTA FAMILY INVESTMENT PLAN.]

*Subdivision 1.* [CITATION.] *Sections 256.031 to 256.036 may be cited as the Minnesota family investment plan.*

*Subd. 2.* [LEGISLATIVE FINDINGS.] *The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature*

*recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.*

*Subd. 3.* [AUTHORIZATION FOR THE DEMONSTRATION.] *The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the directors of the higher education coordinating board and the office of jobs policy, is authorized to proceed with the planning and designing of the Minnesota family investment plan and test policies, methods, and cost impact on an experimental basis by using field trials. Sections 256.031 to 256.033 describe the basic principles of the program. Sections 256.034 to 256.036 provide a basis for congressional action. Using sections 256.031 to 256.036, the commissioner shall seek congressional authority to implement the program in field trials. After obtaining congressional authority to implement the Minnesota family investment plan in field trials, the commissioner shall request specific appropriations from the legislature to implement field trials. The field trials must be conducted for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.*

*Subd. 4.* [GOALS OF THE MINNESOTA FAMILY INVESTMENT PLAN.] *The commissioner shall design the program to meet the following goals:*

*(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;*

*(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;*

*(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and*

*(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.*

*Subd. 5.* [FEDERAL WAIVERS.] *The commissioner of human services shall seek authority from Congress to implement the Minnesota family investment plan on a demonstration basis. If necessary, the commissioner shall seek waivers of compliance with requirements for: aid to families with dependent children under United States Code, title 42, sections 601 to 679a, as amended; medical assistance under United States Code, title 42, sections 1396 to 1396s, as amended; food stamps under United States Code, title 7, sections 2011 to 2030, as amended; and other federal requirements that would inhibit implementation of the Minnesota family investment plan. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with*

*the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon six months' notice or immediately upon mutual agreement. If the agreements are canceled, families receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, and the food stamp programs must be placed on those programs.*

Sec. 7. [256.032] [DEFINITIONS.]

*Subdivision 1.* [SCOPE OF DEFINITIONS.] *The terms used in sections 256.031 to 256.036 have the meanings given them unless otherwise provided or indicated by the context.*

*Subd. 2.* [CAREGIVER.] *"Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, "caregiver" also means any of the following individuals who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.*

*Subd. 3.* [CASE MANAGEMENT.] *"Case management" means the assessment of family needs and coordination of services necessary to support the family in its social and economic roles, in addition to the services described in section 256.736, subdivision 11.*

*Subd. 4.* [COMMISSIONER.] *"Commissioner" means the commissioner of human services or a designee.*

*Subd. 5.* [CONTRACT.] *"Contract" means a family self-sufficiency plan, described in section 256.035, subdivision 7, based on the case manager's assessment of the family's needs and abilities and developed, together with a parental caregiver, by a county agency or its designee.*

*Subd. 6.* [DEPARTMENT.] *"Department" means the department of human services.*

*Subd. 7.* [FAMILY.] *For purposes of determining eligibility for this program, "family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.*

*Subd. 8.* [FAMILY WAGE LEVEL.] *"Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.*

*Subd. 9.* [ORIENTATION.] *"Orientation" means a presentation that meets the requirements of section 256.736, subdivision 10a, provides information to caregivers about the Minnesota family investment plan, and encourages parental caregivers to engage in activities that will stabilize the family and lead to self-sufficiency.*

*Subd. 10.* [PROGRAM.] *"Program" means the Minnesota family investment plan.*

*Subd. 11.* [SIGNIFICANT CHANGE.] *"Significant change" means a change of ten percent or $50, whichever is less, in monthly gross family earned income, or a change in family composition.*

*Subd. 12.* [TRANSITIONAL STATUS.] *"Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a contract with a county agency or its designee.*

*Subd. 13.* [TRANSITIONAL STANDARD.] *"Transitional standard" means the sum of the AFDC standard of assistance and the full cash value of food stamps for a family of the same size and composition in effect when implementation of the Minnesota family investment plan begins. This standard applies to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from having a contract or is exempt from complying with the terms of the contract. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.*

Sec. 8. [256.033] [ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.]

*Subdivision 1.* [ELIGIBILITY CONDITIONS.] *A family is eligible for and entitled to assistance under the Minnesota family investment plan if:*

*(1) the family's net income, after deducting an amount to cover taxes and actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii), does not exceed the applicable standard of assistance for that family as defined under section 256.032, subdivision 13; and*

*(2) the family's nonexcluded resources do not exceed $2,000.*

*Subd. 2.* [DETERMINATION OF FAMILY INCOME.] *The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:*

*(1) the disregard of the first $75 of gross earned income is replaced with a single disregard described in section 256.035, subdivision 4, paragraph (a);*

*(2) all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;*

*(3) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with 42 United States Code, section 602(a)(8)(A)(viii);*

*(4) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded; and*

*(5) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded.*

*Subd. 3.* [DETERMINATION OF FAMILY RESOURCES.] *When determining a family's resources, the following are excluded:*

*(1) the family's home, together with the surrounding property not separated from the home by intervening property owned by others;*

*(2) one burial plot for each family member;*

*(3) one prepaid burial contract with an equity value of no more than $1,500 for each member of the family;*

*(4) licensed automobiles, trucks, or vans up to a total equity value of $4,500;*

*(5) the value of personal property needed to produce earned income, including tools, implements, farm animals, and inventory;*

*(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and*

*(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.*

*Subd. 4.* [TREATMENT OF SSI AND MSA.] *The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid programs and any real or personal property of a person receiving supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.*

*Subd. 5.* [ABILITY TO APPLY FOR FOOD STAMPS.] *A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.*

Sec. 9. [256.034] [PROGRAM SIMPLIFICATION.]

*Subdivision 1.* [CONSOLIDATION OF TYPES OF ASSISTANCE.] ***Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. If authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.***

*Subd. 2.* [COUPON OPTION.] *Families have the option to receive a portion of their assistance, designated by the commissioner, in the form of food coupons or vendor payments.*

*Subd. 3.* [MODIFICATION OF ELIGIBILITY TESTS.] *(a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a family member who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.*

*(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.*

*(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless compliance is specifically required in a contract with the county agency.*

*Subd. 4.* [SIMPLIFICATION OF BUDGETING PROCEDURES.] *The monthly amount of assistance provided by the Minnesota family investment plan must be calculated on a prospective basis taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and circumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.*

*Subd. 5.* [SIMPLIFICATION OF VERIFICATION PROCEDURES.] *Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan.*

Sec. 10. [256.035] [INCOME SUPPORT AND TRANSITION.]

*Subdivision 1.* [EXPECTATIONS.] *All families eligible for assistance under the family investment plan are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:*

*(a) For a family headed by a single adult parent, the expectation is that the parent will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.*

*(b) For a family with a minor parent, the expectation is that, concurrent with the receipt of assistance, the minor parent must be developing or have a contract with the county agency. The terms of the contract must include compliance with section 256.736, subdivision 3b.*

*(c) For a family with two adult parents, the expectation is that one or both parents will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.*

*Subd. 2.* [EXEMPTIONS.] *A caregiver is exempt from the requirement of developing a contract and complying with the terms of the contract developed with the county agency, or engaging in transitional activities, if:*

*(1) the caregiver is not the natural or adoptive parent of a minor child; or*

*(2) in the case of a parental caregiver, the county agency determines that:*

*(i) individual circumstances prevent compliance;*

*(ii) support services necessary to enable compliance are not available;*

*(iii) activities identified in the contract are not available; or*

*(iv) a parental caregiver is willing to accept suitable employment but employment is not available.*

*Subd. 3.* [SANCTIONS.] *A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction continues until the failure to comply ceases. The county agency must notify the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the sanctions are implemented.*

*Subd. 4.* [TREATMENT OF INCOME.] *To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:*

*(a) The $30 and one-third and $75 disregards allowed under section 256.74,*

*subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.*

*(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money earmarked for the Minnesota family investment plan.*

*(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.*

*(d) The first $50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from having or complying with the terms of a contract, or has had a sanction imposed under subdivision 3.*

*Subd. 5.* [ORIENTATION.] *All caregivers receiving assistance through the Minnesota family investment plan must attend orientation.*

*Subd. 6.* [CONTRACT.] *(a) To receive the transitional standard of assistance, a single adult parent who is a member of a family that has received assistance through the Minnesota family investment plan for 24 months within the preceding 36 months, a minor parent receiving assistance through the Minnesota family investment plan, and one parent in a two-parent family that has received assistance through the Minnesota family investment plan for six months within the preceding 12 months, must comply with the terms of a contract with the county agency or its designee unless exempt under subdivision 2. Case management must be provided to a caregiver who is a parent to assist the caregiver in meeting established goals and to monitor the caregiver's progress toward achieving those goals. The parental caregiver and the county agency must finalize the contract as soon as possible, but in any event within a reasonable period of time after the deadline specified in subdivision 1, paragraph (a), (b), or (c), whichever applies.*

*(b) A contract must identify the parental caregiver's employment goal and explain what steps the family must take to pursue self-sufficiency. Activities may include:*

*(1) orientation;*

*(2) employment;*

*(3) employment and training services as defined under section 256.736, subdivision 1a, paragraph (d);*

*(4) preemployment activities;*

*(5) participation in an educational program leading to a high school or general equivalency diploma and post-secondary education programs, excluding postbaccalaureate degrees as provided in section 256.736, subdivision 1a, paragraph (d);*

*(6) case management;*

*(7) social services; or*

*(8) other programs or services leading to self-sufficiency.*

*The contract must also identify the services that the county agency will provide to the family that the family needs to enable the parental caregiver to comply with the contract, including support services such as transportation and child care.*

*Subd. 7.* [EMPLOYMENT BONUS.] *A family leaving the program as a result of increased earnings through employment is entitled to an employment bonus. This bonus is a one-time cash incentive, not more than the family's monthly payment standard, to cover initial expenses incurred by the family leaving the Minnesota family investment plan.*

*Subd. 8.* [CHILD CARE.] *The commissioner shall ensure that each Minnesota family investment plan caregiver who is a parent in transitional status and who needs assistance with child care costs to independently pursue self-sufficiency or comply with the terms of a contract with the county agency receives a child care subsidy through child care money earmarked for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under sections 256H.15 and 256H.16. A caregiver who is a parent who leaves the program as a result of increased earnings from employment and who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii).*

*Subd. 9.* [HEALTH CARE.] *A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended.*

Sec. 11. [256.036] [PROTECTIONS.]

*Subdivision 1.* [SUPPORT SERVICES.] *If assistance with child care or transportation is necessary to enable a caregiver who is a parent to work, obtain training or education, attend orientation, or comply with the terms of a contract with the county agency, and the county determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.*

*Subd. 2.* [VOLUNTEERS.] *For caregivers receiving assistance under the Minnesota family investment plan who are independently pursuing self-sufficiency, case management and support services other than child care are available to the extent that resources permit.*

*Subd. 3.* [NOTIFICATION REQUIREMENT.] *The county agency shall contact a family headed by a single adult parent when the family has received assistance through the Minnesota family investment plan for 18 months within the preceding 36 months. The county agency shall remind the family that beginning with the 24th month of assistance, receipt of the*

*transitional standard is contingent upon transitional status. The county agency shall encourage the family to begin preparing for the change in expectations.*

*Subd. 4.* [TIMELY ASSISTANCE.] *Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided on no less than a monthly basis to eligible families.*

*Subd. 5.* [DUE PROCESS.] *Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, under section 256.736, subdivisions 4a and 11, when the caregiver disputes the contents of a contract developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to cooperate with the terms of a contract. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.*

*Subd. 6.* [TREATMENT OF FOOD ASSISTANCE.] *The portion of cash assistance provided under the Minnesota family investment plan that the commissioner designates as representing food assistance must be disregarded for other local, state, or federal programs.*

*Subd. 7.* [ADJUSTMENT OF FOOD ASSISTANCE AMOUNT.] *The commissioner shall assure that increases in the federal food stamp allotments and deductions are reflected in the food assistance portion of the assistance provided under the Minnesota family investment plan.*

*Subd. 8.* [EXPEDITED BENEFITS.] *Provisions for expedited benefits under the Minnesota family investment plan may not be less restrictive than provisions for expedited benefits under the Food Stamp Act of 1977, as amended, and state food stamp policy and include either expediting issuance of a predesignated portion of assistance provided through the Minnesota family investment plan or through the existing food stamp program.*

*Subd. 9.* [SPECIAL RIGHTS OF MIGRANT AND SEASONAL FARM WORKERS AND HOMELESS PEOPLE.] *Federally prescribed procedures, means of applying for and obtaining assistance, reporting and verification requirements, and other similar provisions specifically for migrant and seasonal farmworkers or homeless people under the Food Stamp Act of 1977, as amended, continue to be available to eligible migrant, seasonal farmworker, or homeless families. The commissioner shall comply with the bilingual requirements of United States Code, title 7, section 2020(e)(1)(B).*

*Subd. 10.* [ASSESSMENT OF FAMILY IMPACT.] *The evaluation design of the field trials must include an assessment of the financial condition of a sample of families in the Minnesota family investment plan relative to what their financial condition would have been in the absence of the Minnesota family investment plan.*

Sec. 12. Minnesota Statutes 1988, section 256.045, subdivision 1, is

amended to read:

Subdivision 1. [POWERS OF THE STATE AGENCY.] The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, *3a,* 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

Sec. 13. Minnesota Statutes 1988, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] ~~(a)~~ Any person applying for, receiving or having received public assistance or a program of social services granted by *the state agency or* a local agency under sections *252.32, 256.031 to 256.036, and* 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

~~(b) All prepaid health plans under contract to the commissioner pursuant to chapter 256B or 256D must provide for a complaint system according to section 62D.11. The prepaid health plan must notify the ombudsman within three working days of any formal complaint made under section 62D.11 by persons enrolled in a prepaid health plan under chapter 256B or 256D. At the time a complaint is made, the prepaid health plan must notify the recipient of the name and telephone number of the ombudsman. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan shall issue a written resolution within 30 days of filing with the prepaid health plan. The ombudsman may waive the requirement that the complaint system procedures be exhausted prior to an appeal if the ombudsman determines that the complaint must be resolved expeditiously in order to provide care in an urgent situation.~~

~~(c) A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by an appellant is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner.~~

~~(d) In a notice of appeal from a ruling of a prepaid health plan, a recipient may request an expedited hearing. The ombudsman, after discussing with the recipient his or her condition and in consultation with a health practitioner who practices in the specialty area of the recipient's primary diagnosis, shall investigate and determine whether an expedited appeal is warranted. In making the determination, the ombudsman shall evaluate whether the medical condition of the recipient, if not expeditiously diagnosed and treated, could cause physical or mental disability, substantial deterioration of physical or mental health, continuation of severe pain, or~~

~~death. The ombudsman may order a second medical opinion from the prepaid health plan or order a second medical opinion from a nonprepaid health plan provider at prepaid health plan expense. If the ombudsman determines that an expedited appeal is warranted, the state welfare referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case. In urgent or emergency situations in which a prepaid health plan provider has prescribed treatment, and the prepaid health plan has denied authorization for that treatment, the referee may order the health plan to authorize treatment pending the outcome of the appeal.~~ *Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.*

Sec. 14. Minnesota Statutes 1988, section 256.045, is amended by adding a subdivision to read:

*Subd. 3a.* [PREPAID HEALTH PLAN APPEALS.] *(a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).*

*(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.*

*(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case.*

Sec. 15. Minnesota Statutes 1988, section 256.045, subdivision 4, is

amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] All hearings held pursuant to subdivision 3, *3a*, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. *Local agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the local agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, or former recipient objects.* The hearing shall not be held earlier than five days after filing of the required notice with the local or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the local agency at the hearing at a reasonable time before the date of the hearing and during the hearing. *Upon request, the local agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal.* All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

Sec. 16. Minnesota Statutes 1988, section 256.045, subdivision 4a, is amended to read:

Subd. 4a. [CASE MANAGEMENT APPEALS.] Any recipient of case management services pursuant to section 256B.092, subdivisions 1 to 1b who contests the local agency's action or failure to act in the provision of those services, other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for review to the local agency. The local agency shall inform the commissioner of the receipt of a request for review when it is submitted and shall schedule a conciliation conference. The local agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner shall designate a representative to be present at the conciliation conference to assist in the resolution of the dispute without the need for a hearing. Within 30 days, the local agency shall conduct the conciliation conference and inform the recipient in writing of the action the local agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision. The conciliation conference shall be conducted in a manner consistent with the procedures for reconsideration of an individual service plan or an individual habilitation plan pursuant to Minnesota Rules, parts 9525.0075, subpart 5 and 9525.0105, subpart 6. If the county fails to conduct the conciliation conference and issue its report

within 30 days, or, at any time up to 90 days after the conciliation conference is held, a recipient may submit to the commissioner a written request for a hearing before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the local agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the local agency to take those actions necessary to comply with applicable laws or rules. *The commissioner may issue a temporary order prohibiting the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A, while a local agency review process or an appeal brought by a recipient under this subdivision is pending, or for the period of time necessary for the local agency to implement the commissioner's order. The commissioner shall not issue a final order staying the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A.*

Sec. 17. Minnesota Statutes 1988, section 256.045, subdivision 5, is amended to read:

Subd. 5. [ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.] *A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or local agency's action. A referee may take official notice of adjudicative facts.* The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan*. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan* of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan*.

*A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.*

Any order of the commissioner issued ~~in accordance with~~ *under* this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. *Any order of the commissioner is binding on the parties and must be implemented by the state agency or a local agency until the order is reversed by the district court, or unless the*

*commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.*

*Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section.*

Sec. 18. Minnesota Statutes 1988, section 256.045, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.] *(a)* The commissioner of human services may initiate a review of any action or decision of a local agency and direct that the matter be presented to a state human services referee for a hearing held ~~pursuant to~~ *under* subdivision 3, *3a,* or 4a. In all matters dealing with human services committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. The commissioner may order an independent examination when appropriate.

*(b)* Any party to a hearing held pursuant to subdivision 3, *3a,* or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. *The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.*

*(c) The commissioner may issue a temporary order staying a proposed demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending, or for the period of time necessary for the local agency to implement the commissioner's order.*

Sec. 19. Minnesota Statutes 1988, section 256.045, subdivision 7, is amended to read:

Subd. 7. [JUDICIAL REVIEW.] Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, *the amended order, or order affirming the original order,* and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision. The commissioner may elect to become a party to the proceedings in the district court. Any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. *Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.*

Sec. 20. Minnesota Statutes 1988, section 256.045, subdivision 10, is amended to read:

Subd. 10. [PAYMENTS PENDING APPEAL.] If the commissioner of

human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. *The state or local agency has a claim for food stamps and cash payments made to a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps and cash payments as a result of the appeal.*

Sec. 21. Minnesota Statutes 1988, section 256.12, subdivision 14, is amended to read:

Subd. 14. [DEPENDENT CHILD.] *(a)* "Dependent child," as used in sections 256.72 to 256.87, means a child under the age of 18 years, or a child under the age of 19 years who is regularly attending as a full-time student, and is expected to complete before reaching age 19, a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment, who is found to be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity of a parent, or who is a child of an unemployed parent as that term is defined by the commissioner of human services, such definition to be consistent with and not to exceed minimum standards established by the Congress of the United States and the Secretary of Health and Human Services~~, and whose relatives,~~. *When defining "unemployed parent," the commissioner shall count up to four calendar quarters of full-time attendance in any of the following toward the requirement that a principal earner have six or more quarters of work in any 13 calendar quarter period ending within one year before application for aid to families with dependent children:*

*(1) an elementary or secondary school;*

*(2) a federally approved vocational or technical training course designed to prepare the parent for gainful employment; or*

*(3) full-time participation in an education or training program established under the job training partnership act.*

*(b) Dependent child also means a child:*

*(1) whose relatives are* liable under the law for the child's support *and* are not able to provide adequate care and support of the child~~,~~; and

*(2)* who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of these relatives as a home.

~~The term~~ " *(c)* Dependent child" also means a child who has been removed from the home of a relative after a judicial determination that continuance in the home would be contrary to the welfare and best interests of the child and whose care and placement in a foster home or a private licensed child care institution is, in accordance with the rules of the commissioner, the responsibility of the state or county agency under sections 256.72 to 256.87. This child is eligible for benefits only through the foster care and adoption assistance program contained in Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, and is not entitled to benefits under sections 256.72 to 256.87.

Sec. 22. [256.484] [SOCIAL ADJUSTMENT SERVICES TO REFUGEES.]

*Subdivision 1.* [SPECIAL PROJECTS.] *The commissioner of human services shall establish a grant program to provide social adjustment services to refugees residing in Minnesota who experience depression, emotional stress, and personal crises resulting from past trauma and refugee camp experiences.*

*Subd. 2.* [DEFINITIONS.] *For purposes of this section, the following terms have the meanings given them:*

*(a) "Refugee" means a refugee or asylee status granted by the United States Immigration and Naturalization Service.*

*(b) "Social adjustment services" means treatment or services, including psychiatric assessment, chemical therapy, individual or family counseling, support group participation, after care or follow-up, information and referral, and crisis intervention.*

*Subd. 3.* [PROJECT SELECTION.] *The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing bilingual social adjustment services to refugees. Project administrators must present evidence that the service provider's social adjustment services for targeted refugees has historically resolved major problems identified at the time of intake.*

*Subd. 4.* [PROJECT DESIGN.] *Project proposals selected under this section must:*

*(1) use existing resources when possible;*

*(2) clearly specify program goals and timetables for project operation;*

*(3) identify available support services, social services, and referral procedures to be used in serving the targeted refugees;*

*(4) provide bilingual services; and*

*(5) identify the training and experience that enable project staff to provide services to targeted refugees, and identify the number of staff with bilingual service expertise.*

*Subd. 5.* [ANNUAL REPORT.] *Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through social adjustment services, and recommendations for modifications in service delivery for the upcoming year.*

Sec. 23. [256.485] [CHILD WELFARE SERVICES TO MINOR REFUGEES.]

*Subdivision 1.* [SPECIAL PROJECTS.] *The commissioner of human services shall establish a grant program to provide specialized child welfare services to Asian and Amerasian refugees under the age of 18 who reside in Minnesota.*

*Subd. 2.* [DEFINITIONS.] *For the purpose of this section, the following terms have the meanings given them:*

*(a) "Refugee" means refugee or asylee status granted by the United States Immigration and Naturalization Service.*

*(b) "Child welfare services" means treatment or services, including workshops or training regarding independent living skills, coping skills, and responsible parenting, and family or individual counseling regarding career planning, intergenerational relationships and communications, and emotional or psychological stress.*

*Subd. 3.* [PROJECT SELECTION.] *The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing child welfare services to minor Asian and Amerasian refugees.*

*Subd. 4.* [PROJECT DESIGN.] *Project proposals selected under this section must:*

*(1) use existing resources when possible;*

*(2) provide bilingual services;*

*(3) clearly specify program goals and timetables for project operation;*

*(4) identify support services, social services, and referral procedures to be used; and*

*(5) identify the training and experience that enable project staff to provide services to targeted refugees, as well as the number of staff with bilingual service expertise.*

*Subd. 5.* [ANNUAL REPORT.] *Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through child welfare services, and recommendations for modifications in service delivery for the upcoming year.*

Sec. 24. Minnesota Statutes 1988, section 256.73, subdivision 3a, is amended to read:

Subd. 3a. [PERSONS INELIGIBLE.] No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six calendar months per year and the earnings of a dependent child who is a full-time student that are derived from the jobs training and partnership act may be disregarded for six calendar months per year. If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph;

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the

last day of the month, the individual is participating in a strike;

(5) ~~to an assistance unit if its eligibility is based on a parent's unemployment and the parent~~ *on behalf of any individual* who is the principal earner *in an assistance unit whose eligibility is based on the unemployment of a parent when the principal earner*, without good cause, fails or refuses to seek work, to participate in the ~~work incentive~~ *job search* program under section 256.736, *or a community work experience program under section 256.737* if this program is available *and participation is mandatory in the county*, to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

Sec. 25. Minnesota Statutes 1988, section 256.736, subdivision 3, is amended to read:

Subd. 3. [REGISTRATION.] (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time~~, or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19~~;

(2) ~~a caretaker who is~~ ill, incapacitated or age ~~55~~ *60* or older;

(3) a ~~caretaker~~ *person* for whom participation in an employment and training service would require a round trip commuting time by available transportation of more than two hours;

(4) a ~~caretaker~~ *person* whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a caretaker or other caretaker relative of a child under the age of ~~six~~ *three* who personally provides full-time care for the child;

(6) *a caretaker or other caretaker relative personally providing care for a child under six years of age, except that when child care is arranged for or provided, the caretaker or caretaker relative may be required to register and participate in employment and training services up to a maximum of 20 hours per week;*

*(7)* a caretaker if another adult relative in the assistance unit is registered and has not, without good cause, failed or refused to participate or accept employment;

~~(7) a pregnant woman in the last trimester of pregnancy~~ *(8) a pregnant woman, if it has been medically verified that the child is expected to be born in the current month or within the next six months;*

*(9) employed at least 30 hours per week*; or

~~(8)~~ *(10)* a parent who is not the principal earner if the parent who is the principal earner is ~~not exempt under clauses (1) to (7).~~

~~Any individual in clauses (3) and (5) to (8) must be advised of any available employment and training services and must be informed of any available child care and other support services~~ *required to register*.

(b) To the extent permissible by federal law, applicants for benefits under

the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on *or after* July 1, 1987, shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Sec. 26. Minnesota Statutes 1988, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. [MANDATORY *ASSESSMENT AND* SCHOOL ATTENDANCE FOR ~~MINOR~~ *CERTAIN CUSTODIAL* PARENTS.] *This subdivision applies to the extent permitted under federal law and regulation.*

(a) [DEFINITIONS.] The definitions in this paragraph apply to this subdivision.

(1) "~~Minor~~ *Custodial* parent" means a recipient of AFDC who is ~~under age 18, and who is~~ the natural or adoptive parent of a child living with the ~~minor~~ *custodial* parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical institute, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the local agency under subdivision 11.

(b) [ASSESSMENT AND PLAN; REQUIREMENT; CONTENT.] *The county agency must examine the educational level of each custodial parent under the age of 20 to determine if the recipient has completed a high school education or its equivalent. If the custodial parent has not completed a high school education or its equivalent and is not exempt from the requirement to attend school under paragraph (c), the county agency must complete an individual assessment for the custodial parent. The assessment must be performed as soon as possible but within 60 days of determining AFDC eligibility for the custodial parent. The assessment must provide an initial examination of the custodial parent's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills,*

*and work experience. In the case of a custodial parent under the age of 18, the assessment must also consider the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening, if available, and the effect of a child's development and educational needs on the parent's ability to participate in the program. The county agency must advise the parent that the parent's first goal must be to complete an appropriate educational option if one is identified for the parent through the assessment and, in consultation with educational agencies, must review the various school completion options with the parent and assist the parent in selecting the most appropriate option.*

*(c)* [RESPONSIBILITY FOR ASSESSMENT AND PLAN.] *For custodial parents who are under age 18, the assessment and the employability plan must be completed by the county social services agency, as specified in section 257.33. For custodial parents who are age 18 or 19, the assessment and employability plan must be completed by the case manager. The social services agency or the case manager shall consult with representatives of educational agencies required to assist in developing educational plans under section 126.235.*

*(d)* [EDUCATION DETERMINED TO BE APPROPRIATE.] *If the case manager or county social services agency identifies an appropriate educational option, it must develop an employability plan in consultation with the custodial parent which reflects the assessment. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the parent will take part in including child care and supportive services, the consequences to the custodial parent for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employability plan must, to the extent possible, reflect the preferences of the participant.*

*(e)* [EDUCATION DETERMINED TO BE NOT APPROPRIATE.] *If the case manager determines that there is no appropriate educational option for a custodial parent who is age 18 or 19, the case manager shall indicate the reasons for the determination. The case manager shall then notify the county agency which must refer the custodial parent to case management services under subdivision 11 for completion of an employability plan and services. If the custodial parent fails to participate or cooperate with case management services and does not have good cause for the failure, the county agency shall apply the sanctions listed in subdivision 4, beginning with the first payment month after issuance of notice. If the county social services agency determines that school attendance is not appropriate for a custodial parent under age 18, the county agency shall refer the custodial parent to social services for services as provided in section 257.33.*

*(f)* [SCHOOL ATTENDANCE REQUIRED.] Notwithstanding subdivision 3, a ~~minor~~ *custodial* parent must attend school if all of the following apply:

(1) ~~the minor parent has no child living with the parent who is younger than six weeks of age~~ *the custodial parent is less than 20 years of age*;

(2) transportation services needed to enable the ~~minor~~ *custodial* parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the ~~minor~~ *custodial* parent to attend school are available;

(4) the ~~minor~~ *custodial* parent has not already ~~graduated from high school and has not received a general educational development (GED) diploma~~ *received a high school diploma or its equivalent*; and

(5) the ~~minor~~ *custodial* parent ~~does not have good cause for failing to attend school, as provided in paragraph (d)~~ *is not exempt because the custodial parent:*

*(i) is ill or incapacitated seriously enough to prevent him or her from attending school;*

*(ii) is needed in the home because of the illness or incapacity of another*

*member of the household; this includes a custodial parent of a child who is younger than six weeks of age;*

*(iii) works 30 or more hours a week; or*

*(iv) is pregnant if it has been medically verified that the child's birth is expected in the current month or within the next six months.*

~~(c)~~ *(g)* [ENROLLMENT AND ATTENDANCE.] The ~~minor~~ *custodial* parent must be enrolled in school and meeting the school's attendance requirements. The ~~minor~~ *custodial* parent is considered to be attending when ~~the minor parent~~ *he or she* is enrolled but the school is not in regular session, including during holiday and summer breaks.

~~(d)~~ *(h)* [GOOD CAUSE FOR NOT ATTENDING SCHOOL.] *The local agency shall not impose the sanctions in subdivision 4 if it determines that a custodial parent has good cause for not being enrolled or for not meeting the school's attendance requirements.* The local agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) ~~Good cause exists when the minor parent is ill or injured seriously enough to prevent the minor parent from attending school.~~

~~(2) Good cause exists when the minor parent's child is ill or injured and the minor parent's presence in the home is required to care for the child.~~

~~(3)~~ Good cause exists when the local agency has verified that the only available school program requires round trip commuting time from the ~~minor~~ *custodial* parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

~~(4) Good cause exists when there is an interruption in availability of child care services.~~

~~(5)~~ *(2)* Good cause exists when the ~~minor~~ *custodial* parent has indicated a desire to attend school, but the public school system is not providing for ~~the minor parent's~~ *his or her* education and alternative programs are not available.

~~(6) Good cause exists when the school does not cooperate with the local agency in providing verification of the minor parent's education or attendance.~~

~~(7) Good cause exists when the minor parent or the minor parent's child has a medical appointment or an appointment with the local welfare agency, is required to appear in court during the minor parent's normal school hours, or has any other obligation consistent with the case management contract.~~

~~(8) For the minor parent of a child between six and 12 weeks of age, good cause exists when child care is not available on the premises of the school, or a medical doctor certifies that it would be better for the health of either the parent or the child for the parent to remain at home with the child for a longer period of time.~~

~~(e)~~ *(i)* [FAILURE TO COMPLY.] *The case manager and social services agency shall establish ongoing contact with appropriate school staff to monitor problems that custodial parents may have in pursuing their educational plan, and shall jointly seek solutions to prevent parents from failing to complete education.* If the school notifies the local agency that the ~~minor~~

*custodial* parent is not enrolled or is not meeting the school's attendance requirements, ~~and the local agency~~ *or appears to be facing barriers to completing education, the information must be conveyed to the case manager for a custodial parent age 18 or 19, or to the social services agency for a custodial parent under age 18. The case manager or social services agency shall reassess the appropriateness of school*

*attendance as specified in paragraph (f). If after consultation, school attendance is still appropriate and the case manager or social services agency* determines that the ~~minor~~ *custodial* parent *has failed to enroll or is not meeting the school's attendance requirements and the custodial parent* does not have good cause, the ~~local agency~~ *case manager or social services agency shall inform the custodial parent's financial worker who* shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

~~(f)~~ *(j)* [NOTICE AND HEARING.] A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

~~(g)~~ *(k)* [SOCIAL SERVICES.] When a ~~minor~~ *custodial* parent *under the age of 18* has failed to attend school, *is not exempt,* and does not have good cause, the local agency shall refer the ~~minor~~ *custodial* parent to *the* social services *agency* for services, as provided in section 257.33.

~~(h)~~ *(l)* [VERIFICATION.] No less often than quarterly, the ~~local agency~~ *financial worker* must verify that the ~~minor~~ *custodial* parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a ~~minor~~ *custodial* parent is subject to this subdivision, the school must furnish verification of school enrollment ~~and~~, attendance, *and progress*

to the local agency. *The county agency must not impose the sanctions in paragraph (i) if the school fails to cooperate in providing verification of the minor parent's education, attendance, or progress.*

Sec. 27. Minnesota Statutes 1988, section 256.736, subdivision 4, is amended to read:

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of human services shall:

(1) Arrange for or provide any caretaker or child required to participate in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) ~~Pay ten percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;~~

~~(3)~~ Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation; and

~~(4)~~ *(3)* Provide that the county board shall impose the sanctions in clause ~~(5) or (6)~~ *(4)* when the county board:

~~(a) is notified that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept a bona fide offer of public or other employment;~~

~~(b)~~ determines that a ~~minor~~ *custodial* parent *under the age of 16* who is required to attend school under subdivision 3b has, without good cause, failed to attend school;

~~(c)~~ *(b)* determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living; or

~~(d)~~ *(c)* determines that a caretaker has, without good cause, failed to attend orientation.

~~(5)~~ *(4)* To the extent permissible by federal law, *impose* the following sanctions ~~must be imposed~~ for a recipient's failure to participate in required ~~employment and training services,~~ education, orientation, or the requirements of subdivision 3c:

(a) For the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) For the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) When protective payments are required, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found.

~~(6) When the sanctions provided by clause (5) are not permissible under federal law, the following sanctions shall be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c~~ *(5) Provide that the county board shall impose the sanctions in clause (6) when the county board:*

*(a) determines that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept, through the job search program described in subdivision 14, or the community work experience program described in section 256.737, a bona fide offer of public or other employment; or*

*(b) determines that a custodial parent aged 16 to 19 who is required to attend school under subdivision 3b has, without good cause, failed to enroll or attend school.*

*(6) To the extent required by federal law, the following sanctions must be imposed for a recipient's failure to participate in required employment and training services, to accept a bona fide offer of public or other employment, or to enroll or attend school under subdivision 3b.*

(a) ~~If the caretaker fails to participate, the caretaker's~~ *For the first failure,*

*the* needs *of the noncompliant individual* shall not be taken into account in making the grant determination, ~~and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found. The standard of assistance for the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement~~ *until the individual complies with the requirements.*

(b) *For the second failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for three consecutive months, whichever is longer.*

*(c) For subsequent failures, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for six consecutive months, whichever is longer.*

*(d)* Aid with respect to a dependent child will be denied if a child who fails to participate is the only child receiving aid in the family.

~~(c) If there is more than one child receiving aid in the family, aid for the child who fails to participate will be denied and the child's needs will not be taken into account in making the grant determination.~~

~~(d) If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87.~~

*(e) If the noncompliant individual is a parent or other relative caretaker, payments of aid for any dependent child in the family must be made in the form of protective or vendor payments. When protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found. When protective payments are imposed on assistance units whose basis of eligibility is unemployed parent or incapacitated parent, cash payments may continue to the non-sanctioned caretaker in the assistance unit, subject to clause (f). After removing a caretaker's needs from the grant, the standard of assistance applicable to the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement.*

*(f) If the noncompliant individual is a parent or other caretaker of a family whose basis of eligibility is the unemployment of a parent and the noncompliant individual's spouse is not participating in an approved employment and training service, the needs of the spouse must not be taken into account in making the grant determination;*

*(7) Request approval from the secretary of health and human services to use vendor payment sanctions for persons listed in paragraph (5), clause (b). If approval is granted, the commissioner must begin using vendor payment sanctions as soon as changes to the state plan are approved.*

Sec. 28. Minnesota Statutes 1988, section 256.736, subdivision 10, is amended to read:

Subd. 10. [COUNTY DUTIES.] *(a)* To the extent of available state appropriations, county boards shall:

(1) refer all priority caretakers required to register under subdivision 3 to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider caretakers who fall into the priority groups;

(3) provide all caretakers with an orientation which ~~(a) gives information on available employment and training services and support services, and (b) encourages clients to view AFDC as a temporary program providing grants and services to clients who set goals and develop strategies for supporting their families without AFDC assistance~~ *meets the requirements in subdivisions 10a and 10b*;

(4) work with the employment and training service provider to encourage voluntary participation by caretakers in the priority groups;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage nonpriority caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using the employment special needs fund *or other available funds* to caretakers who participate in employment and training programs, with priority for services to caretakers in priority groups;

(11) ensure that orientation, employment search, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13; ~~and~~

(12) explain in its local service unit plan under section 268.88 how it will ensure that priority caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services~~.~~*;*

*(13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14 and at least one of the following employment and training services: community work experience program (CWEP) as defined in section 256.737, grant diversion as defined in section 268.86, on-the-job training as defined in section 256.738, or another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan*

*as specified under section 268.88. Each county is urged to adopt grant diversion as the second program required under this clause;*

*(14) provide an assessment of each AFDC recipient who is required or volunteers to participate in one of the employment and training services specified in clause (13), including job search, and to recipients who volunteer for participation in case management under subdivision 11. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a*

*review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;*

*(15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which: (i) reflects the assessment required by clause 14; (ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs; (iii) is based on available resources and local employment opportunities; (iv) specifies the services to be provided by the employment and training service provider; (v) specifies the activities the recipient will participate in; (vi) specifies necessary supportive services such as child care; (vii) to the extent possible, reflects the preferences of the participant; and (viii) specifies the recipient's employment goal; and*

*(16) assure that no work assignment under this section or sections 256.737 and 256.738 results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737 and 256.738; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) a participant filling an established unfilled position vacancy.*

*(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.*

*(c)* A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

*(d) Notwithstanding section 256G.07, when a priority caretaker relocates to another county to implement the provisions of the caretaker's case management contract or other written employability development plan approved by the county human service agency or its case manager, the county that approved the plan is responsible for the costs of case management, child care, and other services required to carry out the plan. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the*

*plan, whichever occurs first. A county human service agency may pay for the costs of case management, child care, and other services required in an approved employability development plan when the nonpriority caretaker relocates to another county or when a priority caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.*

Sec. 29. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

*Subd. 10a.* [ORIENTATION.] *(a) Each county agency must provide an orientation to all caretakers within its jurisdiction who are determined eligible for AFDC on or after July 1, 1989, and who are required to attend an orientation. The county agency shall require attendance at orientation of all caretakers*

*except those who are:*

*(1) physically disabled, mentally ill, or developmentally disabled and whose condition has or is expected to continue for at least 90 days and will prevent participation in educational programs or employment and training services;*

*(2) aged 60 or older;*

*(3) currently employed in unsubsidized employment that is expected to continue at least 30 days and that provides an average of at least 30 hours of employment per week; or*

*(4) currently employed in subsidized employment that is expected to continue at least 30 days and that provides an average of at least 30 hours of employment per week and is expected to result in full-time permanent employment.*

*(b) The orientation must consist of a presentation that informs caretakers of:*

*(1) the identity, location, and phone numbers of employment and training and support services available in the county;*

*(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;*

*(3) the availability of assistance for participants to help select appropriate child care services and that, on request, assistance will be provided to select appropriate child care services;*

*(4) the obligations of the county agency and service providers under contract to the county agency;*

*(5) the rights, responsibilities, and obligations of participants;*

*(6) the grounds for exemption from mandatory employment and training services or educational requirements;*

*(7) the consequences for failure to participate in mandatory services or requirements;*

*(8) the method of entering educational programs or employment and training services available through the county; and*

*(9) the availability and the benefits of the early and periodic, screening,*

*diagnosis and treatment (EPSDT) program and preschool screening under chapter 123.*

*(c) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.*

*(d) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The local agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.*

Sec. 30. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

*Subd. 10b.* [INFORMING.] *Each county agency must provide written information concerning the topics identified in subdivision 10a, paragraph (b), to all AFDC caretakers within the county agency's jurisdiction who are exempt from the requirement to attend orientation, except those under age 16, and to recipients who have good cause for failing to attend orientation as specified in rules adopted by the commissioner. The written materials must tell the individual how the individual may indicate the desire to participate in educational programs and employment and training services offered through the county. The written materials must be mailed or hand delivered to the recipient at the time the recipient is determined to be exempt or have good cause for failing to attend an orientation.*

Sec. 31. Minnesota Statutes 1988, section 256.736, subdivision 11, is amended to read:

Subd. 11. [CASE MANAGEMENT SERVICES.] (a) For clients described in subdivision 2a, the case manager shall:

(1) ~~Assess the education, skills, and ability of the caretaker to secure and retain a job which, when added to child support, will support the caretaker's family.~~ *Provide an assessment as described in subdivision 10, paragraph (a), clause (14). As part of the assessment, the case manager shall inform caretakers of the screenings available through the early periodic screening, diagnosis and treatment (EPSDT) program under chapter 256B and pre-school screening under chapter 123, and encourage caretakers to have their children screened.* The case manager must work with the caretaker in completing this task;

(2) ~~Set goals and develop a timetable for completing education and employment goals.~~ *Develop an employability development plan as described in subdivision 10, paragraph (a), clause (15).* The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker ~~must~~ *should* be to complete literacy training or a general ~~education~~ *equivalency* diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). *The case manager shall refer caretakers to resource and referral services, if available, and shall assist caretakers in securing appropriate child care services.* When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general ~~education~~ *equivalency* diploma is eligible for child care under section 268.91;

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must *be based upon the employability development plan described in subdivision 10, paragraph (a), clause (15), and must* include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided;

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents and pregnant minors, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2;

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents and pregnant minors who are not living with friends or relatives to live in a group home or foster care setting. If minor parents and pregnant minors are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess their need for training in parenting and independent living skills and when appropriate shall refer them to available counseling programs designed to teach needed skills; and

(3) Inform minor parents or pregnant minors of, and assist them in evaluating the appropriateness of, the high school graduation incentives program under section 126.22, including post-secondary enrollment options, and the employment-related and community-based instruction programs.

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Sec. 32. Minnesota Statutes 1988, section 256.736, subdivision 14, is amended to read:

Subd. 14. [~~EMPLOYMENT~~ *JOB* SEARCH.] (a) The commissioner of

human services shall establish ~~an employment~~ *a job* search program under ~~United States Code, title 42, section 602(a)(35)~~ *Public Law 100-485*. The principal wage earner in an AFDC-UP assistance unit must ~~participate~~ *be referred to and must begin participation* in the ~~employment~~ *job* search program within four months of being determined eligible for AFDC-UP unless:

(1) the caretaker is already participating in another approved employment and training service;

(2) the caretaker's employability plan specifies other activities; ~~or~~

(3) *the caretaker is exempt from registration under subdivision 3; or*

*(4)* the caretaker is unable to secure employment due to inability to communicate in the English language, *is participating in an English as a second language course, and is making satisfactory progress towards completion of the course. If an English as a second language course is not available to the caretaker, the caretaker is exempt from participation until a course becomes available.*

~~The employment and training service provider shall refer caretakers unable to communicate in the English language to English as a second language courses.~~

(b) The ~~employment~~ *job* search program must provide the following services:

(1) an initial period of up to four weeks of job search activities for not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county board if the caretaker fails to cooperate with the employment search requirement; and

(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks *for any 12 consecutive month period beginning with the month of application*.

(c) The employment search program may provide services to non-AFDC-UP caretakers.

Sec. 33. Minnesota Statutes 1988, section 256.736, subdivision 16, is amended to read:

Subd. 16. [ALLOCATION AND USE OF MONEY.] (a) State money appropriated for employment and training services under this section must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average monthly number of caretakers receiving AFDC in the county who are under age 21 and the average monthly number of AFDC cases open in the county for 24 or more consecutive months and residing in the county for the 12-month period ending ~~March~~ *December* 31 of the previous fiscal year.

(2) Twenty percent of the state money must be allocated based on the average monthly number of nonpriority caretakers receiving AFDC in the county for the period ending ~~March~~ *December* 31 of the previous fiscal year. Funds may be used to develop employability plans for nonpriority

caretakers if resources allow.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending ~~March~~ *December* 31 of the previous fiscal year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for priority group members in each county.

(b) No more than 15 percent of the money allocated under paragraph (a) may be used for administrative activities.

(c) Except as provided in paragraph (d), at least 70 percent of the money allocated to counties must be used for case management services and employment and training services for caretakers in the priority groups. Up to 30 percent of the money may be used for employment search activities and employment and training services for nonpriority caretakers.

(d) A county ~~whose proportion of the statewide average monthly AFDC-UP caseload exceeds its proportion of the statewide AFDC caseload~~ *having a high proportion of nonpriority caretakers that interferes with the county's ability to meet the 70 percent spending requirement of paragraph (c)* may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for ~~employment search activities~~ *orientation* and employment and training services for nonpriority caretakers.

(e) *Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.*

*(f)* Counties and the department of jobs and training shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of jobs and training that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services *and the United States Department of Agriculture* for the reimbursement and appropriate the reimbursed money to the county or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

*(g) The commissioner of human services shall review county expenditures of case management and employment and training block grant money at the end of the fourth quarter of the biennium and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.*

Sec. 34. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

*Subd. 18.* [PROGRAM OPERATION BY INDIAN TRIBES.] *(a) The*

*commissioner may enter into agreements with any federally recognized Indian tribe with a reservation in the state to provide employment and training programs under this section to members of the Indian tribe receiving AFDC. For purposes of this section, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.*

*(b) Agreements entered into under this subdivision must require the governing body of the Indian tribe to fulfill all county responsibilities required under this section in operation of the employment and training services covered by the contract, excluding the county share of costs in subdivision 13 and any county function related to AFDC eligibility determination or grant payment. The commissioner may enter into an agreement with a consortium of Indian tribes providing the governing body of each Indian tribe in the consortium agrees to these conditions.*

*(c) Agreements entered into under this subdivision must require the Indian tribe to operate the employment and training services within a geographic service area not to exceed the counties within which a border of the reservation falls. Indian tribes may also operate services in Hennepin and Ramsey counties or other geographic areas as approved by the commissioner of human services in consultation with the commissioner of jobs and training.*

*(d) Agreements entered into under this section must require the Indian tribe to operate a federal jobs program under Public Law Number 100-485, section 482(i).*

*(e) Agreements entered into under this section must require conformity with section 13.46 and any applicable federal regulations in the use of data about AFDC recipients.*

*(f) Agreements entered into under this section must require financial and program participant activity record keeping and reporting in the manner and using the forms and procedures specified by the commissioner and that federal reimbursement received must be used to expand operation of the employment and training services.*

*(g) Agreements entered into under this section must require that the Indian tribe coordinate operation of the programs with county employment and training programs, Indian Job Training Partnership Act programs, and educational programs in the counties in which the tribal unit's program operates.*

*(h) Agreements entered into under this section must require the Indian tribe to allow inspection of program operations and records by representatives of the department.*

*(i) Agreements entered into under this subdivision must require the Indian tribe to contract with an employment and training service provider certified by the commissioner of jobs and training for operation of the programs, or become certified itself.*

*(j) Agreements entered into under this subdivision must require the Indian tribe to specify a starting date for each program with a procedure to enable tribal members participating in county-operated employment and training*

*services to make the transition to the program operated by the tribal unit. Programs must begin on the first day of a month specified by the agreement.*

*(k) If the commissioner and Indian tribe enter into an agreement, the commissioner may immediately reallocate county case management and employment and training block grant money from the counties in the Indian tribe's service area to the Indian tribe, prorating each county's annual allocations according to that percentage of the number of tribal unit members receiving AFDC residing in the county compared to the total number of AFDC recipients residing in the county and also prorating the annual allocation according to the month in which the Indian tribe program starts. If the Indian tribe cancels the agreement or fails, in the commissioner's judgment, to fulfill any requirement of the agreement, the commissioner shall reallocate money back to the counties in the Indian tribe's service area.*

*(l) Indian tribe members receiving AFDC and residing in the service area of an Indian tribe operating employment and training services under an agreement with the commissioner must be referred by county agencies in the service area to the Indian tribe for employment and training services.*

*(m) The Indian tribe shall bill the commissioner of human services for services performed under the contract. The commissioner shall bill the United States Department of Health and Human Services for reimbursement. Federal receipts are appropriated to the commissioner to be provided to the Indian tribe that submitted the original bill.*

Sec. 35. Minnesota Statutes 1988, section 256.737, is amended to read:

256.737 [COMMUNITY WORK EXPERIENCE PROGRAM.]

Subdivision 1. [~~PILOT PROGRAMS~~ *ESTABLISHMENT AND PURPOSE.*] In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of human services ~~may~~ *shall* continue the pilot community work experience demonstration programs that were approved by January 1, 1984. ~~No new pilot community work experience demonstration programs may be established under this subdivision~~ *The commissioner may establish additional community work experience programs in as many counties as necessary to comply with the participation requirements of the family support act of 1988, Public Law Number 100-485. Programs established on or after July 1, 1989, must be operated on a volunteer basis.*

*Subd. 1a.* [COMMISSIONER'S DUTIES.] The commissioner shall: (a) assist counties in the design~~,~~ and implementation~~, and evaluation~~ of these ~~demonstration~~ programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until ~~the termination of the demonstration programs~~ *June 30, 1990 unless superseded by permanent rules*; ~~and~~ (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law~~. The commissioner shall~~; *and (d)* prohibit *the* use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, ~~1985~~ *1989*. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work

experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

~~As the commissioner phases in case management and other employment and training services under section 256.736, and no later than June 30, 1989, the commissioner may phase out projects under this section.~~

Subd. 2. [~~ADDITIONAL PROGRAMS~~ *PROGRAM REQUIREMENTS.*] ~~In addition to the pilot programs established in subdivision 1, the commissioner may approve the application of up to eight additional counties to enter into a community work experience program. The programs under this subdivision are governed by subdivision 1 except as in paragraphs (a) and (b).~~ *(a) Programs under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.*

~~(a)~~ *(b)* As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county *agency* shall first provide the recipient the opportunity to participate in the following services:

(1) placement in suitable subsidized or unsubsidized employment *through participation in job search under section 256.736, subdivision 14*; or

(2) basic educational or vocational or occupational training for an identifiable job opportunity.

~~(b)~~ *(c)* If the recipient refuses suitable employment and a training program, the county *agency* may, *subject to subdivision 1*, require the recipient to participate in a community work experience program as a condition of eligibility.

*(d) The county agency shall limit the maximum number of hours any participant under this section may be required to work in any month to a number equal to the amount of the aid to families with dependent children payable to the family divided by the greater of the federal minimum wage or the applicable state minimum wage.*

*(e) After a participant has been assigned to a position under this section for nine months, the participant may not be required to continue in that assignment unless the maximum number of hours a participant is required to work is no greater than the amount of the aid to families with dependent children payable with respect to the family divided by the higher of (1) the federal minimum wage or the applicable state minimum wage, whichever is greater, or (2) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.*

*(f) After each six months of a recipient's participation in an assignment, and at the conclusion of each assignment under this section. The county agency shall reassess and revise, as appropriate, each participant's employability development plan.*

*(g) The county agency shall apply the grant reduction sanctions specified in section 256.736, subdivision 4, clause (6), when it is determined that*

*a mandatory participant has failed, without good cause, to participate in the program.*

Sec. 36. [256.738] [ON-THE-JOB TRAINING.]

*(a) County agencies may, in accordance with section 256.736, subdivision 10, develop on-the-job training programs that permit voluntary participation by AFDC recipients. A county agency that chooses to provide on-the-job training as one of its optional employment and training services may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.*

*(b) County agencies shall limit the length of training based on the complexity of the job and the recipient's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer, who has agreed to retain the person upon satisfactory completion of training.*

*(c) Placement of any recipient in an on-the-job training position must be compatible with the assessment and employability development plan established for the recipient under section 256.736, subdivision 10, paragraph (a), clauses (14) and (15).*

*(d) Provision of an on-the-job training program under the job training partnership act, in and of itself, does not qualify as an on-the-job training program under section 256.736, subdivision 10, paragraph (a), clause (13).*

Sec. 37. Minnesota Statutes 1988, section 256.74, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an assistance unit must be budgeted in the normal retrospective cycle. The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other income, after application of the applicable disregards, by the standard of need for the assistance unit. An amount remaining after this calculation is income in the first month of eligibility. If the total monthly income including the lump sum income is larger than the standard of need for a single month the first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. In making its determination the county agency shall disregard the following from family income:

(1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time

student, and not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment as well as all the earned income derived from the job training and partnership act (JTPA) for a dependent child for six calendar months per year, together with unearned income derived from the job training and partnership act;

(2) all educational grants and loans;

(3) the first ~~$75~~ *$90* of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) ~~an amount equal to the actual expenditures but not to exceed $160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded;~~

~~(5)~~ thirty dollars plus one-third ~~of the remainder~~ of each individual's earned income ~~not already disregarded~~ for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; ~~or~~ (b) refused without good cause to accept an offer of suitable employment; ~~or~~ (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or (d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of $30 and one-third ~~of the remainder~~ of earned income ~~described~~ in *this* clause ~~(5)~~ shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of *sub* clauses ~~(5)~~ (a) to ~~(5)~~ (d) shall be considered as one of the four months. An additional $30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined $30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under *this* clause ~~(d)~~, the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

*(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: (a) $175 for each individual age two and older, and $200 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is employed for 30 or more hours per week; or (b) $174 for each individual age two or older, and $199 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is not employed throughout the month or when employment is less than 30 hours per week. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;*

(6) the first $50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit; ~~and~~. *The first $50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance;*

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; *and*

*(8) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.*

~~The first $50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days after the end of the month in which the collection of such periodic support payments occurred and shall be disregarded in determining the amount of assistance.~~

Sec. 38. Minnesota Statutes 1988, section 256.74, subdivision 1a, is amended to read:

Subd. 1a. [STEPPARENT'S INCOME.] In determining income available, the county agency shall take into account the remaining income of the dependent child's stepparent who lives in the same household after disregarding:

(1) the first $75 of the stepparent's gross earned income. ~~The commissioner shall prescribe by rule lesser amounts to be disregarded for stepparents who are not engaged in full-time employment or not employed throughout the month~~;

(2) an amount for support of the stepparent and any other individuals whom the stepparent claims as dependents for *determining federal personal income* tax ~~purposes~~ *liability* and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.72 to 256.87. The amount equals the standard of need for a family of the same composition as the stepparent and these other individuals;

(3) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for *determining federal personal income* tax ~~purposes~~ *liability*; and

(4) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

Sec. 39. Minnesota Statutes 1988, section 256.74, is amended by adding a subdivision to read:

*Subd. 1b.* [REVIEW OF STANDARD OF NEED.] *The commissioner of human services shall develop a household budget sufficient to maintain a family in Minnesota. The budget must be based on a market survey of the cost of items needed by families raising children to the extent these factors are consistent with the requirements of federal regulations. The commissioner shall develop recommendations for an AFDC standard of need and level of payment that are based on the budget. The commissioner shall submit to the legislature by January 1, 1990, a report identifying the methods proposed for the conduct of the market survey, the funds required for the survey, and a timetable for completion of the survey, establishment of a family budget, and recommendation of an AFDC standard of need.*

Sec. 40. Minnesota Statutes 1988, section 256.85, is amended to read:

256.85 [LIBERAL CONSTRUCTION.]

Sections *256.031 to 256.036 and* 256.72 to 256.87 shall be liberally construed with a view to accomplishing their purpose, which is to enable the state and its several counties to cooperate with responsible primary caretakers of children in rearing future citizens, when the cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the children's primary caretaker and secure personal care and training to the children during their tender years.

Sec. 41. [256.983] [FRAUD PREVENTION INVESTIGATIONS.]

*(a) Within the limits of available appropriations, and to the extent either required or authorized by applicable federal regulations, the commissioner of human services shall select and fund not less than four pilot projects for a two-year period to test the effectiveness of fraud prevention investigations conducted at the point of application for assistance. County agencies must be selected to be involved in the pilot projects based on their response to requests for proposals issued by the commissioner. One of the county agencies selected must be located in either Hennepin or Ramsey county, one must be from a county in the seven-county metropolitan area other than Hennepin and Ramsey counties, and two must be located outside the metropolitan area.*

*(b) If proposals are not submitted, the commissioner may select the county agencies to be involved. The county agencies must be selected from the locations described in paragraph (a).*

Sec. 42. Minnesota Statutes 1988, section 256D.01, subdivision 1, is amended to read:

Subdivision 1. [POLICY.] The objectives of sections 256D.01 to 256D.21 are to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; ~~and~~ to provide an integrated public assistance program for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health*; and to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work.*

It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare.

Sec. 43. Minnesota Statutes 1988, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. [STANDARDS.] ~~(1)~~ *(a)* A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

~~(2)~~ *(b)* The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard ~~shall~~ *must* also be increased by the same percentage.

~~(3)~~ *(c)* For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance ~~shall be equal to~~ *is* the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, ~~provided~~ *except* that the standard ~~shall~~ *may* not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, ~~shall~~ *may* not be counted in the determination of eligibility or benefit level for the assistance unit. *Except as provided below,* the assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, ~~use~~ the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple *must be used.*

~~(4)~~ *(d)* For an assistance unit consisting of a childless couple, the standards of assistance ~~shall be equal to~~ *are the same as* the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, ~~then~~ the standard of assistance for the other ~~shall be equal to~~ *is* the second adult standard of the aid to families with dependent children program~~, except that, when one member of the couple is not included in the general~~

~~assistance grant because that member is not categorically eligible for general assistance under section 256D.05, subdivision 1, and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program~~.

~~(5)~~ *(e)* For an assistance unit consisting of all members of a family, the standards of assistance ~~shall be~~ *are* the same as the standards of assistance ~~applicable~~ *that apply* to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members ~~shall be equal to~~ *are the same as* the standards of assistance ~~applicable~~ *that apply* to an assistance unit composed of the entire family, less the standards of assistance ~~applicable to~~ *for* a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. ~~Notwithstanding the foregoing~~ *However*, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit ~~shall be equal to~~ *is the same as* the special child standard of the aid to families with dependent children program. A child ~~shall~~ *may* not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit ~~shall~~ *may* not be counted in the determination of eligibility or benefit level for the assistance unit.

Sec. 44. Minnesota Statutes 1988, section 256D.01, subdivision 1b, is amended to read:

Subd. 1b. [RULES.] The commissioner may adopt emergency rules and shall adopt permanent rules to set standards of assistance and methods of calculating payment to conform with subdivision 1a. The minimum standards of assistance shall authorize the payment of rates negotiated by ~~local~~ *county* agencies for recipients living in a room and board arrangement *according to sections 256I.01 to 256I.07*. ~~Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement must not exceed the limits established under the Minnesota supplemental aid program. In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available. The commissioner shall provide by rule for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.~~ *When a recipient is a resident of a regional treatment center, or a residence with a negotiated rate, the recipient is not eligible for a full general assistance standard.*

*The state standard of assistance for those recipients is the personal needs allowance authorized for medical assistance recipients under section 256B.35.*

Sec. 45. Minnesota Statutes 1988, section 256D.01, subdivision 1c, is amended to read:

Subd. 1c. [*GENERAL ASSISTANCE* PAYMENTS ~~TO FACILITIES~~.] *(a)* The commissioner shall ~~make~~ *authorize the payment of rates negotiated by local agencies for recipients living in a room and board arrangement. Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement may not exceed the limits established under the Minnesota supplemental aid program.* No payments under ~~subdivision 1b~~ *this paragraph may be made* to ~~facilities~~ *a facility* licensed after August 1, 1987, ~~which have~~ *that has* more than four residents with a diagnosis of mental illness ~~except for facilities~~ *unless the facility is* specifically licensed to serve persons with mental illness. The commissioner of health shall monitor newly-licensed facilities and shall report to the commissioner of human services facilities that are not in compliance with this section.

*(b) In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law, for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available.*

*(c) The commissioner shall adopt rules for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.*

*(d) General assistance payments may not be made for foster care, child welfare services, or other social services.*

*(e) Vendor payments and vouchers may be issued only as authorized in sections 256D.05, subdivision 6, and 256D.09.*

Sec. 46. Minnesota Statutes 1988, section 256D.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] *For purposes of sections 256D.01 to 256D.21,* the terms defined in this section ~~shall~~ have the meanings given them unless otherwise provided or indicated by the context.

Sec. 47. Minnesota Statutes 1988, section 256D.02, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE.] "General assistance" means cash payments to persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided for under the laws of this state or the United States. ~~General assistance shall not include payments for foster care, child welfare services, or other social services. Vendor payments and vouchers may be issued only as provided for in section 256D.09.~~

Sec. 48. Minnesota Statutes 1988, section 256D.02, is amended by adding a subdivision to read:

*Subd. 12a.* [RESIDENT.] *For purposes of eligibility for general assistance under section 256D.05, and work readiness payments under section 256D.051, a "resident" is a person living in the state with the intention of making his or her home here and not for any temporary purpose. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:*

*(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner;*

*(2) by providing written documentation that the applicant came to the state in response to an offer of employment;*

*(3) by providing verification that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules to be adopted by the commissioner; or*

*(4) by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner.*

Sec. 49. Minnesota Statutes 1988, section 256D.03, subdivision 2, is amended to read:

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017. Subsequent to July 1 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, state aid shall be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all ~~general assistance grants~~ *work readiness assistance* if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section ~~256D.05, subdivision 1, paragraph (a), clause (15)~~ *256D.051*.

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance *and work readiness assistance*: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or~~,~~ (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, *or 256D.051* but for

whom the aid would further the purposes established in the general assistance *or work readiness* program in accordance with rules ~~promulgated~~ *adopted* by the commissioner pursuant to the administrative procedure act.

Sec. 50. Minnesota Statutes 1988, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner *and who is a resident of the state* shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a *medically certified* permanent or temporary illness, injury, or incapacity which is ~~medically certified~~ *expected to continue for more than 30 days* and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the *medically* certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, *and is residing in,* a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) ~~a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;~~

~~(6) a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;~~

~~(7)~~ a person not described in clause (1) or (3) who is diagnosed by a licensed physician ~~or~~, licensed ~~consulting~~ psychologist, *or other qualified professional,* as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

~~(8)~~ *(6)* a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, *provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the person's application;* or *a person* who has been terminated from either program and has an appeal from that termination pending~~;~~. *A person whose benefits are terminated for failure to produce any medical evidence within 60 days of the denial of the application, is eligible as soon as medical evidence in support of the application for the social security disability program or the program of supplemental security income for the aged, blind, and disabled is produced. Except for a person whose application is based in whole or in part on mental illness or chemical dependency, a person whose application for either program is denied and who does not pursue an appeal is eligible under this paragraph based on a new application only if the new application concerns a different disability or alleges new or aggravated symptoms of the original disability;*

~~(9)~~ *(7)* a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

~~(10) a person completing a secondary education program;~~

~~(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause;~~

~~(12) a person who has substantial barriers to employment, including but not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;~~

~~(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner;~~

*(8) a person who has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;*

~~(14)~~ *(9)* a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled;

~~(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 256D.052. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause, and (2) at the time the person is referred to literacy training; or~~

~~(16)~~ *(10)* a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal

custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency~~.~~;

~~(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:~~

~~(1) a person who has borderline mental retardation; and~~

~~(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a), because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.~~

~~In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.~~

*(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;*

*(12) a person whose need for general assistance will not exceed 30 days;*

*(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; and*

*(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.*

*(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.*

Sec. 51. Minnesota Statutes 1988, section 256D.05, is amended by adding a subdivision to read:

*Subd. 6.* [ASSISTANCE FOR PERSONS WITHOUT A VERIFIED RESIDENCE.] *(a) For applicants or recipients of general assistance, emergency general assistance, or work readiness assistance who do not have a verified residence address, the local agency may provide assistance using one or more of the following methods:*

*(1) the local agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs;*

*(2) the local agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; or, if actual need is greater than the standards of assistance established under section 256D.01, subdivision 1a, issue assistance based on actual need.*

*Nothing in this clause prevents the local agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance; and*

*(3) the local agency may determine eligibility and provide assistance on a weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.*

*(b) An individual may verify a residence address by providing a driver's license; a state identification card; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.*

*(c) If the local agency elects to provide assistance on a weekly basis, the agency may not provide assistance for a period during which no need is claimed by the individual. The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The advance notice required under section 256D.10 does not apply to weekly assistance issued under this paragraph.*

*(d) The local agency may not issue assistance on a weekly basis to an applicant or recipient who has medically certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children, unless requested by the assistance unit.*

Sec. 52. Minnesota Statutes 1988, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [WORK REGISTRATION.] *(a)* A person, family, or married couple *who are residents of the state and* whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible ~~to receive general assistance~~ under section 256D.05, subdivision 1, are eligible for ~~a~~ *the* work readiness program. ~~Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivision 3. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration.~~

*(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.*

Sec. 53. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 1a.* [WORK READINESS PAYMENTS.] *Grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.*

*Work readiness payments must be provided to persons determined eligible for the work readiness program as provided in this subdivision except when the special payment provisions in subdivision 1b are utilized. The initial payment must be prorated to provide assistance for the period beginning with the date the completed application is received by the county*

*agency or the date the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the final day of that month. The amount of the first payment must be determined by dividing the number of days to be covered under the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage. Subsequent payments must be paid monthly on the first day of each month.*

*There shall be an initial certification period which shall begin on the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b).*

Sec. 54. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 1b.* [SPECIAL PAYMENT PROVISIONS.] *A county agency may, at its option, provide work readiness payments as provided under section 256D.05, subdivision 6, during the initial certification period. The initial certification period shall cover the time from the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). If all mandatory registrants attend orientation, an additional grant of work readiness assistance must be issued to cover the period beginning the day after the scheduled orientation and ending on the final day of that month. Subsequent payments of work readiness shall be governed by subdivision 1a or section 256D.05, subdivision 6. If one or more mandatory registrants from the assistance unit fail to attend the orientation, those who failed to attend orientation will be removed from the assistance unit without further notice and shall be ineligible for additional assistance. Subsequent assistance to such persons shall be dependent upon the person completing application for assistance and being determined eligible.*

*A local agency that utilizes the provisions in this subdivision must implement the provisions consistently for all applicants or recipients in the county. A local agency must pay emergency general assistance to a registrant whose prorated work readiness payment does not meet emergency*

*needs. A local agency which elects to pay work readiness assistance on a prorated basis under this subdivision may not provide payments under section 256D.05, subdivision 6, for the same time period.*

Sec. 55. Minnesota Statutes 1988, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [LOCAL AGENCY DUTIES.] (a) The local agency shall provide to registrants ~~under subdivision 1~~ a work readiness program. The work readiness program must include:

(1) *orientation to the work readiness program;*

*(2)* an *individualized* employability assessment and development plan ~~in which the local agency~~ *that includes assessment of literacy, ability to communicate in the English language, eligibility for displaced homemaker services under section 268.96, educational history, and that* estimates the length of time it will take the registrant to obtain employment. *The employability assessment and development plan must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment;*

*(3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;*

~~(2)~~ *(4)* referral to available ~~employment assistance~~ programs including the Minnesota employment and economic development program;

~~(3)~~ *(5)* a job search program, *including job seeking skills training*; and

~~(4)~~ *(6)* other activities, *including public employment experience programs to the extent of available resources* designed by the local agency to prepare the registrant for permanent employment.

In order to allow time for job search, the local agency ~~shall~~ *may* not require an individual to participate in the work readiness program for more than 32 hours a week. The local agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) ~~The local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b) and shall provide a work readiness program to recipients referred under section 256D.052, subdivision 5, paragraph (b).~~ *The local agency shall prepare an annual plan for the operation of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:*

*(1) a description of the services to be offered by the local agency;*

*(2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;*

*(3) a description of the factors that will be taken into account when determining a client's employability development plan; and*

*(4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program.*

Sec. 56. Minnesota Statutes 1988, section 256D.051, subdivision 3, is

amended to read:

Subd. 3. [REGISTRANT DUTIES.] In order to receive work readiness assistance, a registrant shall: *(1)* cooperate with the local agency in all aspects of the work readiness program ~~and shall~~; *(2)* accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options; *and (3) participate in work readiness activities assigned by the local agency*. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program, *as provided in subdivision 3b*. ~~A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible.~~

Sec. 57. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 3a.* [PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE WORK READINESS PROGRAM.] *Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A child in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate. A student who was enrolled as a full-time student during the last school term must be considered a full-time student during summers and school holidays. If an assistance unit includes children under age six and suitable child care is not available at no cost to the family, one adult member of the assistance unit is exempt from registration for and participation in the work readiness program. The local agency shall designate the adult who must register. The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each parent, the applicant must designate the principal wage earner, and that designation must not be transferred after program eligibility is determined as long as assistance continues without interruption.*

Sec. 58. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 3b.* [WORK READINESS PARTICIPATION REQUIREMENTS.] *A work readiness registrant meets the work readiness participation requirements if the registrant:*

*(1) completes the specific tasks or assigned duties that were identified by the county agency in the notice required under section 256D.101, subdivision 1, paragraph (a); and*

*(2) meets the requirements in subdivisions 3 and 8.*

Sec. 59. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 3c.* [WORK READINESS DISQUALIFICATION PERIOD.] *Mandatory registrants who fail without good cause to meet the work readiness participation requirements will be terminated and disqualified from work readiness. If after the initial certification period the county agency determines that a registrant has failed without good cause to meet the work*

*readiness participation requirements, the agency will notify the registrant of its determination according to section 256D.101, subdivision 1, paragraph (b). For the first time in a six-month period after the initial certification period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant of the particular actions that must be taken by the registrant by a date certain to achieve compliance. Failure to take the required action by the specified date will result in termination and disqualification from work readiness. Failure to comply a second or subsequent time during a six-month period shall result in termination and disqualification without opportunity for corrective action. The first time in a six-month period that a registrant is terminated from work readiness for failure to comply with participation requirements, that person is disqualified from receiving work readiness for one month. If less than six months have passed since the end of a disqualification period and the registrant is terminated from work readiness for failure to comply with participation requirements, the person is disqualified from receiving work readiness for two months. If an assistance unit includes more than one mandatory work readiness participant and it is determined that one or more, but not all, of the mandatory participants have failed to comply with work readiness requirements, those who failed to comply shall be removed from the assistance unit for the appropriate time period, subject to the notice and appeal rights in section 256D.101. If an assistance unit includes persons who are exempt from participation in work readiness activities and all of the mandatory registrants have been terminated for failure to participate, the county agency shall remove the terminated registrants from the assistance unit after notice and an opportunity to be heard, and provide assistance to the remaining persons using vendor or protective payments.*

Sec. 60. Minnesota Statutes 1988, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [~~LOCAL AGENCY OPTIONS~~ *SERVICE COSTS.*] ~~The local agency may, at its option, provide up to $200~~ *The commissioner shall reimburse 92 percent of local agency expenditures for providing work readiness services including direct participation expenses and administrative costs. Reimbursement must not exceed an average of $260 each year* for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. After paying direct expenses as needed by individual registrants, the local agency may use any remaining money to provide additional services as needed by any registrant including *employability assessments and employability development plans,* education, orientation, *employment search assistance,* placement, other work experience, on-the-job training, and other appropriate activities *and the administrative costs incurred providing these services.*

Sec. 61. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 6b.* [FEDERAL REIMBURSEMENT.] *Federal financial participation from the United States Department of Agriculture for work readiness expenditures that are eligible for reimbursement through the food stamp employment and training program are dedicated funds and are annually appropriated to the commissioner of human services for the operation of the work readiness program. Federal financial participation for the nonstate portion of work readiness costs must be paid to the county agency*

*that incurred the costs.*

Sec. 62. Minnesota Statutes 1988, section 256D.051, subdivision 8, is amended to read:

Subd. 8. [VOLUNTARY QUIT.] A person is not eligible for work readiness payments or services if, without good cause, the person refuses a legitimate offer of suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be *terminated from the work readiness program and* disqualified for two months according to rules adopted by the commissioner.

Sec. 63. Minnesota Statutes 1988, section 256D.051, subdivision 13, is amended to read:

Subd. 13. [RIGHT TO NOTICE AND HEARING.] *(a)* The local agency shall provide notice and opportunity for hearings ~~for adverse actions~~ *as required* under this section according to ~~sections 256D.10 and~~ *section* 256D.101, *for adverse actions based on a determination that a recipient has failed to participate in work readiness activities, or 256D.10 for all other adverse actions.* A determination made under subdivision 1, that a person is not eligible for general assistance is a denial of general assistance for purposes of notice, appeal, and hearing requirements. The local agency must notify the person that this determination will result in a ~~limit on the number of months of assistance for which the person will be eligible~~ *requirement that the person participate in the work readiness program as a condition of receiving assistance.*

Sec. 64. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 15.* [GENERAL ASSISTANCE REQUIREMENTS APPLY.] *The laws and rules that apply to general assistance also apply to the work readiness program, unless superseded by a specific inconsistent provision in this section or section 256D.101.*

Sec. 65. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

*Subd. 16.* [START WORK GRANTS.] *Within the limit of available appropriations, the local agency may make grants necessary to enable work readiness recipients to accept bona fide offers of employment. The grants may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. Start work grants are available once in any 12-month period to a recipient. The commissioner shall allocate money appropriated for start work grants to counties based on each county's work readiness caseload in the 12 months ending in March for each following state fiscal year and may reallocate any unspent amounts.*

Sec. 66. Minnesota Statutes 1988, section 256D.052, subdivision 1, is amended to read:

Subdivision 1. [OCCUPATIONAL AND VOCATIONAL PROGRAMS.] The local agency must work with local educational institutions and job training programs in the identification, development, and utilization of

occupational and vocational literacy programs for ~~general assistance recipients~~ *work readiness registrants who are functionally illiterate*. Occupational and vocational literacy programs are programs which provide literacy training to adults who lack formal education or job skills. The programs emphasize particular language and reading skills needed for successful job performance.

Sec. 67. Minnesota Statutes 1988, section 256D.052, subdivision 2, is amended to read:

Subd. 2. [ASSESSMENT AND ASSIGNMENT.] The local agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of ~~people eligible under section 256D.05, subdivision 1, paragraph (a), clause (15)~~ *work readiness registrants who are functionally illiterate*;

(2) assign suitable recipients to openings in occupational and vocational literacy programs;

(3) if no openings are available in accessible occupational or vocational literacy programs, assign suitable recipients to openings in other accessible literacy training programs; ~~and~~

(4) reassign to another accessible literacy program any recipient who does not complete an assigned program and who wishes to try another program~~.~~*; and*

*(5) within the limits of funds available contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods, to provide literacy training sessions so that county registrants eligible for literacy training will have the opportunity to attend training.*

Sec. 68. Minnesota Statutes 1988, section 256D.052, subdivision 3, is amended to read:

Subd. 3. [SERVICES PROVIDED.] The local agency must provide child care and transportation to enable people to participate in literacy training under this section. *The state shall reimburse local agencies for the costs of providing transportation under this section. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training.*

Sec. 69. Minnesota Statutes 1988, section 256D.052, subdivision 4, is amended to read:

Subd. 4. [PAYMENT OF ~~GENERAL ASSISTANCE~~ *WORK READINESS*.] The local agency must provide assistance under section ~~256D.05, subdivision 1, paragraph (a), clause (15)~~ *256D.051* to ~~people~~ *persons* who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals; *or*

(2) ~~despite participation for a period of six months or more, fail to progress in assigned literacy programs;~~

~~(3)~~ are not assigned to literacy training because there is no program available or accessible to them~~; or~~

~~(4) have failed for good cause to complete an assigned literacy program~~.

*Work readiness payments may be terminated for persons who fail to attend the orientation and participate in the assessment and development of the employment development plan.*

Sec. 70. Minnesota Statutes 1988, section 256D.101, is amended to read:

256D.101 [FAILURE TO COMPLY WITH WORK REQUIREMENTS; NOTICE.]

Subdivision 1. [~~DISQUALIFICATION~~ *NOTICE REQUIREMENTS.*] *(a) At the time a registrant is registered for the work readiness program, and at least every 30 days after that, the local agency shall provide, in advance, a clear, written description of the specific tasks and assigned duties the registrant must complete to receive work readiness pay. The notice must explain that the registrant will be terminated from the work readiness program unless the registrant has completed the specific tasks and assigned duties. The notice must inform the registrant that if the registrant fails without good cause to comply with work readiness requirements more than once every six months, the registrant will be terminated from the work readiness program and disqualified from receiving assistance for one month if it is the registrant's first disqualification within the preceding six months, or for two months if the registrant has been previously disqualified within the preceding six months.*

*(b)* If *after the initial certification period* the local agency determines that a registrant has failed to comply with ~~the~~ *work readiness* requirements ~~of section 256D.051~~, the local agency shall notify the registrant of the determination. *Notice must be hand delivered or mailed to the registrant within three days after the agency makes the determination but no later than the date work readiness pay was scheduled to be paid. For a recipient who has failed to provide the local agency with a mailing address, the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address, notices must be deemed delivered on the date of the registrant's next scheduled visit with the local agency.* The notification shall be in writing and shall state the facts that support the local agency's determination. For the first ~~two times~~ *time* in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall *inform the registrant that the registrant may lose eligibility for work readiness pay and must* specify the particular actions that must be taken by the registrant to achieve compliance~~; shall~~ *and reinstate work readiness payments. The notice must* state that the recipient must take the specified actions by a date certain, which must be at least ~~ten~~ *five working* days following the date the notification is mailed or delivered to the registrant; ~~shall~~ *must* explain the ramifications of the registrant's failure to take the required actions by the specified date; and ~~shall~~ *must* advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than ~~two times~~ *once* in a six-month period must be notified of termination.

Subd. 2. [NOTICE OF ~~GRANT REDUCTION, SUSPENSION, OR~~ TERMINATION.] The notice of ~~grant reduction, suspension, or~~ termination on the ground that a registrant has failed to comply with ~~section 256D.051~~ *work readiness requirements* shall be mailed or hand delivered by the local agency concurrently with the notification required by subdivision 1, *paragraph (b)*. Prior to giving the notification, the local agency

must assess the registrant's eligibility for general assistance under section 256D.05 to the extent possible using information contained in the case file, and determine that the registrant is not eligible under that section. The determination that the registrant is not eligible ~~shall~~ *must* be stated in the notice of ~~grant reduction, suspension, or~~ termination. *The notice of termination shall indicate the applicable disqualification period.*

Subd. 3. [BENEFITS AFTER NOTIFICATION.] Assistance payments otherwise due to the registrant under section 256D.051 ~~shall~~ *may* not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant ~~reduction, suspension, or~~ termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal. *An appeal of a proposed termination shall be brought under section 256.045, except that the timelines specified in this section shall apply, notwithstanding the requirements of section 256.045, subdivision 3. Appeals of proposed terminations from the work readiness program shall be heard within 30 days of the date that the appeal was filed.*

Sec. 71. Minnesota Statutes 1988, section 256D.111, subdivision 5, is amended to read:

Subd. 5. [RULEMAKING.] The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of ~~general assistance or~~ work readiness assistance for a recipient who has been ~~finally~~ determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a ~~recipient described in clause (a) or section 256D.09, subdivision~~ 4 *disqualified recipient*; and

(c) providing that at the time of the approval of an application for assistance, the local agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

Sec. 72. [256D.33] [CITATION.]

*Sections 256D.33 to 256D.54 may be cited as the Minnesota supplemental aid act.*

Sec. 73. [256D.34] [POLICY.]

*The purpose of sections 256D.33 to 256D.54 is to (1) provide a sound administrative structure for public assistance programs; (2) maximize the use of federal funds for public assistance purposes; and (3) provide an integrated public assistance program for all Minnesota residents who are recipients of supplemental security income or who, except for excess income, would be receiving supplemental security income and who are found to*

*have maintenance needs as determined by application of state standards of assistance according to section 256D.44.*

Sec. 74. Minnesota Statutes 1988, section 256D.35, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] ~~For the purposes of Laws 1974, chapter 487,~~ The terms defined in this section shall have the meanings given them. *The definitions in this section apply to sections 256D.33 to 256D.54.*

Sec. 75. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 2a.* [AGED.] *"Aged" means having reached age 65 or reaching the age of 65 during the month of application.*

Sec. 76. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 3a.* [ASSISTANCE UNIT.] *"Assistance unit" means the individual applicant or recipient.*

Sec. 77. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 4a.* [BLIND.] *"Blind" means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. A person who receives supplemental security income based on other visual disabilities may also be eligible for the Minnesota supplemental aid program.*

Sec. 78. Minnesota Statutes 1988, section 256D.35, subdivision 7, is amended to read:

Subd. 7. "~~Local~~ *County* agency" means the county welfare boards in the several counties of the state except that it may also include any multicounty welfare boards or departments where those have been established in accordance with law.

Sec. 79. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 8a.* [DISABILITY.] *"Disability" means disability as determined under the criteria used by the Title II program of the Social Security Act.*

Sec. 80. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 8b.* [EMERGENCY.] *"Emergency" means circumstances that demand immediate action to safeguard against threats to health or safety of an individual.*

Sec. 81. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 8c.* [FINANCIALLY RESPONSIBLE RELATIVE.] *"Financially responsible relative" means a spouse or a parent of a minor child.*

Sec. 82. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 8d.* [GOOD CAUSE.] *"Good cause" means a reason for taking*

*an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances.*

Sec. 83. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 10.* [GROSS INCOME.] *"Gross income" means the total amount of earned and unearned money received in a month before any deductions or disregards are applied.*

Sec. 84. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 11.* [IN-KIND INCOME.] *"In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid asset. In-kind income includes goods, produce, services, privileges, or payments on behalf of a person by a third party.*

Sec. 85. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 12.* [LUMP SUM.] *"Lump sum" means money received on an irregular or unexpected basis.*

Sec. 86. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 13.* [MAINTENANCE BENEFIT.] *"Maintenance benefit" means cash payments, other than Minnesota supplemental aid, provided under law or rule. Maintenance benefit includes workers' compensation, unemployment compensation, railroad retirement, veterans benefits, supplemental security income, social security disability insurance, or other benefits identified by the county agency that provide periodic benefits that can be used to meet the basic needs of the assistance unit.*

Sec. 87. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 14.* [NEGOTIATED RATE.] *"Negotiated rate" means a monthly rate for payment for room and board for an individual living in a group living arrangement according to sections 256I.01 to 256I.07. This rate may be fully or partially paid from the Minnesota supplemental aid program depending on the net income of the assistance unit.*

Sec. 88. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 15.* [NET INCOME.] *"Net income" means monthly income remaining after allowable deductions and disregards are subtracted from gross income.*

Sec. 89. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 16.* [OVERPAYMENT.] *"Overpayment" means an amount of Minnesota supplemental aid paid to a recipient that exceeds the amount to which the recipient is entitled for that month.*

Sec. 90. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 17.* [POTENTIAL ELIGIBILITY.] *"Potential eligibility" means a determination by a county agency that an assistance unit or a financially responsible relative appears to meet the eligibility requirements of another*

*maintenance benefit program.*

Sec. 91. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 18.* [RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE.] *"Retirement, survivors, and disability insurance" means benefits paid under the federal program for retired, disabled, and surviving spouses of retired or disabled individuals under Title II of the Social Security Act.*

Sec. 92. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 19.* [SHELTER COSTS.] *"Shelter costs" means monthly costs for rent, mortgage payments, contract for deed payments, property taxes, and insurance on real or personal property, and utilities, for the home in which the recipient lives and for which the recipient is legally responsible.*

Sec. 93. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

*Subd. 20.* [SUPPLEMENTAL SECURITY INCOME.] *"Supplemental security income" means benefits paid under the federal program of supplemental security income for the aged, blind, and disabled under Title XVI of the Social Security Act.*

Sec. 94. Minnesota Statutes 1988, section 256D.36, subdivision 1, is amended to read:

Subdivision 1. [STATE PARTICIPATION.] Commencing January 1, 1974, the commissioner shall certify to each local agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. *Each year* for the period from January 1 to June 30, the state shall pay 85 percent and the county shall pay 15 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. ~~Subsequent to July 1~~ *After June 30* of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, the state agency shall pay 100 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. The amount of supplemental aid for each individual eligible under this section shall be calculated ~~pursuant~~ *according* to the formula ~~prescribed~~ in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.

Sec. 95. Minnesota Statutes 1988, section 256D.36, is amended by adding a subdivision to read:

*Subd. 1a. A negotiated rate payment made according to sections 256I.01 to 256I.07, for a person who is eligible for Minnesota supplemental aid, under sections 256D.33 to 256D.54, is a Minnesota supplemental aid payment for purposes of meeting the total expenditures test under the supplemental security income program state supplement program.*

Sec. 96. Minnesota Statutes 1988, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. ~~(a) For all individuals who apply to the appropriate local~~

~~agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.~~

~~(b)~~ When a recipient is ~~an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690,~~ a resident of a ~~state hospital~~ *nursing home, regional treatment center,* or a ~~dwelling~~ *residence* with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the ~~clothing and~~ personal needs allowance for medical assistance recipients under section 256B.35. ~~Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed $800. The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter. The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:~~

~~(1) a facility that only provides services to persons with mental retardation; and~~

~~(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. From the first of the month in which~~

~~an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.~~

Sec. 97. [256D.385] [RESIDENCE.]

*To be eligible for Minnesota supplemental aid, a person must be a resident of Minnesota and (1) a citizen of the United States, (2) an alien lawfully admitted to the United States for permanent residence, or (3) otherwise permanently residing in the United States under color of law as defined by the supplemental security income program.*

Sec. 98. [256D.395] [APPLICATION PROCEDURES.]

*Subdivision 1.* [INFORMATION.] *The county agency shall provide information about the program and application procedures to a person who inquires about Minnesota supplemental aid.*

*Subd. 2.* [FILING OF APPLICATION.] *The county agency must immediately provide an application form to any person requesting Minnesota supplemental aid. Application for Minnesota supplemental aid must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for Minnesota supplemental aid as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for the disabled. The amount of the first grant of Minnesota supplemental aid awarded to an applicant must be computed to cover the time period starting with the first day of the month in which the county agency received the signed and dated application or the first day of the month in which all eligibility factors were met, whichever is later.*

Sec. 99. [256D.405] [VERIFICATION AND REPORTING REQUIREMENTS.]

*Subdivision 1.* [VERIFICATION.] *The county agency shall request, and applicants and recipients shall provide and verify, all information necessary to determine initial and continuing eligibility and assistance payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate assistance.*

*Subd. 2.* [REDETERMINATION OF ELIGIBILITY.] *The eligibility of each recipient must be redetermined at least once every 12 months.*

*Subd. 3.* [REPORTS.] *Recipients must report changes in circumstances that affect eligibility or assistance payment amounts within ten days of the change. Recipients with earned income, and recipients who have income allocated to them from a financially responsible relative with whom the recipient resides, must complete a monthly household report form. If the report form is not received before the end of the month in which it is due, the county agency must terminate assistance. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month the assistance was terminated, the assistance unit is considered to have continued its application for assistance, effective the first day of the month the assistance was terminated.*

Sec. 100. [256D.415] [RESIDENCE; COUNTY OF FINANCIAL

RESPONSIBILITY.]

*The county of financial responsibility is the county specified in section 256G.02, subdivision 4.*

Sec. 101. [256D.425] [ELIGIBILITY CRITERIA.]

*Subdivision 1.* [PERSONS ENTITLED TO RECEIVE AID.] *A person who is aged, blind, or 18 years of age or older and disabled, whose income is less than the standards of assistance in section 256D.44 and whose resources are less than the limits in subdivision 2 is eligible for and entitled to Minnesota supplemental aid. A person found eligible by the Social Security Administration for supplemental security income under Title XVI on the basis of age, blindness, or disability meets these requirements. A person who would be eligible for the supplemental security income program except for income that exceeds the limit of that program but that is within the limits of the Minnesota supplemental aid program, must have blindness or disability determined by the state medical review team.*

*Subd. 2.* [RESOURCE STANDARDS.] *The resource standards and restrictions for supplemental aid under this section shall be those used to determine eligibility for disabled individuals in the supplemental security income program.*

*Subd. 3.* [TRANSFERS.] *The transfer policies and procedures of the Minnesota supplemental aid program are those used by the medical assistance program under section 256B.17.*

Sec. 102. [256D.435] [INCOME.]

*Subdivision 1.* [EXCLUSIONS.] *The following is excluded from income in determining eligibility for Minnesota supplemental aid:*

*(1) the value of food stamps;*

*(2) home-produced food used by the household;*

*(3) Indian claim payments made by the United States Congress to compensate members of Indian tribes for the taking of tribal lands by the federal government;*

*(4) cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;*

*(5) one-third of child support payments received by an eligible child from an absent parent;*

*(6) displaced homemaker payments;*

*(7) reimbursement received for maintenance costs of providing foster care to adults or children;*

*(8) benefits received under Title IV and Title VII of the Older Americans Act of 1965;*

*(9) Minnesota renter or homeowner property tax refunds;*

*(10) infrequent, irregular income that does not total more than $20 per person in a month;*

*(11) reimbursement payments received from the VISTA program;*

*(12) in-kind income;*

*(13) payments received for providing volunteer services under Title I, Title II, and Title III of the Domestic Volunteer Service Act of 1973;*

*(14) loans that have to be repaid;*

*(15) federal low-income heating assistance program payments;*

*(16) any other type of funds excluded as income by state law;*

*(17) student financial aid, as allowed for the supplemental security income program; and*

*(18) other income excluded by the supplemental security income program.*

*Subd. 2.* [SELF-SUPPORT PLANS.] *The county agency shall, for up to 36 months, disregard amounts of an individual's income and resources that are needed to fulfill a plan of self-support approved by the county agency, but only for the period during substantially all of which the individual is actually undergoing vocational rehabilitation. If an individual has a plan for self-support approved by the Social Security Administration, the county agency shall disregard income and resources in the amount and for the time approved in that plan.*

*Subd. 3.* [APPLICATION FOR FEDERALLY FUNDED BENEFITS.] *Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for and, if eligible, accept AFDC and other federally funded benefits. If the persons are determined potentially eligible for AFDC by the county agency, the applicant or recipient may not allocate earned or unearned income to those persons while an AFDC application is pending, or after the persons are determined eligible for AFDC. If the persons are determined potentially eligible for other federal benefits, the applicant or recipient may only allocate income to those persons until they are determined eligible for those other benefits unless the amount of those benefits is less than the amount in subdivision 4.*

*Subd. 4.* [ALLOCATION OF INCOME.] *The rate of allocation to relatives for whom the applicant or recipient is financially responsible is one-half the individual supplemental security income standard of assistance, except as restricted in subdivision 3.*

*If the applicant or recipient shares a residence with another person who has financial responsibility for the applicant or recipient, the income of that person is considered available to the applicant or recipient after allowing: (1) the deductions in subdivisions 7 and 8; and (2) a deduction for the needs of the financially responsible relative and others in the household for whom that relative is financially responsible. The rate allowed to meet the needs of each of these people is one-half the individual supplemental security income standard.*

*Subd. 5.* [GENERAL INCOME DISREGARD.] *The local agency shall disregard the first $20 of the assistance unit's unearned or earned income from the assistance unit's gross earned income.*

*Subd. 6.* [EARNED INCOME DISREGARDS.] *From the assistance unit's gross earned income, the local agency shall disregard $65 plus one-half of the remaining income.*

*Subd. 7.* [EARNED INCOME DEDUCTIONS.] *From the assistance unit's*

*gross earned income, the local agency shall subtract work expenses allowed by the supplemental security income program.*

*Subd. 8.* [SELF-EMPLOYMENT EARNINGS.] *A local agency must determine gross earned income from self-employment by subtracting business costs from gross receipts.*

*Subd. 9.* [RENTAL PROPERTY.] *Income from rental property is considered self-employment income for each month that the owner of the property who is the assistance unit or a responsible relative of the assistance unit does an average of at least ten hours a week of labor. When no labor is expended, income from rental property is considered unearned income and an additional deduction is allowed for actual, reasonable, and necessary labor costs for upkeep and repair.*

*Subd. 10.* [LUMP SUMS.] *Lump sum payments are considered income in the month received.*

Sec. 103. [256D.44] [STANDARDS OF ASSISTANCE.]

*Subdivision 1.* [USE OF STANDARDS; INCREASES.] *The state standards of assistance for shelter, basic needs, and special need items that establish the total amount of maintenance need for an applicant for or recipient of Minnesota supplemental aid, are used to determine the assistance unit's eligibility for Minnesota supplemental aid. The state standards of assistance for basic needs must increase by an amount equal to the dollar value, rounded up to the nearest dollar, of any cost of living increases in the supplemental security income program.*

*Subd. 2.* [STANDARD OF ASSISTANCE FOR SHELTER.] *The state standard of assistance for shelter provides for the recipient's shelter costs. The monthly state standard of assistance for shelter must be determined according to paragraphs (a) to (c).*

*(a) If the recipient does not reside with another person, the state standard of assistance is the actual cost for shelter items or $124, whichever is less.*

*(b) If the recipient resides with another person, the state standard of assistance is the actual costs for shelter items or $93, whichever is less.*

*(c) Actual shelter costs for applicants or recipients are determined by dividing the total monthly shelter costs by the number of persons who share the residence.*

*Subd. 3.* [STANDARD OF ASSISTANCE FOR BASIC NEEDS.] *The state standard of assistance for basic needs provides for the applicant's or recipient's maintenance needs, other than actual shelter costs. Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:*

*(a) For an applicant or recipient who does not reside with another person, the state standard of assistance is $305.*

*(b) For an individual who resides with another person or persons, the state standard of assistance is $242.*

*Subd. 4.* [TEMPORARY ABSENCE DUE TO ILLNESS.] *For the purposes of this subdivision, "home" means a residence owned or rented by a recipient or the recipient's spouse. Home does not include a negotiated rate facility. Assistance payments for recipients who are temporarily absent from their home due to hospitalization for illness must continue at the*

*same level of payment during their absence if the following criteria are met:*

*(1) a physician certifies that the absence is not expected to continue for more than three months;*

*(2) a physician certifies that the recipient will be able to return to independent living; and*

*(3) the recipient has expenses associated with maintaining a residence in the community.*

*Subd. 5.* [SPECIAL NEEDS.] *Notwithstanding subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid:*

*(a) The local agency shall pay a monthly allowance for medically prescribed diets payable under the AFDC program if the cost of those additional dietary needs cannot be met through some other maintenance benefit.*

*(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program for these expenses, as long as other funding sources are not available.*

*(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of $100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.*

*(d) The county agency shall continue to pay a monthly allowance of $68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.*

*Subd. 6.* [COUNTY AGENCY STANDARDS OF ASSISTANCE.] *The county agency may establish standards of assistance for shelter, basic needs, special needs, clothing and personal needs, and negotiated rates that exceed the corresponding state standards of assistance. State aid is not available for costs above state standards.*

Sec. 104. [256D.45] [PAYMENT PERIOD.]

*Subdivision 1.* [PROSPECTIVE BUDGETING.] *A calendar month is the payment period for Minnesota supplemental aid. The monthly payment to a recipient must be determined prospectively.*

*Subd. 2.* [GROSS INCOME TEST.] *The local agency shall apply a gross income test prospectively for each month of program eligibility. An assistance unit is ineligible when nonexcluded income, before applying any disregards or deductions, exceeds 300 percent of the supplemental security income standard for an individual.*

*Subd. 3.* [AMOUNT OF ASSISTANCE.] *The amount of assistance is the difference between the recipient's net income and the applicable standards of assistance in section 256D.44, subdivisions 2 to 4, for persons living independently.*

Sec. 105. [256D.46] [EMERGENCY MINNESOTA SUPPLEMENTAL AID.]

*Subdivision 1.* [ELIGIBILITY.] *Emergency Minnesota supplemental aid must be granted if the recipient is without adequate resources to resolve an emergency that, if unresolved, will threaten the health or safety of the recipient.*

*Subd. 2.* [INCOME AND RESOURCE TEST.] *All income and resources available to the recipient during the month in which the need for emergency Minnesota supplemental aid arises must be considered in determining the recipient's ability to meet the emergency need. Property that can be liquidated in time to resolve the emergency and income that is normally disregarded or excluded under the Minnesota supplemental aid program must be considered available to meet the emergency need.*

*Subd. 3.* [PAYMENT AMOUNT.] *The amount of assistance granted under emergency Minnesota supplemental aid is limited to the amount necessary to resolve the emergency.*

Sec. 106. [256D.47] [PAYMENT METHODS.]

*Minnesota supplemental aid payments must be issued to the recipient, a protective payee, or a conservator or guardian of the recipient's estate in the form of county warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution. Minnesota supplemental aid payments must be issued regularly on the first day of the month. The supplemental aid warrants must be mailed only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Vendor payments must not be issued by the local agency except for nonrecurring emergency need payments; at the request of the recipient; for special needs, other than special diets; or when the agency determines the need for protective payments exist.*

Sec. 107. [256D.48] [PROTECTIVE PAYMENTS.]

*Subdivision 1.* [NEED FOR PROTECTIVE PAYEE.] *The county agency shall determine whether a recipient needs a protective payee when a physical or mental condition renders the recipient unable to manage funds and when payments to the recipient would be contrary to the recipient's welfare. Protective payments must be issued when there is evidence of: (1) repeated inability to plan the use of income to meet necessary expenditures; (2) repeated observation that the recipient is not properly fed or clothed; (3) repeated failure to meet obligations for rent, utilities, food, and other essentials; (4) evictions or a repeated incurrence of debts; or (5) lost or stolen checks. The determination of representative payment by the Social Security Administration for the recipient is sufficient reason for protective payment of Minnesota supplemental aid payments.*

*Subd. 2.* [ESTABLISHING PROTECTIVE PAYMENT.] *When the county agency determines that a recipient needs a protective payee, the county agency shall appoint a payee according to the procedures in paragraphs (a) and (b).*

*(a) The county agency shall consider the recipient's preference of protective payee. The protective payee must have an interest in or concern for the welfare of the recipient. The protective payee must be capable of*

*and willing to provide the required assistance. A vendor of goods or services, including the recipient's landlord, shall not serve as protective payee.*

*(b) The county agency shall reconsider the need for a protective payee at least annually. The criteria used to determine a person's continuing need for a protective payee are the criteria used in the supplemental security income program to determine if a person is incapable of managing or directing the management of the person's money. If the need for protective payment is likely to continue beyond two years, the county agency shall seek judicial appointment of a guardian or other legal representative.*

*Subd. 3.* [PROTECTIVE PAYEE FOR PAYMENTS MADE BY THE SOCIAL SECURITY ADMINISTRATION.] *If the assistance unit receives benefits from the social security administration, the county agency shall also petition the social security administration to establish a representative payee for those benefits.*

Sec. 108. [256D.49] [PAYMENT CORRECTION.]

*Subdivision 1.* [WHEN.] *When the county agency finds that the recipient has received less than or more than the correct payment of Minnesota supplemental aid benefits, the county agency shall issue a corrective payment or initiate recovery under subdivision 3, as appropriate.*

*Subd. 2.* [UNDERPAYMENT OF MONTHLY GRANTS.] *When the county agency determines that an underpayment of the recipient's monthly payment has occurred, it shall, during that same month, issue a corrective payment. Corrective payments must be excluded when determining the applicant's or recipient's income and resources for the month of payment.*

*Subd. 3.* [OVERPAYMENT OF MONTHLY GRANTS.] *When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less. Residents of nursing homes, regional treatment centers, and facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.*

Sec. 109. [256D.50] [NOTICE.]

*Subdivision 1.* [TEN-DAY NOTICE.] *The county agency shall give recipients ten days' advance notice when the agency intends to terminate, suspend, or reduce a grant. The ten-day notice must be in writing on a form prescribed by the commissioner. The notice must be mailed or given to the recipient not later than ten days before the effective date of the action. The notice must clearly state the action the county agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued while an appeal is pending.*

*Subd. 2.* [FIVE-DAY NOTICE.] *Five days' advance notice is sufficient when the county agency has verified and documented that the case facts require termination, suspension, or reduction of the grant for probable fraud by a recipient. If the last day of the five-day period falls on a weekend or holiday, the effective date of the action is the next working day.*

*Subd. 3.* [ADEQUATE NOTICE.] *Notice must be given no later than the effective date of the action when: (1) the county agency has factual information confirming the death of a person included in the grant; (2) the county agency receives a clear written statement, signed by a recipient, that the recipient no longer wishes assistance; (3) the county agency receives a clear statement, signed by a recipient, reporting information that the recipient acknowledges will require termination of or a reduction in the grant; (4) a recipient has been placed in a skilled nursing home, intermediate care, or a long-term hospitalization facility; (5) a recipient has been admitted to or committed to an institution; or (6) a recipient's whereabouts are unknown and the county agency mail to the recipient has been returned by the post office showing no forwarding address.*

Sec. 110. [256D.51] [APPEALS.]

*Subdivision 1.* [RIGHT TO APPEAL.] *Applicants and recipients may appeal under section 256.045 if they are aggrieved by an action or by inaction of the county agency.*

*Subd. 2.* [CONTINUATION OF PAYMENT PENDING APPEAL DECISION.] *When assistance is reduced, suspended, or terminated, the client has the right to choose to have the grant continued while an appeal is pending if the appellant files the appeal within ten days after the date the notice is mailed or before the effective date of the proposed action, whichever is later.*

Sec. 111. [256D.52] [FRAUD.]

*A person who obtains or tries to obtain, or aids or abets any person in obtaining assistance to which the person is not entitled by a willfully false statement or representation, or by the intentional withholding or concealment of a material fact, or by impersonation, or other fraudulent device, violates section 256.98 and is subject to both the criminal and civil penalties in that section.*

Sec. 112. [256D.53] [DUTIES OF THE COMMISSIONER.]

*In addition to other duties imposed by law, the commissioner shall:*

*(1) supervise the administration of Minnesota supplemental aid by county agencies as provided in sections 256D.33 to 256D.54;*

*(2) adopt permanent rules consistent with law for carrying out and enforcing the provisions of sections 256D.33 to 256D.54, so that Minnesota supplemental aid may be administered as uniformly as possible throughout the state;*

*(3) immediately upon adoption, give rules to all county agencies and other interested persons;*

*(4) establish necessary administrative and fiscal procedures; and*

*(5) allocate money appropriated for Minnesota supplemental aid to county agencies.*

Sec. 113. [256D.54] [APPLICATION FOR OTHER BENEFITS.]

*Subdivision 1.* [POTENTIAL ELIGIBILITY.] *An applicant or recipient who is otherwise eligible for supplemental aid and who is potentially eligible for maintenance benefits from any other source shall (1) apply for those benefits within 30 days of the county's determination of potential*

*eligibility for those benefits; and (2) execute an interim assistance authorization agreement on a form as directed by the commissioner.*

*Subd. 2.* [RECOVERY OF SUPPLEMENTAL AID UNDER AN INTERIM ASSISTANCE AGREEMENT.] *If a recipient is eligible for benefits from other sources, and receives a payment from another source for a period during which supplemental aid was also issued, the recipient shall reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of supplemental aid paid during the time period to which the other maintenance benefits apply. Reimbursement shall not exceed the state standard that applies to that time period. Reimbursement may be sought directly from the other source of maintenance income but remains the primary obligation of the recipient when an interim assistance agreement has been executed.*

*Subd. 3.* [INTERIM ASSISTANCE ADVOCACY INCENTIVE PROGRAM.] *From the amount recovered under an interim assistance agreement, county agencies may retain 25 percent plus actual reasonable fees, costs, and disbursements of appeals, litigation, and advocacy assistance given to the recipient for the recipient's claim for supplemental security income. The money kept under this section is from the state share of the recovery. The county agency may contract with qualified persons to provide the special assistance. The methods by which a county agency identifies, refers, and assists recipients who may be eligible for benefits under federal programs for the aged, blind, or disabled are those methods used by the general assistance interim assistance advocacy incentive program.*

Sec. 114. Minnesota Statutes 1988, section 256G.03, subdivision 1, is amended to read:

Subdivision 1. [STATE RESIDENCE.] For purposes of this chapter, ~~"state residence" is coincidental with residence in a Minnesota county. The establishment of county residence serves as proof of residence in Minnesota~~ *a resident of any Minnesota county is considered a state resident. For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a.*

Sec. 115. [256I.01] [CITATION.]

*Sections 256I.01 to 256I.06 shall be cited as the "negotiated rate act."*

Sec. 116. [256I.02] [PURPOSE.]

*The negotiated rate act establishes a comprehensive system of rates and payments for persons who reside in a negotiated rate residence and who meet the eligibility criteria of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54.*

Sec. 117. [256I.03] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.*

*Subd. 2.* [NEGOTIATED RATE.] *"Negotiated rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for individuals eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54. Negotiated rate does not include payments*

*for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. However, the negotiated rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate. The rate is negotiated by the county agency or the state according to the provisions of sections 256I.01 to 256I.06.*

*Subd. 3.* [NEGOTIATED RATE RESIDENCE.] *"Negotiated rate residence" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. To receive payment for a negotiated rate, the residence must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children are not negotiated rate residences.*

*Subd. 4.* [REPRESENTATIVE PAYEE.] *"Representative payee" means a person selected to receive and manage general assistance or Minnesota supplemental aid benefits provided by the county agency on behalf of a general assistance or Minnesota supplemental aid recipient.*

Sec. 118. [256I.04] [ELIGIBILITY FOR NEGOTIATED RATE PAYMENT.]

*Subdivision 1.* [ELIGIBILITY REQUIREMENTS.] *To be eligible for a negotiated rate payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the negotiated rate residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other negotiated rate residences must be approved by the county agency.*

*Subd. 2.* [DATE OF ELIGIBILITY.] *For a person living in a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a negotiated rate residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.*

Sec. 119. [256I.05] [PAYMENT RATES.]

*Subdivision 1.* [MONTHLY RATES.] *Monthly payments for rates negotiated by a county agency on behalf of a recipient living in a negotiated rate residence may be paid at the rates in effect on March 1, 1985, not to exceed $919.80 in 1989. These rates must be increased annually according to subdivision 7.*

*Subd. 2.* [MONTHLY RATES; EXEMPTIONS.] *(a) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).*

*(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.*

*(c) The following residences are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:*

*(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;*

*(2) a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the actual documented cost for these residences is the individual's appropriate medical assistance case mix rate until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences. The exclusion from the rate limit for residences under this clause expires July 1, 1991. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.*

*Subd. 3.* [LIMITS ON RATES.] *When a negotiated rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a negotiated rate under this chapter.*

*Subd. 4.* [CERTAIN RESIDENCES NOT ELIGIBLE.] *The commissioner shall make no payments under this section to residences licensed after August 1, 1987, that have more than four residents with a diagnosis of mental illness, except for residences specifically licensed to serve persons with mental illness or residences excluded from licensure under chapter 245A. The commissioner of health shall monitor newly licensed residences and shall report to the commissioner of human services residences that do not comply with this section.*

*Subd. 5.* [ADULT FOSTER CARE RATES.] *The commissioner shall annually establish statewide maintenance and difficulty of care rates for adults in foster care. The commissioner shall adopt rules to implement statewide rates. In adopting rules, the commissioner shall consider existing maintenance and difficulty of care rates so that, to the extent possible, an adult for whom a maintenance or difficulty of care rate is established will*

*not be adversely affected.*

*Subd. 6.* [STATEWIDE RATE SETTING SYSTEM.] *The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in residences with negotiated rates to be effective January 1, 1992, or as soon as possible after that date. The commissioner may adopt rules to establish this rate setting system.*

*Subd. 7.* [RATE INCREASES.] *The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less.*

*Subd. 8.* [STATE PARTICIPATION.] *For a resident of a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, state participation in the negotiated rate is determined according to section 256D.03, subdivision 2. For a resident of a negotiated rate facility who is eligible under sections 256D.33 to 256D.54, state participation in the negotiated rate is determined according to section 256D.36.*

*Subd. 9.* [PERSONAL NEEDS ALLOWANCE.] *In addition to the negotiated rate paid for the room and board costs, a person residing in a negotiated rate residence shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.*

Sec. 120. [256I.06] [PAYMENT METHODS.]

*When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may be issued as a voucher or vendor payment. When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.*

Sec. 121. Minnesota Statutes 1988, section 268.0111, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT AND TRAINING SERVICES.] "Employment and training services" means programs, activities, and services related to job training, job placement, and job creation including job service programs, job training partnership act programs, wage subsidies, ~~work incentive programs,~~ work readiness programs, ~~employment~~ *job* search, counseling, *case management,* community work experience programs, displaced homemaker programs, disadvantaged job training programs, grant diversion, employment experience programs, youth employment programs, conservation corps, apprenticeship programs, community investment programs, supported work programs, community development corporations, economic development programs, and opportunities industrialization centers.

Sec. 122. Minnesota Statutes 1988, section 268.0111, is amended by adding a subdivision to read:

*Subd. 5a.* [INDIAN TRIBE.] *For purposes of employment and training services, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and for which a reservation exists as is consistent*

*with Public Law Number 100-485, as amended.*

Sec. 123. Minnesota Statutes 1988, section 268.0122, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] The commissioner of jobs and training shall:

(1) administer and supervise all forms of unemployment insurance provided for under federal and state laws that are vested in the commissioner;

(2) administer and supervise all employment and training services assigned to the department of jobs and training under federal or state law;

(3) review and comment on local service unit plans and community investment program plans and approve or disapprove the plans;

(4) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

(5) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(6) establish administrative standards and payment conditions for providers of employment and training services;

(7) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner; ~~and~~

(8) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services; *and*

*(9) review and comment on plans for Indian tribe employment and training services and approve or disapprove the plans.*

Sec. 124. Minnesota Statutes 1988, section 268.0122, subdivision 3, is amended to read:

Subd. 3. [DUTIES AS A STATE AGENCY.] The commissioner shall:

(1) administer the unemployment insurance laws and related programs;

(2) administer the aspects of aid to families with dependent children, general assistance, work readiness, and food stamps that relate to employment and training services, subject to the contract under section 268.86, subdivision 2;

(3) administer wage subsidies and the discretionary employment and training fund;

(4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;

(5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(6) enter into agreements with other departments of the state and local units of government as necessary;

(7) certify employment and training service providers and decertify service providers that fail to comply with performance criteria according to standards established by the commissioner;

(8) provide consistent, integrated employment and training services across the state;

(9) establish the standards for all employment and training services administered under this chapter;

(10) develop standards for the contents and structure of the local service unit plans *and plans for Indian tribe employment and training services*;

(11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(12) identify underserved populations, unmet service needs, and funding requirements;

(13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; ~~and~~

(14) submit to the governor, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semiannual report that:

(a) reports, by client classification, an unduplicated count of the kinds and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients;

(c) identifies the number of cooperative agreements in place, the number of individuals being served, and the kinds of service provided them;

(d) evaluates the performance of services, such as wage subsidies, community investments, work readiness, and grant diversions; and

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment insurance fund and general assistance, work readiness, and aid to families with dependent children caseloads and program expenditures*; and*

*(15) enter into agreements with Indian tribes as necessary to provide employment and training services as funds become available.*

Sec. 125. Minnesota Statutes 1988, section 268.86, subdivision 2, is amended to read:

Subd. 2. [INTERAGENCY AGREEMENTS.] By October 1, 1987, the commissioner and the commissioner of human services shall enter into a written contract for the design, delivery, and administration of employment and training services for applicants for or recipients of food stamps or aid to families with dependent children and work readiness, including AFDC employment and training programs, grant diversion, and supported work. The contract must be approved by the coordinator and must address:

(1) specific roles and responsibilities of each department;

(2) assignment and supervision of staff for interagency activities including any necessary interagency employee mobility agreements under the administrative procedures of the department of employee relations;

(3) mechanisms for determining the conditions under which individuals participate in services, their rights and responsibilities while participating, and the standards by which the services must be administered;

(4) procedures for providing technical assistance to local service units, *Indian tribes*, and employment and training service providers;

(5) access to appropriate staff for ongoing development and interpretation of policy, rules, and program standards;

(6) procedures for reimbursing appropriate agencies for administrative expenses; and

(7) procedures for accessing available federal funds.

Sec. 126. Minnesota Statutes 1988, section 268.871, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] Each employment and training service provider under contract with a local service unit *or an Indian tribe* to deliver employment and training services must submit an annual report by March 1 to the local service unit *or the Indian tribe*. The report must specify:

(1) the types of services provided;

(2) the number of priority and nonpriority AFDC recipients served, the number of work readiness assistance recipients served, and the number of other clients served;

(3) how resources will be prioritized to serve priority and nonpriority public assistance recipients and other clients; and

(4) the manner in which state employment and training funds and programs are being coordinated with federal and local employment and training funds and programs.

Sec. 127. Minnesota Statutes 1988, section 268.88, is amended to read:

268.88 [LOCAL SERVICE UNIT PLANS.]

(a) Local service units shall prepare and submit to the commissioner by April 15 of each year an annual plan for the subsequent ~~calendar~~ *fiscal* year. The commissioner shall notify each local service unit ~~by May 1 of each year~~ if *within 60 days of receipt of* its plan *that the plan* has been approved or disapproved. The plan must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

(2) the establishment of public assistance caseload reduction goals and the strategies and programs that will be used to achieve these goals;

(3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;

(4) the amount proposed to be allocated to each employment and training service;

(5) the proposed types of employment and training services the local service unit plans to utilize;

(6) a description of how the local service unit will use funds provided under section 256.736 to meet the requirements of that section. The description must include *the two work programs required by section 256.736*,

*subdivision 10, paragraph (a), clause (13),* what services will be provided, number of clients served, per service expenditures, *type of clients served,* and projected outcomes;

(7) a report on the use of wage subsidies, grant diversions, community investment programs, ~~sliding fee day care,~~ and other services administered under this chapter;

(8) an annual update of the community investment program plan according to standards established by the commissioner;

(9) a performance review of the employment and training service providers delivering employment and training services for the local service unit; ~~and~~

(10) a copy of any contract between the local service unit and an employment and training service provider including expected outcomes and service levels for public assistance clients; *and*

*(11) a copy of any other agreements between educational institutions, family support services, and child care providers.*

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the commissioner shall resolve their dispute. *In counties in which a federally recognized Indian tribe is operating an employment and training program under an agreement with the commissioner of human services, the plan must provide that the county will coordinate its employment and training programs, including developing a system for referrals, sanctions, and the provision of supporting services such as access to child care funds and transportation with programs operated by the Indian tribe. The plan may not be given final approval by the commissioner until the tribal unit and county have submitted written agreement on these provisions in the plan. If the county and Indian tribe cannot agree on these provisions, the local service unit shall notify the commissioner of jobs and training and the commissioners of jobs and training and human services shall resolve the dispute.*

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the commissioner until an acceptable amended plan has been submitted.

(d) ~~For 1987, local service unit plans must be submitted by October 1, 1987. The plan must include the implementation plan for aid to families with dependent children employment and training services as required under Laws 1987, chapter 403, article 3, section 91.~~ *Notwithstanding Minnesota Statutes 1988, section 268.88, local service units shall prepare and submit to the commissioner by June 1, 1989, an annual plan for fiscal year 1990. The commissioner shall notify each local service unit within 30 days of receipt of its plan if its plan has been approved or disapproved.*

Sec. 128. [268.881] [INDIAN TRIBE PLANS.]

*The commissioner, in consultation with the commissioner of human services, shall review and comment on Indian tribe plans submitted to the commissioner for provision of employment and training services. The plan must be submitted by April 15 for the state fiscal year ending June 30, 1990. For subsequent years, the plan must be submitted at least 60 days before the program commences. The commissioner shall approve or disapprove the plan for the state fiscal year ending June 30, 1990, within 30 days of receipt. The commissioner shall notify the Indian tribe of approval or disapproval of plans for subsequent years within 60 days of submission of the plans. The grant proposal must contain information that has been established by the commissioner and the commissioner of human services for the employment and training services grant program for Indian tribes.*

Sec. 129. Laws 1987, chapter 403, article 3, section 98, is amended to read:

Sec. 98. [REPEALER.]

Minnesota Statutes 1986, sections 257.34, subdivision 2; and section 268.86, subdivisions 1, 3, 4, and 5, are repealed. Section 95 is repealed effective ~~June 30, 1989~~ *October 1, 1990.*

Sec. 130. [IMPLEMENTATION.]

*The commissioner is authorized to proceed with the planning and designing of the Minnesota family investment plan, according to the requirements of Minnesota Statutes, sections 256.031 to 256.036. Sections 256.031 to 256.036 may not be implemented or enforced until the legislature authorizes a specific date for implementation either statewide or on a field trial basis. The definition of family in section 256.032, subdivision 7, shall not be construed to define what an assistance unit or filing unit is in the Minnesota family investment plan on and after the effective date of sections 256.031 to 256.036, this section, and amendments to section 256.045, subdivision 3, in section 13. The commissioner shall study the relevance of these concepts for the Minnesota family investment plan and include recommendations in the Minnesota family investment plan and funding request. The commissioner shall include in the Minnesota family investment plan a mechanism to empower the parental caregiver in a dispute regarding the contents of a contract. This mechanism shall be available before the caregiver is given a notice of intent to implement sanctions as required under section 256.035, subdivision 3. This mechanism may be a hearing under section 256.045.*

Sec. 131. [MIGRANT ISSUES TASK FORCE.]

*The department of human services, in coordination with the Minnesota housing finance agency, shall convene a task force to consider issues relating to public assistance and housing for migrant farm workers. The task force shall include migrant workers, representatives of communities in which migrant workers reside, employers of migrant workers, particularly agricultural employers, representatives of housing agencies, and representatives of advocacy groups. The task force shall report back to the legislature by February 1, 1990, with recommendations.*

Sec. 132. [PLAN AND FUNDING REQUEST.]

*After securing federal approval to implement the Minnesota family investment plan on a field trial basis, the commissioner shall submit a plan and funding request to the legislature for specific appropriations for the*

*implementation of field trials.*

Sec. 133. [REPEALER.]

*Subdivision 1.* [WELFARE REFORM.] *Minnesota Statutes 1988, sections 256D.051, subdivision 6a, and 268.86, subdivision 7, are repealed.*

*Subd. 2.* [AFDC AND MSA SIMPLIFICATION.] *(a) Sections 256D.01, subdivision 1c; and 256D.06, subdivisions 3, 4, and 6, are repealed.*

*(b) Sections 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; and 256D.43, are repealed.*

*Subd. 3.* [GENERAL ASSISTANCE AND WORK READINESS.] *Minnesota Statutes 1988, sections 256D.06, subdivisions 3, 4, 6, and 6a; and 256D.052, subdivisions 5, 6, and 7, are repealed effective October 1, 1990.*

Sec. 134. [EFFECTIVE DATES.]

*Sections 21; 42; 43; the changes in section 44 relating to the general assistance and work readiness programs; 45, subdivision 1c, paragraphs (b), (c), (d), and (e); 46 to 61; and 63 to 71, are effective October 1, 1990. Section 37 is effective October 1, 1989. Sections 92; 103, subdivisions 1, 2, 3, and 5; and 104, subdivision 3, are effective July 1, 1990. Section 129 is effective the day following final enactment.*

ARTICLE 6

REGIONAL TREATMENT CENTERS

Section 1. [FINDING.]

*The legislature finds that it is beneficial to encourage the placement of persons requiring residential, health care, and treatment services in community-based facilities and in the regional treatment centers. It is the policy of the state to:*

*(1) carry out measures that encourage the delivery of these services in a manner that ensures fair and equitable arrangements to protect the interests of the affected residents, family members, employees, providers, and communities; and*

*(2) provide adequate staff and funding at regional treatment centers and all state facilities to ensure that existing programs and new programs that may be developed meet all licensing and certification standards and contemporary standards of care.*

Sec. 2. [245.073] [TECHNICAL TRAINING ASSISTANCE TO COMMUNITY-BASED PROGRAMS.]

*In conjunction with the discharge of persons from regional treatment centers and their admission to state-operated and privately operated community-based programs, the commissioner may provide technical training assistance to the community-based programs. The commissioner may apply for and accept money from any source including reimbursement charges from the community-based programs for reasonable costs of training. Money received must be deposited in the general fund and is appropriated annually to the commissioner of human services for training under this section.*

Sec. 3. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

*Subd. 3.* [REVIEW OF FUNDING.] *The commissioner shall complete a review of funding for mental health services and make recommendations for any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature by January 31, 1991.*

Sec. 4. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

*Subd. 4.* [REPORT ON PREADMISSION SCREENING.] *The commissioner shall review the statutory preadmission screening requirements for psychiatric hospitalization, both in the regional treatment centers and other hospitals, to determine if changes in preadmission screening are needed. The commissioner shall deliver a report of the review to the legislature by January 31, 1990.*

Sec. 5. [245.652] [CHEMICAL DEPENDENCY SERVICES FOR REGIONAL TREATMENT CENTERS.]

*Subdivision 1.* [PURPOSE.] *The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and increase effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64.*

*Subd. 2.* [SERVICES OFFERED.] *Services provided must include, but are not limited to, the following:*

*(1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with a person's chemical dependency or chemical abuse problems;*

*(2) follow-up care to persons discharged from regional treatment center programs;*

*(3) outpatient treatment programs; and*

*(4) other treatment services, as appropriate and as provided under contract or shared service agreements.*

*Subd. 3.* [PERSONS SERVED.] *The regional treatment centers shall provide services primarily to adolescent and adult residents of the state.*

*Subd. 4.* [SYSTEM LOCATIONS.] *Programs shall be located in Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and Willmar.*

Sec. 6. Minnesota Statutes 1988, section 246.18, is amended by adding a subdivision to read:

*Subd. 3a.* [CONTINGENCY FUND.] *A separate interest-bearing account must be established in accordance with subdivision 3 for use by the commissioner of human services in contingency situations related to chemical dependency programs operated by the regional treatment centers or state nursing homes. Within the limits of appropriations made available for this purpose, money must be provided to each regional treatment center to enable each center to continue to provide chemical dependency services.*

Sec. 7. Minnesota Statutes 1988, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.] Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers ~~and~~, state nursing homes,

*and other state facilities as defined in section 246.50, subdivision 3,* must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 8. Minnesota Statutes 1988, section 246.36, is amended to read:

246.36 [ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.]

For the purpose of carrying out a duty, the commissioner of human services shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies, or persons, for uncompensated and voluntary services, as the commissioner may deem practicable. *Uncompensated and voluntary services do not include services mandated by licensure and certification requirements for health care facilities.* The volunteer agencies, organizations, or persons who provide services to residents of state ~~hospitals~~ ~~shall~~ *facilities operated under the authority of the commissioner are* not ~~be~~ subject to the procurement requirements of chapters 16A and 16B. The agencies, organizations, or persons may purchase supplies, services, and equipment to be used in providing services to residents of state ~~hospitals~~ *facilities* through the department of administration.

Sec. 9. Minnesota Statutes 1988, section 246.57, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] The commissioner of human services may authorize any ~~regional center or state operated nursing home~~ *state facility operated under the authority of the commissioner* to enter into agreement with other governmental entities and both nonprofit and ~~profit health service~~ *for-profit* organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and ~~health service~~ organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any regional center or state nursing home as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis ~~and~~. All receipts ~~shall be deposited in the general fund. The receipts are appropriated to the commissioner of human services for the duration of the shared service agreement to make expenditures under the agreement that are not covered by other appropriations~~ *for shared services may be retained by the regional treatment center or state-operated nursing home that provided the services, in addition to other funding the regional treatment center or state-operated nursing home receives.*

Sec. 10. [246.70] [SERVICES TO FAMILIES.]

*(a) The commissioner shall publicize the planned changes to the facilities operated by the commissioner. A parent, other involved family member, or private guardian of a resident of a facility must be notified of the changes planned for each facility. When new services developed for a person require*

*the person to move, the commissioner shall provide each parent, family member, and guardian of that person with the following:*

*(1) names and telephone numbers of the state and county contacts;*

*(2) information on types of services to be developed;*

*(3) information on how the individual planning process works, including how alternative placements will be determined, and how family members can be involved;*

*(4) information on the process to be followed when a parent, other family member, or guardian disagrees with the proposed services; and*

*(5) a list of additional resources such as advocates, local volunteer coordinators, and family groups.*

*(b) At least one staff person in each facility must be available to provide information about:*

*(1) community placements;*

*(2) the opportunity for interested family members and guardians to participate in program planning; and*

*(3) family support groups.*

Sec. 11. Minnesota Statutes 1988, section 251.011, subdivision 4, is amended to read:

Subd. 4. [OAK TERRACE NURSING HOME.] Any portion or unit of Glen Lake Sanitarium not used for the treatment of tuberculosis patients may be used by the commissioner of human services for the care of geriatric patients, under the name of Oak Terrace Nursing Home.

The commissioner of administration may lease any portion or unit of Oak Terrace Nursing Home for the purpose of providing food and shelter for the homeless.

*The facility at Oak Terrace must be closed as soon as a reasonable plan for relocation of its residents can be safely implemented and employee mitigation measures completed, but no later than July 1, 1992. Relocation of persons must be carefully planned and take into account any remaining ties the person has to family or community, available capacity in private and state-operated nursing homes, and personal choices and needs of the resident. Relocation must be implemented according to Minnesota Rules, parts 4655.6810 to 4655.6830 and 9546.0010 to 9546.0060.*

Sec. 12. Minnesota Statutes 1988, section 251.011, is amended by adding a subdivision to read:

*Subd. 4a.* [NURSING HOME BEDS AT REGIONAL TREATMENT CENTERS.] *The commissioner shall operate the following number of nursing home beds at regional treatment centers in addition to current capacity: at Brainerd, 105 beds; at Cambridge, 70 beds; and at Fergus Falls, 85 beds. The commissioner may operate nursing home beds at other regional treatment centers as necessary to provide an appropriate level of care for persons served at those centers.*

Sec. 13. [251.012] [PROVISION OF NURSING HOME SERVICES.]

*Subdivision 1.* [NURSING HOME CARE.] *(a) The commissioner shall provide nursing home care to a person requiring and eligible for that level*

*of care when the person:*

*(1) is medically fragile or clinically challenging;*

*(2) exhibits severe or challenging behaviors; or*

*(3) requires treatment for an underlying mental illness.*

*(b) A person may be accepted for admission only after nursing home preadmission screening by the county.*

*Subd. 2.* [TECHNICAL ASSISTANCE.] *Within the limits of appropriations, the commissioner may expand the provision of technical assistance to community providers in handling the behavior problems of their residents, and with community placements for younger persons who have heavy nursing needs and behavior problems. Technical assistance may include site visits, consultation with providers, or provider training.*

*Subd. 3.* [AUXILIARY SERVICES.] *The nursing homes may enter into agreements according to section 246.57 to provide other services needed in the region that build on the services provided by the regional nursing homes and that are offered in conjunction with a community or community group.*

*Subd. 4.* [RESPITE CARE.] *Respite care may be offered when space is available if payment for the cost of care is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the nursing home, and if the individual meets the facility's admission criteria.*

Sec. 14. Minnesota Statutes 1988, section 252.025, is amended by adding a subdivision to read:

*Subd. 4.* [STATE-PROVIDED SERVICES.] *(a) It is the policy of the state to capitalize and recapitalize the regional treatment centers as necessary to prevent depreciation and obsolescence of physical facilities and to ensure they retain the physical capability to provide residential programs. Consistent with that policy and with section 252.50, and within the limits of appropriations made available for this purpose, the commissioner may establish, by June 30, 1991, the following state-operated, community-based programs for the least vulnerable regional treatment center residents: at Brainerd regional services center, two residential programs and two day programs; at Cambridge regional treatment center, four residential programs and two day programs; at Faribault regional treatment center, ten residential programs and six day programs; at Fergus Falls regional treatment center, two residential programs and one day program; at Moose Lake regional treatment center, four residential programs and two day programs; and at Willmar regional treatment center, two residential programs and one day program.*

*(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar, as follows:*

*(1) by July 1, 1998, continued regional treatment center capacity to serve 350 persons with developmental disabilities as follows: at Brainerd, 80 persons; at Cambridge, 12 persons; at Faribault, 110 persons; at Fergus Falls, 60 persons; at Moose Lake, 12 persons; at St. Peter, 35 persons; at*

*Willmar, 25 persons; and up to 16 crisis beds in the Twin Cities metropolitan area; and*

*(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at Moose Lake, 12 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.*

Sec. 15. [252.032] [ADMINISTRATIVE STRUCTURE.]

*Subdivision 1.* [REGIONAL STRUCTURE.] *The administrative structure of the state-operated system must be regional in character.*

*Subd. 2.* [STAFF; LOCATION OF FACILITIES.] *The administrative and professional staffs of the regional treatment centers must be based on campus. Community-based facilities and services must be located and operated so they facilitate the delivery of professional and administrative staff services from the regional treatment center campus. The regional treatment center professional staff and all other staff may deliver services that they deliver on campus throughout the catchment area.*

Sec. 16. [252.035] [REGIONAL TREATMENT CENTER CATCHMENT AREAS.]

*The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in effect on January 1, 1989, may not be modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers and with the chairs of the senate health and human services finance division and the house of representatives health and human services appropriation division.*

Sec. 17. [252.038] [PROVISION OF RESIDENTIAL SERVICES.]

*Subdivision 1.* [RESIDENTIAL CARE.] *The commissioner of human services may continue to provide residential care in regional treatment centers.*

*Subd. 2.* [TECHNICAL ASSISTANCE.] *To the extent of available money, the commissioner of human services may expand the capacity to provide technical assistance to community providers in handling the behavior problems of their patients. Technical assistance may include site visits, consultation with providers, or provider training.*

*Subd. 3.* [RESPITE CARE.] *Respite care may be provided in a regional treatment center when space is available if (1) payment for 20 percent of the prevailing facility per diem is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the regional treatment center and (2) provision of respite care to the individual meets the facility's admission criteria and licensing standards. The parent or guardian must consent to admission and sign a waiver of liability. Respite care is limited to 30 days within a calendar year. No preadmission screening process is required for a respite care stay under this subdivision.*

Sec. 18. Minnesota Statutes 1988, section 252.291, subdivision 2, is

amended to read:

Subd. 2. [EXCEPTIONS.] *(a)* The commissioner of human services in coordination with the commissioner of health may approve a newly constructed or newly established publicly or privately operated community intermediate care facility for six or fewer persons with mental retardation or related conditions only when ~~the following circumstances exist~~:

~~(a) when~~ *(1)* the facility is developed in accordance with a request for proposal approved by the commissioner of human services;

~~(b) when~~ *(2)* the facility is necessary to serve the needs of identified persons with mental retardation or related conditions who are seriously behaviorally disordered or who are seriously physically or sensorily impaired. ~~At least 50~~ *No more than 40* percent of the capacity ~~of the facility~~ *specified in the proposal submitted to the commissioner* must be used for persons ~~coming~~ *being discharged* from regional treatment centers; and

~~(c) when~~ *(3)* the commissioner determines that the need for increased service capacity cannot be met by the use of alternative resources or the modification of existing facilities.

*(b) The percentage limitation in paragraph (a), clause (2), does not apply to state-operated, community-based facilities.*

Sec. 19. Minnesota Statutes 1988, section 252.31, is amended to read:

252.31 [ADVISORY TASK FORCE.]

The commissioner of human services may appoint an advisory task force for *services to* persons with mental retardation, related conditions, or physical handicaps. The task force shall advise the commissioner relative to those laws ~~for~~ which the commissioner is responsible to administer and enforce relating to mental retardation or related conditions and physical disabilities. *The commissioner also may request the task force for advice on implementing a comprehensive plan of services necessary to provide for the transition of persons with mental retardation or related conditions from regional treatment centers services to community-based programs.* The task force shall consist of persons who are providers or consumers of service for persons with mental retardation, related conditions, or physical handicaps, or who are interested citizens. The task force shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Sec. 20. Minnesota Statutes 1988, section 252.41, subdivision 9, is amended to read:

Subd. 9. [VENDOR.] "Vendor" means a nonprofit legal entity that:

(1) is licensed under sections ~~245.781~~ *245A.01* to ~~245.812~~ *245A.16* and 252.28, subdivision 2, to provide day training and habilitation services to adults with mental retardation and related conditions; and

(2) does not have a financial interest in the legal entity that provides residential services to the same person or persons to whom it provides day training and habilitation services. This clause does not apply to regional *treatment* centers, *state-operated, community-based programs operating according to section 252.50 until July 1, 2000,* or vendors licensed prior to April 15, 1983.

Sec. 21. Minnesota Statutes 1988, section 252.50, is amended to read:

252.50 [STATE-OPERATED, ~~COMMUNITY-BASED RESIDENTIAL~~ PROGRAMS.]

Subdivision 1. [~~RESIDENTIAL~~ *COMMUNITY-BASED* PROGRAMS ESTABLISHED.] The commissioner ~~may~~ *shall* establish a system of ~~non-institutional,~~ state-operated, community-based ~~residential services~~ *programs* for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based ~~residential facility~~ *program*" means a ~~residential~~ program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the ~~facilities~~ *programs* must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based ~~residential facilities~~ *programs* must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental retardation or related conditions. ~~Services~~ *State-operated, community-based programs* may include, but are not limited to, community group homes, foster care, supportive living ~~arrangements~~ *services, day training and habilitation programs,* and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and ~~may~~ *shall*, within the limits of available appropriations, establish additional state-operated, community-based ~~services~~ *programs* for ~~regional treatment center residents~~ *persons* with mental retardation or related conditions. ~~Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program.~~ *State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with mental retardation or related conditions who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.*

Subd. 2. [AUTHORIZATION TO BUILD OR PURCHASE.] Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based ~~residential facilities~~ *programs*. ~~Facilities~~ *Programs* must be ~~homelike and~~ adaptable to the needs of persons with mental retardation or related conditions *and residential programs must be homelike.*

Subd. 3. [ALTERNATIVE FUNDING MECHANISMS.] To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional *treatment* centers.

Subd. 4. [COUNTIES.] State-operated, community-based ~~residential facilities~~ *programs* may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation *or related conditions*. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with

county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

*Subd. 5.* [LOCATION OF PROGRAMS.] *(a) In determining the location of state-operated, community-based programs, the needs of the individual client shall be paramount. The commissioner shall also take into account:*

*(1) the personal preferences of the persons being served and their families as determined by Minnesota Rules, parts 9525.0015 to 9525.0165;*

*(2) location of the support services established by the individual service plans of the persons being served;*

*(3) the appropriate grouping of the persons served;*

*(4) the availability of qualified staff;*

*(5) the need for state-operated, community-based programs in the geographical region of the state; and*

*(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.*

*(b) State-operated, community-based programs must be located according to section 252.28.*

*Subd. 6.* [RATES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL RETARDATION.] *State-operated, community-based programs that meet the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, must be reimbursed consistent with Minnesota Rules, parts 9553.0010 to 9553.0080. State-operated, community-based programs that meet the definition of vendor in section 252.41, subdivision 9, must be reimbursed consistent with the rate setting procedures in sections 252.41 to 252.47 and Minnesota Rules, parts 9525.1200 to 9525.1330. This subdivision does not operate to abridge the statutorily created pension rights of state employees or collective bargaining agreements reached pursuant to chapter 179A.*

*Subd. 7.* [CRISIS SERVICES.] *Within the limits of appropriations, state-operated regional technical assistance must be available in each region to assist counties, residential and day programming staff, and families to prevent or resolve crises that could lead to a change in placement. Crisis capacity must be provided on all regional treatment center campuses serving persons with developmental disabilities. In addition, crisis capacity may be developed to serve 16 persons in the Twin Cities metropolitan area. Technical assistance and consultation must also be available in each region to providers and counties. Staff must be available to provide:*

*(1) individual assessments;*

*(2) program plan development and implementation assistance;*

*(3) analysis of service delivery problems; and*

*(4) assistance with transition planning, including technical assistance to counties and providers to develop new services, site the new services, and assist with community acceptance.*

*Subd. 8.* [SPIRITUAL CARE SERVICES.] *An organized means for providing spiritual care services and follow-up may be established as part of the comprehensive health care, congruent with the operational philosophy*

*of the department of human services, to residents of state-operated residential facilities and former residents discharged to private facilities, by persons certified for ministry in specialized settings.*

*Subd. 9.* [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] *The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services, including state-operated programs for persons with developmental disabilities.*

*The commissioner shall evaluate the progress of the development and quality of community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.*

*Subd. 10.* [RULES AND LICENSURE.] *Each state-operated residential and day habilitation service site shall be separately licensed and movement of residents between them shall be governed by applicable rules adopted by the commissioner.*

*Subd. 11.* [AGREEMENT AUTHORIZED.] *The agreement between the commissioner of human services, the state negotiator, and the bargaining representatives of state employees, dated March 10, 1989, concerning the department of human services plan to restructure the regional treatment centers, is ratified, subject to approval by the legislative commission on employee relations.*

Sec. 22. [252.51] [COMMUNITY PLANNING.]

*Each community where there is a regional treatment center shall establish a group to work with and advise the commissioner and the counties to:*

*(1) ensure community input in the development of community services for persons with developmental disabilities;*

*(2) assure consideration of family concern about choice of service settings;*

*(3) assist counties in recruiting new providers, capitalizing, and siting new day services and residential programs;*

*(4) work with the surrounding counties to coordinate development of services for persons with developmental disabilities;*

*(5) facilitate community education concerning services to persons with developmental disabilities;*

*(6) assist in recruiting potential supported employment opportunities;*

*(7) assist in developing shared services agreements among providers of service;*

*(8) coordinate with the development of state-operated services; and*

*(9) seek to resolve local transportation issues for people with developmental disabilities.*

*Funds appropriated to the department of human services for this purpose shall be transferred to the city in which the regional treatment center is located upon receipt of evidence from the city that such a group has been constituted and designated. The funds shall be used to defray the expenses of the group.*

*The membership of each community group must reflect a broad range*

*of community interests, including, at a minimum, families of persons with developmental disabilities, state employee unions, providers, advocates, and counties.*

Sec. 23. Minnesota Statutes 1988, section 252A.03, is amended by adding a subdivision to read:

*Subd. 4.* [ALTERNATIVES.] *Public guardianship or conservatorship may be imposed only when no acceptable, less restrictive form of guardianship or conservatorship is available. The commissioner shall seek parents, near relatives, and other interested persons to assume private guardianship for persons with developmental disabilities who are currently under public guardianship. If a person seeks to become a private guardian or conservator, costs to the person may be reimbursed under section 525.703, subdivision 3, paragraph (b). The commissioner must provide technical assistance to parents, near relatives, and interested persons seeking to become private guardians or conservators.*

Sec. 24. Minnesota Statutes 1988, section 253.015, is amended to read:

253.015 [LOCATION; MANAGEMENT; COMMITMENT; CHIEF EXECUTIVE OFFICER.]

*Subdivision 1.* [STATE HOSPITALS FOR PERSONS WITH MENTAL ILLNESS.] The state hospitals located at Anoka, *Brainerd*, Fergus Falls, ~~Hastings,~~ Moose Lake, ~~Rochester,~~ St. Peter, and Willmar shall constitute the state hospitals for ~~mentally ill~~ *persons with mental illness*, and shall be maintained under the general management of the commissioner of human services. The commissioner of human services shall determine to what state hospital persons with mental illness shall be committed from each county and notify the probate judge thereof, and of changes made from time to time. The chief executive officer of each hospital for persons with mental illness shall be known as the chief executive officer.

*Subd. 2.* [PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES.] *(a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.*

*(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program shall provide post-acute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.*

*(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital.*

Sec. 25. [253.016] [PURPOSE OF REGIONAL TREATMENT CENTERS.]

*The primary mission of the regional treatment centers for persons with*

*major mental illness is to provide inpatient psychiatric hospital services. The regional treatment centers are part of a comprehensive mental health system. Regional treatment center services must be integrated into an array of services based on assessment of individual needs.*

Sec. 26. [253.017] [TREATMENT PROVIDED BY REGIONAL TREATMENT CENTERS.]

*Subdivision 1.* [ACTIVE PSYCHIATRIC TREATMENT.] *The regional treatment centers shall provide active psychiatric treatment according to contemporary professional standards. Treatment must be designed to:*

*(1) stabilize the individual and the symptoms that required hospital admission;*

*(2) restore individual functioning to a level permitting return to the community;*

*(3) strengthen family and community support; and*

*(4) facilitate discharge, after care, and follow-up as patients return to the community.*

*Subd. 2.* [NEED FOR SERVICES.] *The commissioner shall determine the need for the psychiatric services provided by the department based upon individual needs assessments of persons in the regional treatment centers as required by section 245.474, subdivision 2, and an evaluation of: (1) regional treatment center programs, (2) programs needed in the region for persons who require hospitalization, and (3) available epidemiologic data. Throughout its planning and implementation, the assessment process must be discussed with the state advisory council on mental health in accordance with its duties under section 245.697. Continuing assessment of this information must be considered in planning for and implementing changes in state-operated programs and facilities for persons with mental illness. By January 31, 1990, the commissioner shall submit a proposal for renovation or new construction of the facilities at Anoka, Brainerd, Moose Lake, and Fergus Falls. Expansion may be considered only after a thorough analysis of need and in conjunction with a comprehensive mental health plan.*

*Subd. 3.* [DISSEMINATION OF ADMISSION AND STAY CRITERIA.] *The commissioner shall periodically disseminate criteria for admission and continued stay in a regional treatment center and security hospital. The commissioner shall disseminate the criteria to the courts of the state and counties.*

Sec. 27. [253.018] [PERSONS SERVED.]

*The regional treatment centers shall primarily serve adults. Programs treating children and adolescents who require the clinical support available in a psychiatric hospital may be maintained on present campuses until adequate state-operated alternatives are developed off campus according to the criteria of section 253.28, subdivision 2.*

Sec. 28. [253.28] [STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.]

*Subdivision 1.* [PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] *Beginning July 1, 1991, the commissioner may establish a system*

*of state-operated, community-based programs for persons with mental illness. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in community settings to persons with mental illness. Employees of the programs must be state employees under chapters 43A and 179A. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental illness. Services may include, but are not limited to, community residential treatment facilities for children and adults.*

*Subd. 2.* [LOCATION OF PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] *In determining the location of state-operated, community-based programs, the needs of the individual clients shall be paramount. The commissioner shall take into account:*

*(1) the personal preferences of the persons being served and their families;*

*(2) location of the support services needed by the persons being served as established by an individual service plan;*

*(3) the appropriate grouping of the persons served;*

*(4) the availability of qualified staff;*

*(5) the need for state-operated, community-based programs in the geographical region of the state; and*

*(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.*

*Subd. 3.* [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] *The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services including state-operated programs to persons with mental illness. The commissioner shall evaluate the progress of the development and quality of the community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1993.*

Sec. 29. Minnesota Statutes 1988, section 256B.092, subdivision 7, is amended to read:

Subd. 7. [SCREENING TEAMS ESTABLISHED.] *(a)* Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, 1987. For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental

retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

*(b) In addition to the requirements of paragraph (a), the following conditions apply to the discharge of persons with mental retardation or a related condition from a regional treatment center:*

*(1) For a person under public guardianship, at least two weeks prior to each screening team meeting the case manager must notify in writing parents, near relatives, and the ombudsman established under section 245.92 or a designee, and invite them to attend. The notice to parents and near relatives must include: (i) notice of the provisions of section 252A.03, subdivision 4, regarding assistance to persons interested in assuming private guardianship; (ii) notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7); and (iii) information about advocacy services available to assist parents and near relatives of persons with mental retardation or related conditions. In the case of an emergency screening meeting, the notice must be provided as far in advance as practicable.*

*(2) Prior to the discharge, a screening must be conducted under subdivision 8 and a plan developed under subdivision 1a. For a person under public guardianship, the county shall encourage parents and near relatives to participate in the screening team meeting. The screening team shall consider the opinions of parents and near relatives in making its recommendations. The screening team shall determine that the services outlined in the plan are available in the community before recommending a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman established under section 245.92, and the protection and advocacy system established under United States Code, title 42, section 6042, at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7). If a discharge occurs, the case manager and a staff person from the regional treatment center from which the person was discharged must conduct a monitoring visit as required in Minnesota Rules, part 9525.0115, within 90 days of discharge and provide an evaluation within 15 days of the visit to the person, legal representative, parents, near relatives, ombudsman, and the protection and advocacy system established under United States Code, title 42, section 6042.*

*(3) In order for a discharge or transfer from a regional treatment center to be approved, the concurrence of a majority of the screening team members is required. The screening team shall determine that the services outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the screening team cannot be changed except by subsequent action of the team and is binding on the county and on the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interests of the person, the commissioner or the county may seek judicial review of the screening team recommendation. A person or legal representative may appeal under section 256.045, subdivision 3 or 4a.*

*(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:*

*(i) For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately. For purposes of this paragraph, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed registered nurse.*

*(ii) For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as defined in paragraph (a), shall review the proposed community services to assure that the behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have at least one year of experience in the areas of assessment, planning, implementation, and monitoring of individual habilitation plans that have used behavior intervention techniques.*

*(5) No person with mental retardation or a related condition may be discharged from a regional treatment center before an appropriate community placement is available to receive the person.*

*(6) A resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than ten beds.*

*(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request a review under section 256.045, subdivision 4a, and may request reimbursement as allowed under section 256.045. The person must not be transferred from a regional treatment center while a review or appeal is pending. Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency plans to take. The conciliation conference must be conducted in a manner consistent with section 256.045, subdivision 4a. A person, legal representative, parent, or near relative of the person proposed to be discharged who is not satisfied with the results of the conciliation conference may submit to the commissioner a written request for a hearing before a state human services referee under section 256.045, subdivision 4a. The person, legal representative, parent, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days after the day the commissioner issued the order and by filing the original notice and proof of service with the court administrator of the district court. Judicial review must proceed under section 256.045, subdivisions 7 to 10. For a person under public guardianship, the ombudsman established under section 245.92 may object to a proposed discharge by requesting a review or hearing or by appealing to district court as provided in this clause. The*

*person must not be transferred from a regional treatment center while a conciliation conference or appeal of the discharge is pending.*

Sec. 30. Minnesota Statutes 1988, section 256B.092, subdivision 8, is amended to read:

Subd. 8. [SCREENING TEAM DUTIES.] The screening team shall:

(a) review diagnostic data;

(b) review health, social, and developmental assessment data using a uniform screening tool specified by the commissioner;

(c) identify the level of services ~~needed~~ *appropriate* to maintain the person in the most normal and least restrictive setting that is consistent with *the person's* treatment needs;

(d) identify other noninstitutional public assistance or social service that may prevent or delay long-term residential placement;

(e) assess whether a client is in ~~serious~~ need of long-term residential care;

(f) make recommendations regarding placement and payment for: (1) social service or public assistance support to maintain a client in the client's own home or other place of residence; (2) training and habilitation service, vocational rehabilitation, and employment training activities; (3) community residential placement; (4) ~~state hospital~~ *regional treatment center* placement; or (5) a home and community-based alternative to community residential placement or state hospital placement;

(g) *evaluate the availability, location, and quality of the services listed in paragraph (f), including the impact of placement alternatives on the client's ability to maintain or improve existing patterns of contact and involvement with parents and other family members;*

*(h)* identify the cost implications of recommendations in *paragraph* (f)~~, above~~;

~~(h)~~ *(i)* make recommendations to a court as may be needed to assist the court in making commitments of mentally retarded persons; and

~~(i)~~ *(j)* inform clients that appeal may be made to the commissioner pursuant to section 256.045.

Sec. 31. [256E.14] [GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

*For the biennium ending June 30, 1991, the commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:*

*(1) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and*

*(2) one-half of the appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed.*

Sec. 32. [STUDY OF PARENTAL INVOLVEMENT.]

*The commissioner of human services shall determine the number of persons transferred from public to private guardianship, and the increased involvement of parents and near relatives in the activities of screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, as a result of the adoption of sections 23, 29, and 30, and report the results of the study to the legislature by December 15, 1990.*

Sec. 33. [STUDY OF REGIONAL TREATMENT CENTER DISCHARGES.]

*The commissioner shall contract for a study of the progress of selected citizens who have been discharged from regional treatment centers since 1985 and shall report to the legislature on or before July 1, 1990. The study must be supervised and directed by the commissioner of human services."*

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, veterans nursing homes, and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 2; 16B.06, by adding a subdivision; 43A.27, subdivision 2; 62A.045; 62A.046; 62D.041, subdivision 1, and by adding a subdivision; 62D.042, subdivision 1; 62D.05, subdivision 6; 144.122; 144.50, subdivision 6, and by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144.698, subdivision 1; 144.701; 144.702, subdivision 2, and by adding subdivisions; 144A.01, subdivision 5, and by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.45, subdivision 2; 144A.46; 144A.61; 144A.611; 145.38, subdivision 1; 145.39, subdivision 1; 145.61, subdivision 5; 145.63; 145.882, subdivisions 1, 3, and 7; 145.894; 146.13; 147.02, subdivision 1; 148B.23, subdivision 1; 148B.27, subdivision 2; 148B.32, subdivision 2; 148B.40, subdivision 3; 149.02; 149.06; 153A.13, subdivision 4; 153A.15, subdivision 3; 153A.16; 157.14; 176.136, subdivisions 1 and 5; 214.04, subdivision 3; 214.06, subdivision 1; 237.70, subdivision 7; 237.701, subdivision 1; 245.461; 245.462; 245.463, subdivision 2, and by adding subdivisions; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1, 3, and by adding subdivisions; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivision 3; 245.696, subdivision 2; 245.697, subdivisions 1, 2, and 2a; 245.713, subdivision 2; 245.73, subdivisions 1, 2, and 4; 245.771, subdivision 3; 245.91, by adding a subdivision; 245.94, subdivision 1, and by adding a subdivision; 245A.02, subdivisions 3, 9, 10, 14, and by adding subdivisions; 245A.03, subdivisions 1, 2, and 3; 245A.04, subdivisions 1, 3, 5, 6, 7, and by adding subdivisions; 245A.06, subdivisions 1, 5, and by adding a subdivision; 245A.07, subdivision 2; 245A.08, subdivision 5; 245A.095; 245A.12; 245A.13; 245A.14, subdivision 3, and by adding subdivisions; 245A.16, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.36; 246.50, subdivisions 3, 4, and 5; 246.51, by adding a subdivision; 246.54; 246.57, subdivision 1; 251.011, subdivision 4, and

by adding a subdivision; 252.025, by adding a subdivision; 252.27, subdivision 1; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.46, subdivisions 1, 2, 3, 4, 6, and 12; 252.47; 252.50; 252A.03, by adding a subdivision; 253.015; 253B.03, subdivision 6a; 254A.08, subdivision 2; 254B.02, subdivision 1; 254B.03, subdivisions 1 and 4; 254B.04, by adding a subdivision; 254B.06, subdivision 1; 254B.09, subdivisions 1, 4, and 5; 256.01, subdivision 2, and by adding a subdivision; 256.014, subdivision 1; 256.018; 256.045, subdivisions 1, 3, 4, 4a, 5, 6, 7, 10, and by adding a subdivision; 256.12, subdivision 14; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 11, 14, 16, and by adding subdivisions; 256.737; 256.74, subdivisions 1, 1a, and by adding a subdivision; 256.85; 256.87, subdivision 1a; 256.936, subdivisions 1, 2, and 4; 256.969; 256.974; 256.9741, subdivisions 3, 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; 256.975, subdivision 2; 256B.031, subdivision 5; 256B.04, subdivision 14, and by adding a subdivision; 256B.055, subdivisions 7 and 8; 256B.056, subdivisions 3, 4, and 5; 256B.062; 256B.0625, subdivisions 2, 13, 17, and by adding subdivisions; 256B.091, subdivision 3; 256B.092, subdivisions 7 and 8; 256B.14; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; 256B.48, subdivisions 1, 6, and 8; 256B.501, subdivisions 3, 3g, and by adding a subdivision; 256B.69, subdivisions 4, 5, 11, and by adding a subdivision; 256C.28, subdivision 3, and by adding subdivisions; 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1, 4, and by adding a subdivision; 256D.03, subdivisions 2, 3, and 4; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.101; 256D.111, subdivision 5; 256D.35, subdivisions 1, 7, and by adding subdivisions; 256D.36, subdivision 1, and by adding a subdivision; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.05, subdivision 3; 256E.08, subdivision 5; 256E.09, subdivisions 1 and 3; 256F.05, subdivisions 2, 3, and 4; 256G.03, subdivision 1; 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.07, subdivision 1; 256H.08; 256H.09; 256H.10, subdivision 3, and by adding a subdivision; 256H.11; 256H.12; 256H.15; 256H.18; 256H.20, subdivision 3; 257.071, subdivision 7; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 259.47, subdivision 5; 259.49, subdivision 2; 260.251, subdivision 1; 268.0111, subdivision 4, and by adding a subdivision; 268.0122, subdivisions 2 and 3; 268.08, subdivision 1; 268.31; 268.37, by adding a subdivision; 268.86, subdivision 2; 268.871, subdivision 5; 268.88; 287.12; 297.13, subdivision 1; 326.78, subdivision 2; 327C.02, subdivision 2; 357.021, subdivisions 2 and 2a; 517.08, subdivisions 1b and 1c; 518.54, subdivision 6; 518.551, subdivision 10, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivisions 1, 2, 4, and by adding subdivisions; 540.08; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 403, article 3, section 98; Laws 1988, chapter 689, article 2, sections 248 and 269, subdivision 2; Laws 1988, chapter 719, article 8, section 32; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; 157; 196; 245; 246; 251; 252; 253; 254A; 256; 256B; 256D; 256E; 256F; 256H; 259; 268; and 626; proposing coding for new law as Minnesota Statutes, chapter 256I; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 144A.61, subdivision 6; 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 245A.095, subdivision 3; 246.50, subdivisions 3a, 4a, and 9;

254B.09, subdivision 3; 254B.10; 256.87, subdivision 4; 256.969, subdivisions 2a, 3, 4, 5, and 6; 256B.0625, subdivision 21; 256B.17, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 256B.69, subdivisions 12, 13, 14, and 15; 256D.01, subdivision 1c; 256D.051, subdivision 6a; 256D.052, subdivisions 5, 6, and 7; 256D.06, subdivisions 3, 4, 6, and 6a; 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; 256D.43; 256E.05, subdivision 1; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; 256H.13; 268.86, subdivision 7; 518.613, subdivision 5; Laws 1987, chapter 403, article 5, section 1; Laws 1988, chapter 689, article 2, section 269, subdivision 4; Laws 1988, chapter 719, article 8, section 34."

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

House Conferees: (Signed) Lee Greenfield, Peter Rodosovich, Mary Murphy, Loren G. Jennings, Bob Anderson

Senate Conferees: (Signed) Don Samuelson, Howard A. Knutson, Marilyn M. Lantry, Pat Piper, Linda Berglin

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1759 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1759 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Chmielewski | Hughes | Marty | Purfeerst |
| Anderson | Cohen | Johnson, D.E. | McGowan | Ramstad |
| Beckman | Dahl | Johnson, D.J. | Mehrkens | Reichgott |
| Belanger | Decker | Knaak | Moe, D.M. | Renneke |
| Benson | Diessner | Knutson | Moe, R.D. | Samuelson |
| Berg | Frank | Kroening | Morse | Schmitz |
| Berglin | Frederick | Laidig | Olson | Solon |
| Bernhagen | Frederickson, D.J. | Langseth | Pariseau | Spear |
| Bertram | Frederickson, D.R. | Lantry | Pehler | Storm |
| Brandl | Freeman | Larson | Peterson, D.C. | Stumpf |
| Brataas | Gustafson | Luther | Piper | Vickerman |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Frank moved that the name of Mr. Solon be added as a co-author to S.F. No. 1018. The motion prevailed.

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 59, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 59 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 59

A bill for an act relating to public safety; authorizing bonding for capital improvements; appropriating money to convert a regional treatment center for use as an adult correctional facility and to operate the facility; appropriating money for a variety of correctional and treatment programs; revising and increasing penalties for controlled substance crimes; authorizing increased sentences and juvenile court reference for controlled substance crimes committed within a drug free school or park zone; increasing penalties for a variety of other crimes; providing for life imprisonment without supervised release for persons convicted of first degree murder or a third criminal sexual conduct offense; providing for sex offender treatment programs; providing that an inmate who completes a sex offender treatment program is eligible for an adjustment to the supervised release date; providing for the collection and admissibility of DNA evidence; modifying certain forfeiture provisions; permitting a school-sponsored alcohol awareness program; requiring reporting of newborns with signs of controlled substance exposure and reporting of certain controlled substance use by pregnant women; providing for toxicology testing; requiring an education program to protect unborn children from such prenatal exposure; providing for civil commitment of pregnant women for certain controlled substance use; establishing a community crime prevention grant program; providing a soft body armor reimbursement program; creating a drug abuse prevention resource council; establishing a child protection system study commission; providing for a community resources program for cities of the first class; appropriating money; amending Minnesota Statutes 1988, sections 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.15, subdivision 4a; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 243.05, subdivision 1; 244.05, subdivisions 1, 4, 5, and by adding a subdivision; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 256.01, by adding a subdivision; 260.125, subdivision 3; 260.161, subdivision 1; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.19; 609.195; 609.205; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.2665; 609.267; 609.323, subdivision 1; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision 1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2;

609.86, subdivision 3; 611A.038; 624.701; 624.712, subdivision 5; and 626.556, subdivisions 2, 3, and 10; proposing coding for new law in Minnesota Statutes, chapters 116K; 121; 144; 152; 241; 242; 244; 299A; 299C; 466A; 609; 626; 634; and 638; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 59, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 59 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [BOND SALE; APPROPRIATION FOR CAPITAL IMPROVEMENT.]

*Subdivision 1.* [APPROPRIATION; BOND SALE.] *$10,755,000 is appropriated from the state building fund to the department of administration to convert portions of the regional treatment center at Faribault for use as a medium security correctional facility for adult males.*

*To provide the money appropriated by this section from the state building fund, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $10,755,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

*Subd. 2.* [DEBT SERVICE.] *The commissioner of finance shall schedule the sale of state general obligation bonds authorized to be issued under this section so that, during the biennium ending June 30, 1991, no more than $1,553,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on them, in addition to limits in other law placed on debt service on state general obligation bonds for the biennium or either fiscal year of it. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.*

Sec. 2. [CRIME AND CORRECTIONS; APPROPRIATIONS.]

*The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1990" and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30,*

*1990, or June 30, 1991, respectively.*

SUMMARY BY FUND

| | 1990 | 1991 | TOTAL |
|---|---|---|---|
| General | $31,265,000 | $28,499,000 | $59,764,000 |

| | APPROPRIATIONS Available for the Year Ending June 30, 1990 | 1991 |
|---|---|---|
| Sec. 3. COMMISSIONER OF CORRECTIONS | | |
| Subdivision 1. Appropriation by Fund | | |
| General Fund | $22,647,000 | $26,251,000 |
| The amounts that may be spent from the appropriations for each program and activity are more specifically described in the following subdivisions. | | |
| Subd. 2. Correctional Institutions | 14,470,000 | 16,519,000 |
| Of this amount $5,713,000 in fiscal year 1990 and $9,337,000 in fiscal year 1991 are to pay operating costs of the facility at Faribault. The department's complement is increased by up to 245 positions in both years of the biennium. | | |
| Of this amount $1,957,000 is to pay start-up costs associated with conversion of portions of the regional treatment center at Faribault to a medium-security correctional facility. | | |
| Of this amount, $63,000 in fiscal year 1990 and $332,000 in fiscal year 1991 are to establish and operate two additional sex offender programs within state correctional facilities. The department's complement is increased by one position in 1990 and up to eight positions in 1991. | | |
| Any unexpended money in the fiscal year 1990 appropriation for conversion and operation of the facility at Faribault is available in fiscal year 1991. | | |
| During the biennium ending June 30, 1991, the commissioner shall give preference in recruiting, training, and hiring to employees of the department of human services whose positions are eliminated by implementation of the regional treatment center restructuring plan when filling correctional facility positions located on regional treatment center campuses. | | |

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on a campus of a regional treatment center shall include provisions for operation of the kitchen and laundry facilities by the commissioner of human services. The department of human services shall operate the kitchen and laundry facilities until the department of human services has completed its restructuring plan at the regional treatment center.

Rogers Hall at Faribault regional treatment center may be used by the department of human services for developmentally disabled persons and may not be used by the department of corrections until the legislature specifically authorizes another use for the building.

The commissioner may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

| | | |
|---|---|---|
| Subd. 3. Community Services | 7,734,000 | 9,020,000 |

Of this amount, $40,000 each year is for the West Central Juvenile Center, $50,000 in 1990 and $100,000 in 1991 is for the Central Juvenile Center, and $5,000 each year is for the Leech Lake Youth Center for grants under Minnesota Statutes, section 241.022.

Of this amount, $75,000 in each year is to be used as a grant to an existing statewide coalition of sexual assault programs, providers, and agencies. Grant money may be used to promote the availability of services to all sexual assault victims throughout the state; to educate the general public and professionals in related fields about victimization issues through programs, publications, and the media; to provide training on issues of common concern to sexual assault service programs through conferences, workshops, and forums; and to offer an opportunity for providers, programs, and

agencies to share expertise, experience, and knowledge about sexual assault issues.

Of this amount, $75,000 in 1990 is a one-time appropriation to the St. Louis County Task Force on Children and Youth to conduct a study with the following objectives: to examine and identify causes of problems faced by children and youth in St. Louis County; to identify resources and gaps in services in the existing service system for children and youth; to make recommendations regarding possible prevention and early intervention initiatives; to improve coordination efforts among agencies, organizations, and systems serving youth in St. Louis County; and to contribute to greater public awareness and recognition of the needs, problems, and concerns of children and youth.

Of this amount, $150,000 in each year is for residential and outpatient sex offender treatment and after care when required for conditional release or as a condition of supervised release.

Of this amount, $1,000,000 in 1991 is for juvenile and adult sex offender treatment pilot programs.

The commissioner may transfer unencumbered grant money to fund the department's fiscal year 1989 general fund shortage.

| | | |
|---|---|---|
| Subd. 4. Management Services | 443,000 | 712,000 |
| Sec. 4. SENTENCING GUIDELINES COMMISSION | 20,000 | 38,000 |

Of this amount, $38,000 in 1991 is to study the mandatory minimum sentencing law. The commission shall submit a report to the legislature by February 1, 1991, summarizing its findings and recommending any changes necessary to improve the mandatory minimum sentencing law.

Of this amount, $20,000 in 1990 is for the local correctional resource data collection study.

| | | |
|---|---|---|
| Sec. 5. COMMISSIONER OF STATE PLANNING | 7,129,000 | 0 |

This appropriation is for the community resources program. Any unencumbered balance remaining in the first year does

not cancel but is available for the second year.

| | | |
|---|---|---|
| Sec. 6. COMMISSIONER OF PUBLIC SAFETY | 1,169,000 | 1,610,000 |

Of this amount, $419,000 in 1990 and $860,000 in 1991 is appropriated to the bureau of criminal apprehension to establish and operate a laboratory to perform DNA analysis and to establish a system for collecting and maintaining DNA analysis data and human biological specimens. The staff complement of the bureau is increased by up to ten positions.

Of this amount, $100,000 in each year is to be used for grants to establish community crime reduction pilot projects.

Of this amount, $125,000 in each year is for community drug prevention and education grants, and $25,000 in each year is for multidisciplinary chemical abuse prevention teams.

Of this amount, $175,000 in each year is appropriated to the bureau of criminal apprehension for the drug abuse resistance education training program. The staff complement is increased by up to three positions.

Of this amount, $175,000 in each year is for the office of drug policy and the drug abuse prevention resource council. The staff complement of the office of drug policy is not more than two positions. The staff complement of the council is not more than three positions.

Of this amount, $150,000 in each year is for the soft body armor reimbursement program.

| | | |
|---|---|---|
| Sec. 7. COMMISSIONER OF HUMAN SERVICES | 300,000 | 600,000 |

This appropriation is for grants to agencies providing chemical dependency treatment to pregnant women and mothers.

ARTICLE 2

SENTENCING PROVISIONS

Section 1. Minnesota Statutes 1988, section 14.02, subdivision 4, is amended to read:

Subd. 4. [RULE.] "Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and

repeals of rules, adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure. It does not include (a) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; (b) rules of the commissioner of corrections relating to *the placement and supervision of inmates serving a supervised release term*, the internal management of institutions under the commissioner's control and those rules governing the inmates thereof prescribed pursuant to section 609.105; (c) rules of the division of game and fish published in accordance with section 97A.051; (d) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs; (e) opinions of the attorney general; (f) the systems architecture plan and long-range plan of the state education management information system provided by section 121.931; (g) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932; (h) the occupational safety and health standards provided in section 182.655.

Sec. 2. Minnesota Statutes 1988, section 243.05, subdivision 1, is amended to read:

Subdivision 1. [CONDITIONAL RELEASE.] The commissioner of corrections may parole any person sentenced to confinement in any state correctional facility for adults under the control of the commissioner of corrections, provided that:

(a) no inmate serving a life sentence for *committing* murder *before May 1, 1980,* other than murder committed in violation of clause (1) of section 609.185 who has not been previously convicted of a felony shall be paroled without having served 20 years, less the diminution that would have been allowed for good conduct had the sentence been for 20 years;

(b) no inmate serving a life sentence for *committing* murder *before May 1, 1980,* who has been previously convicted of a felony or though not previously convicted of a felony is serving a life sentence for murder in the first degree committed in violation of clause (1) of section 609.185 shall be paroled without having served 25 years, less the diminution which would have been allowed for good conduct had the sentence been for 25 years;

(c) any inmate sentenced prior to September 1, 1963 who would be eligible for parole had the inmate been sentenced after September 1, 1963, shall be eligible for parole; and

(d) any new rule or policy or change of rule or policy adopted by the commissioner of corrections which has the effect of postponing eligibility for parole has prospective effect only and applies only with respect to persons committing offenses after the effective date of the new rule or policy or change. Upon being paroled and released, an inmate is and remains in the legal custody and under the control of the commissioner, subject at any time to be returned to a facility of the department of corrections established by law for the confinement or treatment of convicted persons and the parole rescinded by the commissioner. The written order of the commissioner of corrections, is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on parole or supervised release, but any state parole and probation agent may, without order of warrant, when it appears necessary in order to prevent escape or enforce discipline, take and detain a parolee or

person on supervised release or work release to the commissioner for action. The written order of the commissioner of corrections is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on probation under the supervision of the commissioner pursuant to section 609.135, but any state parole and probation agent may, without an order, when it appears necessary in order to prevent escape or enforce discipline, retake and detain a probationer and bring the probationer before the court for further proceedings under section 609.14. Persons conditionally released, and those on probation under the supervision of the commissioner of corrections pursuant to section 609.135 may be placed within or outside the boundaries of the state at the discretion of the commissioner of corrections or the court, and the limits fixed for these persons may be enlarged or reduced according to their conduct.

In considering applications for conditional release or discharge, the commissioner is not required to hear oral argument from any attorney or other person not connected with an adult correctional facility of the department of corrections in favor of or against the parole or release of any inmates, but the commissioner may institute inquiries by correspondence, taking testimony or otherwise, as to the previous history, physical or mental condition, and character of the inmate, and to that end shall have authority to require the attendance of the chief executive officer of any state adult correctional facility and the production of the records of these facilities, and to compel the attendance of witnesses. The commissioner is authorized to administer oaths to witnesses for these purposes.

Sec. 3. [243.16] [NOTICE OF SEX OFFENDER'S ADDRESS.]

*Subdivision 1.* [TERMS.] *(a) For purposes of this section, the following terms have the meanings given.*

*(b) "Law enforcement authority" means with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.*

*(c) "Sex offender" means a person who has been convicted and sentenced under section 12, section 609.185, clause (2), section 609.342, 609.343, 609.344, or 609.345 and is serving or is being released to serve the supervised release portion of the sentence imposed or is on probation for that conviction unless the person is placed in a residential community-based facility.*

*Subd. 2.* [LOCATION REPORT REQUIRED.] *A probation officer shall report in writing to the appropriate law enforcement authority the address of a sex offender who is assigned to that probation officer:*

*(1) when the sex offender is released from a state correctional institution to serve the supervised release term or is released from a residential community-based facility; and*

*(2) when the sex offender changes addresses. A sex offender is deemed to change addresses when the sex offender remains at a new address for longer than two weeks and evinces an intent to take up residence there.*

*Subd. 3.* [USE OF INFORMATION.] *The information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes. When the sex offender is discharged from supervised release or probation, the probation officer shall inform all law enforcement agencies notified under*

*this section. Each agency shall then destroy the data.*

Sec. 4. Minnesota Statutes 1988, section 243.18, is amended to read:

243.18 [DIMINUTION OF SENTENCE.]

*Subdivision 1.* [GOOD TIME.] Every inmate sentenced for any term other than life, confined in a state adult correctional facility or on parole therefrom, may diminish the term of sentence one day for each two days during which the inmate has not violated any facility rule or discipline.

The commissioner of corrections, in view of the aggravated nature and frequency of offenses, may take away any or all of the good time previously gained, and, in consideration of mitigating circumstances or ignorance on the part of the inmate, may afterwards restore the inmate, in whole or in part, to the standing the inmate possessed before such good time was taken away.

*Subd. 2.* [WORK REQUIRED.] *An inmate for whom a work assignment is available may not earn good time under subdivision 1 for any day on which the inmate does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.*

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 2, is amended to read:

Subd. 2. [RULES.] The commissioner of corrections shall ~~promulgate rules for the placement and supervision of inmates serving a supervised release term. The rules shall also provide~~ *adopt by rule* standards and procedures for the revocation of supervised release, and shall specify the period of revocation for each violation of supervised release. Procedures for the revocation of supervised release shall provide due process of law for the inmate.

Sec. 6. Minnesota Statutes 1988, section 244.05, subdivision 4, is amended to read:

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] *An inmate serving a mandatory life sentence under section 10 must not be given supervised release under this section. An inmate serving a mandatory life sentence for conviction of murder in the first degree under section 609.185 must not be given supervised release under this section without having served a minimum term of 30 years.* An inmate serving a mandatory life sentence ~~shall~~ *under section 609.385 must* not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 7. Minnesota Statutes 1988, section 244.05, subdivision 5, is amended to read:

Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence *under section 609.185 or 609.385* after the inmate has served the minimum term of imprisonment specified in subdivision 4.

Sec. 8. Minnesota Statutes 1988, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate

sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing *and modifying* the sentencing guidelines, the *primary consideration of the* commission shall ~~take into substantial consideration~~ *be public safety. The commission shall also consider* current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 14.01 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 9. [609.152] [INCREASED SENTENCES FOR CERTAIN DANGEROUS AND CAREER OFFENDERS.]

*Subdivision 1.* [DEFINITIONS.] *(a) As used in this section, the following terms have the meanings given.*

*(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.*

*(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.*

*(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344;*

*609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; or any provision of chapter 152 that is punishable by a maximum term of imprisonment of 15 years or more.*

*Subd. 2.* [INCREASED SENTENCES; DANGEROUS OFFENDERS.] *Whenever a person is convicted of a violent crime, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:*

*(1) the offender has two or more prior convictions for violent crimes; and*

*(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:*

*(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or*

*(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the sentencing guidelines.*

*Subd. 3.* [INCREASED SENTENCES; CAREER OFFENDERS.] *Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has more than four prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct from which a substantial portion of the offender's income was derived.*

Sec. 10. [609.184] [HEINOUS CRIMES.]

*Subdivision 1.* [TERMS.] *(a) A "heinous crime" is a violation of section 609.185, 609.19, 609.195, or a violation of section 609.342 or 609.343, if the offense was committed with force or violence.*

*(b) "Previous conviction" means a conviction in Minnesota of a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.*

*Subd. 2.* [LIFE WITHOUT RELEASE.] *The court shall sentence a person to life imprisonment without possibility of release when the person is convicted of first degree murder under section 609.185 and the person has one or more previous convictions for a heinous crime.*

Sec. 11. Minnesota Statutes 1988, section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent

to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, ~~or~~ escape from custody, *or any felony violation of chapter 152 involving the unlawful sale of a controlled substance*;

(4) causes the death of a peace officer or a guard employed at a Minnesota state correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties; or

(5) causes the death of a minor under circumstances other than those described in clause (1) or (2) while committing or attempting to commit child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.377, or 609.378.

Sec. 12. [609.196] [MANDATORY PENALTY FOR CERTAIN MURDERERS.]

*When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum term of imprisonment for the offense if the person was previously convicted of a heinous crime as defined in section 10 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.*

Sec. 13. Minnesota Statutes 1988, section 609.346, subdivision 2, is amended to read:

Subd. 2. [SUBSEQUENT *SEX* OFFENSE; PENALTY.] *Except as provided in section 14,* if a person is convicted ~~of a second or subsequent offense~~ under sections 609.342 to 609.345, within 15 years of ~~the prior~~ *a previous sex offense* conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135. The court may stay the execution of the sentence imposed under this ~~section~~ *subdivision* only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation: (1) incarceration in a local jail or workhouse; and (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

Sec. 14. Minnesota Statutes 1988, section 609.346, is amended by adding a subdivision to read:

*Subd. 2a.* [MAXIMUM SENTENCE IMPOSED.] *(a) The court shall sentence a person to a term of imprisonment of 37 years, notwithstanding the statutory maximum sentences under sections 609.342 and 609.343 if:*

*(1) the person is convicted under section 609.342 or 609.343; and*

*(2) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.*

*(b) Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and subdivision 2, the court may not stay imposition of the sentence required by this subdivision.*

Sec. 15. Minnesota Statutes 1988, section 609.346, subdivision 3, is amended to read:

Subd. 3. [~~PRIOR~~ *PREVIOUS SEX OFFENSE* CONVICTIONS ~~UNDER SIMILAR STATUTES~~.] For the purposes of this section, ~~an offense~~ *a conviction* is considered a ~~second or subsequent~~ *previous sex* offense *conviction* if ~~conviction of the actor for the offense follows or coincides with a conviction of~~ the ~~actor under~~ *person was convicted of a sex offense, before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of* sections 609.342 to 609.345 or ~~under~~ any similar statute of the United States, or this or any other state.

Sec. 16. Minnesota Statutes 1988, section 611A.038, is amended to read:

611A.038 [RIGHT TO SUBMIT STATEMENT AT SENTENCING.]

~~Subdivision 1. [IMPACT STATEMENT.]~~ A victim has the right to submit an impact statement~~, either orally or in writing,~~ to the court at the time of sentencing or disposition hearing. *The impact statement may be presented to the court orally or in writing, at the victim's option.* If the victim requests, the prosecutor must orally present the statement to the court.

Statements may include the following, subject to reasonable limitations as to time and length:

(1) a summary of the harm or trauma suffered by the victim as a result of the crime;

(2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and

(3) a victim's reaction to the proposed sentence or disposition.

Sec. 17. [DIRECTIVES TO GUIDELINES COMMISSION.]

*Subdivision 1.* [INTENTIONAL SECOND DEGREE MURDER.] *The sentencing guidelines commission shall increase the presumptive sentence of imprisonment for intentional second degree murder to 306 months for an offender with a criminal history score of zero. The commission shall*

*proportionally increase the presumptive sentences for higher criminal history scores and for attempted first degree murder.*

*Subd. 2.* [UNINTENTIONAL SECOND DEGREE MURDER AND THIRD DEGREE MURDER.] *The sentencing guidelines commission shall adjust the presumptive sentence of imprisonment for unintentional second degree murder and for third degree murder proportionally to reflect the increased presumptive sentence established under subdivision 1.*

Sec. 18. [EFFECTIVE DATE.]

*Sections 6, 7, and 10 to 15 are effective August 1, 1989, and apply to crimes committed on or after that date. The court shall consider convictions occurring before August 1, 1989, as prior convictions in sentencing offenders under sections 9, 10, and 12 to 15. Section 9 is effective August 1, 1990, and applies to crimes committed on or after that date.*

ARTICLE 3

CONTROLLED SUBSTANCE CRIMES

Section 1. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 5.* [HALLUCINOGEN.] *"Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.*

Sec. 2. Minnesota Statutes 1988, section 152.01, subdivision 7, is amended to read:

Subd. 7. [~~MANUFACTURING~~ *MANUFACTURE.*] "~~Manufacturing~~ *Manufacture*", in places other than a pharmacy, means and includes the production, *cultivation,* quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Sec. 3. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 9a.* [MIXTURE.] *"Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity.*

Sec. 4. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 12a.* [PARK ZONE.] *"Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, or a park and recreation board in a city of the first class. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.*

Sec. 5. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 14a.* [SCHOOL ZONE.] *"School zone" means:*

*(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123.932, subdivision 3, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or*

*where extracurricular or cocurricular activities are regularly provided;*

*(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and*

*(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.*

Sec. 6. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 15a.* [SELL.] *"Sell" means to sell, give away, barter, deliver, exchange, distribute or dispose of to another; or to offer or agree to do the same; or to manufacture.*

Sec. 7. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

*Subd. 16a.* [SUBSEQUENT CONTROLLED SUBSTANCE CONVICTION.] *"Subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted in Minnesota of a felony violation of this chapter or a felony-level attempt or conspiracy to violate this chapter, or convicted elsewhere for conduct that would have been a felony under this chapter if committed in Minnesota. An earlier conviction is not relevant if ten years have elapsed since: (1) the person was restored to civil rights; or (2) the sentence has expired, whichever occurs first.*

Sec. 8. [152.021] [CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.]

*Subdivision 1.* [SALE CRIMES.] *A person is guilty of controlled substance crime in the first degree if:*

*(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing ten grams or more of cocaine base;*

*(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;*

*(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or*

*(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.*

*Subd. 2.* [POSSESSION CRIMES.] *A person is guilty of a controlled substance crime in the first degree if:*

*(1) the person unlawfully possesses one or more mixtures containing 25 grams or more of cocaine base;*

*(2) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug;*

*(3) the person unlawfully possesses one or more mixtures of a total*

*weight of 500 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 500 or more dosage units; or*

*(4) the person unlawfully possesses one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.*

*Subd. 3.* [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than $1,000,000, or both.*

*(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than four years nor more than 40 years or to payment of a fine of not more than $1,000,000, or both.*

Sec. 9. [152.022] [CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.]

*Subdivision 1.* [SALE CRIMES.] *A person is guilty of controlled substance crime in the second degree if:*

*(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing three grams or more of cocaine base;*

*(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;*

*(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;*

*(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols; or*

*(5) the person unlawfully sells any amount of a Schedule I or II narcotic drug, and:*

*(i) the person unlawfully sells the substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or*

*(ii) the sale occurred in a school zone or a park zone.*

*Subd. 2.* [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the second degree if:*

*(1) the person unlawfully possesses one or more mixtures containing six grams or more of cocaine base;*

*(2) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;*

*(3) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or*

*(4) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols.*

*Subd. 3.* [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $500,000, or both.*

*(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than three years nor more than 40 years or to payment of a fine of not more than $500,000, or both.*

Sec. 10. [152.023] [CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.]

*Subdivision 1.* [SALE CRIMES.] *A person is guilty of controlled substance crime in the third degree if:*

*(1) the person unlawfully sells one or more mixtures containing a narcotic drug;*

*(2) the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;*

*(3) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols, to a person under the age of 18; or*

*(4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols.*

*Subd. 2.* [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the third degree if:*

*(1) the person unlawfully possesses one or more mixtures containing three grams or more of cocaine base;*

*(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;*

*(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;*

*(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units; or*

*(5) the person unlawfully possesses any amount of a Schedule I or II narcotic drug in a school zone or a park zone.*

*Subd. 3.* [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $250,000, or both.*

*(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than two years nor more than 30 years or to payment of a fine of not more than $250,000, or both.*

Sec. 11. [152.024] [CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.]

*Subdivision 1.* [SALE CRIMES.] *A person is guilty of controlled substance crime in the fourth degree if:*

*(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols;*

*(2) the person unlawfully sells one or more mixtures containing marijuana or Tetrahydrocannabinols to a person under the age of 18;*

*(3) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing marijuana or Tetrahydrocannabinols;*

*(4) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV or V to a person under the age of 18; or*

*(5) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in Schedule IV or V.*

*Subd. 2.* [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the fourth degree if:*

*(1) the person unlawfully possesses one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or*

*(2) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols, with the intent to sell it.*

*Subd. 3.* [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $100,000, or both.*

*(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than one year nor more than 30 years or to payment of a fine of not more than $100,000, or both.*

Sec. 12. [152.025] [CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.]

*Subdivision 1.* [SALE CRIMES.] *A person is guilty of controlled substance crime in the fifth degree if:*

*(1) the person unlawfully sells one or more mixtures containing marijuana or Tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or*

*(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV.*

*Subd. 2.* [POSSESSION AND OTHER CRIMES.] *A person is guilty of controlled substance crime in the fifth degree if:*

*(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or*

*(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:*

*(i) fraud, deceit, misrepresentation, or subterfuge;*

*(ii) using a false name or giving false credit; or*

*(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.*

*Subd. 3.* [PENALTY.] *(a) A person convicted under subdivision 1 or 2 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.*

*(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than six months nor more than ten years or to payment of a fine of not more than $20,000, or both.*

Sec. 13. [152.026] [MANDATORY SENTENCES.]

*A defendant convicted and sentenced to a mandatory sentence under sections 8 to 12 is not eligible for probation, parole, discharge, or supervised release until that person has served the full mandatory minimum term of imprisonment as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135.*

Sec. 14. [152.027] [OTHER CONTROLLED SUBSTANCE OFFENSES.]

*Subdivision 1.* [SALE OF SCHEDULE V CONTROLLED SUBSTANCE.] *A person who unlawfully sells one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.*

*Subd. 2.* [POSSESSION OF SCHEDULE V CONTROLLED SUBSTANCE.] *A person who unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.*

*Subd. 3.* [POSSESSION OF MARIJUANA IN A MOTOR VEHICLE.] *A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4 grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.*

*Subd. 4.* [POSSESSION OR SALE OF SMALL AMOUNTS OF MARIJUANA.] *(a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor punishable by a fine of up to $200*

*and participation in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.*

*(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.*

*(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.*

Sec. 15. [152.028] [PERMISSIVE INFERENCE OF KNOWING POSSESSION.]

*Subdivision 1.* [RESIDENCES.] *The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the factfinder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. The permissive inference does not apply to any person if:*

*(1) one of them legally possesses the controlled substance; or*

*(2) the controlled substance is on the person of one of the occupants.*

*Subd. 2.* [PASSENGER AUTOMOBILES.] *The presence of a controlled substance in a passenger automobile permits the factfinder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 8, 9, or 10. 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 controlled substance; or*

*(3) when the controlled substance is concealed on the person of one of the occupants.*

Sec. 16. [152.029] [PUBLIC INFORMATION: SCHOOL ZONES AND PARK ZONES.]

*The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones and school zones. The attorney general shall draft a plain language version of sections 9, 10 and 25 that describes in a clear and coherent manner using words with common and everyday meanings the contents of those sections. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards and local governments.*

Sec. 17. Minnesota Statutes 1988, section 152.096, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; PENALTIES.] Any person who conspires to commit any act prohibited by ~~section 152.09~~ *this chapter*, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Sec. 18. Minnesota Statutes 1988, section 152.097, is amended by adding a subdivision to read:

*Subd. 4.* [PENALTY.] *A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.*

Sec. 19. Minnesota Statutes 1988, section 152.151, is amended to read:

152.151 [REPORT TO LEGISLATURE.]

The state alcohol and drug authority shall ~~build into~~ *evaluate* the drug education program required by section ~~152.15, subdivision 2, proper evaluation~~ *14* and report directly each legislative session to the legislative standing committees having jurisdiction over the subject matter.

Sec. 20. [152.152] [STAYED SENTENCE LIMITED.]

*If a person is convicted under section 8, 9, or 10 and the sentencing guidelines grid calls for a presumptive prison sentence for the offense, the court may stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the court that the offender has been accepted by, and can respond to, a treatment program that has been approved by the commissioner of human services. The court may impose a sentence that is a mitigated dispositional departure on any other ground only if the court includes as a condition of probation incarceration in a local jail or workhouse.*

Sec. 21. Minnesota Statutes 1988, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person is found guilty of a violation of section ~~152.09, subdivision 1, clause (2)~~ *11, 12, or 14 for possession of a controlled substance*, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for such violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge the person from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions

of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against that person. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the department of public safety solely for the purpose of use by the courts in determining the merits of subsequent proceedings against such person. The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

Sec. 22. Minnesota Statutes 1988, section 152.20, is amended to read:

152.20 [PENALTIES UNDER OTHER LAWS.]

Any penalty imposed for violation of ~~Laws 1971, chapter 937~~ *this chapter* is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

Sec. 23. Minnesota Statutes 1988, section 152.21, subdivision 6, is amended to read:

Subd. 6. [EXEMPTION FROM CRIMINAL SANCTIONS.] For the purposes of this section, the following are not violations ~~listed in section 152.09 or 152.15~~ *under this chapter*:

(1) use or possession of THC, or both, by a patient in the research program;

(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from schedule I contained in section 152.02, subdivision 2, and inserted in schedule II contained in section 152.02, subdivision 3.

Sec. 24. Minnesota Statutes 1988, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not ~~less than three, nor~~ more than ~~five,~~ *ten* years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not

apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

Sec. 25. [244.095] [SENTENCING GUIDELINES MODIFICATION; UPWARD DEPARTURE FOR CERTAIN DRUG OFFENSES.]

*Subdivision 1.* [DEFINITIONS.] *(a) As used in this section, "park zone" and "school zone" have the meanings given them in sections 4 and 5.*

*(b) As used in this section, "controlled substance" has the meaning given in section 152.01, subdivision 4, but does not include a narcotic drug listed in schedule I or II.*

*Subd. 2.* [AGGRAVATING FACTOR FOR DRUG OFFENSES COMMITTED IN PARK ZONES AND IN SCHOOL ZONES.] *The commission shall modify the list of aggravating factors contained in the sentencing guidelines so as to authorize the sentencing judge to depart from the presumptive sentence with respect to either disposition or duration when the following circumstances are present:*

*(1) the defendant was convicted of unlawfully selling or possessing controlled substances in violation of chapter 152; and*

*(2) the crime was committed in a park zone or in a school zone.*

*This aggravating factor shall not apply to a person convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.*

*Subd. 3.* [REPORT TO LEGISLATURE.] *The commission shall collect data on the number and types of cases involving a sentencing departure based on the aggravating factor created in subdivision 2, and shall report its findings to the legislature on or before February 1, 1991.*

Sec. 26. Minnesota Statutes 1988, section 260.125, subdivision 3, is amended to read:

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) Has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months

which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) Is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang*; or*

*(9) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a public park zone or a school zone as defined in sections 4 and 5. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone.*

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 27. Minnesota Statutes 1988, section 609.11, subdivision 7, is amended to read:

Subd. 7. [PROSECUTOR SHALL ESTABLISH.] Whenever reasonable

grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present *on the record* all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court *on the record* at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine *on the record* at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Sec. 28. Minnesota Statutes 1988, section 609.11, subdivision 9, is amended to read:

Subd. 9. [APPLICABLE OFFENSES.] The crimes for which mandatory minimum sentences shall be served before eligibility for probation, parole, or supervised release as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; *a felony violation of chapter 152;* or any attempt to commit any of these offenses.

Sec. 29. Minnesota Statutes 1988, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5316, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, *the suburban Hennepin regional park district park rangers,* or a city or airport police department.

(f) "Designated offense" includes:

(1) For weapons used: any violation of this chapter;

(2) For all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322~~, subdivision 1 or 2~~; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; or 617.246.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 30. Minnesota Statutes 1988, section 609.5311, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is ~~$500~~ *$25* or more *and the conveyance device is associated with a felony-level controlled substance crime.*

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance is ~~$5,000~~ *$1,000* or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Sec. 31. Minnesota Statutes 1988, section 609.5314, subdivision 1, is amended to read:

Subdivision 1. [PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.] (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices;

or

(iii) forfeitable records of manufacture or distribution of controlled substances; and

(2) all conveyance devices containing controlled substances with a retail value of ~~$500~~ *$100* or more *if possession or sale of the controlled substance would be a felony under chapter 152.*

(b) A claimant of the property bears the burden to rebut this presumption.

Sec. 32. Minnesota Statutes 1988, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITION.] If the court finds under section 609.5313 or 609.5314 that the property is subject to forfeiture, it ~~may~~ *shall* order the appropriate agency to:

(1) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5;

(2) take custody of the property and remove it for disposition in accordance with law;

(3) forward the property to the federal drug enforcement administration;

(4) disburse money as provided under subdivision 5; or

(5) keep property other than money for official use by the agency and the prosecuting agency.

Sec. 33. Minnesota Statutes 1988, section 609.685, is amended by adding a subdivision to read:

*Subd. 1a.* [GROSS MISDEMEANOR.] *(a) Whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor.*

*(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.*

Sec. 34. Minnesota Statutes 1988, section 609.685, subdivision 2, is amended to read:

Subd. 2. [~~CRIME~~ *MISDEMEANOR.*] Whoever furnishes tobacco or tobacco related devices to a person under the age of 18 years is guilty of a misdemeanor.

Sec. 35. [SENTENCING GUIDELINES COMMISSION; STUDY OF MANDATORY MINIMUM SENTENCING LAW.]

*The sentencing guidelines commission shall study sentencing practices under section 609.11 to determine the following issues:*

*(1) whether prosecutors are complying with the statute's requirement to place on the record any evidence tending to show that a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;*

*(2) whether courts are complying with the statute's requirement to determine on the record the question of whether a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;*

*(3) the number of cases in which a prosecutor files a motion under*

*section 609.11, subdivision 8, seeking waiver of the mandatory minimum sentence, the reasons given in these cases to support the motion, and the disposition of these motions; and*

*(4) the number of cases in which the court, on its own motion, sentences a defendant without regard to the mandatory minimum sentence, the reasons given in these cases for the court's departure, and the sentences pronounced by the court.*

*The commission shall submit a written report to the legislature on or before February 1, 1991, summarizing its findings on this study and recommending any changes necessary to improve the operation of section 609.11.*

Sec. 36. [LOCAL CORRECTIONAL RESOURCES; DATA COLLECTION; NEEDS ASSESSMENT.]

*Subdivision 1.* [DUTIES OF THE SENTENCING GUIDELINES COMMISSION, COUNTIES, AND COMMISSIONER OF CORRECTIONS.] *The sentencing guidelines commission, with the assistance of the supreme court, the state planning agency, corrections administrators, and the commissioner of corrections, shall determine how more detailed information can be gathered on a routine basis on local sentencing practices, usage of local correctional resources, and local alternatives to incarceration for convicted felons. The corrections administrator for each county or group of counties participating in Minnesota Statutes, chapter 401, shall furnish data and information to assist the sentencing guidelines commission in making its determinations under this subdivision as the determinations pertain to the county or counties served by each administrator. In a like manner the commissioner of corrections shall furnish pertinent data on those counties which do not participate in Minnesota Statutes, chapter 401.*

*Subd. 2.* [NONIMPRISONMENT GUIDELINES PILOT PROJECT.] *The commissioner of corrections shall report to the sentencing guidelines commission on the results of its nonimprisonment guidelines pilot project when the project is completed. If the pilot project is not completed by July 1, 1990, the commissioner shall provide an interim report to the commission on or before that date.*

*Subd. 3.* [REPORT.] *The sentencing guidelines commission shall report to the legislature on or before February 1, 1991, describing what improvements have been made to address subdivision 1 and whether any legislative action is necessary to implement further improvements.*

Sec. 37. [REPEALER.]

*Minnesota Statutes 1988, sections 152.09; and 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5, are repealed.*

Sec. 38. [EFFECTIVE DATE.]

*Sections 1 to 24, 26 to 32, and 37 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date. Sections 33 and 34 are effective July 1, 1989, and apply to crimes committed on or after that date.*

ARTICLE 4

SEX OFFENDERS

Section 1. [241.67] [SEX OFFENDER TREATMENT; PROGRAMS; STANDARDS; DATA.]

*Subdivision 1.* [SEX OFFENDER TREATMENT.] *A sex offender treatment system is established under the administration of the commissioner of corrections to provide and finance a range of sex offender treatment programs for eligible adults and juveniles. Eligible offenders are:*

*(1) adults and juveniles committed to the custody of the commissioner;*

*(2) adult offenders for whom treatment is required by the court as a condition of probation; and*

*(3) juvenile offenders who have been found delinquent or received a stay of adjudication, for whom the juvenile court has ordered treatment.*

*Subd. 2.* [TREATMENT PROGRAM STANDARDS.] *By July 1, 1991, the commissioner shall adopt rules under chapter 14 for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities. The rules shall require that sex offender treatment programs be at least four months in duration. After July 1, 1991, a correctional facility may not operate a sex offender treatment program unless the program has met the standards adopted by and been certified by the commissioner of corrections. As used in this subdivision, "correctional facility" has the meaning given it in section 241.021, subdivision 1, clause (5).*

*Subd. 3.* [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] *(a) The commissioner shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, within the state adult correctional facility system. Participation in any treatment program is voluntary and is subject to the rules and regulations of the department of corrections. Nothing in this section requires the commissioner to accept or retain an offender in a treatment program. Nothing in this section creates a right of an offender to treatment.*

*(b) The commissioner shall provide for residential and outpatient sex offender treatment and aftercare when required for conditional release under section 12 or as a condition of supervised release.*

*Subd. 4.* [PROGRAMS FOR JUVENILE OFFENDERS COMMITTED TO THE COMMISSIONER.] *The commissioner shall provide for sex offender treatment programs for juveniles committed to the commissioner by the courts under section 260.185, as provided under section 2.*

*Subd. 5.* [PILOT PROGRAMS TO INCREASE ADULT AND JUVENILE SEX OFFENDER TREATMENT.] *(a) The commissioner shall designate three or more pilot programs to increase sex offender treatment for:*

*(1) adults convicted of a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.746, 609.79, 617.23, 617.246, or 617.247 who are sentenced by the court to incarceration in a local correctional facility or to sex offender treatment as a condition of probation; and*

*(2) juveniles found delinquent or receiving a stay of adjudication for a violation of one of those sections for whom the juvenile court has ordered sex offender treatment.*

*(b) At least one pilot program must be in the seven-county metropolitan area, at least one program must be outside the seven-county metropolitan area, at least one program must be in a community corrections act county, and at least one program must be in a noncommunity corrections act county.*

*(c) A public human services or community corrections agency may apply to the commissioner for a pilot program grant. The application must be submitted in a form approved by the commissioner and must include:*

*(1) a proposal to increase treatment availability for sex offenders sentenced by the district court in the county;*

*(2) evidence of participation by local correctional, human services, court, and treatment professionals in identifying the current treatment funding level in the county and unmet sex offender treatment needs; and*

*(3) any other content the commissioner may require.*

*The commissioner may appoint an advisory task force to assist in the review of applications and the award of grants.*

*Subd. 6.* [SPECIALIZED CORRECTIONS AGENTS AND PROBATION OFFICERS; SEX OFFENDER SUPERVISION.] *By January 1, 1990, the commissioner of corrections shall develop in-service training for state and local corrections agents and probation officers who supervise adult and juvenile sex offenders on probation or supervised release. The commissioner shall make the training available to all current and future corrections agents and probation officers who supervise or will supervise sex offenders on probation or supervised release.*

*After January 1, 1991, a state or local corrections agent or probation officer may not supervise adult or juvenile sex offenders on probation or supervised release unless the agent or officer has completed the in-service sex offender supervision training. The commissioner may waive this requirement if the corrections agent or probation officer has completed equivalent training as part of a post-secondary educational curriculum.*

*After January 1, 1991, when an adult sex offender is placed on supervised release or is sentenced to probationary supervision, and when a juvenile offender is found delinquent by the juvenile court for a sex offense and placed on probation or is paroled from a juvenile correctional facility, a corrections agent or probation officer may not be assigned to the offender unless the agent or officer has completed the in-service sex offender supervision training.*

Sec. 2. [242.195] [JUVENILE SEX OFFENDERS.]

*Subdivision 1.* [TREATMENT PROGRAMS.] *The commissioner of corrections shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, for juveniles within state juvenile correctional facilities and through purchase of service from county and private residential and outpatient juvenile sex offender treatment programs.*

*Subd. 2.* [SECURE CONFINEMENT.] *If a juvenile sex offender committed to the custody of the commissioner is in need of secure confinement, the commissioner shall provide for the appropriate level of sex offender treatment within a secure facility or unit in a state juvenile correctional facility.*

*Subd. 3.* [DISPOSITIONS.] *When a juvenile is committed to the commissioner of corrections by a juvenile court, upon a finding of delinquency for a sex offense, the commissioner may, for the purposes of treatment and rehabilitation:*

*(1) order the child confined to a state juvenile correctional facility that provides the appropriate level of juvenile sex offender treatment;*

*(2) purchase sex offender treatment from a county and place the child in the county's qualifying juvenile correctional facility;*

*(3) purchase sex offender treatment from a qualifying private residential juvenile sex offender treatment program and place the child in the program;*

*(4) purchase outpatient juvenile sex offender treatment for the child from a qualifying county or private program and order the child released on parole under treatment and other supervisions and conditions the commissioner believes to be appropriate;*

*(5) order reconfinement or renewed parole, revoke or modify any order, or discharge the child under the procedures provided in section 242.19, subdivision 2, paragraphs (c), (d), and (e); or*

*(6) refer the child to a county welfare board or licensed child-placing agency for placement in foster care, or when appropriate, for initiation of child in need of protection or services proceedings under section 242.19, subdivision 2, paragraph (f).*

*Subd. 4.* [QUALIFYING FACILITIES; TREATMENT PROGRAMS.] *The commissioner may not place a juvenile in a correctional facility under this section unless the facility has met the requirements of section 241.021, subdivision 2.*

Sec. 3. Minnesota Statutes 1988, section 244.04, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION OF SENTENCE.] Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.346, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate, *except that the period of supervised release for a sex offender sentenced and conditionally released by the commissioner under section 10, subdivision 5, is governed by that provision.*

Except as otherwise provided in subdivision 2, if an inmate violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of the term of imprisonment after the violation without earning good time.

Sec. 4. Minnesota Statutes 1988, section 244.05, subdivision 1, is amended to read:

Subdivision 1. [SUPERVISED RELEASE REQUIRED.] Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. *Except for a sex*

*offender conditionally released under section 10, subdivision 5*, the supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS FOR VIOLATION.] If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner may:

(1) continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) revoke the inmate's supervised release and reimprison the inmate for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence, *except that for a sex offender sentenced and conditionally released under section 10, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the original sentence imposed less good time earned under section 244.04, subdivision 1.*

Sec. 6. Minnesota Statutes 1988, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) A child placing agency; or

(2) The county welfare board; or

(3) A reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245.781 to 245.812; or

(4) ~~Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (d),~~ A county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) A county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) ~~Except for children found to be delinquent as defined in section~~

~~260.015, subdivision 5, clauses (c) and (d).~~ Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to $700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

*If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342, 609.343, 609.344, or 609.345, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment.*

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

~~This subdivision applies to dispositions of juveniles found to be delinquent as defined in section 260.015, subdivision 5, clause (c) or (d) made prior to, on, or after January 1, 1978.~~

Sec. 7. [299C.155] [STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS DATA AND RECORDS.]

*Subdivision 1.* [DEFINITION.] *As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.*

*Subd. 2.* [UNIFORM EVIDENCE COLLECTION.] *The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and*

*protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses.*

*Subd. 3.* [DNA ANALYSIS AND DATA BANK.] *The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis.*

*Subd. 4.* [RECORDS.] *The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject.*

Sec. 8. Minnesota Statutes 1988, section 526.10, is amended to read:

526.10 [LAWS RELATING TO MENTALLY ILL PERSONS DANGEROUS TO THE PUBLIC TO APPLY TO PSYCHOPATHIC PERSONALITIES; *TRANSFER TO CORRECTIONS.*]

*Subdivision 1.* [PROCEDURE.] Except as otherwise provided ~~herein~~ *in this section* or in chapter 253B, the provisions of chapter 253B, pertaining to persons mentally ill and dangerous to the public shall apply with like force and effect to persons having a psychopathic personality, to persons alleged to have such personality, and to persons found to have such personality, respectively. Before such proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists therefor, shall prepare the petition to be executed by a person having knowledge of the facts and file the same with the judge of the probate court of the county in which the "patient," as defined in such statutes, has a settlement or is present. The judge of probate shall thereupon follow the same procedures set forth in chapter 253B, for judicial commitment. The judge may exclude the general public from attendance at such hearing. If, upon completion of the hearing and consideration of the record, the court finds the proposed patient has a psychopathic personality, the court shall commit such person to a public hospital or a private hospital consenting to receive the person, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as provided for in chapter 253B for persons found to be mentally ill and dangerous to the public. The patient shall thereupon be entitled to all of the rights provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public, and all of the procedures provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public shall apply to such patient *except as otherwise provided in subdivision 2.*

*Subd. 2.* [TRANSFER TO CORRECTIONAL FACILITY.] *Unless the provisions of section 9 apply, if a person has been committed under this section and also has been committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:*

*(1) the person's unamenability to treatment;*

*(2) the person's unwillingness or failure to follow treatment recommendations;*

*(3) the person's lack of progress in treatment at the public or private hospital;*

*(4) the danger posed by the person to other patients or staff at the public or private hospital; and*

*(5) the degree of security necessary to protect the public.*

Sec. 9. [609.1351] [PETITION FOR CIVIL COMMITMENT.]

*When a court sentences a person under section 10, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section 526.10 may be appropriate. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney. If the person is subsequently committed under section 526.10, the person shall serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence the person shall be transferred to a facility designated by the commissioner of human services.*

Sec. 10. [609.1352] [PATTERNED SEX OFFENDERS; SPECIAL SENTENCING PROVISION.]

*Subdivision 1.* [SENTENCING AUTHORITY.] *A court may sentence a person to a term of imprisonment of not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, to a term of imprisonment equal to the statutory maximum, if:*

*(1) the court is imposing an executed sentence, based on a sentencing guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 2 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;*

*(2) the court finds that the offender is a danger to public safety; and*

*(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.*

*Subd. 2.* [PREDATORY CRIME.] *A predatory crime is a felony violation*

*of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1.*

*Subd. 3.* [DANGER TO PUBLIC SAFETY.] *The court shall base its finding that the offender is a danger to public safety on either of the following factors:*

*(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines; or*

*(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224, including an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 if committed by an adult.*

*Subd. 4.* [DEPARTURE FROM GUIDELINES.] *A sentence imposed under subdivision 1 is a departure from the sentencing guidelines.*

*Subd. 5.* [CONDITIONAL RELEASE.] *At the time of sentencing under subdivision 1, the court may provide that after the offender has completed one-half of the full pronounced sentence imposed, without regard to good time, the commissioner of corrections may place the offender on conditional release for the remainder of the statutory maximum period or for ten years, whichever is longer, if the commissioner finds that:*

*(1) the offender is amenable to treatment and has made sufficient progress in a sex offender treatment program available in prison to be released to a sex offender treatment program operated by the department of human services or a community sex offender treatment and reentry program; and*

*(2) the offender has been accepted in a program approved by the commissioner that provides treatment, aftercare, and phased reentry into the community.*

*The conditions of release must include successful completion of treatment and aftercare in a program approved by the commissioner and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced and the victim of the offender's crime, where available, of the terms of the offender's conditional release. Release may be revoked and the stayed sentence executed in its entirety less good time if the offender fails to meet any condition of release. The commissioner shall not dismiss the offender from supervision before the sentence expires.*

*Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.*

*Subd. 6.* [COMMISSIONER OF CORRECTIONS.] *The commissioner shall pay the cost of treatment of a person released under subdivision 5. This section does not require the commissioner to accept or retain an offender in a treatment program.*

Sec. 11. Minnesota Statutes 1988, section 609.341, subdivision 11, is amended to read:

Subd. 11. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a)

to (e), and (h) to ~~(j)~~ *(k)*, includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by coercion or the use of a position of authority, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or the use of a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

Sec. 12. Minnesota Statutes 1988, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~20~~ *25* years or to a payment of a fine of not more than ~~$35,000~~ *$40,000*, or both.

Sec. 13. Minnesota Statutes 1988, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~15~~ *20* years or to a payment of a fine of not more than ~~$30,000~~ *$35,000*, or both.

Sec. 14. Minnesota Statutes 1988, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to a payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 15. Minnesota Statutes 1988, section 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to a payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Sec. 16. [609.3461] [DNA ANALYSIS OF SEX OFFENDERS REQUIRED.]

*When a court sentences a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or the juvenile court adjudicates a person a delinquent child for violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, it shall order the person to provide a biological specimen for the purpose of DNA analysis as defined in section 7. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 7. If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, and committed to the custody of the commissioner of corrections for a term of imprisonment has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.*

Sec. 17. Minnesota Statutes 1988, section 628.26, is amended to read:

628.26 [LIMITATIONS.]

(a) Indictments or complaints for murder may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for violation of section 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(c) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within seven years after the commission of the offense *or, if the victim failed to report the offense within this limitation period, within two years after the offense was reported to law enforcement authorities, but in no event may an indictment or complaint be found or made after the victim attains the age of 25 years.*

(d) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3)(c) shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than $35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(f) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(g) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense; but the time during which the defendant shall not be an inhabitant of, or usually resident within, this state, shall not constitute any part of the limitations imposed by this section.

Sec. 18. [634.25] [ADMISSIBILITY OF RESULTS OF DNA ANALYSIS.]

*In a civil or criminal trial or hearing, the results of DNA analysis, as defined in section 10, are admissible in evidence without antecedent expert testimony that DNA analysis provides a trustworthy and reliable method of identifying characteristics in an individual's genetic material upon a showing that the offered testimony meets the standards for admissibility set forth in the Rules of Evidence.*

Sec. 19. [634.26] [STATISTICAL PROBABILITY EVIDENCE.]

*In a civil or criminal trial or hearing, statistical population frequency evidence, based on genetic or blood test results, is admissible to demonstrate the fraction of the population that would have the same combination of genetic markers as was found in a specific human biological specimen. "Genetic marker" means the various blood types or DNA types that an individual may possess.*

Sec. 20. [CHILD PROTECTION SYSTEM STUDY COMMISSION.]

*Subdivision 1.* [MEMBERSHIP.] *A child protection system study commission is created consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate subcommittee on subcommittees. The commission shall select from its membership a chair or co-chairs and other officers it considers necessary.*

*Subd. 2.* [STUDIES.] *The commission shall study:*

*(1) the current structure and operation of the child protection system at the state and county level;*

*(2) the current operation of the child abuse reporting act, including whether the reporting act should be expanded to mandate reports of emotional harm and threatened harm, and whether its definitions of physical and sexual abuse should be expanded to include threatened harm;*

*(3) the ways in which the child protection system can provide more effective intervention and prevention services for sexually aggressive and sexually abused children; and*

*(4) other ways in which the child protection system and the child abuse reporting act can be improved.*

*Subd. 3.* [REPORT.] *The commission shall report to the legislature on its findings and recommendations not later than February 15, 1990, and ceases to function after that date.*

*Subd. 4.* [COMPENSATION.] *Members of the commission must be compensated in the same manner as for other legislative meetings.*

Sec. 21. [EVALUATION OF SEX OFFENDER TREATMENT FUNDING.]

*Subdivision 1.* [EVALUATION.] *The commissioner of corrections and the commissioner of human services shall evaluate funding mechanisms for existing sex offender treatment programs. The commissioners must evaluate the funding of sex offender treatment programs for adults and juveniles and make findings concerning:*

*(1) the extent to which sex offender treatment programs are used on a statewide basis; and*

*(2) the effectiveness and adequacy of existing funding mechanisms.*

*Subd. 2.* [PILOT PROGRAM EVALUATION.] *The commissioner of corrections and the commissioner of human services shall evaluate the pilot programs designated under section 1, subdivision 5, and include an analysis of the programs in the report required under this section.*

*Subd. 3.* [REPORT.] *The commissioner of corrections and the commissioner of human services shall report to the legislature by January 1, 1991, their findings and recommendations to improve funding equity and statewide availability of treatment programs, including recommendations to increase funding.*

Sec. 22. [EFFECTIVE DATE.]

*Sections 1, 2, 7 to 9, 11, 18, and 19 are effective August 1, 1989. Sections 3 to 6, 10, and 12 to 15 are effective August 1, 1989 and apply to offenses committed on or after that date, but a court may consider acts committed before the effective date in determining whether an offender is a danger to public safety under section 10, subdivision 3. Section 17 is effective August 1, 1989, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 1989. Section 16 is effective January 1, 1990, and applies to persons sentenced or released from incarceration on or after that date.*

ARTICLE 5

PRENATAL EXPOSURE TO CERTAIN CONTROLLED SUBSTANCES

Section 1. [121.883] [PROGRAM FOR PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY.]

*Subdivision 1.* [PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY.] *The commissioner of education, in consultation with the commissioner of health, shall assist school districts in developing and implementing programs to prevent and reduce the risk of harm to unborn children exposed to controlled substance and alcohol use by their mother during pregnancy. Each district program must, at a minimum:*

*(1) use planning materials, guidelines, and other technically accurate and updated information;*

*(2) maintain a comprehensive, technically accurate, and updated curriculum;*

*(3) be directed at adolescents, especially those who may be at high risk of pregnancy coupled with controlled substance or alcohol use;*

*(4) provide in-service training for appropriate district staff; and*

*(5) collaborate with appropriate state and local agencies and organizations.*

Sec. 2. Minnesota Statutes 1988, section 253B.02, subdivision 2, is amended to read:

Subd. 2. [CHEMICALLY DEPENDENT PERSON.] "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol or drugs; and (b) whose recent conduct as a result of habitual and excessive use of alcohol or drugs poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent

attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. *"Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: cocaine, heroin, phencyclidine, methamphetamine, or amphetamine.*

Sec. 3. Minnesota Statutes 1988, section 253B.02, subdivision 10, is amended to read:

Subd. 10. [INTERESTED PERSON.] "Interested person" means an adult, including but not limited to, a public official, *including a local welfare agency acting under section 5*, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

Sec. 4. Minnesota Statutes 1988, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (1) mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, or (2) impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. *"Neglect" includes prenatal exposure to a controlled substance, as defined in section 5, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.* Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~10~~ *2a*, clause ~~(c)~~ *(5)*.

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 5. [626.5561] [REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.]

*Subdivision 1.* [REPORTS REQUIRED.] *A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.*

*Subd. 2.* [LOCAL WELFARE AGENCY.] *If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.*

*Subd. 3.* [RELATED PROVISIONS.] *Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 7, 8, and 11.*

*Subd. 4.* [CONTROLLED SUBSTANCES.] *For purposes of this section and section 6, "controlled substance" means a controlled substance classified in schedule I, II, or III under chapter 152.*

Sec. 6. [626.5562] [TOXICOLOGY TESTS REQUIRED.]

*Subdivision 1.* [TEST; REPORT.] *A physician shall administer a toxicology test to a pregnant woman under the physician's care to determine whether there is evidence that she has ingested a controlled substance, if*

*the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 5. A negative test result does not eliminate the obligation to report under section 5, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.*

*Subd. 2.* [NEWBORNS.] *A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose prior to the birth. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.*

*Subd. 3.* [REPORT TO DEPARTMENT OF HEALTH.] *Physicians shall report to the department of health the results of tests performed under subdivisions 1 and 2. A report shall be made on February 1 and August 1 of each year, beginning February 1, 1990. The reports are medical data under section 13.42.*

*Subd. 4.* [IMMUNITY FROM LIABILITY.] *Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.*

*Subd. 5.* [RELIABILITY OF TESTS.] *A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory licensed by the department of health. The confirmatory test must meet the standards established under section 181.953, subdivision 1, and the rules adopted under it.*

## ARTICLE 6

## PENALTY INCREASES

Section 1. Minnesota Statutes 1988, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony 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; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony

and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.

(b) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and one day~~ *two years*, or to payment of a fine of not more than ~~$3,000~~ *$4,000*, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

(c) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

(d) Any person who violates subdivision 3, clause (b) is guilty of a petty misdemeanor.

(e) Any person who violates subdivision 2, 3, clause (a), 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 2. Minnesota Statutes 1988, section 297D.09, subdivision 1a, is amended to read:

Subd. 1a. [CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.] In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both.

Sec. 3. Minnesota Statutes 1988, section 299F.80, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, whoever possesses explosives without a valid license or permit may be sentenced to imprisonment for not more than ~~three~~ *five* years.

Sec. 4. Minnesota Statutes 1988, section 325D.56, subdivision 2, is amended to read:

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine of not more than $50,000 or imprisonment in the state penitentiary for not more than ~~five~~ *seven* years, or both.

Sec. 5. Minnesota Statutes 1988, section 609.205, is amended to read:

609.205 [MANSLAUGHTER IN THE SECOND DEGREE.]

A person who causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~$14,000~~ *$20,000*, or both:

(1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) by shooting another with a firearm or other dangerous weapon as a result of negligently believing the other to be a deer or other animal; or

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

Sec. 6. Minnesota Statutes 1988, section 609.21, subdivision 1, is amended to read:

Subdivision 1. [RESULTING IN DEATH.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Sec. 7. Minnesota Statutes 1988, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN INJURY.] Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ *five* years or the payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 8. Minnesota Statutes 1988, section 609.221, is amended to read:

609.221 [ASSAULT IN THE FIRST DEGREE.]

Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than ~~ten~~ *20* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 9. Minnesota Statutes 1988, section 609.222, is amended to read:

609.222 [ASSAULT IN THE SECOND DEGREE.]

Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both.

Sec. 10. Minnesota Statutes 1988, section 609.223, is amended to read:

609.223 [ASSAULT IN THE THIRD DEGREE.]

Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 11. Minnesota Statutes 1988, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and a day~~ *two years* or to payment of a fine of not more than ~~$3,000~~ *$4,000*, or both.

Sec. 12. Minnesota Statutes 1988, section 609.255, subdivision 3, is amended to read:

Subd. 3. [UNREASONABLE RESTRAINT OF CHILDREN.] A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances, is guilty of unreasonable restraint of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 13. Minnesota Statutes 1988, section 609.2665, is amended to read:

609.2665 [MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.]

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~$14,000~~ *$20,000*, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

Sec. 14. Minnesota Statutes 1988, section 609.267, is amended to read:

609.267 [ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.]

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 15. Minnesota Statutes 1988, section 609.323, subdivision 1, is amended to read:

Subdivision 1. Whoever, while acting other than as a prostitute or patron, intentionally receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 13 years, may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 16. Minnesota Statutes 1988, section 609.377, is amended to read:

609.377 [MALICIOUS PUNISHMENT OF A CHILD.]

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the punishment results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of *a fine of* not more than ~~$5,000~~ *$10,000*, or both.

Sec. 17. Minnesota Statutes 1988, section 609.445, is amended to read:

609.445 [FAILURE TO PAY OVER STATE FUNDS.]

Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 18. Minnesota Statutes 1988, section 609.48, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] Whoever violates this section may be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both; or

(2) In all other cases, to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 19. Minnesota Statutes 1988, section 609.487, subdivision 4, is amended to read:

Subd. 4. [FLEEING AN OFFICER; DEATH; BODILY INJURY.] Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) If the course of fleeing results in death, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both; or

(b) If the course of fleeing results in great bodily harm, to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both; or

(c) If the course of fleeing results in substantial bodily harm, to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 20. Minnesota Statutes 1988, section 609.576, is amended to read:

609.576 [NEGLIGENT FIRES.]

Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than ~~three~~ *five* years or to a fine of not more than ~~$5,000~~ *$10,000*, or both; or

(b) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both, if the value of the property damage is under $300;

(2) to imprisonment for not more than one year, or to a fine of $3,000 or both, if the value of the property damaged is at least $300 but is less than $10,000;

(3) to imprisonment for not less than 90 days nor more than three years, or to a fine of not more than $5,000, or both, if the value of the property damaged is $10,000 or more.

Sec. 21. Minnesota Statutes 1988, section 609.62, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than ~~two~~ *three* years or to payment of a fine of not more than ~~$4,000~~ *$6,000*, or both:

(1) Conceals, removes, or transfers any personal property in which the actor knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

Sec. 22. Minnesota Statutes 1988, section 609.86, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits commercial bribery may be sentenced as follows:

(1) To imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both, if the value of the benefit, consideration, compensation or reward is greater than $500;

(2) In all other cases where the value of the benefit, consideration, compensation or reward is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700; provided, however, in any prosecution of the value of the benefit, consideration, compensation or reward received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed, or all of the offenses aggregated under this clause.

Sec. 23. [EFFECTIVE DATE.]

*Sections 1 to 22 are effective August 1, 1989, and apply to crimes committed on or after that date.*

ARTICLE 7

MISCELLANEOUS CRIMINAL PROVISIONS

Section 1. Minnesota Statutes 1988, section 340A.701, is amended to read:

340A.701 [FELONIES.]

*Subdivision 1.* [UNLAWFUL ACTS.] It is a felony:

(1) to manufacture alcoholic beverages in violation of this chapter;

(2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or

(3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it~~.~~*; or*

*(4) for a person other than a licensed retailer of alcoholic beverages, a bottle club permit holder, a municipal liquor store, or an employee or agent of any of these who is acting within the scope of employment, to violate*

*the provisions of section 340A.503, subdivision 2, clause (1), by selling alcoholic beverages if the underage purchaser of the alcoholic beverage becomes intoxicated and causes or suffers death or great bodily harm as a result of the intoxication.*

*Subd. 2.* [PRESUMPTIVE SENTENCE.] *In determining an appropriate disposition for a violation of subdivision 1, clause (4), the court shall presume that a stay of execution with a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines under section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it.*

Sec. 2. Minnesota Statutes 1988, section 340A.702, is amended to read:

340A.702 [GROSS MISDEMEANORS.]

It is a gross misdemeanor:

(1) to sell an alcoholic beverage without a license authorizing the sale;

(2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;

(3) to violate the provisions of sections 340A.301 to 340A.313;

(4) to violate the provisions of section 340A.508;

(5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;

(6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(7) to violate the provisions of section 340A.502;

(8) *except as otherwise provided in section 340A.701*, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);

(9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;

(10) to obstruct or mislead the commissioner in the execution of the commissioner's duties; or

(11) to swear falsely concerning any matter stated under oath.

Sec. 3. Minnesota Statutes 1988, section 609.26, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS.] Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to visitation or custody where the action manifests an intent to substantially deprive that person of rights to visitation or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260 to the commissioner of human services, a child placing agency, or the county welfare board;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to visitation or custody; ~~or~~

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent substantially to deprive that parent of parental rights~~.~~*; or*

*(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions.*

Sec. 4. Minnesota Statutes 1988, section 609.26, subdivision 6, is amended to read:

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

*(1) to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; or*

*(2) to imprisonment for not more than four years or to payment of a fine of not more than $8,000, or both, if the court finds that:*

*(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;*

*(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;*

*(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;*

*(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or*

*(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.*

Sec. 5. Minnesota Statutes 1988, section 609.52, is amended to read:

609.52 [THEFT.]

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by

pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

*(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the*

*device is operated on land, rails, water, or in the air.*

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the

consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law

Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; ~~or~~

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it~~.~~*; or*

*(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.*

Subd. 3. [SENTENCE.] Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $2,500, or if the property stolen was *an article representing a trade secret, an explosive or incendiary device, or* a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(a) the value of the property or services stolen is more than $500 but not more than $2,500; or

(b) the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $200 but not more than $500 and the person has been convicted within the preceding

five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

~~(4) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, notwithstanding~~

*(d)* the value of the property or services stolen is not more than ~~$200, if~~ *$500, and* any of the following circumstances exist:

~~(a)~~ *(i)* the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

~~(b)~~ *(ii)* the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

~~(c)~~ *(iii)* the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

~~(d)~~ *(iv)* the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

~~(e)~~ *(v)* the property is a firearm; or

~~(f)~~ *(vi)* the property stolen ~~was~~ *is* a motor vehicle ~~as defined in section 609.55~~; or

~~(5) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or~~

~~(6)~~ *(4)* to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property or services stolen is more than $200 but not more than $500; or

~~(7)~~ *(5)* in all other cases where the value of the property or services stolen is $200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 6. [609.526] [PRECIOUS METAL DEALERS; RECEIVING STOLEN PROPERTY.]

*Any precious metal dealer as defined in section 325E.731, subdivision 2, or any person employed by a precious metal dealer as defined in section 325E.731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or*

*having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:*

*(1) if the value of the property received, bought, or concealed is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both;*

*(2) if the value of the property received, bought, or concealed is less than $1,000 but more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $40,000, or both;*

*(3) if the value of the property received, bought, or concealed is $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both.*

*Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).*

Sec. 7. Minnesota Statutes 1988, section 609.53, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] *Except as otherwise provided in section 6,* any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced ~~as follows:~~

~~(1) if the value of the property is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both;~~

~~(2) if the value of the property is less than $1,000, but more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;~~

~~(3) if the value of the property is $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both;~~

~~(4) notwithstanding the value of the property, if the property is a firearm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both~~ *in accordance with the provisions of section 609.52, subdivision 3.*

Sec. 8. Minnesota Statutes 1988, section 609.53, subdivision 4, is amended to read:

Subd. 4. [CIVIL ACTION; TREBLE DAMAGES.] Any person who has been injured by a violation of ~~subdivisions~~ *subdivision* 1 or ~~3~~ *section 6* may bring an action for three times the amount of actual damages~~,~~ sustained by the plaintiff or $1,500, whichever is greater, *and* the costs of suit and reasonable attorney's fees.

Sec. 9. [609.546] [MOTOR VEHICLE TAMPERING.]

*A person is guilty of a misdemeanor who intentionally:*

*(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or*

*(2) tampers with or enters into or on a motor vehicle without the owner's permission.*

Sec. 10. Minnesota Statutes 1988, section 609.631, subdivision 2, is amended to read:

Subd. 2. [CHECK FORGERY; ELEMENTS.] A person ~~who,~~ *is guilty of check forgery and may be sentenced under subdivision 4 if the person,* with intent to defraud, *does any of the following:*

*(1)* falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority~~, is guilty of check forgery and may be sentenced as provided in subdivision~~ 4*; or*

*(2) falsely endorses or alters a check so that it purports to have been endorsed by another.*

Sec. 11. Minnesota Statutes 1988, section 624.701, is amended to read:

624.701 [LIQUORS IN CERTAIN BUILDINGS OR GROUNDS.]

Subdivision 1. *Except as otherwise provided in subdivision 1a,* any person who ~~shall introduce upon, or have in possession upon, or in,~~ *introduces or possesses an alcoholic beverage, as defined in section 340A.101, on* any school ground, or *in* any schoolhouse or school building, ~~any alcoholic beverage as defined in section 340A.101, except for~~ *is guilty of a misdemeanor.*

*Subd. 1a.* [EXCEPTIONS.] *Subdivision 1 does not apply to the following:*

*(1)* experiments in laboratories ~~and except for~~*;*

*(2)* those organizations who have been issued temporary licenses to sell nonintoxicating malt liquor pursuant to section 340A.403, subdivision 2~~, and~~*;*

*(3)* any person possessing nonintoxicating malt liquor as a result of a purchase from those organizations holding temporary licenses pursuant to section 340A.403, subdivision 2~~, shall be guilty of a misdemeanor~~*; or*

*(4) the possession or use of alcoholic beverages in an alcohol use awareness program that is held at a post-secondary school, sponsored or approved by the school, and limited to persons 21 years old or older.*

Subd. 2. Any person who except by prescription of a licensed physician or permission of the hospital administrator shall introduce upon, or have in possession upon, or in, any state hospital or grounds thereof under the responsibility of the commissioner of human services any alcoholic beverage as defined in section 340A.101, shall be guilty of a misdemeanor.

Sec. 12. Laws 1989, chapter 5, section 3, is amended to read:

Sec. 3. [609.396] [UNAUTHORIZED PRESENCE AT CAMP RIPLEY.]

*Subdivision 1.* [MISDEMEANOR.] *A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley military reservation.*

*Subd. 2.* [FELONY.] A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than $10,000, or both, if:

(1) the person intentionally enters or is present ~~without authorization of the adjutant general~~ in an area at the Camp Ripley military reservation that

is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and

(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.

Sec. 13. [INSTRUCTION TO REVISOR; REFERENCE CHANGE.]

*The revisor of statutes shall change the reference to Minnesota Statutes, section 609.55, subdivision 1, in section 609.605, subdivision 1, clause (10), to section 609.52, subdivision 1, clause (10).*

Sec. 14. [REPEALER.]

*Minnesota Statutes 1988, sections 609.53, subdivisions 1a, 3, and 3a, is repealed. Minnesota Statutes 1988, section 609.55, as amended by Laws 1989, chapter 5, sections 5, 6, and 7, is repealed.*

Sec. 15. [EFFECTIVE DATE.]

*Sections 1 to 14 are effective August 1, 1989, and apply to crimes committed on or after that date.*

ARTICLE 8

FIRE DEPARTMENT ACCESS TO

CRIMINAL HISTORY DATA

Section 1. [299F.035] [FIRE DEPARTMENT ACCESS TO AND USE OF CRIMINAL HISTORY DATA.]

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

*(b) "Criminal history data" has the meaning given in section 13.87.*

*(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.*

*(d) "Fire department" has the meaning given in section 299F.092, subdivision 6.*

*(e) "Private data" has the meaning given in section 13.02, subdivision 12.*

*Subd. 2.* [ACCESS TO DATA.] *The superintendent of the bureau of criminal apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data. The plan must include:*

*(1) security procedures to prevent unauthorized use or disclosure of private data; and*

*(2) a procedure for the hiring authority in each fire protection agency to fingerprint job applicants, submit requests to the bureau of criminal apprehension, and obtain state and federal criminal history data reports for a nominal fee.*

*Subd. 3.* [RELATION OF CONVICTION TO FIRE PROTECTION.] *Criminal history data may be used in assessing fire protection agency job applicants only if the criminal history data are directly related to the position of employment sought.*

*Subd. 4.* [DETERMINATION OF RELATIONSHIP.] *In determining if*

*criminal history data are directly related to the position of employment sought, the hiring authority may consider:*

*(1) the nature and seriousness of the criminal history data on the job applicant;*

*(2) the relationship of the criminal history data to the purposes of regulating the position of employment sought; and*

*(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment sought.*

Sec. 2. 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 fire protection agencies,* 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 *or the state fire marshal* 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 *or fire protection agencies.*

Sec. 3. Minnesota Statutes 1988, section 626.52, subdivision 3, is amended to read:

Subd. 3. [REPORTING BURNS.] A health professional shall ~~immediately~~ *file a written* report *with the state fire marshal within 72 hours after being notified of* a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. ~~The health professional shall make the initial report by telephoning the burn hotline in order to allow the proper law enforcement or other investigatory authority to be notified. Within 72 hours, the professional shall also file a written report with~~ The state fire marshal~~, on a~~ *shall provide the* form ~~provided by the fire marshal~~ *for the report.*

ARTICLE 9

DRUG POLICY PROGRAMS

Section 1. [299A.29] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *For purposes of sections 1 to 8, the following terms have the meanings given them in this section.*

*Subd. 2.* [DEMAND REDUCTION.] *"Demand reduction" means an activity carried on by a drug program agency that is designed to reduce demands for drugs, including education, prevention, treatment, and rehabilitation programs.*

*Subd. 3.* [DRUG.] *"Drug" means a controlled substance as defined in section 152.01, subdivision 4.*

*Subd. 4.* [DRUG PROGRAM AGENCY.] *"Drug program agency" means an agency of the state, a political subdivision of the state, or the United*

*States government that is involved in demand reduction or supply reduction.*

*Subd. 5.* [SUPPLY REDUCTION.] *"Supply reduction" means an activity carried on by a drug program agency that is designed to reduce the supply or use of drugs, including law enforcement, eradication, and prosecutorial activities.*

Sec. 2. [299A.30] [OFFICE OF DRUG POLICY.]

*Subdivision 1.* [OFFICE; ASSISTANT COMMISSIONER.] *The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the activities of drug program agencies and serve as staff to the drug abuse prevention resource council.*

*Subd. 2.* [DUTIES.] *(a) The assistant commissioner shall gather and make available information on demand reduction and supply reduction throughout the state, foster cooperation among drug program agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of demand reduction and supply reduction.*

*(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 5 and 6, after consultation with the drug abuse prevention resource council.*

*(c) The assistant commissioner shall:*

*(1) after consultation with all drug program agencies operating in the state, develop a state drug strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction and supply reduction, from any source;*

*(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of demand reduction and supply reduction during the preceding calendar year;*

*(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of demand reduction and supply reduction; and*

*(4) provide information and assistance to drug program agencies, both directly and by functioning as a clearinghouse for information from other drug program agencies.*

Sec. 3. [299A.31] [DRUG ABUSE PREVENTION RESOURCE COUNCIL; ESTABLISHMENT; MEMBERSHIP.]

*Subdivision 1.* [ESTABLISHMENT; MEMBERSHIP.] *A drug abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each*

*appoint a legislative member. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of drug abuse prevention, shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.*

*Subd. 2.* [ACCEPTANCE OF FUNDS AND DONATIONS.] *The council may accept federal money, gifts, donations, and bequests for the purpose of performing the duties set forth in this section and section 4. The council shall use its best efforts to solicit funds from private individuals and organizations to match state appropriations.*

Sec. 4. [299A.32] [RESPONSIBILITIES OF THE COUNCIL.]

*Subdivision 1.* [PURPOSE OF THE COUNCIL.] *The general purpose of the council is to foster the coordination and development of a statewide drug abuse prevention policy.*

*Subd. 2.* [SPECIFIC DUTIES AND RESPONSIBILITIES.] *In furtherance of the general purpose specified in subdivision 1, the council has the following duties and responsibilities:*

*(1) it shall develop a coordinated, statewide drug abuse prevention policy;*

*(2) it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care;*

*(3) it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities;*

*(4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;*

*(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;*

*(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;*

*(7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and*

*(8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties.*

*Subd. 3.* [ANNUAL REPORT.] *On or before February 1, 1991, and each year thereafter, the council shall submit a written report to the legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources*

*and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of drug abuse prevention policy, programs, or services.*

Sec. 5. [299A.33] [DRUG ABUSE RESISTANCE EDUCATION PROGRAM.]

*Subdivision 1.* [PROGRAM.] *The drug abuse resistance education program assists law enforcement agencies or school districts by providing grants to enable peace officers to undergo the training described in subdivision 3. Grants may be used to cover the cost of the training as well as reimbursement for actual, reasonable travel and living expenses incurred in connection with the training. The commissioner shall administer the program, shall promote it throughout the state, and is authorized to receive money from public and private sources for use in carrying it out. For purposes of this section, "law enforcement agency" means a police department or sheriff's office.*

*Subd. 2.* [GRANTS.] *A law enforcement agency or a school district may apply to the commissioner for a grant under subdivision 1.*

*Subd. 3.* [TRAINING PROGRAM.] *The bureau of criminal apprehension shall develop a program to train peace officers to teach a curriculum on drug abuse resistance in schools. The training program must be approved by the commissioner.*

*Subd. 4.* [AVAILABILITY OF PEACE OFFICER TRAINING.] *The training described in subdivision 3 is available on a voluntary basis to local law enforcement agencies and school districts.*

*Subd. 5.* [COORDINATION OF ACTIVITIES.] *If the commissioner receives grant requests from more than one applicant for programs to be conducted in a single school district, the commissioner shall require the applicants to submit a plan for coordination of their training and programs.*

*Subd. 6.* [REPORTS.] *The commissioner may require grant recipients to account to the director at reasonable time intervals regarding the use of the grants and the training and programs provided.*

Sec. 6. [299A.34] [LAW ENFORCEMENT AND COMMUNITY GRANTS.]

*Subdivision 1.* [GRANT PROGRAMS.] *(a) The commissioner shall develop grant programs to:*

*(1) assist law enforcement agencies in purchasing equipment, provide undercover buy money, and pay other nonpersonnel costs; and*

*(2) assist community and neighborhood organizations in efforts to prevent or reduce criminal activities in their areas, particularly activities involving youth and the use and sale of drugs.*

*(b) The commissioner shall by rule prescribe criteria for eligibility and the award of grants and reporting requirements for recipients.*

*Subd. 2.* [SELECTION AND MONITORING.] *The drug abuse prevention resource council shall assist in the selection and monitoring of grant recipients.*

Sec. 7. [299A.35] [COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.]

*Subdivision 1.* [PROGRAMS.] *The commissioner shall, in consultation with the drug abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:*

*(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;*

*(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;*

*(3) neighborhood block clubs and innovative community-based crime watch programs; and*

*(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.*

*Subd. 2.* [GRANT PROCEDURE.] *A local unit of government may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:*

*(1) a description of each program for which funding is sought;*

*(2) the amount of funding to be provided to the program;*

*(3) the geographical area to be served by the program; and*

*(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; and any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.*

*The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is $25,000.*

*Subd. 3.* [REPORT.] *An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report with the legislature based on the information provided by applicants under this subdivision.*

Sec. 8. [299A.36] [OTHER DUTIES.]

*The assistant commissioner assigned to the office of drug policy, in consultation with the drug abuse prevention resource council, shall:*

*(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;*

*(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;*

*(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services.*

*(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and*

*(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.*

Sec. 9. [299A.37] [COOPERATION OF OTHER AGENCIES.]

*State agencies, and agencies and governing bodies of political subdivisions, shall cooperate with the assistant commissioner assigned to the office of drug policy and shall provide any public information requested by the assistant commissioner assigned to the office of drug policy.*

Sec. 10. [299A.38] [SOFT BODY ARMOR REIMBURSEMENT.]

*Subdivision 1.* [DEFINITIONS.] *As used in this section:*

*(a) "Commissioner" means the commissioner of public safety.*

*(b) "Peace officer" means a person who is licensed under section 626.84, subdivision 1, paragraph (c).*

*(c) "Vest" means bullet-resistant soft body armor that is flexible, concealable, and custom fitted to the peace officer to provide ballistic and trauma protection.*

*Subd. 2.* [STATE AND LOCAL REIMBURSEMENT.] *Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-third of the vest's purchase price or $165. The political subdivision that employs the peace officer shall pay at least the lesser of one-third of the vest's purchase price or $165.*

*Subd. 3.* [ELIGIBILITY REQUIREMENTS.] *(a) Only vests that either meet or exceed the requirements of standard 0101.01 of the National Institute of Justice in effect on December 30, 1986, or that meet or exceed the requirements of that standard, except wet armor conditioning, are eligible for reimbursement.*

*(b) Eligibility for reimbursement is limited to vests bought after December 31, 1986, by or for peace officers (1) who did not own a vest meeting the requirements of paragraph (a) before the purchase, or (2) who owned a vest that was at least six years old.*

*Subd. 4.* [RULES.] *The commissioner may adopt rules under chapter 14 to administer this section.*

*Subd 5.* [LIMITATION OF LIABILITY.] *A state agency, political subdivision of the state, or state or local government employee that provides reimbursement for purchase of a vest under this section is not liable to a peace officer or the peace officer's heirs for negligence in the death of or injury to the peace officer because the vest was defective or deficient.*

*Subd. 6.* [RIGHT TO BENEFITS UNAFFECTED.] *A peace officer who is reimbursed for the purchase of a vest under this section and who suffers injury or death because the officer failed to wear the vest, or because the officer wore a vest that was defective or deficient, may not lose or be denied a benefit or right, including a benefit under section 176B.04, to which the officer, or the officer's heirs, is otherwise entitled.*

Sec. 11. Minnesota Statutes 1988, section 388.14, is amended to read:

388.14 [CONTINGENT FUND; EXPENSES.]

The county board may set apart yearly a sum, not exceeding ~~$5,000~~ *$7,500*, except in counties containing cities of the first class, where the sum shall not exceed ~~$7,500~~ *$10,000*, as a contingent fund for defraying necessary expenses not especially provided for by law, in preparing and trying criminal cases, conducting investigations by the grand jury, making contributions to a statewide county attorney's organization, and paying the necessary expenses of the county attorney incurred in the business of the county. All disbursements from such fund shall be made upon written request of the county attorney by auditor's warrant, countersigned by a judge of the district court. Any balance remaining at the end of the year shall be transferred to the revenue fund.

Sec. 12. [STUDY AND REPORT.]

*In consultation with the drug abuse prevention resource council, the assistant commissioner of the office of drug policy shall review existing drug abuse prevention programs and shall develop and recommend to the governor and the legislature a statewide drug abuse prevention policy that emphasizes local efforts and a coordinated approach. The policy must seek to make most efficient use of available money and other resources and to use existing agencies or organizations whenever possible. The report and recommendations must be submitted before January 1, 1991.*

Sec. 13. [TRANSFER OF DRUG PREVENTION PROGRAM.]

*Responsibility to administer the federal Anti-Drug Abuse Act in Minnesota is transferred under Minnesota Statutes, section 15.039, from the commissioner of state planning to the commissioner of public safety.*

Sec. 14. [EFFECTIVE DATE.]

*Sections 1 to 9 and 12 are effective the day following final enactment. Section 13 is effective October 1, 1989.*

ARTICLE 10

DRIVING WHILE INTOXICATED PROVISIONS

Section 1. Minnesota Statutes 1988, section 169.121, subdivision 1, is amended to read:

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

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

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

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

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

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

(f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle.

Sec. 2. Minnesota Statutes 1988, section 169.121, subdivision 1a, is amended to read:

Subd. 1a. [REFUSAL TO SUBMIT TO TESTING; CRIME.] *It is a crime for any person to refuse to submit to a chemical test of the person's blood, breath, or urine under section 169.123 if the person's license has been revoked once within the past five years, or two or more times within the past ten years, under any of the following: this section, or section 169.123, 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), or 609.21, subdivision 4, clause (2) or (3).*

*Subd. 1b.* [ARREST.] A peace officer may lawfully arrest a person for violation of subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

When a peace officer has probable cause to believe that a person is driving or operating a motor vehicle in violation of subdivision 1, and before a stop or arrest can be made the person escapes from the geographical limits of the officer's jurisdiction, the officer in fresh pursuit of the person may stop or arrest the person in another jurisdiction within this state and may exercise the powers and perform the duties of a peace officer under sections 169.121 and 169.123. An officer acting in fresh pursuit pursuant to this subdivision is serving in the regular line of duty as fully as though within the officer's jurisdiction.

The express grant of arrest powers in this subdivision does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 or section 629.40 in cases of arrests for violation of subdivision 1 or any other provision of law.

Sec. 3. Minnesota Statutes 1988, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] *(a)* A person who violates this section or an ordinance in conformity with it is guilty of a misdemeanor.

~~The following persons are guilty of a gross misdemeanor:~~

~~(a)~~ *(b)* A person *is guilty of a gross misdemeanor* who violates this section or an ordinance in conformity with it within five years of a prior *impaired driving* conviction ~~under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them; and~~

~~(b) A person who violates this section or an ordinance in conformity with it,~~ *or* within ten years of two or more prior *impaired driving* convictions ~~under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them~~. For purposes of this ~~subdivision~~ *paragraph, a prior*

*impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), section 169.129, section 361.12, subdivision 1, section 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes* a prior juvenile adjudication ~~under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is a prior conviction~~ *that would have been a prior impaired driving conviction if committed by an adult.*

*(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.*

*(d)* The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to ~~previous~~ *prior impaired driving* convictions ~~under this section~~ from a court, the court must furnish the information without charge.

Sec. 4. Minnesota Statutes 1988, section 169.121, subdivision 3b, is amended to read:

Subd. 3b. [HABITUAL OFFENDERS; CHEMICAL USE TREATMENT.] If a person has been convicted under ~~this section~~ *subdivision 1*, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of violating ~~this section~~ *subdivision 1*, section 169.129, or an ordinance in conformity with either of them (1) once within five years of the first conviction or (2) two or more times within ten years after the first conviction, the court must order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.

*If a person is convicted under section 169.121, subdivision 1a, the court shall order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.*

Sec. 5. Minnesota Statutes 1988, section 169.123, subdivision 2, is amended to read:

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

refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

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

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

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

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

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

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

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 6. Minnesota Statutes 1988, section 169.126, subdivision 4, is amended to read:

Subd. 4. [CHEMICAL USE ASSESSMENT.] (a) Except as otherwise provided in paragraph (d), when an alcohol problem screening shows that the defendant has an identifiable chemical use problem, the court shall require the defendant to undergo a comprehensive chemical use assessment conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. *Notwithstanding section 13.82, the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation.* An assessor providing a chemical use assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the chemical use assessment shall be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The comprehensive chemical use assessment must be completed no later than ~~two~~ *three* weeks after the ~~appointment date~~ *defendant's*

*court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility shall be determined under chapter 256G.*

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

(c) The state shall reimburse the county for the entire cost of each chemical use assessment and report at a rate established by the department of human services up to a maximum of $100 in each case. The county may not be reimbursed for the cost of any chemical use assessment or report not completed within the time limit provided in this subdivision. Reimbursement to the county must be made from the special account established in subdivision 4a.

(d) If the preliminary alcohol problem screening is conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3, consists of a comprehensive chemical use assessment of the defendant, and complies with the chemical use assessment report requirements of paragraph (b), it is a chemical use assessment for the purposes of this section and the court may not require the defendant to undergo a second chemical use assessment under paragraph (a). The state shall reimburse counties for the cost of alcohol problem screenings that qualify as chemical use assessments under this paragraph in the manner provided in paragraph (c) in lieu of the reimbursement provisions of section 169.124, subdivision 3.

Sec. 7. Minnesota Statutes 1988, section 609.21, is amended to read:

609.21 [CRIMINAL VEHICULAR OPERATION.]

Subdivision 1. [RESULTING IN DEATH.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Subd. 2. [RESULTING IN INJURY.] Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ *five* years or the payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] Whoever causes the death of an unborn child as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] Whoever causes great bodily harm, as defined in section 609.02, subdivision 8, to an unborn child who is subsequently born alive, as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 8. [EFFECTIVE DATE.]

*Sections 1 to 7 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date.*

ARTICLE 11

COMMUNITY RESOURCE PROGRAM

Section 1. [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *The definitions in this section apply to sections 1 to 8.*

*Subd. 2.* [CITY.] *"City" means a city of the first class as defined in section 410.01.*

*Subd. 3.* [CITY COUNCIL.] *"City council" means the city council of a city as defined in subdivision 2.*

*Subd. 4.* [COMMUNITY RESOURCE PROGRAM.] *"Community*

*resource program" or "program" means a community resource program adopted according to section 3.*

*Subd. 5.* [TARGETED NEIGHBORHOOD.] *"Targeted neighborhood" means an area including one or more census tracts as determined and measured by the Bureau of Census of the United States Department of Commerce that a city council determines by resolution meets the criteria of section 2, subdivision 2, and any additional area designated under section 2.*

*Subd. 6.* [ASSISTED HOUSING.] *"Assisted housing" means:*

*(1) the housing is either owned or under the control of a housing agency and is used in a manner authorized by sections 469.001 to 469.047;*

*(2) the housing is defined as an emergency shelter or transitional housing under section 272.02, clause (12) or (19);*

*(2) the housing is classified as class 5c property under section 273.13, subdivision 25, paragraph (c), clause (4); or*

*(4) the housing is a building that receives a low-income housing credit under section 242 of the Internal Revenue Code of 1986; or which meets the requirements of that section, and was under construction or rehabilitation prior to May 1, 1988.*

Sec. 2. [DESIGNATION OF TARGETED NEIGHBORHOODS.]

*Subdivision 1.* [CITY AUTHORITY.] *A city may by resolution designate targeted neighborhoods within its borders after adopting detailed findings that the neighborhoods meet the eligibility requirements in subdivision 2 or 3.*

*Subd. 2.* [ELIGIBILITY REQUIREMENTS FOR TARGETED NEIGHBORHOODS.] *An area within a city is eligible for designation as a targeted neighborhood if the area meets at least two of the following criteria:*

*(1) the area had an unemployment rate that was twice the unemployment rate for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census;*

*(2) the median household income in the area was no more than half the median household income for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census; or*

*(3) the area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this clause if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city or 70 percent or more of the residential dwelling units were built before 1940 as determined by the 1980 federal census.*

*Subd. 3.* [ADDITIONAL AREA ELIGIBLE FOR INCLUSION IN TARGETED NEIGHBORHOOD.] *(a) The city may add to the area designated as a targeted neighborhood under subdivision 2 a contiguous area of one-half mile in all directions from the designated targeted neighborhood.*

*(b) Assisted housing is also considered a targeted neighborhood.*

Sec. 3. [COMMUNITY RESOURCES PROGRAMS.]

*Subdivision 1.* [COMMUNITY RESOURCES PROGRAM; REQUIREMENT.] *A city must prepare a comprehensive community resources program. The program must describe the specific community resource services*

*and means by which the city intends to pursue and implement the program objectives outlined in subdivision 2 for each targeted neighborhood served under the program and the community initiatives program described in section 4.*

*Subd. 2.* [COMMUNITY RESOURCES PROGRAM OBJECTIVES.] *A community resources program must address at least the following objectives:*

*(1) increasing community safety and reducing crime;*

*(2) enhancing family stability including school readiness;*

*(3) providing opportunities for residents to become self-supporting; and*

*(4) building the capacity of neighborhood-based organizations to create cohesiveness and stability in their communities.*

*Subd. 3.* [COMMUNITY PARTICIPATION.] *A city must adopt a process to involve the residents in targeted neighborhoods in planning, developing, and implementing the community resource program.*

*Subd. 4.* [ADVISORY COMMITTEE.] *The city council of a city requesting state financial assistance under section 5 shall establish an advisory council to assist the city in developing and implementing a community resource program. The advisory committee may include, but is not limited to: city council members, county commissioners, school board members, community service representatives, business community representatives, and resident representatives of targeted neighborhoods. The city may designate an existing entity as the advisory committee if the entity meets the membership requirements outlined in this subdivision.*

*Subd. 5.* [PROGRAM APPROVAL.] *A city may approve or modify a community resource program only after holding a public hearing. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing. In addition, the notice shall be published in the most widely circulated community newspaper in the targeted neighborhoods.*

Sec. 4. [COMMUNITY INITIATIVES PROGRAM.]

*A city may establish a community initiatives program as part of the community resource plan. No more than ten percent of the community resource money may be distributed under the community initiatives program. State money used for the community initiatives program must be used for implementing activities included in the community resources program. Financial assistance or service contracts awarded to a single nonprofit organization under this subdivision are limited to $10,000 annually.*

Sec. 5. [PAYMENT AND ALLOCATION.]

*Subdivision 1.* [PAYMENT OF STATE MONEY.] *Upon receiving from a city the certification that a community resources program has been adopted or modified, the commissioner of state planning shall, within 30 days after receiving the certification, pay to the city the amount of state money identified as necessary to implement the community resources program. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded.*

*Subd. 2.* [ALLOCATION.] *Appropriation to each city shall be in proportion to the city's portion of the combined population of the cities. The*

*population of each city is determined by the most recent estimates available to the commissioner.*

Sec. 6. [ELIGIBLE USES FOR COMMUNITY RESOURCE MONEY.]

*Subdivision 1.* [ELIGIBLE USES.] *The city may use up to 20 percent of the community resource money for low-income housing needs and economic development in targeted neighborhoods. Not more than 40 percent of this amount may be used to address low-income housing needs citywide.*

*If a resident of a targeted neighborhood is a recipient of resource services and moves to a residence in another part of the city, eligibility continues for the community resources services.*

*Subd. 2.* [WAY TO GROW.] *The city of Minneapolis shall spend $350,000 of the funds received by the city under section 5 on the Minneapolis way to grow program.*

Sec. 7. [CITY POWERS.]

*A city may exercise any of its corporate powers in implementing the community resources program. In addition to the authority granted by other law, a city, through a request for proposal process, may make grants, loans, and other forms of assistance to and enter into service contracts with, individuals, for profit and nonprofit corporations, and other organizations to implement a community resources program.*

Sec. 8. [ANNUAL REPORT.]

*A city must provide an annual report on the status of the program implementation and analyze whether the intended objectives are being achieved. The report should be presented to the commissioner and the legislature.*

ARTICLE 12

MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM

Section 1. [299A.40] [MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM.]

*Subdivision 1.* [ESTABLISHMENT OF TEAM.] *A county, a multicounty organization of counties formed by an agreement under section 471.59, or a city with a population of no more than 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical abuse prevention team may include, but not be limited to, representatives of health, mental health, public health, law enforcement, educational, social service, court service, community education, religious, and other appropriate agencies, and parent and youth groups. For purposes of this section, "chemical abuse" has the meaning given in Minnesota Rules, part 9530.6605, subpart 6. When possible the team must coordinate its activities with existing local groups, organizations, and teams dealing with the same issues the team is addressing.*

*Subd. 2.* [DUTIES OF TEAM.] *(a) A multidisciplinary chemical abuse prevention team shall:*

*(1) assist in coordinating chemical abuse prevention and treatment services provided by various groups, organizations, and agencies in the community;*

*(2) disseminate information on the chemical abuse prevention and treatment services that are available within the community in which the team is established;*

*(3) develop and conduct educational programs on chemical abuse prevention for adults and youth within the community in which the team is established;*

*(4) conduct activities to address other high-risk behaviors related to chemical abuse, including, but not limited to, suicide, delinquency, and family violence; and*

*(5) conduct other appropriate chemical abuse prevention activities.*

*(b) The team, in carrying out its duties under this subdivision, must focus on chemical abuse issues and needs unique to the community in which the team is established. In defining the needs and goals of the team, the team shall consult with the governmental body of the city or county in which the team is established. When a team is established in a multicounty area, the team shall consult with representatives of the county boards of each county.*

*(c) The team, in carrying out its duties, shall comply with the government data practices act in chapter 13, and requirements for confidentiality of records under Code of Federal Regulations, title 42, sections 2.1 to 2.67, as amended through December 31, 1988, and section 254A.09.*

*Subd. 3.* [GRANTS FOR DEMONSTRATION PROGRAM.] *The assistant commissioner of the office of drug policy may award a grant to a county, multicounty organization, or city, as described in subdivision 1, for establishing and operating a multidisciplinary chemical abuse prevention team. The assistant commissioner may approve up to five applications for grants under this subdivision. The grant funds must be used to establish a multidisciplinary chemical abuse prevention team to carry out the duties in subdivision 2.*

*Subd. 4.* [ASSISTANT COMMISSIONER; ADMINISTRATION OF GRANTS.] *The assistant commissioner shall develop a process for administering grants under subdivision 3. The process must be compatible with the community grant program administered by the state planning agency under the Drug Free Schools and Communities Act, Public Law Number 100-690. The process for administering the grants must include establishing criteria the assistant commissioner shall apply in awarding grants. The assistant commissioner shall issue requests for proposals for grants under subdivision 3. The request must be designed to obtain detailed information about the applicant and other information the assistant commissioner considers necessary to evaluate and select a grant recipient. The applicant shall submit a proposal for a grant on a form and in a manner prescribed by the assistant commissioner. The assistant commissioner shall award grants under this section so that 50 percent of the funds appropriated for the grants go to the metropolitan area comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties, and 50 percent of the funds go to the area outside the metropolitan area. The process for administering the grants must also include procedures for monitoring the recipients' use of grant funds and reporting requirements for grant recipients.*

Sec. 2. [MONITORING AND REPORT OF CHEMICAL ABUSE PREVENTION TEAMS.]

*The assistant commissioner of the office of drug policy shall monitor the activities of teams funded under the demonstration program for multidisciplinary chemical abuse prevention teams under section 1, and report to the legislature on or before January 1, 1991, on the teams' operation and progress.*"

Delete the title and insert:

"A bill for an act relating to crime; authorizing bonding for capital improvements; increasing penalties for controlled substance offenses; increasing penalties for murder and criminal sexual conduct; permitting courts to sentence dangerous offenders and career criminals to longer periods of incarceration; denying release to certain heinous murderers; increasing minimum parole eligibility date for persons serving a life sentence for first degree murder; increasing statutory maximum sentences for the crimes of failure to report an accident, failure to use a drug stamp, possessing explosives, restraint of trade, manslaughter in the second degree, criminal vehicular operation, assault, child abuse, parental kidnapping, manslaughter of an unborn child, assault of an unborn child, criminal sexual conduct in the fourth degree, perjury, fleeing a peace officer, negligently causing a fire, and bribery; making it a crime for a repeat DWI violator to refuse a breath test; permitting courts to sentence dangerous or patterned sex offenders to longer periods of incarceration and supervision; imposing a mandatory sentence for third criminal sexual conduct conviction; extending the statute of limitations for criminal sexual conduct; providing for sex offender treatment programs; creating a permissible inference that occupants of a room and drivers of automobiles knowingly possess controlled substances found there; lowering threshold for forfeiture of vehicles and real estate in connection with a controlled substance offense; requiring courts to order forfeiture of property subject to forfeiture; imposing a gross misdemeanor penalty for selling tobacco to a minor; establishing an office of drug policy in the department of public safety; requiring testing for and reporting of prenatal exposure to controlled substances; providing for coordination of drug programs; providing for the admissibility of DNA evidence; providing access to certain data; expanding the theft statute to include unauthorized use of a motor vehicle; authorizing a community resources program; authorizing establishing multidisciplinary chemical abuse prevention teams; appropriating money; amending Minnesota Statutes 1988, sections 14.02, subdivision 4; 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 169.121, subdivisions 1, 1a, 3, and 3b; 169.123, subdivision 2; 169.126, subdivision 4; 243.05, subdivision 1; 243.18; 243.55, subdivision 1; 244.04, subdivision 1; 244.05, subdivisions 1, 2, 3, 4, and 5; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 260.125, subdivision 3; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 364.09; 388.14; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.205; 609.21; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.26, subdivisions 1 and 6; 609.2665; 609.267; 609.323, subdivision 1; 609.341, subdivision 11; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346, subdivisions 2 and 3, and by adding a subdivision; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.531, subdivision 1; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision

1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2; 609.685, subdivision 2, and by adding a subdivision; 609.86, subdivision 3; 611A.038; 624.701; 626.52, subdivision 3; 626.556, subdivision 2; and 628.26; Laws 1989, chapter 5, section 3; proposing coding for new law in Minnesota Statutes, chapters 121; 152; 241; 242; 243; 244; 299A; 299C; 299F; 609; 626; and 634; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55 as amended."

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

House Conferees: (Signed) Randy C. Kelly, Kathleen O. Vellenga, Kathleen A. Blatz, Lee Greenfield, Steve Wenzel

Senate Conferees: (Signed) Allan H. Spear, Donna C. Peterson, William P. Luther, Richard J. Cohen, Patrick D. McGowan

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on H.F. No. 59 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 59 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Waldorf moved that the following members be excused for a Conference Committee on S.F. No. 1625 at 3:00 p.m.:

Messrs. Waldorf, Dicklich, Taylor, DeCramer and Mrs. Brataas. The motion prevailed.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Merriam moved that the following members be excused for a Conference Committee on S.F. No. 321 at 5:00 p.m.:

Messrs. Merriam, Frank and Mrs. Brataas. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 738 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 738

A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 738, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 738 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEES.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) $15 for each single trip permit.

(b) $36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight and dimension.

(c) $60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) refuse compactor vehicles that carry a gross weight up to but not in excess of 22,000 pounds on a single rear axle and not in excess of 38,000 pounds on a tandem rear axle;

(2) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(3) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(4) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3); *and*

*(5) special pulpwood vehicles described in section 2.*

(d) $120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) truck cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) farm equipment when the movement is not made according to the provisions of section 169.80, subdivision 1, paragraphs (a) to (f);

(5) double-deck buses;

(6) commercial boat hauling.

(e) for vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

| Weight (pounds) exceeding weight limitations on axles | Cost Per Mile For Each Group Of: Two consecutive axles spaced within 8 feet or less | Three consecutive axles spaced within 9 feet or less | Four consecutive axles spaced within 14 feet or less |
|---|---|---|---|
| 0-2,000 | .100 | .040 | .036 |
| 2,001-4,000 | .124 | .050 | .044 |
| 4,001-6,000 | .150 | .062 | .050 |
| 6,001-8,000 | Not permitted | .078 | .056 |
| 8,001-10,000 | Not permitted | .094 | .070 |
| 10,001-12,000 | Not permitted | .116 | .078 |
| 12,001-14,000 | Not permitted | .140 | .094 |
| 14,001-16,000 | Not permitted | .168 | .106 |
| 16,001-18,000 | Not permitted | .200 | .128 |
| 18,001-20,000 | Not permitted | Not permitted | .140 |
| 20,001-22,000 | Not permitted | Not permitted | .168 |

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

| Gross Weight (pounds) of vehicle | Annual Permit Fee |
|---|---|
| 90,000 or less | $200 |
| 90,001 - 100,000 | $300 |
| 100,001 - 110,000 | $400 |
| 110,001 - 120,000 | $500 |
| 120,001 - 130,000 | $600 |
| 130,001 - 140,000 | $700 |
| 140,001 - 145,000 | $800 |

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) for vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to $120 added to the amount in paragraph (a) when the permit is issued while seasonal load

restrictions pursuant to section 169.87 are in effect.

Sec. 2. [169.863] [SPECIAL PULPWOOD VEHICLE PERMIT.]

*Subdivision 1.* [SPECIAL VEHICLE.] *The commissioner may issue a permit for a vehicle that meets the following requirements:*

*(a) There must be no more than two support points for the vehicle or for each vehicle of a vehicle combination. The support point of each axle group must be capable of distributing the load equally to each axle of the group with a variance of no more than 3,000 pounds between any two axles of the group.*

*(b) The maximum wheel load may not exceed the tire manufacturer's recommended load or the following weight limits, whichever is less:*

*(1) front steering axles, 550 pounds per inch;*

*(2) other single axles, 500 pounds per inch;*

*(3) tandem axles, 450 pounds per inch; and*

*(4) tridem or quad axle groups, 425 pounds per inch.*

*(c) The axle group weights must comply with the limitations of section 169.825, subdivision 10.*

*(d) The vehicle may not be equipped with a variable load axle, unless the variable load axle cannot be operated from the cab of the vehicle.*

*(e) The vehicle transports pole-length pulpwood, carries a gross vehicle weight of not more than 82,000 pounds, and has six axles.*

*Subd. 2.* [PERMIT RESTRICTIONS.] *A vehicle operating under a permit issued under this section may not travel on an interstate highway. The permit does not authorize the vehicle to exceed allowable gross weights that restrict travel on a highway or bridge under the authority of the commissioner or a local road authority.*

Sec. 3. Minnesota Statutes 1988, section 219.071, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF COSTS.] If a grade-crossing surface, as defined in section 219.16, needs *improvement,* repair or maintenance, the cost for the *improvement,* repair or maintenance may be paid jointly by the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds available to the department for grade-crossing surfaces from the following sources:

(1) money appropriated to the department in the future for the purposes of this section;

(2) available federal funds allocated for the grade-crossing program established by this section; and

(3) money acquired by the department by gift, grant, or contribution from any source for purposes of this section.

Sec. 4. Minnesota Statutes 1988, section 219.072, is amended to read:

219.072 [ESTABLISHMENT OF NEW GRADE CROSSINGS.]

The establishment of all new grade crossings must be approved by the commissioner. When establishment of a new grade crossing is desired, either by the public officials having the necessary authority or by the

railroad company, and the public officials and the railroad company cannot agree as to need, location, or type of warning devices required, either party may file a petition with the commissioner setting forth the facts and submitting the matter for determination. The commissioner, after notice as the commissioner deems reasonable, shall conduct a hearing and issue an order determining the matters submitted. *If the commissioner approves the establishment of a new grade crossing, the commissioner may in the same order direct that the costs, including the costs of the type of warning devices required, be divided between the railroad company and the public authority involved as the parties may agree, or, if they fail to agree, then as determined by the commissioner on the basis of benefit to the users of each. However, the commissioner may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken.*

Sec. 5. Minnesota Statutes 1988, section 222.49, is amended to read:

222.49 [RAIL SERVICE IMPROVEMENT ACCOUNT.]

The rail service improvement account is created in the special revenue fund in the state treasury. The commissioner shall deposit in this account all money appropriated to or received by the department for the purpose of rail service improvement, including bond proceeds as authorized by Article XI, Section 5, Clause (i) of the Minnesota Constitution ~~and federal money, but excluding proceeds of state bonds or other funds appropriated to the commissioner from the state transportation fund for the acquisition or betterment of property pertaining to the state rail bank established by section 222.63, and excluding income of the state rail bank and any other funds appropriated for its maintenance or improvement~~. All money so deposited is appropriated to the department for expenditure for rail service improvement in accordance with applicable state and federal law. This appropriation shall not lapse but shall be available until the purpose for which it was appropriated has been accomplished. No money appropriated to the department for the purposes of administering the rail service improvement program shall be deposited in the rail service improvement account nor shall such administrative costs be paid from the account.

Sec. 6. Minnesota Statutes 1988, section 222.50, subdivision 4, is amended to read:

Subd. 4. The commissioner may negotiate and enter into contracts for the purpose of rail ~~line rehabilitation and for the purpose of assisting in the payment of up to 50 percent of the nonfederal share of a rehabilitation project under~~ *service improvement and may incorporate funds available from* the federal rail service continuation program. The participants in these contracts shall be railroads, rail users and the department, and may be political subdivisions of the state and the federal government. In such contracts, participation by all parties shall be voluntary. The commissioner may provide a portion of the money required to carry out the terms of any such contract by expenditure from the rail service improvement account.

Sec. 7. Minnesota Statutes 1988, section 222.50, subdivision 5, is amended to read:

Subd. 5. In making any contract pursuant to subdivision 4 the commissioner may:

(a) Stipulate minimum operating standards for rail lines designed to achieve reasonable transportation service for shippers and to achieve best use of funds invested in rail line rehabilitation;

(b) Require a portion of the total assistance for improving a rail line to be loaned to the railroad by rail users and require the railroad to reimburse rail users for any loan on the basis of use of the line and the revenues produced when the line has been improved; *and*

(c) Determine the terms and conditions under which all or any portion of state funds allocated shall be repaid to the department by the railroads. Reimbursement may be made as a portion of the increased revenue derived from the improved rail line. Any reimbursement received by the department pursuant to this clause shall be deposited in the rail service improvement account and shall be appropriated exclusively for rehabilitating other rail lines in the state pursuant to subdivision 4; and.

~~(d) Require, in lieu of reimbursement as provided in clause (c) of this subdivision, that the railroad establish and maintain a separate railroad fund to be used exclusively for rehabilitation of other rail lines in Minnesota, to which a portion of the increase in revenue derived from the improved rail line shall be credited. The terms and conditions for use of money in the fund shall be stipulated in the contract. The contract shall also stipulate a penalty for use of such money in a manner other than as set forth in the contract and require the railroad to report to the department at such times as the commissioner requires, concerning the disbursement of money from the fund and the general status of rail line improvements.~~

Sec. 8. Minnesota Statutes 1988, section 222.50, subdivision 7, is amended to read:

Subd. 7. The commissioner may expend money from the rail service improvement account for the following purposes:

(a) To pay interest adjustments on loans guaranteed under the state rail user loan guarantee program;

(b) To pay a portion of the costs of capital improvement projects designed to improve rail service including construction or improvement of short segments of rail line such as side track, team track and connections between existing lines, and construction and improvement of loading, unloading, storage and transfer facilities of a rail user;

(c) To acquire, maintain, manage and dispose of railroad right-of-way pursuant to ~~subdivision 8 and~~ the state rail bank program;

(d) To provide for aerial photography survey of proposed and abandoned railroad tracks for the purpose of recording and reestablishing by analytical triangulation the existing alignment of the inplace track; *or*

(e) To pay a portion of the costs of acquiring a rail line by a regional railroad authority established pursuant to chapter 398A.

All money derived by the commissioner from the disposition of railroad right-of-way or of any other property acquired pursuant to sections 222.46 to 222.62 shall be deposited in the rail service improvement account.

Sec. 9. Minnesota Statutes 1988, section 222.63, subdivision 8, is amended to read:

Subd. 8. [RAIL BANK MAINTENANCE AND IMPROVEMENT ACCOUNTS.] *A* special ~~accounts~~ *account* shall be maintained in the state treasury, designated as the rail bank maintenance account ~~and the rail bank improvement account~~, to record the receipts and expenditures of the commissioner of transportation for the maintenance ~~and for the acquisition and~~

~~betterment~~ of rail bank property. ~~Expenditures of proceeds of state transportation bonds and any other amounts appropriated to the commissioner from the state transportation fund shall be recorded in the improvement account.~~ Funds received by the commissioner of transportation from rentals, fees, or charges for the use of rail bank property shall be credited to the maintenance account and used for the maintenance of that property and held as a reserve for maintenance expenses in an amount determined by the commissioner, and amounts received in the maintenance account in excess of the reserve requirements shall be transferred to the *rail service* improvement account. All proceeds of the sale of abandoned rail lines shall be deposited in the *rail service* improvement account. ~~The improvement account shall be used only for the acquisition and betterment of abandoned rail lines and right-of-way.~~ All money to be deposited in ~~those accounts~~ *this rail service improvement account* as provided in this subdivision is appropriated to the commissioner of transportation for the purposes of this section. The appropriations shall not lapse but shall be available until the purposes for which the funds are appropriated are accomplished.

Sec. 10. Minnesota Statutes 1988, section 398A.02, is amended to read:

398A.02 [PURPOSE.]

The purpose of the regional railroad authorities act is to provide a means whereby one or more municipalities, with state and federal aids as may be available, may provide for the preservation and improvement of local rail service for agriculture, industry, or passenger traffic *and provide for the preservation of abandoned rail right-of-way for future transportation uses,* when determined to be practicable and necessary for the public welfare, particularly in the case of abandonment of local rail lines.

Sec. 11. [REPEALER.]

*Minnesota Statutes 1988, section 222.50, subdivision 8, is repealed.*"

Amend the title as follows:

Page 1, line 2, delete "traffic regulations" and insert "transportation"

Page 1, line 4, after the second semicolon insert "providing for payment of costs for improving or establishing railroad grade crossings; clarifying source and providing for expenditures of rail service improvement funds; authorizing commissioner of transportation to enter into contracts for rail service improvement and to use federal funds; clarifying purposes of regional rail authorities;"

Page 1, line 5, delete "section" and insert "sections" and after the semicolon insert "219.071, subdivision 2; 219.072; 222.49; 222.50, subdivisions 4, 5, and 7; 222.63, subdivision 8; and 398A.02;"

Page 1, line 6, before the period insert "; repealing Minnesota Statutes 1988, section 222.50, subdivision 8"

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

Senate Conferees: (Signed) LeRoy A. Stumpf, Mel Frederick, Keith Langseth

House Conferees: (Signed) Edgar Olson, Jim Tunheim, Bernard L. Lieder

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 738 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

So the recommendations and Conference Committee Report were adopted.

S.F. No. 738 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Knaak | Metzen | Samuelson |
| Anderson | Decker | Knutson | Moe, R.D. | Schmitz |
| Beckman | Diessner | Laidig | Olson | Solon |
| Belanger | Frederick | Langseth | Pariseau | Spear |
| Benson | Frederickson, D.J. | Lantry | Piper | Storm |
| Berg | Frederickson, D.R. | Luther | Pogemiller | Stumpf |
| Berglin | Freeman | Marty | Purfeerst | Taylor |
| Bertram | Gustafson | McGowan | Ramstad | Vickerman |
| Brandl | Johnson, D.E. | McQuaid | Reichgott | Waldorf |
| Chmielewski | Johnson, D.J. | Mehrkens | Renneke | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 139 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 139

A bill for an act relating to liquor; increasing age for provisional driver's license to 21 years; changing provisional licenses to "under-21" licenses; prohibiting the issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages; providing penalty for misuse of Minnesota identification card; increasing the period for suspension of a drivers license for use of a license to illegally purchase alcohol; including other forms of identification and persons who lend identification; increasing the penalty for counterfeiting a drivers license or Minnesota identification card; prohibiting lending any form of identification for use by an underage person to purchase alcohol; clarifying the application of the carding defense for illegal sales; providing for transfer of confiscated identification; amending Minnesota Statutes 1988, sections 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 340A.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 139, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 139 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 168.123, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS; FEES.] The registrar shall issue special license plates to an applicant who served in the active military service in a branch of the armed forces of the United States, was discharged under honorable conditions, and is an owner or joint owner of a motor vehicle included within the definition of a passenger automobile *or which is self-propelled recreational equipment*, on payment of a fee of $10 for each set of two plates, payment of the registration tax required by law, and compliance with other laws relating to registration and licensing of motor vehicles and drivers. The additional fee of $10 is payable for each set of plates, is payable only when the plates are issued, and is not payable in a year in which tabs or stickers are issued instead of number plates. An applicant must not be issued more than two sets of plates for vehicles owned or jointly owned by the applicant.

The veteran shall have a certified copy of the veteran's discharge papers, indicating character of discharge, at the time of application.

Sec. 2. Minnesota Statutes 1988, section 168.125, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE AND DESIGN.] The registrar shall issue special license plates bearing the inscription "EX-POW" to any applicant who is both a former prisoner of war and an owner or joint owner of a motor vehicle upon the applicant's compliance with all the laws of this state relating to the registration and licensing of motor vehicles and drivers. The special license plates shall be of a design and size to be determined by the commissioner. Plates bearing the "EX-POW" inscription may be issued for only one motor vehicle per applicant.

Application for issuance of these plates shall be made at the time of renewal or first application for registration. The application shall include a certification by the commissioner of veterans affairs that the applicant was a member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States during a period of armed conflict.

The applicant shall pay, in addition to the registration tax required by law, a fee for the special license plates issued under this section, in an amount calculated by the commissioner to cover the cost of the license plates. The additional fee is payable only when the plates are issued and no additional fee is payable in any year in which tabs or stickers are issued in lieu of number plates. All fees from the sale of the special license plates shall be paid into the state treasury and credited to the highway user tax distribution fund.

Notwithstanding the provisions of section 168.12, subdivision 1, the special license plates issued under this section may be transferred to another motor vehicle owned or jointly owned by the former prisoner of war upon the payment of a fee of $5. This fee shall be paid into the state treasury and credited to the highway user tax distribution fund.

*Upon the death of a former prisoner of war, the registrar shall continue*

*to issue, upon renewal, the special license plates to a vehicle owned by the surviving spouse of the former prisoner of war. Special license plates issued to a surviving spouse may be transferred to another vehicle owned by the surviving spouse as provided in this subdivision.*

For purposes of this section, "motor vehicle" means a passenger automobile, station wagon, pickup truck, motorcycle, or recreational vehicle.

Sec. 3. Minnesota Statutes 1988, section 169.345, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purpose of this section, "physically handicapped person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one meter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/hg on room air at rest;

(6) uses portable oxygen; ~~or~~

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; *or*

*(8) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.*

Sec. 4. Minnesota Statutes 1988, section 171.02, subdivision 1, is amended to read:

Subdivision 1. No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon any street or highway in this state unless such person has a license valid under the provisions of this chapter for the type or class of vehicle being driven. No person shall receive a driver's license unless and until the person surrenders to the department all valid driver's licenses in possession issued to the person by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that licensee is now licensed in new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time. *No person may receive a driver's license, other than an instruction permit, unless the person surrenders to the department any Minnesota identification card issued to the person under section 171.07, subdivision 3.*

Sec. 5. Minnesota Statutes 1988, section 171.02, subdivision 3, is amended to read:

Subd. 3. [MOTORIZED BICYCLES.] No motorized bicycle shall be operated on any public roadway by any person who does not possess a valid driver's license, unless the person has obtained a motorized bicycle operator's permit or motorized bicycle instruction permit from the commissioner of public safety. The operator's permit may be issued to any

person who has attained the age of 15 years and who has passed the examination prescribed by the commissioner. The instruction permit may be issued to any person who has attained the age of 15 years and who has successfully completed an approved safety course and passed the written portion of the examination prescribed by the commissioner.

This course must consist of, but is not limited to, a basic understanding of:

(1) motorized bicycles and their limitations;

(2) motorized bicycle laws and rules;

(3) safe operating practices and basic operating techniques;

(4) helmets and protective clothing;

(5) motorized bicycle traffic strategies; and

(6) effects of alcohol and drugs on motorized bicycle operators.

The commissioner may promulgate rules prescribing the content of the safety course, examination, and the information to be contained on the permits. A person operating a motorized bicycle under a motorized bicycle permit is subject to the restrictions imposed by section 169.974, subdivision 2, on operation of a motorcycle under a two-wheel instruction permit.

The fees for motorized bicycle operator's permits are as follows:

| | |
|---|---|
| (a) Examination and operator's permit, valid for one year | $6 |
| (b) Duplicate | $3 |
| (c) Renewal permit before age ~~19~~ *21* and valid until age ~~19~~ *21* | $9 |
| (d) Renewal permit after age ~~19~~ *21* and valid for four years | $15 |
| (e) Duplicate of any renewal permit | $4.50 |
| (f) Written examination and instruction permit, valid for 30 days | $6 |

Sec. 6. Minnesota Statutes 1988, section 171.06, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) The fees for a license and Minnesota identification card are as follows:

| | | | |
|---|---|---|---|
| Classified Driver License | C-$15 | B-$22.50 | A-$30 |
| Classified ~~Provisional~~ *Under-21* D.L. | ~~C-$9~~ *C-$15* | ~~B-$15~~ *B-$22.50* | A-$10 |
| Instruction Permit | | | $6 |
| Duplicate Driver or ~~Provisional~~ *Under-21* License | | | $4.50 |
| Minnesota identification card, except as otherwise provided in section 171.07, subdivisions 3 and 3a | | | $9 |

Sec. 7. Minnesota Statutes 1988, section 171.07, subdivision 1, is amended to read:

Subdivision 1. [LICENSE; CONTENTS.] The department shall, upon the payment of the required fee, issue to every applicant qualifying therefor a license designating the type or class of vehicles the applicant is authorized to drive as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and permanent mailing address if different, a description of the licensee in such manner as the commissioner deems necessary, and a space upon which the licensee shall write the usual signature and the date of birth of the licensee with pen and ink. No license shall be valid until it has been so signed by the licensee. Except in the case of an instruction permit, every license shall bear thereon a colored photograph of the licensee. Every license issued to an applicant under the age of ~~19~~ *21* shall be of a distinguishing color and plainly marked "~~provisional~~ *Under-21*." The department shall use such process or processes in the issuance of licenses that prohibits as near as possible, the ability to alter or reproduce the licenses, or prohibit the ability to superimpose a photo on such licenses without ready detection. A license issued to an applicant of age 65 or over shall be plainly marked "senior" if requested by the applicant.

Sec. 8. Minnesota Statutes 1988, section 171.07, subdivision 3, is amended to read:

Subd. 3. Upon payment of the required fee the department shall issue to every applicant therefor a Minnesota identification card. *The department may not issue a Minnesota identification card to a person who has a driver's license, other than an instruction permit.* The card must bear a distinguishing number assigned to the applicant, a colored photograph, the full name, date of birth, residence address, a description of the applicant in the manner as the commissioner deems necessary, and a space upon which the applicant shall write the usual signature and the date of birth of the applicant with pen and ink.

Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license." The fee for a Minnesota identification card issued to a person who is mentally retarded, as defined in section 252A.02, subdivision 2, is 50 cents.

Sec. 9. Minnesota Statutes 1988, section 171.171, is amended to read:

171.171 [SUSPENSIONS; ILLEGAL PURCHASE OF ALCOHOLIC BEVERAGES.]

The commissioner shall suspend for a period of ~~30~~ *90* days the license of a person *who:*

*(1) is* under the age of ~~19~~ *21* years ~~who~~ *and* is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340A.503 if the person used a drivers license ~~or~~, permit *or Minnesota identification card* to purchase or attempt to purchase the alcoholic beverage*; or*

*(2) is convicted under section 171.22, subdivision 1, clause (2), or 340A.503, subdivision 2, clause (3), of lending or knowingly permitting a person under the age of 21 years to use the person's driver's license, permit or Minnesota identification card to purchase or attempt to purchase an alcoholic beverage.*

Sec. 10. Minnesota Statutes 1988, section 171.22, is amended to read:

171.22 [UNLAWFUL ACTS.]

Subdivision 1. [ACTS.] It shall be unlawful for any person:

(1) to display, or cause or permit to be displayed, or have in possession, any canceled, revoked, suspended, fictitious, or fraudulently altered driver's license *or Minnesota identification card*;

(2) to lend the person's driver's license *or Minnesota identification card* to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license *or Minnesota identification card* not issued to that person;

(4) to fail or refuse to surrender to the department, upon its lawful demand, any driver's license *or Minnesota identification card* which has been suspended, revoked, or canceled;

(5) to use a fictitious name or date of birth to any police officer or in any application for a driver's license *or Minnesota identification card*, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(6) to alter any driver's license~~, or to counterfeit or make any fictitious license~~ *or Minnesota identification card*;

(7) to take any part of the driver's license examination for another or to permit another to take the examination for that person; ~~or~~

(8) *to make a counterfeit driver's license or Minnesota identification card; or*

*(9)* to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer.

Subd. 2. [PENALTIES.] Any person who violates subdivision 1, clause (8) *or (9)*, is guilty of a gross misdemeanor. Any person who violates any other provision of subdivision 1 is guilty of a misdemeanor.

Sec. 11. Minnesota Statutes 1988, section 171.27, is amended to read:

171.27 [EXPIRATION OF LICENSES.]

The expiration date for each driver's license, other than ~~provisional~~ *under-21* licenses, is the birthday of the driver in the fourth year following the date of issuance of the license. The birthday of the driver shall be as indicated on the application for a driver's license. A license may be renewed on or before expiration or within one year after expiration upon application, payment of the required fee, and passing the examination required of all drivers for renewal. Driving privileges shall be extended or renewed on or preceding the expiration date of an existing driver's license unless the commissioner believes that the licensee is no longer qualified as a driver.

The expiration date for each ~~provisional~~ *under-21* license shall be the ~~19th~~ *21st* birthday of the licensee. Upon the ~~provisional~~ licensee attaining the age of ~~19~~ *21* and upon the application, payment of the required fee, and passing the examination required of all drivers for renewal, a driver's license shall be issued ~~if the commissioner deems the record of the provisional licensee to be satisfactory~~ *unless the commissioner determines that the licensee is no longer qualified as a driver*.

*The expiration date for each provisional license issued before August 1, 1989, is the 19th birthday of the licensee. When a holder of a provisional license attains the age of 19, requires a duplicate license, or wants to obtain an updated under-21 license, and upon the payment of a $5 application fee and passing the examination required for renewal, an under-21 driver's license must be issued unless the commissioner believes that the licensee is no longer qualified as a driver. The expiration date of an under-21 license is the person's 21st birthday.*

Any valid Minnesota driver's license issued to a person then or subsequently on active duty with the Armed Forces of the United States, or the person's spouse, shall continue in full force and effect without requirement for renewal until 90 days after the date of the person's discharge from such service, provided that a spouse's license must be renewed if the spouse is residing within the state at the time the license expires or within 90 days after the spouse returns to Minnesota and resides within the state.

Sec. 12. Minnesota Statutes 1988, section 260.195, subdivision 3, is amended to read:

Subd. 3. [DISPOSITIONS.] If the juvenile court finds that a child is a petty offender, the court may require the child to:

(a) Pay a fine of up to $100;

(b) Participate in a community service project;

(c) Participate in a drug awareness program; or

(d) Order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an inpatient or outpatient chemical dependency treatment program; or

(e) Perform any other activities or participate in any other treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license ~~or~~, permit *or Minnesota identification card* to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall ~~revoke~~ *suspend* the child's license or permit for a period of ~~30~~ *90* days.

None of the dispositional alternatives described in clauses (a) to (e) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Sec. 13. Minnesota Statutes 1988, section 340A.503, subdivision 2, is amended to read:

Subd. 2. [PURCHASING.] It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, *or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.*

Sec. 14. Minnesota Statutes 1988, section 340A.503, subdivision 6, is amended to read:

Subd. 6. [PROOF OF AGE; *DEFENSE.*] *(a)* Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid drivers license or Minnesota identification card, or in the case of a foreign national by a valid passport.

*(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.*

Sec. 15. Minnesota Statutes 1988, section 340A.801, is amended by adding a subdivision to read:

*Subd. 3a.* [DEFENSE.] *The defense described in section 340A.503, subdivision 6, applies to actions under this section.*

Sec. 16. [EFFECTIVE DATE.]

*Sections 1 to 15 are effective August 1, 1989, except that the designation of driver's licenses of persons under age 21 as "Under-21" licenses is effective January 1, 1990.*"

Delete the title and insert:

"A bill for an act relating to public safety; providing for special license plates for veterans who are owners of self-propelled recreational equipment; providing for disposition of POW plates to surviving spouses of former prisoners of war; defining physically handicapped person for purposes of parking privileges; prohibiting issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; changing driver's license classification from provisional to under-21 and changing expiration date to holder's 21st birthday; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages and increasing suspension period; providing penalty for misuse of Minnesota identification card or driver's license; increasing penalty for counterfeiting driver's license or Minnesota identification card; prohibiting lending of form of identification for use by minor to purchase alcoholic beverage; clarifying application of carding defense for illegal sale of alcoholic beverage; amending Minnesota Statutes 1988, sections 168.123, subdivision 1; 168.125, subdivision 1; 169.345, subdivision 2; 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision."

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

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

House Conferees: (Signed) Alice M. Johnson, Arthur W. Seaberg, Chuck Brown

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 139 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 139 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Decker | Kroening | Moe, D.M. | Samuelson |
| Anderson | DeCramer | Laidig | Moe, R.D. | Schmitz |
| Beckman | Diessner | Langseth | Novak | Solon |
| Belanger | Frederick | Lantry | Olson | Spear |
| Benson | Frederickson, D.J. | Larson | Pariseau | Storm |
| Berg | Frederickson, D.R. | Lessard | Piper | Stumpf |
| Berglin | Freeman | Luther | Pogemiller | Taylor |
| Bertram | Gustafson | Marty | Purfeerst | Vickerman |
| Brandl | Johnson, D.E. | McGowan | Ramstad | Waldorf |
| Chmielewski | Knaak | McQuaid | Reichgott | |
| Cohen | Knutson | Metzen | Renneke | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 927 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 927: A bill for an act relating to traffic regulations; defining terms; subjecting driver of commercial motor vehicle to stricter federal standard on alcohol-related driving; providing for and regulating category of commercial driver's license and commercial motor vehicle drivers; authorizing Minnesota to join driver license compact; allowing exchange of driver license information with other states; promoting consolidated, complete driver record; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 168.011, subdivision 9; 169.01, subdivision 50, and by adding a subdivision; 169.123, subdivisions 1, 2, 4, 5, 5a, 5b, 5c, and 6; 171.01, subdivision 19, and by adding subdivisions; 171.02, subdivision 2; 171.03; 171.04; 171.06, subdivisions 2 and 3; 171.07, by adding a subdivision; 171.10, subdivision 2; 171.12, subdivision 2; 171.13, subdivision 5; 171.14; 171.16, subdivision 1; 171.18; 171.20; 171.22, subdivision 1; 171.24; and 171.30, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 169 and 171.

Mr. DeCramer moved to amend H.F. No. 927, as amended pursuant to Rule 49, adopted by the Senate May 18, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1200.)

Page 3, line 30, delete "*or a controlled substance*"

Page 7, line 19, delete "*an*" and insert "*the presence of any*"

Page 7, line 20, delete everything before "*and*"

Page 13, line 31, delete "*for trips*"

Page 14, line 4, strike "volunteer"

Page 21, line 15, after "*disqualification*" insert "*under this subdivision or subdivision 2*"

Page 22, line 36, delete the third "*section*"

Page 23, line 1, delete "*subdivision 3,*"

Page 23, delete lines 24 to 34 and insert:

"*(c) The commissioner shall notify the applicant or license holder in writing of the reconsideration decision within 15 working days after receiving the request for reconsideration. The disqualification takes effect 20 days after the person receives the reconsideration decision, unless the person requests a contested case hearing under subdivision 4.*

*Subd. 4.* [CONTESTED CASE.] *Within 20 days after receiving the reconsideration decision under subdivision 3, clause (c), a person may request a contested case hearing under chapter 14. A contested case hearing must be held within 20 days of the commissioner's receipt of the contested case hearing request, and the administrative law judge shall issue a report within 20 days after the close of the hearing record. The commissioner shall issue a final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section 14.61. The disqualification shall take effect upon receipt of the commissioner's final decision.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 927 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Davis | Knutson | Moe, D.M. | Renneke |
| Anderson | DeCramer | Kroening | Moe, R.D. | Schmitz |
| Beckman | Diessner | Laidig | Novak | Solon |
| Belanger | Frederick | Langseth | Olson | Spear |
| Benson | Frederickson, D.J. | Lantry | Pariseau | Storm |
| Berg | Frederickson, D.R. | Luther | Piper | Stumpf |
| Bertram | Freeman | Marty | Pogemiller | Vickerman |
| Brandl | Gustafson | McGowan | Purfeerst | Waldorf |
| Chmielewski | Johnson, D.E. | McQuaid | Ramstad | |
| Cohen | Knaak | Mehrkens | Reichgott | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 624 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 624: A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

Mr. Freeman moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 17, delete section 23 and insert:

"Sec. 23. [82B.23] [PRIVATE REMEDY.]

*A person who has submitted an application for a mortgage loan involving one to four residential units has a cause of action against the appraiser who appraised the property as part of the loan process if the appraiser violated any provision in section 20, if the person has made a written demand to the real estate appraiser for damages and the appraiser has not responded to the demand within 30 days after the demand or has denied paying the full amount of damages demanded. The person must show that actual damages have been sustained as a direct result of the violation. If actual damages have been sustained, the real estate appraiser is liable to that person for actual damages, plus reasonable attorney fees.*"

The motion prevailed. So the amendment was adopted.

Mr. Frederick moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 17, line 24, delete everything after "*shall*" and insert "*pass an examination conducted by the commissioner of commerce under section 82B.10 or successfully complete sufficient classroom hours of courses under section*"

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 8, line 2, delete "*$100*" and insert "*$50*"

Page 8, line 3, delete "*$50*" and insert "*$25*"

The motion prevailed. So the amendment was adopted.

H.F. No. 624 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 43 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Kroening | Metzen | Schmitz |
| Anderson | Diessner | Laidig | Moe, D.M. | Spear |
| Beckman | Frederick | Langseth | Olson | Storm |
| Belanger | Frederickson, D.R. | Lantry | Pariseau | Stumpf |
| Benson | Freeman | Luther | Piper | Taylor |
| Bertram | Gustafson | Marty | Purfeerst | Vickerman |
| Chmielewski | Johnson, D.J. | McGowan | Ramstad | Waldorf |
| Cohen | Knaak | McQuaid | Renneke | |
| Decker | Knutson | Mehrkens | Samuelson | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1532 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 1532: 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; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

Mr. Dicklich moved to amend H.F. No. 1532, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1433.)

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. [216B.095] [DISCONNECTION DURING COLD WEATHER.]

*The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:*

*(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;*

*(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;*

*(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total energy costs where the customer receives service from more than one provider;*

*(4) that a customer's household income does not include any amount received for energy assistance;*

*(5) verification of income by the local energy assistance provider, unless the customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and*

*(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.*

*For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis."*

Page 4, line 23, before the period, insert "*unless an insufficient number of appropriate programs are available*"

Page 4, lines 29 to 32, reinstate the stricken language

Page 4, line 33, reinstate the stricken language and before the reinstated period, insert "*or unless the department determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise*"

Page 5, line 9, after the period, insert "*The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department.*"

Page 9, after line 23, insert:

"Sec. 7. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

*Subd. 2a.* [BENEFITS OF WEATHERIZATION.] *In the case of a grant made to an owner of a rental dwelling unit for weatherization, the commissioner shall require that:*

*(1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low-income family that resides in the unit;*

*(2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and*

*(3) no undue or excessive enhancement will occur to the value of the dwelling unit.*"

Page 10, line 1, after "*commission*" insert "*and the commission may continue to approve programs*"

Pages 10 and 11, delete sections 11 and 12 and insert:

"Sec. 11. [OIL OVERCHARGE MONEY; APPROPRIATION.]

*Subdivision 1.* [LIMITATION.] *The money appropriated or made available by this section is money received by the state, or to be made available to the state in the future, as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise appropriated by law or dedicated by court order.*

*Subd. 2.* [ENERGY RELATED PROJECTS.] *$3,100,000 of the money specified in subdivision 1 is appropriated for transfer to the housing development fund for home energy loans. Of that amount, $2,200,000 must be made available as soon as federal approval is received. The balance must be made available from money received later in the fiscal years ending June 30, 1990, and June 30, 1991.*

*Subd. 3.* [OTHER PROJECTS.] *The remainder of the money specified in subdivision 1 is made available as follows:*

*(1) one-half is available to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans, but may not be spent until appropriated by law; and*

*(2) one-half is available to the Minnesota future resources commission.*

*Money made available under clause (1) is not governed by Minnesota Statutes, section 4.071. Money appropriated under clause (2) is available for projects reviewed and recommended by the commission, but may not be spent until appropriated by law and is limited to money received by or to be made available to the state later in the fiscal years ending June 30, 1990, and June 30, 1991.*

Sec. 12. [APPROPRIATION.]

*$22,000 is appropriated from the general fund to the commissioner of public service for the purposes of rulemaking."*

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1532 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Davis | Knaak | Mehrkens | Samuelson |
| Anderson | Decker | Knutson | Metzen | Schmitz |
| Beckman | Dicklich | Kroening | Moe, D.M. | Spear |
| Belanger | Diessner | Laidig | Moe, R.D. | Storm |
| Berg | Frederick | Lantry | Olson | Stumpf |
| Berglin | Frederickson, D.J. | Larson | Pariseau | Taylor |
| Bertram | Frederickson, D.R. | Luther | Piper | Vickerman |
| Brandl | Gustafson | Marty | Pogemiller | Waldorf |
| Chmielewski | Johnson, D.E. | McGowan | Purfeerst | |
| Cohen | Johnson, D.J. | McQuaid | Ramstad | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 13 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 13: A bill for an act relating to courts; raising the jurisdictional limit on claims heard in conciliation court; permitting bail in civil contempt cases to be used to satisfy the judgment; requiring a report; amending Minnesota Statutes 1988, sections 487.30, subdivisions 1 and 5; 488A.12, subdivision 3; 488A.14, subdivision 6; 488A.16, subdivision 8; 488A.29, subdivision 3; 488A.31, subdivision 6; and 488A.33, subdivision 7.

Mr. Luther moved to amend H.F. No. 13, as amended pursuant to Rule 49, adopted by the Senate May 3, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 830.)

Page 1, line 15, delete "*$3,000*" and insert "*$3,500*"

Pages 1 to 3, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1988, section 487.30, subdivision 3a, is amended to read:

Subd. 3a. [JURISDICTION; STUDENT LOANS.] Notwithstanding the provisions of subdivision 1 or any rule of court to the contrary, the conciliation court has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state university or community college, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of the county under the following conditions:

(a) the student loan or loans were originally awarded in the county in which the conciliation court is located;

(b) the loan or loans are overdue at the time the action is commenced;

(c) the amount sought in any single action does not exceed ~~$2,000~~ *$3,500*;

(d) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(e) the notice states that the educational institution may commence a conciliation court action in the county where the loan was awarded to recover the amount of the loan.

Notwithstanding any law or rule or civil procedure to the contrary, a summons in any action commenced under this subdivision may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the overdue loan or loans to the summons before it is issued.

Sec. 3. Minnesota Statutes 1988, section 487.30, subdivision 5, is amended to read:

Subd. 5. [SATISFACTION OF JUDGMENT.] If (1) a conciliation court judgment has been docketed in county court for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the county court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who

intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 4. Minnesota Statutes 1988, section 487.30, subdivision 8, is amended to read:

Subd. 8. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ ON REMOVAL.] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs as provided by rules of the supreme court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~county~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to county court~~.

*(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as provided by rules of the supreme court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~county~~ *district* court *if*:

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in county court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge~~*, court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~county~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge~~*, court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~county~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge~~*, court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~county~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in county court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~county~~ *district* court shall not be considered in determining whether there was a recovery by

either party in either court or in determining the difference in recovery under this subdivision."

Page 3, line 8, delete "*$3,000*" and insert "*$3,500*"

Page 4, line 14, strike "$2,000" and insert "*$3,500*"

Page 4, line 31, delete "*$3,000*" and insert "*$3,500*"

Pages 4 to 6, delete section 5 and insert:

"Sec. 7. Minnesota Statutes 1988, section 488A.16, subdivision 8, is amended to read:

Subd. 8. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become finally effective under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the court administrator of conciliation court on payment of a fee of 50 cents and file it with the court administrator of the municipal court of the county of Hennepin. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. No writ of execution or garnishment summons may be issued out of conciliation court. If (1) a conciliation court judgment has been docketed as a municipal court judgment for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 8. Minnesota Statutes 1988, section 488A.17, subdivision 10, is amended to read:

Subd. 10. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party $5 as costs together with the prevailing party's disbursements incurred in conciliation and municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and~~

~~means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

*(b) If the removing party prevails in district court, the removing party may recover $5 as costs from the opposing party, together with disbursements in conciliation and district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~If~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~If~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~If~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~If~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision."

Page 6, line 12, delete "*$3,000*" and insert "*$3,500*"

Page 7, line 18, strike "$2,000" and insert "*$3,500*"

Page 7, line 35, delete "*$3,000*" and insert "*$3,500*"

Pages 8 and 9, delete section 8 and insert:

"Sec. 11. Minnesota Statutes 1988, section 488A.33, subdivision 7, is amended to read:

Subd. 7. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become final under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the administrator of conciliation court and file it with the administrator of the municipal court upon payment of the filing fees as prescribed for the municipal

court. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. A transcript of a judgment payable in installments may not be obtained and filed until 20 days after default in the payment of an installment. No writ of execution nor garnishment summons may be issued out of conciliation court. If (1) a transcript of a judgment has been filed for a period of at least 30 days, (2) the judgment is not satisfied or an installment of it remains overdue, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 12. Minnesota Statutes 1988, section 488A.34, subdivision 9, is amended to read:

Subd. 9. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs and disbursements as though the action was originally commenced in the municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ "*removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~,~~ ~~and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

*(b) If the removing party prevails in district court, the removing party may recover costs and disbursements from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the*

*removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge,~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount of value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 13, as amended pursuant to Rule 49, adopted by the Senate May 3, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 830.)

Page 1, line 13, before "The" insert "*(a) Except as provided in paragraph (b),*"

Page 1, after line 22, insert:

"*(b) If the claim involves a consumer credit transaction, the amount of money or property that is the subject matter of the claim may not exceed $2,000. "Consumer credit transaction" means a sale of personal property, or a loan arranged to facilitate the purchase of personal property, in which:*

*(1) credit is granted by a seller or a lender who regularly engages as a seller or lender in credit transactions of the same kind;*

*(2) the buyer is a natural person; and*

*(3) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose.*"

Page 3, line 8, delete "*$3,000*" and insert "*$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning*

*given in section 487.30, subdivision 1*"

Page 4, line 31, delete "*$3,000*" and insert "*$3,500, or $2,000 if the controversy concerns a consumer credit transaction*"

Page 4, line 34, after the period, insert "*"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*"

Page 6, line 12, delete "*$3,000*" and insert "*$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning given in section 487.30, subdivision 1*"

Page 7, line 35, delete "*$3,000*" and insert "*$3,500, or $2,000 if the controversy concerns a consumer credit transaction*"

Page 8, line 2, after the period, insert "*"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 13 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 42 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Johnson, D.E. | Luther | Schmitz |
| Anderson | Davis | Johnson, D.J. | Marty | Solon |
| Beckman | Decker | Knaak | McGowan | Spear |
| Belanger | Dicklich | Knutson | Mehrkens | Stumpf |
| Benson | Diessner | Kroening | Moe, D.M. | Vickerman |
| Berg | Frederick | Laidig | Moe, R.D. | Waldorf |
| Bertram | Frederickson, D.J. | Langseth | Piper | |
| Brandl | Frederickson, D.R. | Lantry | Ramstad | |
| Chmielewski | Freeman | Lessard | Renneke | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1108 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 1108: A bill for an act relating to agriculture; changing a provision that allows averaging of certain multiple loads of grain; amending Minnesota Statutes 1988, section 17B.048.

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 43 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Johnson, D.J. | Luther | Samuelson |
| Anderson | Davis | Knaak | Marty | Schmitz |
| Beckman | Decker | Knutson | McGowan | Spear |
| Belanger | Diessner | Kroening | Mehrkens | Storm |
| Benson | Frank | Laidig | Moe, D.M. | Stumpf |
| Berg | Frederickson, D.J. | Langseth | Moe, R.D. | Vickerman |
| Berglin | Frederickson, D.R. | Lantry | Piper | Waldorf |
| Bertram | Freeman | Larson | Ramstad | |
| Brandl | Johnson, D.E. | Lessard | Renneke | |

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 42 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 42: A bill for an act relating to economic development; permitting state agencies and local jurisdictions to invest in a working capital fund; proposing coding for new law in Minnesota Statutes, chapters 16B, 161, 471, and 473.

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 42 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Knaak | Mehrkens | Solon |
| Anderson | Decker | Knutson | Moe, D.M. | Spear |
| Beckman | Dicklich | Laidig | Moe, R.D. | Storm |
| Belanger | Diessner | Langseth | Novak | Stumpf |
| Benson | Frank | Lantry | Piper | Vickerman |
| Berglin | Frederickson, D.J. | Larson | Ramstad | Waldorf |
| Bertram | Freeman | Luther | Renneke | |
| Brandl | Gustafson | Marty | Samuelson | |
| Chmielewski | Johnson, D.E. | McGowan | Schmitz | |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1625 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 1625

A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 136.31, subdivisions 3 and 5; 136A.04; 136A.05; 136A.08; 136A.095; 136A.101, subdivisions 1 and 7; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivision 1; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.29, subdivision 9; 136C.04, subdivisions 1, 2, 6, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding

a subdivision; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; and 136C.43, subdivisions 1, 2, and 3.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1625, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1625 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this act. The listing of an amount under the figure "1989," "1990," or "1991" in this act indicates that the amount is appropriated to be available for the fiscal year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively. "The first year" is fiscal year 1990. "The second year" is fiscal year 1991. "The biennium" is fiscal years 1990 and 1991.

SUMMARY BY FUND

| | 1990 | 1991 | TOTAL |
|---|---|---|---|
| General | $943,318,000 | $1,014,642,000 | $1,957,960,000 |

SUMMARY BY AGENCY - ALL FUNDS

| | 1990 | 1991 | TOTAL |
|---|---|---|---|
| Higher Education Coordinating Board | $ 83,593,000 | $ 96,453,000 | $180,046,000 |
| State Board of Vocational Technical Education | 165,952,000 | 174,050,000 | 340,002,000 |
| State Board for Community Colleges | 88,147,000 | 99,600,000 | 187,747,000 |
| State University Board | 167,401,000 | 179,204,000 | 346,605,000 |
| Board of Regents of the University of Minnesota | | | |

| | | | |
|---|---|---|---|
| | 437,191,000 | 464,254,000 | 901,445,000 |
| Mayo Medical Foundation | 1,034,000 | 1,081,000 | 2,115,000 |

| | APPROPRIATIONS Available for the Year Ending June 30 | |
|---|---|---|
| | 1990 | 1991 |
| Sec. 2. HIGHER EDUCATION COORDINATING BOARD | | |
| Subdivision 1. Total Appropriation | $83,593,000 | $96,453,000 |

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

As part of its next budget request, the board shall report on its method of implementing the base adjustments required in this section.

Subd. 2. Agency Administration
$3,900,000 $2,972,000

(a) The optometry and osteopathy contract program for students who were in the program in the 1986-1987 academic year must be discontinued on June 30, 1990. No new students may be admitted.

(b) As part of its 1991 biennial budget request, the HECB shall report its recommendations for improvements to the SELF program.

(c) Notwithstanding Laws 1987, chapter 401, section 33, the task force on post-secondary quality assessment may continue for the 1989-1991 biennium. The task force membership may be expanded to include public members appointed by the higher education advisory council from nominees submitted by the HECB.

(d) No further funding of the enterprise development centers shall be provided through the HECB. The Greater Minnesota Corporation may provide funding for the centers.

(e) $150,000 for the biennium is for matching grants to post-secondary institutions that submit acceptable proposals for campus community service projects emphasizing students performing as tutors or mentors to their younger peers. Campus community service projects attempt to instill in students the value of civic

involvement and the belief that each student's community service can make a difference in the community. The HECB may award up to 20 grants. To receive a grant, a recipient must match the grant amount from any resources available to the institution. The state grant is for a staff person on each recipient's campus to coordinate student community service involvement. Up to $25,000 of the appropriation may be used for HECB administration, coordination, training, consultation, and evaluation costs. The legislature intends the grant program to be phased out at the end of the biennium to be replaced by 100 percent funding by the recipient institutions from any resources available to the institution.

(f) The HECB shall undertake the second phase of the study of post-secondary needs in the state, as provided in Laws 1988, chapter 703, article 1, section 2, subdivision 3. This phase must concentrate on those parts of the state outside the St. Cloud to Rochester population corridor. The HECB may contract for portions of the study, as necessary, but is not subject to Minnesota Statutes, chapter 16B. Before proceeding with the request for proposals, the HECB shall consult with the post-secondary systems, institutions, and other relevant agencies to locate studies and market analyses that could be used in conducting phase 2. The study must focus on (1) an assessment of the current and future conditions and needs; (2) strategies to meet these needs; (3) costs associated with the strategies; and (4) effects of the strategies on existing institutions, state policies, quality of education, and system and institutional missions.

The study should include consideration of at least the following concerns: the current and projected demographic and participation trends; current levels and types of services available; needs of traditional and nontraditional students; the geographical accessibility of services needed by different types of students; uses of alternative delivery systems, instructional technology, cooperative

efforts, and reciprocity agreements; relationships between post-secondary institutions and business; and the physical capacity of existing institutions. The study shall analyze attendance patterns and may include market surveys. The HECB shall report the findings of the study to the education and finance committees of the senate and the education and appropriations committees of the house by December 1, 1990. By January 1, 1991, the HECB shall review and comment on each of the strategies proposed in the study. In submitting the findings of phase 2, the board shall relate them to the results of phase 1 and their implications for statewide policy.

The study shall serve as the 1990 intersystem plan as required in Minnesota Statutes, section 135A.06, subdivision 2.

(g) The HECB shall analyze and make recommendations on plans submitted for providing undergraduate and practitioner-oriented graduate programs in the seven-county metropolitan area. By February 1, 1990, the HECB shall report on its recommendations to the education and finance committees of the senate and the education and appropriations committees of the house.

Subd. 3. State Scholarships and Grants

| | |
|---|---|
| $69,044,000 | $82,644,000 |

If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available for it.

During the biennium, the higher education coordinating board may ask the commissioner of finance to loan general fund money to the scholarship and grant account to ease cash flow difficulties. The higher education coordinating board must first certify to the commissioner that there will be adequate refunds to the account to repay the loan. The commissioner shall use the refunds to make repayment to the general fund of the full amount loaned. Money necessary to meet cash flow difficulties in the state scholarship and grant program is appropriated to the commissioner of finance for loans

to the higher education coordinating board.

This appropriation contains money for increasing living allowances for state scholarships and grants to $3,170 for the first year and $3,465 for the second year.

$2,000,000 each year is for child care grants. For the biennium, the board may determine a reasonable percentage of the appropriation to be used for the administrative costs of the agency and the campuses.

The HECB shall report to the education divisions of the house appropriations and senate finance committees on the academic progress and persistence of state scholarship and grant program recipients by February 1, 1990.

The HECB shall examine and make recommendations on the use of post-secondary scholarships and other mechanisms to provide incentives to students to pursue International Baccalaureate degrees. In making its recommendations, the HECB shall include an analysis of the cost of a scholarship program and whether these scholarships would be an appropriate use of state funds.

The HECB may use up to $250,000 of the appropriation in each year to provide grants for Minnesota resident students participating in the Akita program. Grants must be awarded on the same basis as other state grants, except that the cost of attendance shall be adjusted to incorporate the state university tuition level and the Akita fee level. An individual grant must not exceed the state grant maximum award for a student at a four-year private college. The HECB and the state university board shall report on these grants in the 1991 biennial budget document.

By February 15, 1990, the HECB shall report to the education divisions of the senate finance and the house appropriations committees on implementation of procedures to recover overpayment of state scholarship and grant awards. The report shall cover overpayments for the 1988-1989 academic year and shall include at

least the following information for each case for which recovery of an overpayment is sought:

(1) the reason for the overpayment;

(2) the manner in which the overpayment was discovered;

(3) the amount of the overpayment;

(4) the recovery plan proposed by the HECB;

(5) whether the case was brought to court and, if so,

(a) why the case was brought to court,

(b) the cost to the HECB of bringing the case to court, and

(c) whether the HECB recovered costs and attorney fees; and

(6) the disposition, including the amount of the overpayment recovered and the amount of time elapsed from the time the overpayment was discovered to the time a repayment agreement was reached.

The report shall not include any information identifying the students involved.

Subd. 4. Interstate Tuition Reciprocity

| | |
|---|---|
| $ 4,300,000 | $ 4,300,000 |

If the appropriation for either year is insufficient, the appropriation for the other year is available to meet reciprocity contract obligations.

Subd. 5. State Work Study

| | |
|---|---|
| $ 5,304,000 | $ 5,454,000 |

Subd. 6. Income Contingent Loans

The HECB shall administer an income contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. During the biennium, applicant data collected by the higher education coordinating board for this program may be disclosed to a consumer credit reporting agency under the same conditions as apply to the supplemental loan program according to Minnesota Statutes, section 136A.162.

The HECB shall study the possible inclusion of students in other academic programs and report its recommendations to the house appropriations and senate finance committees by December 1, 1990.

Subd. 7. Minitex Library Program
$ 1,045,000 $ 1,083,000

Subd. 8. An unencumbered balance in the first year under a subdivision in this section does not cancel but is available for the second year.

Subd. 9. The higher education coordinating board may transfer unencumbered balances from the appropriations in this section to the state scholarship and grant appropriation. Before the transfer, the higher education coordinating board shall consult with the chairs of the house appropriations and senate finance committees.

Sec. 3. STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION

Subdivision 1. Total Appropriation 165,952,000 174,050,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

As part of its next budget request, the board shall report on its method of implementing the base adjustments required in this section.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $219,519,000 the first year and $230,472,000 the second year.

$1,570,000 in the first year and $1,589,000 in the second year are for equipment purchases. This money must be spent for this purpose only and is nonrecurring. The state board shall report on its use in the 1991 biennial budget document.

$3,458,000 in 1990 and $3,613,000 in 1991 are for repair and replacement. The state board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and

replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the amounts for repair and replacement may be paid when due by the board.

$2,000,000 the first year and $3,600,000 the second year are to improve student support services including, but not limited to: remedial programs and needs assessment, counseling and financial aid services, and minority student services. The money is also available for library development and improvement. The state board shall report on its use in the 1991 biennial budget document.

$500,000 each year is for salaries, equipment, and supplies to improve services for disabled students. This appropriation must be spent for these purposes only. The board shall report on its use in the 1991 biennial budget document.

The state board of vocational technical education shall report to the education divisions of the house appropriations and senate finance committees on its newly developed student placement tracking system by February 1, 1990.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $6,474,000 the first year and $6,263,000 the second year.

$3,547,000 the first year and $3,248,000 the second year are for debt service payments to school districts for technical institute buildings financed with district bonds issued before January 1, 1979.

$2,000,000 each year is for curriculum restructuring. This is a nonrecurring appropriation and will not be included to calculate the base for the 1991-1993 biennial budget.

Subd. 4. State Council on Vocational Technical Education

$94,500 the first year and $49,200 the second year must be allocated by the state board to the state council on vocational

education.

Sec. 4. STATE BOARD FOR COMMUNITY COLLEGES

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 88,147,000 | 99,600,000 |

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $118,925,000 the first year and $134,939,000 the second year.

This appropriation includes $5,483,000 the first year and $4,407,000 the second year for increased enrollments. This is a nonrecurring appropriation and will not be included when calculating the base for the 1991-1993 biennial budget. This appropriation is based on estimated enrollments of 32,000 in 1990 and 33,500 in 1991. If actual enrollments are different from this estimate, the commissioner of finance shall calculate the effect for the general fund due to the difference and include an adjustment in the budget for the next fiscal year.

$1,280,000 the first year and $1,340,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$1,582,000 in 1990 and $1,639,000 in 1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

The community college system shall examine the feasibility, costs, and effects of implementing a textbook rental system on its campuses. The findings shall

be reported to the education divisions of the house appropriations and senate finance committees by February 15, 1990.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $11,968,000 the first year and $12,482,000 the second year.

Subd. 4. State Owned Land

State owned land at Worthington Community College legally described as lots 1, 2, 5, 6, and 7, block 1, Golden Shores addition, in the city of Worthington, county of Nobles, shall be tax exempt until sold. Taxes levied on the land prior to the effective date of this provision must be abated.

Sec. 5. STATE UNIVERSITY BOARD

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 167,401,000 | 179,204,000 |

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $237,324,000 the first year and $253,469,000 the second year.

$4,965,000 the first year and $1,944,000 the second year are for increased enrollments. This is a nonrecurring appropriation and will not be included when calculating the base for the 1991-1993 biennial budget. This appropriation is based on estimated enrollments of 51,735 in 1990 and 51,998 in 1991. If actual enrollments are different from this estimate, the commissioner of finance shall calculate the effect for the general fund due to the difference and include an adjustment in the budget for the next fiscal year.

$2,069,000 the first year and $2,080,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$2,928,000 in 1990 and $3,046,000 in

1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

The legislature estimates that $150,000 each year will be spent at Mankato State University for payment of a lease for the Warren Street Building. The appropriation must be discontinued upon expiration of the lease or subsequent lease. The current lease expires in 1993, but may be renegotiated to expire in 2013. The budget request for 1991 must separately identify this item.

Notwithstanding Minnesota Statutes, section 136.09, subdivision 3, or other law to the contrary, during the biennium neither the state university board nor the state university campuses shall plan or develop doctoral level programs or degrees until after they have received the recommendation of the house and senate committees on education, finance, and appropriations.

During the biennium, revenue generated from royalties, patents, licenses, or interests kept by the state university board from the science and technology project at Southwest State University is appropriated to the state university board and must be allocated by the board to Southwest State University for the science and technology resource center.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $10,697,000 the first year and $10,897,000 the second year.

During the biennium, notwithstanding any law to the contrary, the state university board may keep money received from successful litigation by or against

the board. Awards made to the state or the board resulting from litigation against or by the board must be kept by the board to the credit of the account from which the litigation was originally funded.

$200,000 each year is for development of the upper division component within the Arrowhead Community College Region through Bemidji State University. The specific location or locations will be determined by the community college and state university boards. The budget request for 1991 must separately identify this program.

$100,000 is for the board to enter into an agreement to lease space on the campus of the College of St. Teresa for the instructional needs of Winona State University. The board shall analyze: (1) the current space use at Winona state; (2) the cost to bring the St. Teresa buildings up to code; (3) the cost to renovate the St. Teresa campus for long-term use; and (4) the comparative costs to operate a split campus. The board shall report its findings and recommendations to the education divisions of the appropriations and finance committees by February 1, 1990.

$170,000 is for the board to provide nursing education outreach programs. The programs must assess and give credit to students for prior learning, provide for part-time enrollment, and be located in regions of the state that demonstrate the greatest need for baccalaureate and masters degree programs. The appropriation for this program shall be nonrecurring. The board shall appoint a task force, including representatives of other postsecondary systems that offer nursing programs, to advise it on the programs. The task force shall study the need for and supply of nurses and the adequacy of access to nursing programs. The task force may seek nonstate grants or gifts to establish a private scholarship program for nurses. The HECB, if requested, shall provide technical advice to the task force on the effects of private scholarships on state financial aid. The task force shall make recommendations to the board on the scholarship program, including

sources of funding, eligibility requirements for recipients, and methods of calculating award amounts. The task force shall make recommendations, as necessary, on other policy matters concerning nursing education. The board shall report on the nursing programs in the 1991 biennial budget document.

Subd. 4. Wood-Fired Boilers

Effective the day after final enactment of this subdivision, no more money may be paid out of the treasury of this state in connection with an agreement under Minnesota Statutes, section 16B.16, to provide a wood-fired boiler heating system at the campus of either Bemidji State University or St. Cloud State University. This prohibition is intended to be permanent.

Minnesota Statutes, section 16B.16, authorizes the commissioner of administration to enter into installment purchase agreements to acquire equipment that will improve the energy efficiency of a state building or facility if, among other things, the entire cost of the contract is a percentage of the resultant savings in energy costs and the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract. Section 16B.16 does not authorize the commissioner to commit the state to pay for equipment that does not work nor to pay more for energy as a result of the installment purchase agreement than would be needed without the agreement. If there are no savings in energy costs through use of the equipment, there should be no compensation due under the agreement.

The commissioner of administration acted under Minnesota Statutes, section 16B.16, when entering into installment purchase agreements to install wood-fired boiler heating systems at the campuses of Bemidji State University and St. Cloud State University. The wood-fired boiler heating system installed at the Bemidji campus did not work as promised and the promised energy savings were not achieved. The state refused to make further payments under the agreement for Bemidji and canceled the agreement for

St. Cloud. The state later resumed making payments under the agreement for Bemidji, even though it believed there had been a complete failure of consideration.

The purpose of this subdivision is to make clear to all potential investors in state and local bonds and to financial institutions that the state is not and never has been responsible for financing the wood-fired boiler heating systems at Bemidji and St. Cloud state universities, other than through payment to the vendor of a percentage of the resultant savings in energy costs. Since the equipment and technology chosen by the vendor did not produce savings in energy costs, the entire loss should be borne by the vendor and by the vendor's financial backers, not by the state.

Sec. 6. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 437,191,000 | 464,254,000 |

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

| | | |
|---|---|---|
| Subd. 2. Operations and Maintenance | 355,025,000 | 377,571,000 |

On December 1 each year the president of the University of Minnesota shall report to the senate finance and house appropriations committees and the commissioner of finance any receipts for the previous fiscal year in excess of the estimates on which these appropriations are based, the sources of these receipts, the purposes for which any excess receipts were spent, and the accounts to which the receipts were transferred. The total estimated receipts are $138,842,000 for the first year and $147,367,000 for the second year.

The board of regents is requested to consider adopting a policy of paying per diem to board members for attending a meeting of the board or a committee of the board.

(a) Instructional Expenditures

The legislature estimates that instructional expenditures in this subdivision and subdivision 3, paragraph (d), will

be $388,921,000 the first year and $413,941,000 the second year.

$2,145,000 the first year and $2,086,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$8,992,000 in 1990 and $9,345,000 in 1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the above appropriation in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

$3,307,000 in 1990 and $5,601,000 in 1991 are for the improvement of instructional programs including, but not limited to: additional sections of required undergraduate courses; expanded undergraduate advising; and enhanced academic computing capabilities. The board shall report its use in the 1991 biennial budget document.

The president of the University of Minnesota is requested to review, during the biennium, the University of Minnesota's institutional support costs and redirect any savings into academic programs.

The regular session enrollment projected for this appropriation is 35,679 full-year equivalent undergraduate students for the first year. For the biennium ending June 30, 1991, tuition income resulting from students in excess of the projections reduces the general fund appropriation by a like dollar amount. The university shall submit progress reports on the attainment of the anticipated enrollments. If the university attains these enrollment goals, the calculation for the average cost funding formula must not reduce the budget base. The University is requested to develop mechanisms to measure progress in achieving the goals of commitment to focus, including

enrollment targets. The University shall report its recommendations to the education divisions of the house appropriations and senate finance committees by December 1, 1989.

During the biennium, the regents are requested to provide fair and equitable funding to each coordinate campus for the additional number of students enrolled above the 1988-1989 academic year enrollment.

(b) Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $105,676,000 the first year and $111,836,000 the second year.

$129,000 in 1990 and $167,000 in 1991 are to establish a training program for teaching assistants to improve their communications and teaching skills. The legislature anticipates that the university will allocate matching money internally to support teaching assistant programs. The university shall report on its actions and its use in the 1991 biennial budget document.

Indirect cost recovery money retained by the University of Minnesota must be used exclusively for the direct support of research or the financing of support activities directly contributing to the receipt of indirect cost recovery money. It may not be used for teaching or service.

| | | |
|---|---|---|
| Subd. 3. Special Appropriations | 82,166,000 | 86,683,000 |

The amounts expended for each program in the four categories of special appropriations shall be separately identified in the 1991 biennial budget document.

(a) Agriculture and Extension Service

| | |
|---|---|
| $42,844,000 | $45,002,000 |

This appropriation is for the Agriculture Research and Minnesota Extension Service.

Any salary increases granted by the university to personnel paid from the Minnesota Extension appropriation must not result in a reduction of the county portion of the salary payments.

During the biennium, the university shall

maintain an advisory council system for each experiment station. The advisory councils must be broadly representative of range of size and income distribution of farms and agribusinesses and must not disproportionately represent those from the upper half of the size and income distributions.

(b) Health Sciences
$16,332,000 $17,379,000

This appropriation is for Indigent Patients (County Papers), Rural Physicians Associates Program, Medical Research, Special Hospitals Service and Educational Offset, the Veterinary Diagnostic Laboratory, Institute for Human Genetics, and the Biomedical Engineering Center.

(c) Institute of Technology
$ 3,472,000 $ 3,645,000

This appropriation is for the Mineral Resources Research Center, Geological Survey, Underground Space Center, Talented Youth Mathematics Program, Microelectronics and Information Science Center, and the Productivity Center.

(d) System Specials
$19,518,000 $20,657,000

This appropriation is for Fellowships for Minority and Disadvantaged Students, General Research, Intercollegiate Athletics, Student Loans Matching Money, Industrial Relations Education, Southeast Education Center, Natural Resources Research Institute, Sea Grant College Program, Biological Process Technology Institute, Supercomputer Institute, Center for Urban and Regional Affairs, Museum of Natural History, and the Humphrey Exhibit.

This appropriation includes money to improve the programs and resources available to women and to ensure that campuses are in compliance with Title IX of the Educational Amendment Act of 1972 and Minnesota Statutes, section 126.21. The women's athletic program shall be funded by the formula allowance or a minimum of $65,000 per campus per year. Each campus will receive the greater of the two calculations.

Of this appropriation, no less than the

following amounts must be allocated to each campus:

| | | |
|---|---|---|
| Duluth | 540,800 | 551,600 |
| Morris | 65,000 | 66,100 |
| Crookston | 65,000 | 65,000 |
| Waseca | 65,000 | 65,000 |

The legislature estimates that $1,087,000 in 1990 and $1,252,000 in 1991 is for enhanced and expanded graduate programs in Rochester.

Subd. 4. The appropriation in subdivision 3, paragraph (d), for the Southeast Education Center, must be merged with the operations and maintenance funding in subdivision 2 in fiscal years 1990 and 1991.

Subd. 5. University of Minnesota, Waseca

The appropriation in Laws 1987, chapter 400, section 20, subdivision 8, paragraph (a), to renovate the agriculture laboratories at Waseca, may also be used to construct a greenhouse.

Sec. 7. MAYO MEDICAL FOUNDATION

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 1,034,000 | 1,081,000 |

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Medical School

| | |
|---|---|
| $ 753,000 | $ 790,000 |

The state of Minnesota shall pay a capitation of $9,410 the first year and $9,875 the second year for each student who is a resident of Minnesota.

This appropriation provides capitation for 20 Minnesota residents in each of the four classes at Mayo Medical School. The appropriation may be transferred between years of the biennium to accommodate enrollment fluctuations.

The legislature intends that during the biennium the Mayo foundation use the capitation money to increase the number of doctors practicing in rural areas in need of doctors as identified by the higher education coordinating board.

Subd. 3. Family Practice and Graduate Residency Program

$ 281,000 $ 291,000

The state of Minnesota shall pay a capitation of $15,610 the first year and $16,165 the second year for a maximum of 18 students each year.

Sec. 8. POST-SECONDARY SYSTEMS

Subdivision 1. Base Level Adjustments

In preparing budget requests for the 1992-1993 biennium, the commissioner of finance shall make the same categories of base level adjustments, when reasonable and equitable, to the budgets of higher education systems as to the budgets of state agencies. The amounts and the purposes must be delineated in the 1991 biennial budget document.

Subd. 2. Enrollment Growth

Each public post-secondary governing board experiencing or anticipating enrollment growth on one or more of its campuses, or sufficient programmatic growth to result in significant course or space availability problems, shall plan for responding to the growth while maintaining educational quality. These plans shall include an examination of efficient utilization of existing instructional space. The boards shall provide a preliminary report on these plans and on their recruitment plans and expenditures to the education divisions of the house appropriations and senate finance committees by September 1, 1989, and a final report by February 1, 1990.

Subd. 3. BOAST

In order to recognize student talent and the outstanding work of art and art-related departments on campuses of the four public post-secondary systems, the Minnesota House of Representatives intends to begin a program to reward these achievements. The program, entitled Bring Out Art Students' Talent (BOAST), will reward winners of campus art competitions by displaying their art in the state office building. The speaker of the house shall appoint, by July 1, 1989, a select committee to develop procedures

and oversee the process. Before appointing the committee, the speaker shall invite the senate to participate in the process. If the senate chooses to participate, after consultation with the Capitol Area Architectural and Planning Board, and the Minnesota Historical Society, it may determine whether to display any of the art in the state capitol. The heads of each of the public post-secondary systems are requested to consult with the committee and coordinate the efforts of the campuses. Each campus may hold a competition and select the entries that are to be displayed. The campus shall arrange for the delivery, set up, and removal of the displays according to the procedures developed by the select committee.

Subd. 4. Student Progress

The public post-secondary governing boards and the HECB shall study mechanisms to encourage students to complete their educational programs in a timely manner. The governing boards shall study the use of tuition banding and other mechanisms to provide incentives for students to carry full credit loads. The boards shall also study nonfinancial impediments to students completing programs within two or four years. These may include unavailability of courses, expanded programmatic requirements, students' lack of preparation for college, changes in values and attitudes, and other factors identified by the boards. The boards shall examine ways to reduce or eliminate these impediments.

The HECB shall study the fiscal and policy effects of mechanisms to encourage students to carry full course credit loads, to enroll in summer sessions, or to otherwise complete their coursework in a timely manner. The board shall include an examination of: the effects of changing the credit load in the state grant program to define a full-time student as one averaging 15 credits per term each year, and prorating awards on that credit basis; the availability of summer financial aid; and other incentives that it identifies. The governing boards shall report their findings to the HECB for review and comment by January 15, 1990. The HECB

shall report the findings of its study, the governing board findings and the HECB review and comment by March 1, 1990 to the education divisions of the house appropriations and senate finance committees.

Subd. 5. Student Preparation

In order to increase students' academic preparation for higher education, and to decrease the need for remedial work in post-secondary institutions, the state university board, the community college board, and the state board for vocational technical education shall study and make recommendations on the effects of adopting secondary school preparation requirements for incoming students. Each board shall report its findings to the education divisions of the house appropriations and senate finance committees by February 1, 1990.

Subd. 6. Student Placement

The state board for community colleges, the state university board, and private post-secondary occupational and technical institutions that enroll students who receive state financial aid shall develop student placement tracking systems for their technical and occupational programs, or review tracking systems already in place, to enable them to determine the number of students placed successfully in occupations related to their education. The board of regents of the University of Minnesota is requested to develop a similar system, or review its current system, for its technical programs at the Crookston and Waseca campuses. The HECB shall coordinate the development and review of the tracking systems and shall report on them to the education divisions of the house appropriations and senate finance committees and the higher education divisions of the education committees by February 15, 1990.

Sec. 9. Minnesota Statutes 1988, section 121.93, subdivision 2, is amended to read:

Subd. 2. "District" means a school district, an educational cooperative service unit, a cooperative center for *secondary* vocational education, a cooperative center for special education, ~~a technical institute,~~ or an intermediate service area.

Sec. 10. Minnesota Statutes 1988, section 121.93, subdivision 3, is amended to read:

Subd. 3. "ESV-IS" or "elementary, secondary, and *secondary* vocational education management information system" means that component of the statewide elementary, secondary, and *secondary* vocational education management information system which provides administrative data processing and management information services to districts.

Sec. 11. Minnesota Statutes 1988, section 121.93, subdivision 4, is amended to read:

Subd. 4. "SDE-IS" or "state department of education information system" means that component of the statewide elementary, secondary, and *secondary* vocational education management information system which provides data processing and management information services to the department of education.

Sec. 12. Minnesota Statutes 1988, section 126.56, subdivision 5, is amended to read:

Subd. 5. [ADVISORY COMMITTEE.] An advisory committee shall assist the state board of education in approving eligible programs and shall assist the higher education coordinating board in planning, implementing, and evaluating the scholarship program. The committee shall consist of 11 members, to include the executive director of the higher education coordinating board or a representative, the commissioner of education or a representative, two secondary school administrators and two secondary teachers appointed by the commissioner of education, the executive director of the academic excellence foundation, a private college representative appointed by the president of the Minnesota private college council, a community college representative appointed by the community college chancellor, a state university representative appointed by the state university chancellor, and a University of Minnesota representative appointed by the president of the University of Minnesota. The committee expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 13. Minnesota Statutes 1988, section 135A.05, is amended to read:

135A.05 [TASK FORCE.]

The executive director of the Minnesota higher education coordinating board shall administer a task force on average cost funding. The task force shall include representation from each of the public systems of post-secondary education, post-secondary students, the education division of the house appropriations committee, the education subcommittee of the senate finance committee, the office of the commissioner of finance, the office of state auditor, and the uniform financial accounting and reporting advisory council. The task force shall be convened and chaired by the executive director or a designee and staffed by the higher education coordinating board. The task force shall review and make recommendations on the definition of instructional cost in all four systems, the method of calculating average cost for funding purposes, the method used to assign programs to the proper level of cost at each level of instruction, the adequacy of the accounting data for defining instructional cost in a uniform manner, and the biennial budget format to be used by the four systems in submitting their biennial budget requests. The task force shall submit a report on these matters to the legislature by December 1 of each odd-numbered year. The task force expires ~~as provided in section 15.059, subdivision 6~~ *June 30,*

*1993.*

Sec. 14. Minnesota Statutes 1988, section 135A.06, subdivision 3, is amended to read:

Subd. 3. [SYSTEM PLANS.] Each system shall develop a program plan for instruction, research, and public service. Each system shall consult with the higher education coordinating board and with the other systems throughout the planning process. The higher education coordinating board shall coordinate intersystem efforts in the development of the program plans to achieve intersystem cooperation and differentiation.

Each planning report shall consider at least the following elements:

(1) a statement of program priorities for undergraduate, graduate, and professional education, including data about program cost and average class size within each institution;

(2) *the effects of proposed programmatic and enrollment changes on other systems and campuses;*

*(3)* a review of plans for adjusting the number of facilities, staff, and programs to projected level of demand, including consideration of campus and program mergers, campus and program closings, new governance structures, the relationship between fixed costs and projected enrollment changes, and consolidation of institutions, services, and programs that serve the same geographic area under different governing boards;

*(4) a review of the current and projected use of community outreach and extension programs including information on all off-campus sites;*

~~(3)~~ *(5)* enrollment projections for two, five, and ten years based on recent available projections produced by the higher education coordinating board or, if different projections are used, they shall be compared to those prepared by the higher education coordinating board, and the system shall identify the method and assumptions used to prepare its projections;

~~(4)~~ *(6)* estimated financial costs and savings of alternative plans for adjusting facilities, staff, and programs to ~~declining~~ *changing* enrollments and fiscal resources;

~~(5)~~ *(7)* opportunities for providing services cooperatively with other public and private institutions in the same geographic area; and

~~(6)~~ *(8)* differentiating and coordinating missions to reduce or eliminate duplication of services and offerings, to improve delivery of services, and to establish clear and distinct roles and priorities.

Sec. 15. [135A.14] [SEXUAL HARASSMENT AND VIOLENCE POLICY.]

*The governing board of each public post-secondary system and each public post-secondary institution shall adopt a clear, understandable written policy on sexual harassment and sexual violence. The policy must apply to students and employees and must provide information about their rights and duties. It must include procedures for reporting incidents of sexual harassment or sexual violence and for disciplinary actions against violators. During student registration, each public post-secondary institution shall provide each student with information regarding its policy. Each private post-secondary institution that enrolls students who receive state financial aid must adopt a policy that meets the requirements of this section.*

*The higher education coordinating board shall coordinate the policy development of the systems and institutions and periodically provide for review and necessary changes in the policies.*

Sec. 16. Minnesota Statutes 1988, section 136.31, subdivision 3, is amended to read:

Subd. 3. ~~Such~~ *The* bonds ~~shall~~ *must* be executed by ~~such~~ *the* officers of ~~said~~ *the* board ~~as shall be~~ designated by ~~said~~ *the* board *to execute them* and countersigned by the treasurer ~~of~~ *elected by* the board. ~~who shall be an officer duly elected by the board; provided that at least one of such officers shall sign each bond manually and the other signatures or countersignature thereon and on the interest coupons may be printed, lithographed, stamped or engraved thereon. Any bonds bearing the signature of officers in office at the date of signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers, or that any or all such persons did not hold such offices at the date of such bonds.~~

Sec. 17. Minnesota Statutes 1988, section 136.31, subdivision 5, is amended to read:

Subd. 5. ~~Whenever~~ *If* the board ~~shall~~ by resolution ~~determine~~ *determines* that ~~there are moneys in the possession of~~ its treasurer *possesses money* not currently needed, or ~~which are~~ *that is* set aside in ~~any~~ *a* reserve, the board ~~may~~ in ~~and by such~~ *the* resolution ~~authorize and~~ *may* direct the treasurer to invest a specified amount ~~thereof~~ *of the money* in ~~treasury bonds or bills, certificates of indebtedness, bonds or notes of the United States of America~~ *securities of the types described in section 475.66. The* securities ~~so purchased shall~~ *must* be deposited with and held for the board by the ~~board~~ treasurer. ~~Whenever funds so~~ *If the* invested ~~are~~ *money is* needed by the board it shall direct ~~its~~ *the* treasurer to sell ~~the same~~ *all* or a designated amount ~~thereof~~ *of the securities*. ~~All moneys~~ *Money* collected ~~thereon~~ *from the investment* by the ~~board~~ treasurer, as principal, interest, or proceeds of sales, ~~shall~~ *must* be credited to and ~~constitute~~ *made* a part of the fund and account for which the investment ~~was~~ *is* made.

Sec. 18. Minnesota Statutes 1988, section 136A.02, subdivision 5, is amended to read:

Subd. 5. [ADVISORY GROUPS.] The board may appoint advisory task forces to assist it in the study of higher education within the state or in the administration of federal programs. The task forces ~~shall~~ expire and the terms, compensation and removal of members ~~shall be~~ *are* as provided in section 15.059, *except that the task force established under section 135A.05 and the advisory councils established under subdivisions 6 and 7 expire June 30, 1993.*

Sec. 19. Minnesota Statutes 1988, section 136A.02, subdivision 6, is amended to read:

Subd. 6. [HIGHER EDUCATION ADVISORY COUNCIL.] A higher education advisory council is established. The council is composed of the president of the University of Minnesota, the chancellor of the state universities, the chancellor of the community colleges, the state director of vocational technical education, the commissioner of education, the president of the private college council, and a representative from the Minnesota association of private post-secondary schools. The advisory council shall (1) bring to the attention of the board any matters that the council deems

necessary, (2) make appropriate recommendations, (3) review and comment upon proposals and other matters before the board, and (4) provide other assistance to the board. The board shall periodically inform the council of matters under consideration by the board. The board shall refer all proposals to the council before submitting recommendations to the governor and the legislature. The board shall provide time for a report from the advisory council at each meeting of the board.

The council shall report to the board at least quarterly. The council shall determine its meeting times, but it shall also meet within 30 days after a request by the executive director of the board. The council expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 20. Minnesota Statutes 1988, section 136A.02, subdivision 7, is amended to read:

Subd. 7. [STUDENT ADVISORY COUNCIL.] A student advisory council to the board is established. The members of the council shall include the chair of the University of Minnesota university student senate, the state chair of the Minnesota state university student association, the president of the Minnesota community college student association, the president of the Minnesota vocational technical student association, the president of the Minnesota association of private college students, and a student who is enrolled in a private vocational school registered under this chapter, to be appointed by the Minnesota association of private post-secondary schools. A member may be represented by a designee.

The advisory council shall:

(1) bring to the attention of the board any matter that the council believes needs the attention of the board;

(2) make recommendations to the board as the council deems appropriate;

(3) review and comment upon proposals and other matters before the board;

(4) provide any reasonable assistance to the board; and

(5) select one of its members to serve as chair. The board shall inform the council of all matters under consideration by the board and shall refer all proposals to the council before the board acts or sends the proposals to the governor or the legislature. The board shall provide time for a report from the advisory council at each meeting of the board.

The student advisory council shall report to the board quarterly and at other times that the council considers desirable. The council shall determine its meeting time, but the council shall also meet with the executive director of the board within 30 days after the director's request for a council meeting. The student advisory council shall meet quarterly with the higher education advisory council and the board executive committee. The council expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 21. Minnesota Statutes 1988, section 136A.04, is amended to read:

136A.04 [DUTIES.]

Subdivision 1. The higher education coordinating board shall:

~~(a)~~ *(1)* continuously study and analyze all phases and aspects of higher education, both public and private, and develop necessary plans and programs to meet present and future needs of the people of the state;

~~(b)~~ *(2)* continuously engage in long-range planning for the needs of higher education and, if necessary, cooperatively engage in planning with neighboring states and agencies of the federal government;

~~(c)~~ *(3)* act as successor to any committee or commission previously authorized to engage in exercising any of the powers and duties prescribed by sections 136A.01 to 136A.07;

~~(d)~~ *(4)* review, approve or disapprove, make recommendations, and identify priorities with respect to all proposals for new or additional programs of instruction or substantial changes in existing programs to be established in or offered by, the University of Minnesota, the state universities, the community colleges, technical institutes, and private collegiate and noncollegiate post-secondary institutions. The board shall also periodically review existing programs and recommend discontinuing or modifying any existing program. When reviewing new or existing programs, the board shall consider whether the program is unnecessary, a needless duplication of existing programs, beyond the capability of the system or institution considering its resources, or beyond the scope of the system or institutional mission;

~~(e)~~ *(5)* develop in cooperation with the post-secondary systems, house appropriations committee, senate finance committee, and the departments of administration and finance, a compatible budgetary reporting format designed to provide data of a nature to facilitate systematic review of the budget submissions of the University of Minnesota, the state university system, the community college system, and the technical institutes, which includes the relating of dollars to program output;

~~(f)~~ *(6)* review budget requests, including plans for construction or acquisition of facilities, of the University of Minnesota, the state universities, the community colleges, and technical institutes for the purpose of relating present resources and higher educational programs to the state's present and long-range needs; and conduct a continuous analysis of the financing of post-secondary institutions and systems, including the assessments as to the extent to which the expenditures and accomplishments are consistent with legislative intent;

~~(g)~~ *(7)* obtain from private post-secondary institutions receiving state funds a report on their use of those funds;

~~(h)~~ *(8)* continuously monitor and study the transferability between Minnesota post-secondary and higher education institutions of credits earned for equal and relevant work at those institutions, the degree to which credits earned at one institution are accepted at full value by the other institutions, and the policies of these institutions concerning the placement of these transferred credits on transcripts; *and*

*(9) prescribe policies, procedures, and rules necessary to administer the programs under its supervision.*

Subd. 2. The higher education coordinating board shall review and make recommendations regarding a plan or proposal for a new or additional program of instruction or a substantial change in an existing program of instruction to be offered by a technical institute within 45 days of the transmission of approval of the plan or proposal to the higher education coordinating board by the state board ~~for~~ *of* vocational *technical* education. The higher education coordinating board shall then transmit a written explanation of its recommendations within five days of board action to the

director of the applying technical institute and to the ~~commissioner of~~ *state director of vocational technical* education.

Sec. 22. Minnesota Statutes 1988, section 136A.05, is amended to read:

136A.05 [COOPERATION OF INSTITUTIONS OF HIGHER EDUCATION.]

All public institutions of higher education, *all school districts providing post-secondary vocational education,* and all state departments and agencies shall cooperate with and supply information requested by the higher education coordinating board in order to enable it to carry out and perform its duties. Private post-secondary institutions are requested to cooperate and provide information.

Sec. 23. Minnesota Statutes 1988, section 136A.08, is amended to read:

136A.08 [RECIPROCAL AGREEMENTS RELATING TO NONRESIDENT TUITION WITH OTHER STATES.]

Subdivision 1. [AUTHORIZATION.] The Minnesota higher education coordinating board ~~herein referred to as the board, in addition to its general responsibility for cooperatively engaging in planning higher education needs with neighboring states pursuant to section 136A.04,~~ may enter into agreements ~~or understandings which include~~, *on subjects that include* remission of nonresident tuition for designated categories of students at ~~state~~ *public post-secondary* institutions ~~of higher education and public technical institutes~~, with appropriate state agencies and *public post-secondary* institutions ~~of higher education~~ in other states ~~to facilitate utilization of public higher education institutions in this state and other states~~. ~~Such~~ *The* agreements shall ~~have as their~~ *be for the* purpose *of* the mutual improvement of educational advantages for residents of this state and ~~such~~ other states ~~or institutions of other states~~ with whom agreements are made.

*Subd. 1a.* [WISCONSIN.] ~~At the discretion of the board,~~ A higher education reciprocity agreement with the state of Wisconsin may include provision for the transfer of funds between Minnesota and Wisconsin provided that an income tax reciprocity agreement between Minnesota and Wisconsin is in effect for the period of time included under the higher education reciprocity agreement. If *this* provision ~~for transfer of funds between the two states~~ is included ~~in a collegiate education reciprocity agreement~~, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the board and a duly designated agency representing Wisconsin. ~~Such~~ *The* formula shall recognize differences in tuition rates between the two states and the number of students attending institutions in each state under the agreement. Any payments to Minnesota by Wisconsin shall be deposited by the board in the general fund of the state treasury. The amount required for the payments shall be certified by the executive director of the higher education coordinating board to the commissioner of finance annually.

Subd. 2. [NORTH DAKOTA; SOUTH DAKOTA.] ~~At the discretion of the board,~~ A reciprocity agreement with North Dakota may include provision for the transfer of funds between Minnesota and North Dakota. If provision for transfer of funds between the two states is included ~~in an agreement~~, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the board and a duly designated agency representing North Dakota. In adopting a formula, the board shall consider tuition rates in the two states and the number of

students attending institutions in each state under the agreement. Any payment to Minnesota by North Dakota shall be deposited by the board in the general fund. The amount required for the payments shall be certified by the executive director of the higher education coordinating board to the commissioner of finance annually. All provisions in this subdivision pertaining to North Dakota shall also be applied to South Dakota and all authority and conditions granted for higher education reciprocity with North Dakota are also granted for higher education reciprocity with South Dakota.

Subd. 3. [FINANCIAL AID.] The board may enter into an agreement, with a state with which it has negotiated a reciprocity agreement for tuition, to permit students from both states to receive student aid awards from the student's state of residence for attending an eligible institution in the other state.

Subd. 4. [GOVERNING BOARD APPROVAL.] ~~No~~ *An* agreement made by the board ~~pursuant to~~ *under* this section ~~shall be~~ *is not* valid as to a ~~technical institute~~ *particular institution* without the approval of ~~the state board for vocational education, as to a state university without the approval of the state university board, as to a community college without the approval of the state board for community colleges, and as to the University of Minnesota without the approval of the board of regents of the University of Minnesota~~ *that institution's state governing board.*

Sec. 24. Minnesota Statutes 1988, section 136A.101, subdivision 1, is amended to read:

Subdivision 1. For purposes of sections ~~136A.09~~ *136A.095* to ~~136A.131~~ *136A.134*, the terms defined in this section have the meanings ascribed to them.

Sec. 25. Minnesota Statutes 1988, section 136A.101, subdivision 7, is amended to read:

Subd. 7. "Student" means a person who is enrolled at least half time, as defined by the board, in a program or course of study that applies to a degree, diploma, or certificate, *except that for purposes of section 136A.132, student may include a person enrolled less than half time.*

Sec. 26. Minnesota Statutes 1988, section 136A.101, subdivision 8, is amended to read:

Subd. 8. "Resident student" ~~includes~~ *means a student who meets one of the following conditions:*

*(1) an independent student who has resided in Minnesota for purposes other than post-secondary education for at least 12 months;*

*(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;*

*(3)* a student who graduated from a Minnesota high school ~~and has not since established residence in another state~~*; or*

*(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota.*

Sec. 27. Minnesota Statutes 1988, section 136A.121, is amended to read:

136A.121 [~~SCHOLARSHIPS AND GRANTS IN AID~~ *GRANTS.*]

Subdivision 1. [ELIGIBILITY FOR SCHOLARSHIPS.] An applicant is eligible to be considered for a scholarship under sections 136A.09 to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) has met all the requirements for admission as a student to an eligible institution of choice as defined in sections 136A.09 to 136A.131;

(3) has demonstrated capacity for superior achievement at the institutional level as measured by standards prescribed by the board;

(4) is a qualified applicant.

Subd. 2. [ELIGIBILITY FOR ~~GRANTS-IN-AID~~ *GRANTS*.] An applicant is eligible to be considered for a ~~grant-in-aid~~ *grant*, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections ~~136A.09~~ *136A.095* to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical institute of choice as defined in sections ~~136A.09~~ *136A.095* to 136A.131;

(3) has met the financial need criteria established in *Minnesota* Rules*; and*

*(4) is not in default, as defined by the board, of any federal or state student educational loan.*

Subd. 3. [ALLOCATION.] ~~Scholarships and grants-in-aid shall~~ *Grants must* be awarded on a funds available basis to those applicants who meet the board's requirements.

Subd. 4. [SCHOLARSHIP STIPENDS.] An eligible scholarship applicant shall be considered for a financial stipend if the applicant demonstrates financial need. The amount of a financial stipend must not exceed a scholarship applicant's cost of attendance, as defined in subdivision 6, after deducting the following:

(a) a contribution by the scholarship applicant of at least 50 percent of the cost of attending the institution of the applicant's choosing;

(b) for an applicant who is not an independent student, a contribution by the scholarship applicant's parents, as determined by a standardized need analysis; and

(c) the amount of a federal Pell grant award for which the scholarship applicant is eligible.

~~The minimum financial stipend is $100.~~

Subd. 5. [~~GRANTS-IN-AID~~ *GRANT* STIPENDS.] ~~A financial stipend based on financial need must accompany grants-in-aid.~~ The amount of a financial stipend must not exceed a grant applicant's cost of attendance, as defined in subdivision 6, after deducting the following:

~~(a)~~ *(1)* a contribution by the grant applicant of at least 50 percent of the cost of attending the institution of the applicant's choosing;

~~(b)~~ *(2)* for an applicant who is not an independent student, a contribution by the grant applicant's parents, as determined by a standardized need

analysis; and

~~(c)~~ *(3)* the amount of a federal Pell grant award for which the grant applicant is eligible.

The minimum financial stipend is $100.

Subd. 6. [COST OF ATTENDANCE.] The cost of attendance consists of allowances specified by the board for room and board and miscellaneous expenses, and

~~(a)~~ *(1)* for public institutions, tuition and fees charged by the institution; or

~~(b)~~ *(2)* for private institutions, an allowance for tuition and fees equal to the lesser of ~~(1)~~ the actual tuition and fees charged by the institution, or ~~(2)~~ the instructional costs per full-year equivalent student in comparable public institutions.

Subd. 7. [INSUFFICIENT APPROPRIATION.] If the amount appropriated is determined by the board to be insufficient to make full awards to applicants under ~~subdivisions~~ 4 ~~and~~ *subdivision* 5, before any award for that year has been disbursed, ~~then~~ awards ~~shall~~ *must* be reduced by

~~(a)~~ *(1)* adding a surcharge to the contribution of the applicant's parents, and

~~(b)~~ *(2)* a percentage increase in the applicant's contribution.

Subd. 9. [INITIAL AWARDS.] An undergraduate student who has not previously received a ~~scholarship or grant-in-aid~~ *grant* and who meets the board's requirements is eligible to apply for and receive an initial ~~scholarship or grant-in-aid~~ *grant* in any year of undergraduate study.

Subd. 10. [RENEWALS.] Each ~~scholarship or grant-in-aid shall~~ *grant must* be awarded for one academic year, is renewable for a maximum of six semesters or nine quarters or their equivalent, but may not continue after the recipient has obtained a baccalaureate degree *or has been enrolled full-time or the equivalent for eight semesters or 12 quarters, whichever occurs first.*

Subd. 11. [RENEWAL CONDITIONS.] Each ~~scholarship or grant-in-aid~~ *grant* is renewable, contingent on continued residency in Minnesota, satisfactory academic standing, recommendation of the eligible institution currently attended, and evidence of continued need.

Subd. 12. [ANNUAL APPLICATION.] To continue to receive a ~~scholarship or grant-in-aid~~ *grant*, the student ~~shall~~ *must* apply for renewal each year.

Subd. 13. [DEADLINE.] The board shall accept applications for state ~~scholarships and grants-in-aid~~ *grants* until February 15 and may establish a deadline for the acceptance of applications that is later than February 15.

~~Subd. 15. All scholarship and grant-in-aid recipients shall be notified of their awards by the board and shall be given appropriate evidence of the award.~~

Subd. 16. [HOW APPLIED; ORDER.] ~~Scholarships and grants-in-aid~~ *Grants* awarded under sections ~~136A.09~~ *136A.095* to 136A.131 ~~shall~~ *must* be applied to educational costs in the following order: tuition, fees, books, supplies, and other expenses. Unpaid portions of the awards revert to the

~~scholarship~~ ~~or~~ ~~grant-in-aid~~ *grant* account.

*Subd. 17.* [INDEPENDENT STUDENT INFORMATION.] *The board shall inform students, in writing, as part of the application process, about the definition of independent student status and appeals to the financial aid administrator relating to the declaration of the status.*

Sec. 28. [136A.125] [CHILD CARE GRANTS.]

*Subdivision 1.* [ESTABLISHMENT.] *A child care grant program is established under the supervision of the higher education coordinating board. The program makes money available to eligible students to reduce the costs of child care while attending an eligible post-secondary institution. The board shall develop policies and adopt rules as necessary to implement and administer the program.*

*Subd. 2.* [ELIGIBLE STUDENTS.] *An applicant is eligible for a child care grant if the applicant:*

*(1) is a resident of the state of Minnesota;*

*(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 120.03, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;*

*(3) is within the sliding fee scale income guidelines set under section 256H.10, subdivision 2, as determined by a standardized financial aid needs analysis in accordance with the board's policies and rules, but is not a recipient of aid to families with dependent children;*

*(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters, 12 quarters or the equivalent;*

*(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;*

*(6) is enrolled at least half time in an eligible institution; and*

*(7) is in good academic standing and making satisfactory progress, as determined by the institution.*

*Subd. 3.* [ELIGIBLE INSTITUTION.] *A Minnesota public post-secondary institution or a private, residential, two-year or four-year, liberal arts, degree granting college or university located in Minnesota is eligible to receive child care funds from the board and disburse them to eligible students.*

*Subd. 4.* [AMOUNT AND LENGTH OF GRANTS.] *The amount of a child care grant must be based on:*

*(1) the financial need of the applicant;*

*(2) the number of the applicant's children; and*

*(3) the cost of the child care,*

*as determined by the institution in accordance with board policies and rules. The amount of the grant must cover the cost of child care for all eligible children for the full number of hours of education per week and may cover up to 20 hours per week of employment for which child care is needed. The grant must be awarded for one academic year.*

*Subd. 5.* [INITIAL ALLOCATIONS TO INSTITUTIONS.] *The board initially shall allocate funds to an eligible institution based on the number of its enrolled students with dependent children who applied for state grants in the last academic year.*

*Subd. 6.* [YEARLY ALLOCATIONS TO INSTITUTIONS.] *The board shall base yearly allocations on the need for and use of the funds in the last academic year, and other relevant factors as determined by the board in consultation with the institutions.*

*Subd. 7.* [MONITORING AND REALLOCATION.] *The board shall establish procedures to (1) continually monitor the use of funds throughout the year; (2) identify areas of unmet need for grants; and (3) redistribute available funds in a timely manner to meet the needs of eligible recipients.*

*Subd. 8.* [INFORMATION.] *The board shall develop and provide information about the program to eligible post-secondary institutions, human service agencies, and potential applicants.*

*Subd. 9.* [REPORT.] *Institutions must submit reports, when requested by the board, on program activity including the number of students served, the child care costs, and the number of students on a waiting list for available funds. The reports must also include the institution's method of prioritizing applicants if insufficient funds are available.*

Sec. 29. [CAMPUS ALTERNATIVES.]

*Each public post-secondary system that operates child care facilities on any of its campuses shall work with those campuses to develop alternatives for students who cannot afford child care. The alternatives may include, but are not limited to, cooperative arrangements and work study employment. The systems shall report on their efforts to the education divisions of the house appropriations and senate finance committees by February 15, 1991.*

Sec. 30. Minnesota Statutes 1988, section 136A.131, is amended to read:

136A.131 [ACCOUNTING AND RECORDS.]

Subdivision 1. [ACCOUNTS.] The board shall establish and maintain appropriate ~~scholarship and grant-in-aid~~ accounts and related records of each recipient of a ~~scholarship or grant-in-aid awarded~~ *grant*.

Subd. 2. [RULES, PAYMENT AND ACCOUNTING.] The board shall provide by rule the method of payment of the ~~scholarships and grants-in-aid~~ *grant* awarded ~~hereunder~~ and prescribe a system of accounting to be kept by the institution selected by a recipient.

Subd. 3. [CERTIFICATION TO COMMISSIONER OF FINANCE.] Upon proper verification for payment of a ~~scholarship or grant-in-aid as defined herein~~ *grant*, the board shall certify to the commissioner of finance the amount of the current payment to be made to the ~~scholarship winner or grant-in-aid~~ *grant* recipient in conformance with the rule of the board governing the method of payment.

*Subd. 4.* [RECOVERY OF OVERPAYMENTS.] *A recipient of a grant must reimburse the board for overpayment. The amount of reimbursement is the difference between the amount received and the amount of actual entitlement as calculated by the board after it makes its final findings under section 136A.121 and rules implemented under that section. The*

*amount of reimbursement may include any costs or expenses, including reasonable attorney fees, incurred by the agency in collecting the debt. The reimbursement is recoverable from the recipient or the recipient's estate. The agency may institute a civil action, if necessary for recovery.*

*The recipient must not receive additional awards until the overpayment is recovered or the recipient is making payments under an approved plan. Additional awards for which the recipient is eligible may be used to recover an unreimbursed overpayment.*

Sec. 31. Minnesota Statutes 1988, section 136A.132, is amended to read:

136A.132 [PART-TIME STUDENT ~~GRANT-IN-AID~~ *GRANT* PROGRAM.]

Subdivision 1. [CREATION.] ~~There is hereby created~~ A part-time student ~~grant-in-aid~~ *grant* program *is created* under the supervision of the higher education coordinating board.

Subd. 2. [ELIGIBLE INSTITUTIONS.] Institutions eligible for attendance by recipients of part-time student ~~grants-in-aid shall be~~ *grants are* those institutions approved by the higher education coordinating board as eligible institutions for the state ~~grant-in-aid~~ *grant* program in accordance with section 136A.101.

Subd. 3. [STUDENT ELIGIBILITY.] An applicant is eligible to be considered for a part-time student grant if the applicant:

~~(a)~~ *(1)* is a resident of the state of Minnesota;

~~(b)~~ *(2)* is an undergraduate student who has not earned a baccalaureate degree;

~~(c)~~ *(3)* is pursuing a program or course of study that applies to a degree, diploma, or certificate; ~~and~~

~~(d)~~ *(4)* is attending an eligible institution either less than half time as defined by the board, or as a new or returning student enrolled at least half time but less than full time as defined by the board; *and*

*(5) is not in default, as defined by the board, of any federal or state student educational loan.*

Subd. 4. [SELECTION.] A recipient of a part-time ~~grant-in-aid shall~~ *grant must* be selected by the post-secondary education institution of attendance in accordance with guidelines, policies and rules established by the higher education coordinating board.

Subd. 5. [AMOUNT.] The amount of any part-time student ~~grant-in-aid~~ *grant* award ~~shall~~ *must* be based on the need of the applicant determined by the institution in accordance with policies and rules established by the higher education coordinating board.

Subd. 6. [LENGTH OF AWARD.] Part-time student ~~grants-in-aid shall~~ *grants must* be awarded for a single term as defined by the institution in accordance with guidelines and policies of the higher education coordinating board. Awards ~~shall~~ *are* not ~~be~~ renewable, but the recipient of an award may apply for additional awards for subsequent terms.

A new or returning student enrolled at least half time but less than full time, as defined by the board, and pursuing a program or course of study

that applies to a degree, diploma, or certificate ~~shall be~~ *is* eligible for an award for only one term.

Subd. 7. [INSTITUTIONAL ALLOCATION.] Funds appropriated for part-time student ~~grants-in-aid shall~~ *grants must* be allocated among eligible institutions by the higher education coordinating board according to a formula which takes into account the number of resident part-time students enrolled in each institution and other relevant factors determined by the board. However, an institution ~~must~~ *may* not receive less than it would have received under the allocation formula used before fiscal year 1988.

Sec. 32. Minnesota Statutes 1988, section 136A.134, subdivision 4, is amended to read:

Subd. 4. [PROGRAM RECIPIENTS.] An eligible institution shall select a recipient of a dislocated rural worker grant in accordance with guidelines, policies, and rules established by the board. ~~The board may adopt emergency rules for awarding grants only for the fiscal year beginning July 1, 1987.~~

Sec. 33. Minnesota Statutes 1988, section 136A.15, subdivision 1, is amended to read:

Subdivision 1. For purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*, the terms defined in this section have the meanings ascribed to them.

Sec. 34. Minnesota Statutes 1988, section 136A.15, subdivision 7, is amended to read:

Subd. 7. "Eligible student" means a student who is officially registered or accepted for enrollment at an eligible institution in Minnesota or a Minnesota resident who is officially registered as a student or accepted for enrollment at an eligible institution in another state. ~~A Minnesota resident includes a student who graduated from a Minnesota high school and has not since established residence in another state.~~ Eligible student, except for purposes of section 136A.1701, includes parents of an eligible student as the term "parent" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. Except for the purposes of section 136A.1701, eligible student also includes students eligible for auxiliary loans as the term "auxiliary" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. An eligible student, for section 136A.1701, means a student who gives informed consent authorizing the disclosure of data specified in section 136A.162, paragraph (b), to a consumer credit reporting agency.

Sec. 35. Minnesota Statutes 1988, section 136A.15, is amended by adding a subdivision to read:

*Subd. 8. "Resident student" means a student who meets the conditions in section 136A.101, subdivision 8.*

Sec. 36. Minnesota Statutes 1988, section 136A.16, subdivision 1, is amended to read:

Subdivision 1. *Notwithstanding chapter 16B,* the Minnesota higher education coordinating board is ~~hereby~~ designated as the administrative agency for carrying out the purposes and terms of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702. The board may establish one or more loan programs.*

Sec. 37. Minnesota Statutes 1988, section 136A.16, subdivision 2, is amended to read:

Subd. 2. The board shall adopt policies and prescribe appropriate rules to carry out the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17~~ ~~and section 136A.1701~~ *136A.1702*. The policies and rules except as they relate to loans under section 136A.1701 ~~shall~~ *must* be compatible with the provisions of the National Vocational Student Loan Insurance Act of 1965 and the provisions of title IV of the Higher Education Act of 1965, and any amendments thereof.

Sec. 38. Minnesota Statutes 1988, section 136A.16, subdivision 5, is amended to read:

Subd. 5. The board ~~shall have the right to~~ *may* contract with guarantee agencies, insurance agencies, ~~and/or~~ collection agencies, or any other person, to carry out the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*.

Sec. 39. Minnesota Statutes 1988, section 136A.16, subdivision 8, is amended to read:

Subd. 8. ~~Moneys~~ *Money* made available to the board ~~which are~~ *that is* not immediately needed for the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702* may be invested by the board. ~~Such moneys shall~~ *The money must* be invested in bonds, certificates of indebtedness, and other fixed income securities, except preferred stocks, which are legal investments for the permanent school fund. ~~Such~~ *The* money may also be invested in ~~such~~ prime quality commercial paper ~~as~~ *that* is eligible for investment in the state employees retirement fund. All interest and profits from such investments ~~shall~~ inure to the benefit of the board.

Sec. 40. Minnesota Statutes 1988, section 136A.16, subdivision 9, is amended to read:

Subd. 9. The board ~~shall be empowered to~~ *may* employ ~~such~~ *the* professional and clerical staff ~~as~~ the director deems necessary for the proper administration of the loan programs established and defined by sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*.

Sec. 41. Minnesota Statutes 1988, section 136A.16, subdivision 10, is amended to read:

Subd. 10. Subject to its directives and review, the board may delegate to the director the responsibility for issuance of public information concerning provisions of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*, for design of loan application forms, and for prescribing procedures for submission of applications for loans.

Sec. 42. Minnesota Statutes 1988, section 136A.162, is amended to read:

136A.162 [CLASSIFICATION OF DATA.]

All data on applicants for financial assistance collected and used by the higher education coordinating board for student financial aid programs administered by that board shall be classified as private data on individuals under section 13.02, subdivision 12. Exceptions to this classification are that:

(a) the names and addresses of program recipients or participants are

public data; and

(b) the following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower ~~gives~~ *and the cosigner give* informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

(1) the lender-assigned borrower identification number;

(2) the name and address of borrower;

(3) the name and address of cosigner;

(4) the date the account is opened;

(5) the outstanding account balance;

(6) the dollar amount past due;

(7) the number of payments past due;

(8) the number of late payments in previous 12 months;

(9) the type of account;

(10) the responsibility for the account; and

(11) the status or remarks code.

Sec. 43. Minnesota Statutes 1988, section 136A.17, subdivision 1, is amended to read:

Subdivision 1. A student ~~shall be~~ *is* eligible to apply for a loan under ~~the provisions of~~ sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* if the board finds that the student is an eligible student as defined in those sections and is eligible for a loan under federal laws and regulations governing the federal guaranteed student loan programs.

Sec. 44. Minnesota Statutes 1988, section 136A.1701, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The higher education coordinating board may provide for programs of loans which may be made in lieu of or in addition to loans authorized under sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* and applicable provisions of federal law as provided in this section.

Sec. 45. Minnesota Statutes 1988, section 136A.1701, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF PROGRAM.] The purpose of the loan programs under this section is to provide financial assistance for the post-secondary education of students who are eligible students whether or not such students qualify for a loan or loans under other provisions of sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702*.

Loans granted to students ~~shall~~ *may* be used solely for educational purposes.

Sec. 46. Minnesota Statutes 1988, section 136A.1701, subdivision 5, is amended to read:

Subd. 5. [MAXIMUM LOANS FOR STUDENTS.] Loans made under this section or sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* to an individual eligible student for vocational study may be made for a maximum

of three academic years or their equivalent and loans made to any other individual eligible student may be made for a maximum of eight academic years or their equivalent.

Sec. 47. Minnesota Statutes 1988, section 136A.172, is amended to read:

136A.172 [NEGOTIABLE NOTES; ISSUANCE; CONDITIONS.]

The board may from time to time issue negotiable notes for the purpose of sections ~~136A.14~~ *136A.15* to 136A.179 and may from time to time renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The board may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the board or any issue thereof may contain any provisions which the board is authorized to include in any resolution or resolutions authorizing revenue bonds of the board or any issue thereof, and the board may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable solely from the revenue of the board, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

Sec. 48. Minnesota Statutes 1988, section 136A.173, subdivision 1, is amended to read:

Subdivision 1. The board may from time to time issue revenue bonds for purposes of sections ~~136A.14~~ *136A.15* to 136A.179 and all such revenue bonds, notes, bond anticipation notes or other obligations of the board issued pursuant to sections ~~136A.14~~ *136A.15* to 136A.179 shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the board may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the board available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the board in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution or the board may contain.

Sec. 49. Minnesota Statutes 1988, section 136A.174, is amended to read:

136A.174 [SECURITY FOR BONDS.]

In the discretion of the board any revenue bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 may be secured by a trust agreement by and between the board and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged or any portion thereof. Such trust agreement or resolution providing for the issuance of such revenue bonds may contain such provisions for protecting and

enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of laws, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the board authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledges such securities as may be required by the board. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of the bondholders.

Sec. 50. Minnesota Statutes 1988, section 136A.175, subdivision 4, is amended to read:

Subd. 4. All such revenue bonds shall be subject to the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 in the same manner and to the same extent as other revenue bonds issued pursuant to sections ~~136A.14~~ *136A.15* to 136A.179.

Sec. 51. Minnesota Statutes 1988, section 136A.176, is amended to read:

136A.176 [BONDS NOT STATE OBLIGATIONS.]

Bonds issued under authority of sections ~~136A.14~~ *136A.15* to 136A.179 do not, and shall state that they do not, represent or constitute a debt or pledge of the faith and credit of the state, grant to the owners or holders thereof any right to have the state levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the rentals, revenues, and other income, charges, and moneys as are pledged for their payment in accordance with the bond proceedings.

Sec. 52. Minnesota Statutes 1988, section 136A.177, is amended to read:

136A.177 [RIGHTS OF BONDHOLDERS.]

Any holder of revenue bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by sections ~~136A.14~~ *136A.15* to 136A.179 or by such resolution or trust agreement to be performed by the board or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

Sec. 53. Minnesota Statutes 1988, section 136A.178, is amended to read:

136A.178 [LEGAL INVESTMENTS; AUTHORIZED SECURITIES.]

Bonds issued by authority under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them; it being the purpose of this section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any person, firm, or corporation from any duty of exercising due care in selecting securities for purchase or investment; and provided further, that in no event shall assets of pension funds of public employees of the state of Minnesota or any of its agencies, board or subdivisions, whether publicly or privately administered, be invested in bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179. Such bonds are hereby constituted "authorized securities" within the meaning and for the purposes of section 50.14. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state now or may hereafter be authorized by law.

Sec. 54. Minnesota Statutes 1988, section 136A.179, is amended to read:

136A.179 [PUBLIC PURPOSE; TAX FREE STATUS.]

The exercise of the powers granted by sections ~~136A.14~~ *136A.15* to 136A.179 will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as providing loans by the board or its agent will constitute the performance of an essential public function.

Sec. 55. Minnesota Statutes 1988, section 136A.233, is amended to read:

136A.233 [WORK-STUDY GRANTS.]

Subdivision 1. [ALLOCATION TO INSTITUTIONS.] ~~Notwithstanding the provisions of sections 136A.09 to 136A.131,~~ The higher education coordinating board may offer work-study grants to eligible post-secondary institutions according to the resident full-time equivalent enrollment of all eligible post-secondary institutions that apply to participate in the program. The board shall seek to equalize work-study job opportunities by also taking into account student employment needs at eligible institutions. Each institution wishing to receive a work-study grant shall submit to the board, in accordance with policies and procedures established by the board, an estimate of the amount of funds needed by the institution. ~~and~~ The amount allocated to any institution shall not exceed the estimate of need submitted by the institution. Any funds which would be allocated to an institution according to full-time equivalent enrollment but which exceed the estimate of need by the institution or the actual need of the institution may be reallocated by the board to other institutions for which the estimate of need exceeds the amount of allocation according to enrollment. The institution must not receive less than it would have received under the allocation formula used before fiscal year 1988. No more than one-half of any increase

in appropriations, attributable to this section, above the level before fiscal year 1988 may be allocated on the basis of identified student employment needs at eligible institutions.

Subd. 2. [DEFINITIONS.] For purposes of sections 136A.231 to 136A.234, the ~~following~~ words *defined in this subdivision* have the meanings ascribed to them~~:~~.

(a) "Eligible student" means a Minnesota resident enrolled or intending to enroll full time in a Minnesota post-secondary institution. ~~A Minnesota resident includes a student who graduated from a Minnesota high school and has not since established residence in another state.~~

(b) *"Minnesota resident" means a student who meets the conditions in section 136A.101, subdivision 8.*

*(c)* "Financial need" means the need for financial assistance in order to attend a post-secondary institution as determined by a post-secondary institution according to guidelines established by the higher education coordinating board.

~~(c)~~ *(d)* "Eligible employer" means any eligible post-secondary institution and any nonprofit, nonsectarian agency or state institution located in the state of Minnesota, including state hospitals, and also includes a handicapped person or a person over 65 who employs a student to provide personal services in or about the residence of the handicapped person or the person over 65.

~~(d)~~ *(e)* "Eligible post-secondary institution" means any post-secondary institution eligible for participation in the Minnesota state ~~scholarship and~~ grant program as specified in section 136A.101, subdivision 4.

~~(e)~~ *(f)* "Independent student" has the meaning given it in the Higher Education Act of 1965, United States Code, title 20, section 1070a-6, and applicable regulations.

Subd. 3. [PAYMENTS.] Work-study payments shall be made to eligible students by post-secondary institutions as ~~follows:~~ *provided in this subdivision.*

(a) Students shall be selected for participation in the program by the post-secondary institution on the basis of student financial need.

(b) No eligible student shall be employed under the state work-study program while not a full time student; provided, with the approval of the institution, a full time student who becomes a part-time student during an academic year may continue to be employed under the state work-study program for the remainder of the academic year.

(c) Students will be paid for hours actually worked and the maximum hourly rate of pay shall not exceed the maximum hourly rate of pay permitted under the federal college work-study program.

(d) Minimum pay rates will be determined by an applicable federal or state law.

(e) Not less than 20 percent of the compensation paid to the student under the state work-study program shall be paid by the eligible employer.

(f) Each post-secondary institution receiving funds for state work-study grants shall make a reasonable effort to place work-study students in employment with eligible employers outside the institution.

(g) The percent of the institution's work-study allocation provided to graduate students shall not exceed the percent of graduate student enrollment at the participating institution.

Sec. 56. Minnesota Statutes 1988, section 136A.26, subdivision 1a, is amended to read:

Subd. 1a. [PRIVATE COLLEGE COUNCIL MEMBER.] The ~~chief executive officer~~ *president* of the Minnesota private college council, *or the president's designee,* shall serve~~,~~ without compensation~~,~~ as an advisory, nonvoting member of the authority.

Sec. 57. Minnesota Statutes 1988, section 136A.29, subdivision 9, is amended to read:

Subd. 9. The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed ~~$150,000,000~~ *$250,000,000* and to issue notes, bond anticipation notes, and revenue refunding bonds of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving, furnishing, or equipping one or more projects or parts thereof.

Sec. 58. Minnesota Statutes 1988, section 136A.69, is amended to read:

136A.69 [FEES.]

The board may collect reasonable registration fees not to exceed ~~$200~~ *$400* for an initial registration of each school and ~~$150~~ *$250* for each annual renewal of ~~such~~ *an* existing registration.

Sec. 59. Minnesota Statutes 1988, section 136C.04, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The state board shall possess all powers necessary and incident to the management, jurisdiction, and governance of post-secondary vocational education. These powers shall include, but are not limited to, those enumerated in this section. *The state board may adopt policies as necessary to perform its duties.*

Sec. 60. Minnesota Statutes 1988, section 136C.04, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT OF STATE DIRECTOR.] The state board shall appoint a state director of vocational technical education who shall serve in the unclassified service. The state director shall be qualified by training and experience in the field of education, vocational education, or administration. The state director shall possess powers and perform duties as delegated by the state board. The state board shall set the salary of the state director. ~~The state director may be paid an allowance not to exceed $2,000 annually for miscellaneous expenses in connection with duties of the office. The provisions of chapter 16A shall not apply to these expenditures, but the state board shall prescribe the manner, amount, and purpose of the expenditures and report to the legislature on the expenditures by December 1 of each even-numbered year.~~

Sec. 61. Minnesota Statutes 1988, section 136C.04, subdivision 6, is amended to read:

Subd. 6. [ACCOUNTING AND REPORTING STANDARDS.] The state board shall maintain the uniform financial accounting and reporting system

according to the provisions of sections 121.90 to 121.917, *except that reports required by section 121.908 must be submitted to the state board on dates determined by the state board. All expenditures and revenue related to summer session credit courses must be recognized in the fiscal year in which the course begins.*

Sec. 62. Minnesota Statutes 1988, section 136C.04, subdivision 9, is amended to read:

Subd. 9. [LICENSURE.] The state board may ~~promulgate~~ *adopt* rules~~, according to the provisions of~~ *under* chapter 14~~,~~ for licensure of teaching, support, and supervisory personnel in post-secondary and adult vocational education. ~~The state board may adopt emergency licensure rules, according to sections 14.29 to 14.36.~~ When necessary for continuous programs approved by the board and when the board determines that appropriate licensure standards do not exist~~.~~*, the state board may adopt appropriate temporary standards without regard to chapter 14 and may issue temporary licenses to teaching and support personnel. A temporary license is valid for up to one year and is not renewable, but a person holding a temporary license may, upon its expiration, be issued a license in accordance with standards adopted under chapter 14. The state board may establish a processing fee for the issuance, renewal, or extension of a license.*

Sec. 63. Minnesota Statutes 1988, section 136C.04, subdivision 10, is amended to read:

Subd. 10. [ALLOCATION.] The state board shall allocate state and federal money for post-secondary vocational education. Money received from federal sources, other than as provided in this chapter, and money received from other sources, not including the state, shall not be taken into account in determining appropriations or allocations. *The board shall take into consideration the unreserved fund balances of each technical institute.*

Sec. 64. Minnesota Statutes 1988, section 136C.04, subdivision 18, is amended to read:

Subd. 18. [COMPUTER SALES AND MAINTENANCE.] The state board of vocational technical education *or a school board* may sell computers and related products to ~~its~~ *technical institute* staff and *technical institute* students to advance their instructional and research abilities. ~~The board shall contract with a private vendor for service, maintenance, and support for computers and related products sold by the board.~~

Sec. 65. Minnesota Statutes 1988, section 136C.042, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION.] Associate degrees offered by the ~~area vocational~~ technical institutes prior to January 1, 1981, shall not be subject to the provisions of subdivision 1.

Sec. 66. Minnesota Statutes 1988, section 136C.05, is amended by adding a subdivision to read:

*Subd. 5.* [USE OF PROPERTY.] *A school board must not sell, lease, or assign technical institute property for purposes other than technical institute activities without the approval of the state director. A school board need not obtain approval for uses that are incidental.*

Sec. 67. Minnesota Statutes 1988, section 136C.05, is amended by adding a subdivision to read:

*Subd. 6.* [ACCOUNTING.] *The school board shall maintain, in accordance with section 136C.04, subdivision 6, separate revenue, expenditure, asset, and liability accounts for technical institutes within funds separate from all other district funds.*

Sec. 68. Minnesota Statutes 1988, section 136C.07, subdivision 4, is amended to read:

Subd. 4. ~~If the petition is approved, the school shall be established by the district and classified by the state board as a technical institute and conducted under the general supervision of the state board in accordance with the policy and rules of the state board. Notwithstanding the provisions of subdivision 3 and of this subdivision, after June 30, 1975, no area vocational~~ *A* technical ~~school~~ *institute* shall be established ~~unless specific legislation has authorized its establishment~~ *only by a specific law.*

Sec. 69. Minnesota Statutes 1988, section 136C.075, is amended to read:

136C.075 [COMPENSATION FOR PERFORMANCE EVALUATIONS BY STATE EMPLOYEES.]

Notwithstanding any law to the contrary, a state employee who is asked by the ~~department of education~~ *state board* to undertake a performance evaluation of a technical institute may be compensated at the rate provided for in section 15.059.

To be eligible for compensation under this section, a state employee must take an unpaid leave of absence for the period of time the employee performs the evaluation.

Sec. 70. Minnesota Statutes 1988, section 136C.08, subdivision 1, is amended to read:

Subdivision 1. ~~Any~~ *A* school board ~~or joint school board~~ operating ~~an area vocational~~ *a* technical ~~school, pursuant to section 136C.07; Laws 1967, chapter 822, as amended; Laws 1969, chapter 775, as amended; or Laws 1969, chapter 1060, as amended,~~ *institute* may ~~make,~~ adopt and enforce rules, regulations or ordinances for the regulation of traffic and parking in parking facilities and on private roads and roadways situated on property owned, leased, occupied or operated by the board.

Sec. 71. Minnesota Statutes 1988, section 136C.15, is amended to read:

136C.15 [STUDENT ASSOCIATIONS.]

Every school board governing a technical institute shall give recognition as an authorized extracurricular activity to a technical institute student association affiliated with the Minnesota vocational technical student association. The student association is authorized to collect a reasonable fee from students to finance the activities of the association in an amount determined by the governing board of the technical institute which has recognized it.

Every governing body which recognizes a student association shall deposit the fees in a student association fund. The money in this fund shall be available for expenditure for ~~student~~ recreational, social, welfare, *charitable,* and educational ~~pursuits supplemental to the regular curricular offerings~~ *activities approved by the student association. The money in the fund is not public money.*

Sec. 72. Minnesota Statutes 1988, section 136C.31, is amended by adding a subdivision to read:

*Subd. 3.* [AID AND TUITION.] *All technical institute money and tuition must be used solely for post-secondary vocational technical education.*

Sec. 73. Minnesota Statutes 1988, section 136C.36, is amended to read:

136C.36 [PAYMENT OF TECHNICAL INSTITUTE INSTRUCTIONAL ~~AID~~ *MONEY.*]

Eighty-five percent of the estimated ~~post-secondary vocational instructional aid~~ entitlement *for instructional expenditures* for ~~each district~~ *the technical institutes* shall be paid during the fiscal year ~~of entitlement~~ *for which it is appropriated* in 11 uniform monthly payments from July to May. *The final payment must be made on the first business day of July in the following fiscal year.*

~~The amount of entitlement, adjusted for actual data, minus the payments made during the fiscal year of entitlement, shall be the final adjustment paid to each district on the first business day of July in the fiscal year following entitlement.~~

Sec. 74. Minnesota Statutes 1988, section 136C.43, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE; APPROPRIATION.] For the purpose of providing money appropriated from the vocational technical building fund for the acquisition of public land, buildings, and capital improvements needed for the state plan for the administration of vocational education in accordance with the provisions of section 136C.42, when requested by the state board ~~of education~~, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith and credit and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended therefor, as set forth in section 136C.42. Any such law, together with this section and the laws herein referred to, constitutes complete authority for the issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

Sec. 75. Minnesota Statutes 1988, section 169.44, subdivision 18, is amended to read:

Subd. 18. [MOTOR COACH USED FOR SCHOOL ACTIVITIES.] A school district or a technical institute shall not acquire a motor coach. Motor coaches acquired by school districts or ~~area vocational~~ technical institutes before March 26, 1986 may be used by school districts or ~~area vocational~~ technical institutes only to transport students participating in school activities, their instructors, and supporting personnel, to and from school activities. The motor coaches shall not in any way be outwardly equipped and identified as school buses. A motor coach operated under this subdivision is not a school bus for purposes of section 124.225. By August 1, 1986, the state board of education shall adopt rules governing the equipment, identification, operation, inspection, and certification of motor coaches operated under this subdivision. After January 1, 1998, a school district or technical institute shall not own or operate a motor coach for any purpose.

Sec. 76. Minnesota Statutes 1988, section 275.125, subdivision 14a, is amended to read:

Subd. 14a. [LEVY FOR LOCAL SHARE OF TECHNICAL INSTITUTE CONSTRUCTION.] (a) The definitions in section 136C.02 apply to this subdivision. *"Construction" includes acquisition and betterment of land, buildings, and capital improvements for technical institutes.*

(b) A district maintaining a technical institute may levy for its ~~local~~ share of the cost of construction of *technical institute* facilities ~~for the technical institute~~ as provided in this subdivision.

(c) The construction must be authorized by a specific legislative act pursuant to section 136C.07, subdivision 5, after January 1, 1980. The ~~specific legislative~~ act must require ~~that~~ *the state to pay* part of the cost of *technical institute* construction ~~for post-secondary vocational purposes shall be financed by the state~~ and ~~that~~ *the district to pay* part of the cost ~~of construction for post-secondary vocational purposes shall be financed by the school district operating the technical institute~~.

(d) The district may levy an amount equal to the local share of the cost of *technical institute* construction ~~for post-secondary vocational purposes,~~ minus the amount of any ~~unappropriated~~ *unreserved* net balance in the district's ~~post-secondary vocational~~ technical *institute* building construction fund. A district may levy the total amount authorized by this subdivision in one year, or a proportionate amount of the total authorized amount each year for up to three successive years.

(e) By the ~~July~~ *August* 1 before a district certifies the first levy pursuant to this subdivision ~~for the local share of any construction project~~, at least three weeks published notice of the proposed levy shall be given in the legal newspaper with the largest circulation in the district. The notice shall state the purpose *and duration* of the proposed levy~~, the duration of the proposed levy~~ and the amount of the proposed levy in dollars and mills. Upon petition within 20 days after the notice of the greater of (a) 50 voters, or (b) 15 percent of the number of voters who voted in the district at the most recent regular school board election, the board shall call a referendum on the proposed levy. The referendum shall be held on a date set by the school board, but no later than the ~~August~~ *September* 20 before the levy is certified. The question on the ballot shall state the amount of the proposed levy in mills on the district's adjusted gross tax capacity and in dollars in the first year of the proposed levy.

(f) ~~For the purposes of this subdivision, "construction" includes the acquisition and betterment of land, buildings and capital improvements for technical institutes.~~

~~(g)~~ A district may not levy for the cost of a construction project pursuant to this subdivision if it issues any bonds to finance any costs of the project.

Sec. 77. Minnesota Statutes 1988, section 354.094, subdivision 1a, is amended to read:

Subd. 1a. [EXCEPTION FOR LEAVES SINCE 1981-1982.] Notwithstanding subdivision 1, the following provisions apply to elementary~~,~~ *and* secondary *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee

contributions into the fund, requests state payment of employer contributions, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which shall not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution into the fund by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Sec. 78. Minnesota Statutes 1988, section 354.094, subdivision 1b, is amended to read:

Subd. 1b. [PRE-MAY 16, 1981 LEAVE EXCEPTION.] Notwithstanding subdivision 1, the following provisions apply only to elementary~~,~~ *and* secondary~~,~~ *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves began in the 1978-1979, 1979-1980, or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) of this subdivision for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

Sec. 79. Minnesota Statutes 1988, section 354A.091, subdivision 1a, is amended to read:

Subd. 1a. [EXCEPTION FOR LEAVES SINCE 1981-1982.] Notwithstanding subdivision 1, the following provisions apply to elementary~~,~~ *and* secondary *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee contributions to the applicable association, requests state payment of the employer contribution, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions to the applicable association and receive allowable service credit in that association for each year of leave during the period of the leave, which shall not exceed five years;

(b) The state shall pay employer contributions for a member described in clause (a) for no more than the first three years of the leave, provided

the member who is on extended leave pays the employee contribution to the applicable association by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and school teachers whose extended leaves began in the 1978-1979, 1979-1980 or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the applicable fund for a member described in clause (a) of this subdivision for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

Sec. 80. Minnesota Statutes 1988, section 355.46, subdivision 3, is amended to read:

Subd. 3. [SOCIAL SECURITY CONTRIBUTIONS.] The employer taxes due with respect to employment by educational employees who have made their selection pursuant to section 218(d)(6)(C) of the Social Security Act, shall be paid in the following manner:

(a) Contributions required to be made for current service by political subdivisions employing educational employees and payments required by section 355.49 shall be paid by the political subdivision. Payments for school district or ~~area vocational~~ technical institute employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or ~~area vocational~~ technical institute. The state shall make payments for services rendered prior to July 1, 1986.

(b) Contributions required to be made with respect to educational employees of state departments and institutions and payments required by section 355.49 shall be paid by the departments and institutions in accordance with the provisions of sections 355.49 and 355.50.

Sec. 81. Laws 1988, chapter 703, article 1, section 23, is amended to read:

Sec. 23. [FACULTY EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A program of faculty exchange for the ~~1988-1989~~ *1989-1990 and 1990-1991* academic ~~year~~ *years* is established to allow school districts and post-secondary institutions to arrange temporary exchanges between members of their instructional ~~staff~~ *staffs*. These arrangements must be made on a voluntary, cooperative basis between ~~the~~ *a* school district and ~~the~~ *post-secondary* institution *, or between post-secondary institutions. Exchanges between post-secondary institutions may occur between campuses in the same system or in different systems.*

Subd. 2. [USES OF PROGRAM.] Each participating school district and post-secondary institution may determine the way in which the instructional staff member's time is to be used, but it must be in a way that promotes understanding of the needs of each educational system *or institution*. A

public school teacher might be used to teach courses, provide counseling and tutorial services, assist with the preparation of future teachers, or take professional development courses. A post-secondary instructor might teach advanced placement courses or other classes to aid an underserved population at the school district, counsel students about future education plans, or work with teachers to better prepare students for post-secondary education. Participation need not be limited to one school or institution and may involve other groups including educational cooperative service units.

Subd. 3. [SALARIES, BENEFITS, CERTIFICATION.] Exchanges made under the program must not have a negative effect on participants' salaries, seniority, or other benefits. Notwithstanding Minnesota Statutes, sections 123.35, subdivision 6, and 125.04, a member of the instructional staff of a post-secondary institution may teach in an elementary or secondary school or perform a service, agreed upon according to this section, for which a license would otherwise be required without holding the applicable license. In addition, a licensed employee of a school district may teach or perform a service, agreed upon according to this section, at a post-secondary institution without meeting the applicable qualifications of the post-secondary institution. A school district is not subject to Minnesota Statutes, section 124.19, subdivision 3, as a result of entering into an agreement according to this section that enables a post-secondary instructional staff member to teach or provide services in the district. All arrangements and details regarding the exchange must be mutually agreed to by ~~the~~ *each participating* school district and post-secondary institution before implementation.

Subd. 4. [REPORT OF PILOT PROGRAMS.] While these exchanges are voluntary, the legislature intends to maintain oversight to determine the benefits and problems of the program. By February 1, ~~1989~~ *1991*, each post-secondary system shall submit a report about the faculty exchange program to the chairs of the house education, higher education, and appropriations committees and the senate education and finance committees. The report shall contain the number of instructional staff participating in the exchange, areas of instruction, *costs associated with the exchange, use of appropriations,* and other *relevant* issues ~~related to the exchange~~.

Sec. 82. [EXCHANGES BETWEEN EDUCATION FACULTY.]

*Subdivision 1.* [AUTHORITY, LIMITS.] *The state university board and the board of regents of the University of Minnesota may develop programs to exchange faculty between colleges or schools of education and school districts, subject to section 81, subdivision 3.*

*The programs must be used to assist in improving teacher education by involving current teachers in education courses and placing post-secondary faculty in elementary and secondary classrooms. Programs must include exchanges that extend beyond the immediate service area of the institution to address the needs of different types of schools, students, and teachers.*

*Subd. 2.* [COMPENSATION.] *The appropriations provided to the board of regents of the University of Minnesota and the state university board in the omnibus elementary and secondary education finance act, 1989 H.F. No. 654, are to defray the costs of participants in the faculty exchange under this section. They are intended to compensate for expenses that are unavoidable and beyond the normal living expenses exchange participants would incur if they were not involved in this exchange. The state university board, the board of regents of the University of Minnesota, and their respective campuses, in conjunction with the participating school districts,*

*must control costs for all participants as much as possible, through means such as arranging housing exchanges, providing campus housing, and providing university, state, or school district cars for transportation. Additionally the boards and campuses may seek other sources of funding to supplement these appropriations if necessary.*

Sec. 83. [EMERGENCY RULES.]

*The higher education coordinating board may adopt emergency rules, as provided under Minnesota Statutes, sections 14.29 to 14.36, for awarding child care grants for the 1989-1990 academic year. The board shall consult with its financial aid advisory committee and the higher education advisory council before adopting the rules.*

Sec. 84. [TWO-WAY INTERACTIVE TELEVISION SYSTEMS.]

*The information policy office in the department of administration, and the information policy advisory task force, shall consult with representatives of the HECB, the public post-secondary governing boards, private colleges, and the department of education, when developing the communications and technology capabilities, plans, and needs of state government. The criteria developed by the instructional technology task force, as reported to the 1989 legislature, shall be utilized for evaluating any projects or systems. A report shall be submitted on the activities, plans, financial implications, and anticipated outcomes, to the chairs of the finance and appropriation committees by February 15, 1990. Until the report is received by the legislature, the public post-secondary systems may not initiate action to purchase, contract for, or otherwise commit themselves to new two-way interactive television equipment, or to systems or service (other than maintenance agreements), that expand the capacity of two-way interactive television, beyond those which are contracted for prior to enactment of this act.*

Sec. 85. [REPEALER.]

*Subdivision 1.* [JUNE 30, 1989.] *Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.111; 136A.121, subdivision 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136A.55; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; 136C.43, subdivisions 1, 2, and 3; 256H.07; and 256H.13 are repealed June 30, 1989.*

*Subd. 2.* [JUNE 30, 1990.] *Minnesota Statutes 1988, sections 136A.09; 136A.101, subdivision 6; 136A.121, subdivisions 1 and 4; and 136A.225 are repealed June 30, 1990.*

Sec. 86. [EFFECTIVE DATE.]

*Section 4, subdivision 4; section 5, subdivision 4; and section 84 are effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the

Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 126.56, subdivision 5; 135A.05; 135A.06, subdivision 3; 136.31, subdivisions 3 and 5; 136A.02, subdivisions 5, 6, and 7; 136A.04; 136A.05; 136A.08; 136A.101, subdivisions 1, 7, and 8; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivisions 1 and 7, and by adding a subdivision; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.162; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.233; 136A.26, subdivision 1a; 136A.29, subdivision 9; 136A.69; 136C.04, subdivisions 1, 2, 6, 9, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding subdivisions; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; and Laws 1988, chapter 703, article 1, section 23; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.225; 136A.51; 136A.52; 136A.53; 136A.55; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; 136C.43, subdivisions 1, 2, and 3; 256H.07; and 256H.13."

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

Senate Conferees: (Signed) Gene Waldorf, Ronald R. Dicklich, Glen Taylor, Nancy Brataas, Gary M. DeCramer

House Conferees: (Signed) Lyndon R. Carlson, Len Price, Howard Orenstein, Mike Jaros, Jim Heap

Mr. Waldorf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1625 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1625 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 180, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 180: A bill for an act relating to the office of the secretary of state; establishing a procedure for contesting the registration of a corporation, limited partnership, or assumed name, or a trade or service mark with the secretary of state; providing that the office of the secretary of state is not liable for registrations; amending Minnesota Statutes 1988, sections 300.025; 302A.115, by adding a subdivision; 303.05, by adding a subdivision; 308.06, by adding a subdivision; 317.09, by adding a subdivision; 322A.02; 322A.72; 1989 S.F. No. 525, section 12, by adding a subdivision; S.F. No. 848, article 1, section 8, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5.

Senate File No. 180 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1046:

H.F. No. 1046: A bill for an act relating to motor vehicles; setting fee for inspection of certain motor vehicles for which salvage certificate of title has been issued; amending Minnesota Statutes 1988, section 168A.152.

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

Johnson, A.; Rest and Pauly have been appointed as such committee on the part of the House.

House File No. 1046 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Stumpf moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1046, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 723:

H.F. No. 723: A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 198.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Steensman; Greenfield; Anderson, R.; Kostohryz and Quinn have been appointed as such committee on the part of the House.

House File No. 723 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Langseth moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 723, and that a Conference Committee of 5 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.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Solon moved that S.F. No. 536 be taken from the table. The motion prevailed.

S.F. No. 536: A bill for an act relating to consumer protection; providing for enhanced civil penalties for deceptive acts targeted at senior citizens or handicapped persons; providing factors a court may consider in determining to impose an enhanced civil penalty; providing that sums collected must be credited to the account of the state board on aging; amending Minnesota Statutes 1988, section 256.975, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

## CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 536 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 536 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Hughes | Mehrkens | Reichgott |
| Anderson | Dahl | Johnson, D.E. | Metzen | Renneke |
| Beckman | Davis | Knaak | Moe, D.M. | Schmitz |
| Belanger | Diessner | Knutson | Moe, R.D. | Solon |
| Benson | Frank | Laidig | Morse | Storm |
| Berglin | Frederick | Langseth | Novak | Taylor |
| Bernhagen | Frederickson, D.J. | Lantry | Pariseau | Vickerman |
| Bertram | Frederickson, D.R. | Larson | Piper | Waldorf |
| Brandl | Freeman | Lessard | Purfeerst | |
| Brataas | Gustafson | Luther | Ramstad | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1454, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1454 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1454

A bill for an act relating to Itasca county; authorizing a petition to annex unorganized territory to the town of Spang to be signed by residents of the town.

May 12, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1454, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

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

House Conferees: (Signed) Bob Neuenschwander, Loren A. Solberg, Virgil J. Johnson

Senate Conferees: (Signed) Bob Lessard, Robert J. Schmitz, Gen Olson

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1454 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1454 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Knutson | Moe, D.M. | Ramstad |
| Beckman | Frank | Kroening | Moe, R.D. | Reichgott |
| Belanger | Frederick | Laidig | Morse | Renneke |
| Benson | Frederickson, D.J. | Langseth | Novak | Schmitz |
| Berglin | Frederickson, D.R. | Lantry | Olson | Solon |
| Bernhagen | Freeman | Larson | Pariseau | Taylor |
| Bertram | Hughes | Lessard | Peterson, D.C. | Vickerman |
| Chmielewski | Johnson, D.E. | Luther | Piper | Waldorf |
| Cohen | Johnson, D.J. | McGowan | Pogemiller | |
| Davis | Knaak | Mehrkens | Purfeerst | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 996 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 996: A bill for an act relating to education; allowing a school board to compel attendance of enrolled pupils under the age of seven; making conforming changes; amending Minnesota Statutes 1988, sections 120.101, subdivision 5, and by adding a subdivision; and 127.20.

Ms. Peterson, D.C. moved that the amendment made to H.F. No. 996 by the Committee on Rules and Administration in the report adopted April 24, 1989, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Benson moved to amend H.F. No. 996 as follows:

Page 1, line 10, strike everything after the headnote

Page 1, line 11, strike everything before "every"

Page 1, line 13, strike everything after the period

Page 1, strike line 14

Page 1, line 15, strike everything before "Every"

Amend the title as follows:

Page 1, line 4, after the second semicolon, insert "reducing the age of compulsory school attendance to 16 years;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 21 and nays 25, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Chmielewski | Knutson | Morse | Storm |
| Benson | Davis | Larson | Olson | |
| Bernhagen | Frederick | Lessard | Pariseau | |
| Brandl | Gustafson | McGowan | Ramstad | |
| Brataas | Johnson, D.E. | Mehrkens | Renneke | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Hughes | Luther | Pogemiller |
| Beckman | Diessner | Johnson, D.J. | Moe, R.D. | Purfeerst |
| Berglin | Frank | Knaak | Novak | Reichgott |
| Bertram | Frederickson, D.J. | Langseth | Peterson, D.C. | Schmitz |
| Cohen | Frederickson, D.R. | Lantry | Piper | Vickerman |

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

H.F. No. 996 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 36 and nays 7, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Davis | Laidig | Moe, R.D. | Reichgott |
| Anderson | Dicklich | Langseth | Morse | Renneke |
| Beckman | Diessner | Lantry | Novak | Schmitz |
| Berglin | Frank | Larson | Olson | Vickerman |
| Bertram | Frederickson, D.J. | Luther | Pariseau | |
| Brandl | Johnson, D.E. | McGowan | Peterson, D.C. | |
| Brataas | Johnson, D.J. | Mehrkens | Piper | |
| Cohen | Knaak | Moe, D.M. | Purfeerst | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Benson | Chmielewski | Lessard | Ramstad | Storm |
| Bernhagen | Knutson | | | |

So the bill passed and its title was agreed to.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Morse moved that the following members be excused for a Conference Committee on S.F. No. 262 at 12:00 noon:

Messrs. Morse, Merriam, Dahl, Davis and Bernhagen. The motion prevailed.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Ms. Berglin moved that the following members be excused for a Conference Committee on S.F. No. 491 from 6:00 to 8:15 p.m.:

Messrs. Samuelson, Larson and Ms. Berglin. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 805 a Special Order to be heard immediately.

## SPECIAL ORDER

S.F. No. 805: A bill for an act relating to public defender system; updating law governing public defenders; repealing obsolete law governing public defenders; requiring a person requesting appointment of a public defender to submit a financial statement to the court; raising the limits for payment for expert services; amending Minnesota Statutes 1988, sections 611.17; 611.21; and 611.215, subdivision 2; repealing Minnesota Statutes 1988, sections 611.07; 611.071; and 611.25, 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 41 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Chmielewski | Johnson, D.E. | Luther | Ramstad |
| Anderson | Cohen | Johnson, D.J. | McGowan | Reichgott |
| Beckman | Davis | Knaak | Mehrkens | Renneke |
| Berg | Decker | Knutson | Moe, D.M. | Storm |
| Berglin | Dicklich | Laidig | Moe, R.D. | Vickerman |
| Bernhagen | Diessner | Langseth | Novak | |
| Bertram | Frank | Lantry | Olson | |
| Brandl | Frederickson, D.J. | Larson | Pariseau | |
| Brataas | Freeman | Lessard | Piper | |

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 909 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 909: A bill for an act relating to workers' compensation; providing coverage for preventive rabies treatment; amending Minnesota Statutes 1988, section 176.135, subdivision 1.

Mr. Chmielewski moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1988, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the

difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be~~, and subject to a maximum compensation equal to the statewide average weekly wage~~. *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 able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 400 percent of the statewide average weekly wage.*"

Page 3, after line 8, insert:

"Sec. 4. Minnesota Statutes 1988, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY; *ASBESTOS HEALTH SCREENINGS.*] *(a)* Notwithstanding section 176.66, an employee who has ~~contracted~~ *acquired* an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

*(b) An employee who has acquired asbestosis or other occupational disease resulting from exposure to asbestos is entitled to payment for reasonable charges for asbestos health screenings at reasonable frequencies in accordance with established medical practice but not to exceed once annually. Payment for the screening must be made in accordance with section 176.66, subdivision 10. Payment for screenings must be ordered under section 176.191, subdivision 1, provided the employee presents an affidavit and supporting medical report indicating that the employee has acquired asbestosis or other occupational disease resulting from exposure to asbestos which arose out of and in the course of such employment. Temporary orders under this paragraph are issued for the purpose of prompt payment to the employee; the existence of such an order may not be used against the payor as an indication that the payor must assume liability for any other compensation due under this chapter or that the payor is ultimately liable for the compensaton paid under the order.*

Sec. 5. [ASBESTOS HEALTH SCREENING PILOT PROJECT.]

*The commissioner of health shall establish an asbestos health screening pilot project for residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment but who have not yet acquired an occupational disease under the workers' compensation law and, as such, are not yet eligible for asbestos health screenings under Minnesota Statutes, section 176.135, subdivision 5. The purpose of the pilot project is: to study the actual and estimated extent and risk of acquiring asbestos-related diseases among individuals exposed to asbestos on the job; to determine the types of counseling and prevention services that individuals exposed to asbestos may need and the best methods of administering such services; and to estimate the cost and effectiveness of screening, counseling, and preventive services for individuals exposed to asbestos on the job but who are not yet eligible to receive medical benefits or compensation under the workers' compensation law.*

*The commissioner of health may contract with a local board of health,*

*or with any local, state, or nationally recognized experts in the diagnosis and treatment of asbestos-related diseases for conducting the health screenings and evaluating the results.*

*Residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment are eligible to receive an annual asbestos health screening under procedures determined by the commissioner of health.*

*The commissioner of health shall present a report and recommendations to the legislature on or before February 1, 1991, on the number of participants in, and the effectiveness of, the pilot project program as established under this section and on the advisability of continuing the pilot project to gain additional data.*

*$150,000 is appropriated to the commissioner of health from the state general fund for the purposes of this section and is available until expended.*

Sec. 6. Minnesota Statutes 1988, section 176.138, is amended to read:

176.138 [MEDICAL DATA; ACCESS.]

*(a)* Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release *in writing, by telephone discussion, or otherwise* of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, *and the date of discussions with medical providers about medical data shall be confirmed,* in writing to the person or organization that collected or currently possesses the data. ~~The~~ *Written medical* data *that exists at the time the request is made* shall be provided by the collector or possessor within seven working days of receiving the request. *All other medical data described above may be provided, but are not required to be provided, by the collector or possessor.* In all cases of a request for *the data or discussion with a medical provider about* the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made *or a written confirmation of the discussion*. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested by the requester.

*(b)* Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

*(c)* The commissioner may impose a penalty of up to $200 payable to the special compensation fund against a party who does not *timely* release ~~the~~ data ~~in a timely manner~~ *as required in this section*. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. ~~This section applies only to written medical data which exists at the time the request is made.~~

Sec. 7. [176.325] [CERTIFIED QUESTION.]

*Subdivision 1.* [WHEN CERTIFIED.] *The chief administrative law judge may certify a question of workers' compensation law to the workers'*

*compensation court of appeals as important and doubtful under the following circumstances:*

*(1) all parties to the case have stipulated in writing to the facts;*

*(2) the sole issue to be resolved is a question of workers' compensation law that has not been resolved by the workers' compensation court of appeals or the Minnesota supreme court;*

*(3) all parties request that the matter be resolved by certification to the workers' compensation court of appeals as an important and doubtful question; and*

*(4) the commissioner, the designee of the commissioner, the chief administrative law judge, or the designee of the chief administrative law judge has determined that resolution of the certified question would resolve a number of pending cases and would likely reduce further workers' compensation litigation involving the important and doubtful question of law.*

*Subd. 2.* [SUPREME COURT REVIEW.] *Review by the supreme court of any decision of the workers' compensation court of appeals pursuant to this section shall be pursuant to section 176.471.*

*Subd. 3.* [SPEEDY DECISION.] *It is the legislature's intent that the workers' compensation court of appeals and the Minnesota supreme court resolve the certified question as expeditiously as possible, after compliance by the parties with any requirements of the workers' compensation court of appeals or the Minnesota supreme court regarding submission of legal memoranda, oral argument, or other matters, and after the participation of amicus curiae, should the workers' compensation court of appeals or Minnesota supreme court consider such participation advisable.*

*Subd. 4.* [NOTICE.] *The chief administrative law judge shall notify all persons who request to be notified of a certification under this section.*

Sec. 8. [EFFECTIVE DATE.]

*Section 2 is effective October 1, 1989. Sections 4, 6, and 7 are effective the day following final enactment. Section 5 is effective July 1, 1989."*

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 25, insert:

"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 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.

(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 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.

*(f) Notwithstanding any other provision in this subdivision to the contrary, 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), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes 1988.*"

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1988, section 176.011, subdivision 9, is amended to read:

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

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter,

county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

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

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

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

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

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

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

(12) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

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

(14) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota state academy for the deaf or the Minnesota state academy for the blind, and whose services have been accepted or contracted for by the state board of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

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

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

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

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

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

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

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

(20) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of

administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees; ~~and~~

(21) a voluntary uncompensated worker rendering service directly to the pollution control agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees~~.~~*; and*

*(22) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees.*

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

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 909 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 39 and nays 5, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brandl | Freeman | Lessard | Pariseau |
| Anderson | Brataas | Gustafson | McGowan | Piper |
| Beckman | Cohen | Johnson, D.E. | Mehrkens | Reichgott |
| Belanger | Davis | Knaak | Metzen | Renneke |
| Benson | Decker | Knutson | Moe, D.M. | Storm |
| Berg | Frederick | Laidig | Moe, R.D. | Taylor |
| Bernhagen | Frederickson, D.J. | Langseth | Novak | Vickerman |
| Bertram | Frederickson, D.R. | Larson | Olson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Frank | Johnson, D.J. | Lantry | Luther | Pogemiller |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the

Senate amendments to House File No. 1443:

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

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

Jefferson, McLaughlin and Pauly have been appointed as such committee on the part of the House.

House File No. 1443 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Moe, D.M. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1443, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

## RECESS

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

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

## APPOINTMENTS

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

S.F. No. 470: Messrs. DeCramer; Peterson, R.W. and Frederickson, D.R.

H.F. No. 1425: Messrs. Peterson, R.W.; Merriam and Knaak.

H.F. No. 306: Mr. Peterson, R.W.; Ms. Reichgott and Mr. Merriam.

H.F. No. 1046: Messrs. Stumpf, DeCramer and Chmielewski.

H.F. No. 723: Messrs. Langseth, DeCramer, Vickerman, Larson and Bertram.

H.F. No. 1443: Messrs. Moe, D.M.; Freeman and Frederickson, D.R.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1734, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1734 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1734

A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; providing for subordinate service districts; providing for accreditation of assessors; changing tax increment financing provisions; providing for payment of deferred taxes on sale of railroad operating property; extending valuation and deferment of agricultural property taxes in certain instances; authorizing the cities of Mankato and Hopkins to establish special service districts; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of a tax increment financing district in the city of Moorhead; granting certain powers to towns; appropriating money; amending Minnesota Statutes 1988, sections 38.27, subdivision 1; 60A.15, subdivision 1; 93.55, subdivision 4; 124A.03, subdivision 2; 256.018; 256.82, subdivision 1; 256.871, subdivision 6; 256B.041, subdivision 5; 270.052; 270.067, subdivisions 1 and 2; 270.071, subdivision 6; 270.072, subdivisions 2 and 3; 270.075, subdivision 2; 270.12, subdivision 2, and by adding a subdivision; 270.485; 270.80, subdivision 1; 272.01, subdivision 2; 272.02, subdivision 1, and by adding a subdivision; 273.01; 273.061, subdivisions 1 and 2; 273.11, by adding a subdivision; 273.111, subdivision 3; 273.112, subdivision 3, and by adding a subdivision; 273.119, subdivision 2; 273.123, subdivisions 4 and 5; 273.124, subdivisions 6, 8, 9, 12, 13, and by adding a subdivision; 273.13, subdivisions 22, 23, 24, 25, 31, and by adding a subdivision; 273.135, subdivisions 2 and 2a; 273.1391, subdivisions 2 and 2a; 273.1392; 273.1393; 273.1398, subdivisions 1, 2, 3, 4, and by adding a subdivision; 275.07, subdivision 1; 275.08, subdivision 1c; 275.28, subdivision 1; 275.50, subdivisions 2, 5, and by adding a subdivision; 275.51, subdivisions 3f, 3g,

3h, 3i, 3j, 4, and 6; 275.58, subdivision 1; 276.04; 278.03; 278.05, subdivisions 4 and 5; 279.01, subdivisions 1 and 3; 279.37, subdivision 7; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.06, subdivisions 1 and 21; 290.067, subdivision 2, and by adding a subdivision; 290.0802, subdivision 1; 290.091, subdivision 2; and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.37, subdivision 1; 290.38; 290.92, subdivision 4b, as added; 290.934, subdivision 3a; 290A.03, subdivision 12; 290A.04, subdivisions 2, 2h, and by adding a subdivision; 295.34, subdivision 1; 297.01, subdivision 13, and by adding a subdivision; 297.03, subdivision 6; 297.04, subdivisions 4, 5, and 6; 297.041, subdivision 1; 297.08, subdivision 1; 297.31, by adding a subdivision; 297.33, subdivisions 4, 5, 6, 7, and 8; 297A.01, subdivision 3; 297A.15, by adding a subdivision; 297A.25, subdivision 3, and by adding subdivisions; 297A.257, by adding a subdivision; 297B.03; 297C.03, subdivision 1; 297C.09; 349.12, subdivisions 11, 13, and by adding subdivisions; 349.15; 349.16, by adding a subdivision; 349.212, subdivision 4, and by adding a subdivision; 349.214, subdivision 4; 373.40, subdivisions 1, 2, 4, and 6; 375.192, subdivision 2; 444.075, subdivision 1; 444.16; 444.17; 444.18; 444.19; 444.20; 459.14, by adding a subdivision; 469.012, by adding a subdivision; 469.040, subdivision 2; 469.171, by adding a subdivision; 469.174, subdivision 10, and by adding a subdivision; 469.175, subdivisions 3, 7, and by adding a subdivision; 469.176, subdivisions 1, 4c, 6, and by adding a subdivision; 469.177, subdivision 10; 473.167, subdivisions 3 and 5; 473.249, subdivision 1; 473F.08, subdivision 3; 473H.10, subdivision 3; 477A.011, subdivisions 1a and 15; and 477A.013, subdivisions 1, 3, and 4; Laws 1988, chapter 719, articles 1, section 22; 7, section 9; 8, section 37; and 12, sections 29 and 30, as amended; proposing coding for new law in Minnesota Statutes, chapters 273; 275; 276; 297A; 365B; and 469; proposing coding for new law as Minnesota Statutes, chapter 365B; repealing Minnesota Statutes 1988, sections 38.17; 38.27, subdivision 3; 38.28; 60A.151; 271.061; 275.065; 275.57; 275.58, subdivision 4; 276.13; 276.14; 297.01, subdivision 15; 297.03, subdivision 12; 297.04, subdivision 10; 297.33, subdivision 13; 297C.03, subdivisions 4 and 4a; and 473.249, subdivision 3; Laws 1988, chapter 719, article 8, section 35; and Laws 1989, chapter 27, article 2, sections 2 and 3.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1734, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1734 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

INCOME TAXATION

Section 1. Minnesota Statutes 1988, section 10A.31, subdivision 5, is amended to read:

Subd. 5. In each calendar year the money in the general account shall

be allocated to candidates as follows:

(1) 21 percent for the offices of governor and lieutenant governor together;

(2) 3.6 percent for the office of attorney general;

(3) 1.8 percent each for the offices of secretary of state, state auditor, and state treasurer;

(4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;

(5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

In each calendar year the money in each party account shall be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.4 percent for the office of attorney general;

(3) 1.2 percent each for the offices of secretary of state, state auditor, and state treasurer;

(4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;

(5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative;

(6) ten percent for the state committee of a political party; money allocated to each state committee under this clause must be deposited in a separate account and must be spent for legitimate political party operations, including voter education; the sample ballot; operations of precinct caucuses, county unit conventions, and state conventions; and the maintenance and programming of computers used to provide lists of voters, party workers, party officers, patterns of voting, and other data for use in political party activities; money allocated to a state committee under this clause must be paid to the committee *by the state treasurer as notified by the state ethical practices board* as it is received in the account~~,~~ on a monthly ~~or other~~ basis ~~agreed to between the committee and the board.~~, *with payment on the 15th day of the calendar month following the month in which the tax returns were received, provided that these distributions would be equal to the amount of money indicated in the department of revenue's weekly unedited reports of income tax returns for that month, subject to final annual adjustment and settlement as indicated according to the certification by the commissioner of revenue under subdivision 6. 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.*

To assure that moneys will be returned to the counties from which they were collected, and to assure that the distribution of those moneys rationally relates to the support for particular parties or for particular candidates within legislative districts, money from the party accounts for legislative candidates

shall be distributed as follows:

Each candidate for the state senate and state house of representatives whose name is to appear on the ballot in the general election shall receive money from the candidate's party account set aside for candidates of the state senate or state house of representatives, whichever applies, according to the following formula;

For each county within the candidate's district the candidate's share of the dollars allocated in that county to the candidate's party account and set aside for that office shall be:

(a) The sum of the votes cast in the last general election in that part of the county in the candidate's district for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct of the state and (ii) for the state senate and state house of representatives, divided by

(b) The sum of the votes cast in that county in the last general election for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct in the state and (ii) for the state senate and state house of representatives, multiplied by

(c) The amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

The sum of all the county shares calculated in the formula above is the candidate's share of the candidate's party account.

In a year in which an election for the state senate occurs, with respect to votes for candidates for the state senate only, "last general election" means the last general election in which an election for the state senate occurred.

For any party under whose name no candidate's name appeared on the ballot in each voting precinct in the state in the last general election, amounts in the party's account shall be allocated based on (a) the number of people voting in the last general election in that part of the county in the candidate's district, divided by (b) the number of the people voting in that county in the last general election, multiplied by (c) the amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

In a year in which the first election after a legislative reapportionment is held, "the candidate's district" means the newly drawn district, and voting data from the last general election will be applied to the area encompassing the newly drawn district notwithstanding that the area was in a different district in the last general election.

If in a district there was no candidate of a party for the state senate or state house of representatives in the last general election, or if a candidate for the state senate or state house of representatives was unopposed, the vote for that office for that party shall be the average vote of all the remaining candidates of that party in each county of that district whose votes are included in the sums in clauses (a) and (b). The average vote shall be added to the sums in clauses (a) and (b) before the calculation is made for all districts in the county.

Money from a party account not distributed to candidates for state senator

and representative in any election year shall be returned to the general fund of the state. Money from a party account not distributed to candidates for other offices in an election year shall be returned to the party account for reallocation to candidates as provided in clauses (1) to (6) in the following year. Money from the general account refused by any candidate shall be distributed to all other qualifying candidates in proportion to their shares as provided in this subdivision.

Sec. 2. Minnesota Statutes 1988, section 290.015, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) A person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law Number 86-272, United States Code, title 15, sections 381 to 384 or would be so precluded except for the fact that the person stored tangible personal property in a state licensed facility under chapter 231.

(b) Ownership of an interest in the following types of property (including those contacts with this state reasonably required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from it, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property) shall not be a factor in determining whether the owner is subject to tax under this chapter:

(1) an interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company *or a fund of a regulated investment company*, as those terms are defined in the Internal Revenue Code of 1986, as amended through December 31, 1987;

(2) *an interest in money market instruments or securities as defined in section 290.191, subdivision 6, paragraphs (c) and (d);*

*(3)* an interest in a loan-backed, mortgage-backed, or receivable-backed security representing either: (i) ownership in a pool of promissory notes, mortgages, or receivables or certificates of interest or participation in such notes, mortgages, or receivables, or (ii) debt obligations or equity interests which provide for payments in relation to payments or reasonable projections of payments on the notes, mortgages, or receivables~~, and which are issued by a financial institution or by an entity substantially all of whose assets consist of promissory notes, mortgages, receivables, or interests in them~~;

~~(3)~~ *(4)* an interest *acquired from a person* in ~~any~~ assets described in section 290.191, subdivision 11, paragraphs (e) to (l), ~~and in which the payment obligations embodied in such assets were solicited and entered into by persons independent and not acting on behalf of the owner~~ *subject to the provisions of paragraph (c), clause (2)(A)*;

~~(4)~~ *(5)* an interest *acquired from a person* in the right to service, or collect income from any assets described in section 290.191, subdivision 11, paragraphs (e) to (l), ~~and in which the payment obligations embodied in such assets were solicited and entered into by persons independent and not acting on behalf of the owner~~ *subject to the provisions of paragraph (c), clause (2)(A)*;

~~(5)~~ *(6) an interest acquired from a person in a funded or unfunded agreement to extend or guarantee credit whether conditional, mandatory,*

*temporary, standby, secured, or otherwise, subject to the provisions of paragraph (c), clause (2)(A);*

*(7)* an interest of a person other than an individual, estate, or trust, in any intangible, tangible, real, or personal property acquired in satisfaction, whether in whole or in part, of any asset embodying a payment obligation which is in default, whether secured or unsecured, the ownership of an interest in which would be exempt under the preceding provisions of this subdivision, provided the property is disposed of within a reasonable period of time; or

~~(6)~~ *(8)* amounts held in escrow or trust accounts, pursuant to and in accordance with the terms of property described in this subdivision.

~~If the person is a member of the unitary group, paragraph (b) does not apply to an interest acquired from another member of the unitary group.~~

*(c)(1) For purposes of paragraph (b), clauses (4) to (6), an interest in the type of assets or credit agreements described is deemed to exist at the time the owner becomes legally obligated, conditionally or unconditionally, to fund, acquire, renew, extend, amend, or otherwise enter into the credit arrangement.*

*(2)(A) An owner has acquired an interest from a person in paragraph (b), clauses (4) to (6), assets if:*

*(i) the owner at the time of the acquisition of the asset does not own, directly or indirectly, 15 percent or more of the outstanding stock or in the case of a partnership 15 percent or more of the capital or profit interests of the person from whom it acquired the asset;*

*(ii) the person from whom the owner acquired the asset regularly sells, assigns, or transfers interests in paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to three or more persons; and*

*(iii) the person from whom the owner acquired the asset does not sell, assign, or transfer 75 percent or more of its paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to the owner.*

*For purposes of determining indirect ownership under item (i), the owner is deemed to own all stock, capital, or profit interests owned by another person if the owner directly owns 15 percent or more of the stock, capital, or profit interests in the other person. The owner is also deemed to own through any intermediary parties all stock, capital, and profit interests directly owned by a person to the extent there exists a 15 percent or more chain of ownership of stock, capital, or profit interests between the owner, intermediary parties and the person.*

*(B) If the owner of the asset is a member of the unitary group, paragraph (b), clauses (4) to (8), do not apply to an interest acquired from another member of the unitary group. If the interest in the asset was originally acquired from a nonunitary member and at that time qualified as a section 290.015, subdivision 3, paragraph (b), asset, the foregoing limitation does not apply.*

Sec. 3. Minnesota Statutes 1988, section 290.015, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS.] (a) This section does not subject a trade or business to any regulation, including any tax, of any local unit of government or subdivision of this state if the trade or business does not own or lease tangible or real property located within this state and has no employees or independent contractors present in this state to assist in the carrying on of the business.

(b) The purchase of tangible personal property or intangible property or services by a person that conducts a trade or business with the principal place of business outside of Minnesota, *referred to as* ~~(~~the "non-Minnesota person"~~)~~, from a person within Minnesota shall not be taken into account in determining whether the non-Minnesota person is subject to the taxes imposed by this chapter, except for services involving either the direct solicitation of Minnesota customers or relationships with Minnesota customers after sales are made. *This paragraph is subject to the limitations contained in subdivision 3, paragraph (b), clauses (4) to (6).*

(c) No contact with any Minnesota financial institution by any financial institution with its principal place of business outside Minnesota with respect to transactions described in subdivision 3, or with respect to deposits received from or by a Minnesota financial institution, shall be taken into account in determining whether such a financial institution is subject to the taxes imposed by this chapter. The fact of participation by a Minnesota financial institution in a transaction which also involves a borrower and a financial institution that conducts a trade or business with its principal place of business outside of Minnesota shall not be a factor in determining whether such financial institution is subject to the taxes imposed by this chapter. This paragraph does not apply to transactions between or among members of the same unitary group.

Sec. 4. Minnesota Statutes 1988, section 290.02, is amended to read:

290.02 [FRANCHISE TAX ON CORPORATIONS MEASURED BY NET INCOME.]

An annual franchise tax on the exercise of the corporate franchise to engage in contacts with this state that produce gross income attributable to sources within this state is imposed upon every corporation that so exercises its franchise during the taxable year.

Contacts within this state do not include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters that are made international for navigation purposes by any treaty or agreement to which the United States is a party.

The tax so imposed ~~shall be~~ *is* measured by ~~such~~ *the* corporations' taxable income and alternative minimum ~~tax base~~ *taxable income* for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 5. Minnesota Statutes 1988, section 290.05, subdivision 3, is amended to read:

Subd. 3. (a) An organization exempt from taxation under subdivision 2 shall, nevertheless, be subject to tax under this chapter to the extent provided in the following provisions of the Internal Revenue Code:

(i) section 527 (dealing with political organizations) ~~and~~;

(ii) section 528 (dealing with certain homeowners associations)*; and*

*(iii) sections 511 to 515 (dealing with unrelated business income;* but

notwithstanding this subdivision, shall be considered an organization exempt from income tax for the purposes of any law which refers to organizations exempt from income taxes.

(b) The tax shall be imposed on the taxable income of political organizations or homeowner associations *or the unrelated business taxable income, as defined in section 512 of the Internal Revenue Code, of organizations defined in section 511 of the Internal Revenue Code, provided that the tax is not imposed on advertising revenues from a newspaper published by an organization described in section 501(c)(4) of the Internal Revenue Code*. The tax shall be at the corporate rates. The tax shall only be imposed on income and deductions assignable to this state under sections 290.17 to 290.20. To the extent deducted in computing federal taxable income, the deductions contained in ~~sections 290.09 and~~ *section* 290.21 shall not be allowed in computing Minnesota taxable net income.

Sec. 6. Minnesota Statutes 1988, section 290.06, subdivision 1, is amended to read:

Subdivision 1. [COMPUTATION, CORPORATIONS.] (a) The franchise tax imposed ~~by this chapter~~ upon corporations shall be computed by applying to their taxable income the rate of 9.5 percent ~~adjusted as provided in paragraph (b)~~.

~~(b) For taxable years beginning after December 31, 1989, the commissioner of revenue must adjust the rate provided in paragraph (a) as provided in this paragraph. By December 15, 1989, the commissioner shall prepare a forecast of revenues predicted to be raised for taxable years beginning in 1990 by the franchise tax on corporations under this chapter for taxable years beginning in 1990, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4, and the rate in effect in this subdivision were 9.5 percent. The commissioner shall adjust the rate provided in paragraph (a) so that the amount forecast to be raised by the franchise tax on corporations under this chapter, including the tax under section 290.092, subdivision 5, is equal to the amount of the forecast computed as if the tax under section 290.092, subdivisions 1 to 4, were in effect. The adjustment of the tax rate by the commissioner under this subdivision shall not be considered a "rule" and shall not be subject to the administrative procedure act contained in chapter 14.~~

Sec. 7. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

*Subd. 1a.* [SURTAX; CORPORATIONS.] *(a) In addition to the tax computed under subdivision 1 and section 290.0921, a surtax is imposed upon corporations equal to a percentage of the sum of the corporation's tax under subdivision 1 and section 290.0921.*

*(b) By May 31, 1990, the commissioner of revenue shall determine the rate of the surtax to be imposed under paragraph (a). The commissioner of revenue shall prepare a forecast of the revenue predicted to be raised for taxable years beginning in calendar years 1990 through 1992 by the franchise tax on corporations under this chapter, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4a, and the rate under subdivision 1 were 9.5 percent. The commissioner shall set the rate of the surtax so that the amount forecast*

*to be raised by the surtax (when added to the tax imposed under subdivision 1 and section 290.0921) equals the amount of revenue forecast to be raised if the tax under section 290.092, subdivisions 1 to 4a, were in effect and section 290.0921 did not apply.*

*(c) The rate determined under paragraph (b) applies to taxable years beginning after December 31, 1990.*

*(d) If the rate determined under paragraph (b) is held invalid, the surtax rate in effect for taxable years beginning after December 31, 1990 is 7.5 percent.*

Sec. 8. Minnesota Statutes 1988, section 290.06, subdivision 21, is amended to read:

Subd. 21. [ALTERNATIVE MINIMUM TAX; *FACTORS TAX.*] (a) A corporation is allowed a credit for alternative minimum tax previously paid for any taxable year in which the corporation has no tax liability under section 290.092, subdivision 1, and has an alternative minimum tax credit carryover from a previous year. The credit allowable in any taxable year ~~shall be equal to~~ *equals* the lesser of (1) the excess of the tax under this section for the taxable year over the amount computed under section 290.092, subdivision 1, clause (1), for the taxable year, or (2) the alternative minimum tax credit carryover to the taxable year.

(b) The tax imposed under section 290.092, subdivision 1, for ~~any~~ *the* taxable year is an alternative minimum tax credit carryover to each of the five taxable years succeeding the taxable year. The entire amount of the alternative minimum tax credit must be carried to the earliest taxable year to which ~~such~~ *the* amount may be carried. ~~Any~~ *The* unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year more than five years after the taxable year in which the alternative minimum tax *under section 290.092, subdivision 1,* was paid.

*(c) For taxable years beginning after December 31, 1989, qualification for a credit and computation of the amount of the credit for alternative minimum tax under paragraph (a) must be determined by computing the alternative minimum tax that would apply if section 290.092 were in effect for the taxable year.*

Sec. 9. Minnesota Statutes 1988, section 290.067, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS.] The credit for expenses incurred for the care of each dependent shall not exceed $720 in any taxable year, and the total credit for all dependents of a claimant shall not exceed $1,440 in a taxable year. The maximum total credit shall be reduced according to the amount of the income of the claimant and a spouse, if any, as follows:

income up to ~~$12,200~~ *$13,350*, $720 maximum for one dependent, $1,440 for all dependents;

income over ~~$12,200~~ *$13,350*, the maximum credit for one dependent shall be reduced by ~~$12~~ *$18* for every ~~$200~~ *$350* of additional income, ~~$24~~ *$36* for all dependents~~;~~

~~for income of $24,001 and over, no credit shall be received~~.

The commissioner shall construct and make available to taxpayers tables showing the amount of the credit at various levels of income and expenses.

The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transitions between expenses and income brackets.

Sec. 10. Minnesota Statutes 1988, section 290.067, is amended by adding a subdivision to read:

*Subd. 2b.* [INFLATION ADJUSTMENT.] *The dollar amount of the income threshold at which the maximum credit begins to be reduced under subdivision 2 must be adjusted for inflation. The commissioner shall adjust the threshold amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.*

Sec. 11. Minnesota Statutes 1988, section 290.0802, subdivision 1, is amended to read:

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

(a) "Adjusted gross income" means federal adjusted gross income as used in section 22(d) of the Internal Revenue Code for the taxable year plus the ordinary income portion of a lump sum distribution as defined in section 407(e) of the Internal Revenue Code.

(b) "Disability income" means disability income as defined in section 22(c)(2)(B)(iii) of the Internal Revenue Code.

(c) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1987.

(d) "Nontaxable retirement and disability benefits" means the amount of pension, annuity, or disability benefits that would be included in the reduction under section 22(c)(3) of the Internal Revenue Code~~, but excluding tier one railroad retirement benefits~~ *and pension, annuity, or disability benefits paid under the Railroad Retirement Act of 1974 that are included in federal gross income but are not subject to state taxation.*

(e) "Qualified individual" means a qualified individual as defined in section 22(b) of the Internal Revenue Code.

Sec. 12. Minnesota Statutes 1988, section 290.091, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding the portion of the charitable contribution deduction that constitutes an item of tax preference under section 57(a)(6) of the Internal Revenue Code;

(3) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); less the sum of

(i) interest income as defined in section 290.01, subdivision 19b, clause (1);

(ii) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2); and

(iii) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income.

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1987.

(c) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(d) *"Tentative minimum tax" equals six percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.*

*(e)* "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

*(f) "Net minimum tax" means the minimum tax imposed by this section.*

Sec. 13. Minnesota Statutes 1988, section 290.091, is amended by adding a subdivision to read:

*Subd. 6.* [CREDIT FOR PRIOR YEARS' LIABILITY.] *(a) A credit is allowed against the tax imposed by this chapter on individuals, trusts, and estates equal to the minimum tax credit for the taxable year. The minimum tax credit equals the adjusted net minimum tax for taxable years beginning after December 31, 1988, reduced by the minimum tax credits allowed in a prior taxable year. The credit may not exceed the excess (if any) for the taxable year of*

*(1) the regular tax, over*

*(2) the greater of (i) the tentative alternative minimum tax, or (ii) zero.*

*(b) The adjusted net minimum tax for a taxable year equals the lesser of the net minimum tax or the excess (if any) of*

*(1) the tentative minimum tax, over*

*(2) six percent of the sum of*

*(i) adjusted gross income as defined in section 62 of the Internal Revenue Code,*

*(ii) interest income as defined in section 290.01, subdivision 19a, clause (1),*

*(iii) interest on specified private activity bonds, as defined in section 57(a)(5) of the Internal Revenue Code, to the extent not included under clause (ii),*

*(iv) depletion as defined in section 57(a)(1) of the Internal Revenue Code, less*

*(v) the deductions provided in clauses (3)(i), (3)(ii), and (3)(iii) of subdivision 2, paragraph (a), and*

*(vi) the exemption amount determined under subdivision 3.*

*In the case of an individual who is not a Minnesota resident for the entire year, adjusted net minimum tax must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph (e). In the case of a trust or estate, adjusted net minimum tax must be multiplied by the fraction defined under subdivision 4, paragraph (b).*

Sec. 14. [290.0921] [CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.]

*Subdivision 1.* [TAX IMPOSED.] *(a) In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:*

*(1) seven percent of Minnesota alternative minimum taxable income; over*

*(2) the tax imposed under section 290.06, subdivision 1, without regard to this section.*

*(b) If the sum of the corporation's Minnesota sales and receipts, property, and payrolls, as defined in section 290.092, subdivision 4, exceeds $5,000,000, the amount under paragraph (a), clause (1) is the greater of*

*(1) $500 or*

*(2) the amount otherwise determined.*

*Subd. 2.* [DEFINITIONS.] *(a) For purposes of this section, the following terms have the meanings given them.*

*(b) "Alternative minimum taxable net income" is alternative minimum taxable income,*

*(1) less the exemption amount, and*

*(2) apportioned or allocated to Minnesota under section 290.17, 290.191, or 290.20.*

*(c) The "exemption amount" is $40,000, reduced, but not below zero, by 25 percent of the excess of alternative minimum taxable income over $150,000.*

*(d) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1988.*

*(e) "Minnesota alternative minimum taxable income" is alternative minimum taxable net income, less the deductions for alternative tax net operating loss under subdivision 4; charitable contributions under subdivision 5; and dividends received under subdivision 6. The sum of the deductions under this paragraph may not exceed 90 percent of alternative minimum taxable net income.*

*Subd. 3.* [ALTERNATIVE MINIMUM TAXABLE INCOME.] *"Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f) and (h) of the Internal Revenue Code. The following adjustments must be made.*

*(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).*

*(2) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.*

*(3) The special rule for 100 percent dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.*

*(4) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.*

*(5) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.*

*(6) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to the subtraction under section 290.01, subdivision 19d, clause (4).*

*(7) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.*

*(8) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.*

*(9) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.*

*Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.*

*Subd. 4.* [ALTERNATIVE TAX NET OPERATING LOSS.] *(a) An alternative tax net operating loss deduction is allowed from alternative minimum taxable net income equal to the net operating loss deduction allowable for the taxable year under section 290.095 with the following modifications:*

*(1) The amount of the net operating loss deduction must not exceed 90 percent of alternative minimum taxable net income.*

*(2) In determining the amount of the net operating loss deduction (i) the net operating loss under section 290.095 must be adjusted as provided in paragraph (b), and (ii) for taxable years beginning after December 31, 1989, section 290.095, subdivision 3, must be applied by substituting "90 percent of alternative minimum taxable net income" for "taxable net income."*

*(b) The following adjustments must be made to the alternative tax net operating loss deduction under paragraph (a):*

*(1) For a loss year beginning after December 31, 1989, the net operating loss for each year under section 290.095 must be (i) determined with the adjustments provided in sections 56 and 58 of the Internal Revenue Code, as modified by subdivision 3 and (ii) reduced by the items of tax preference for the year determined under section 57 of the Internal Revenue Code, as modified by subdivision 3.*

*(2) For a loss year beginning before January 1, 1990, the amount of the net operating loss that may be carried over to taxable years beginning after December 31, 1989, equals the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1989.*

*Subd. 5.* [CHARITABLE CONTRIBUTIONS.] *(a) A deduction from alternative minimum taxable net income is allowed equal to the deduction for charitable contributions under section 290.21, subdivision 3. The deduction allowable for capital gain property is limited to the adjusted basis of the property as defined in section 290.01, subdivision 19f. The term capital gain property has the meaning given by section 170(b)(1)(C)(iv) of the Internal Revenue Code, but does not include property to which an election under section 170(b)(1)(C)(iii) of the Internal Revenue Code applies.*

*(b) The amount of the deduction may not exceed 15 percent of alternative minimum taxable net income less the deduction allowed under subdivision 6.*

*Subd. 6.* [DIVIDENDS RECEIVED.] *(a) A deduction is allowed from alternative minimum taxable net income equal to the deduction for dividends received under section 290.21, subdivision 4, for purposes of calculating taxable income under section 290.01, subdivision 29.*

*(b) The amount of the deduction must not exceed 90 percent of alternative minimum taxable net income.*

*Subd. 7.* [FOREIGN OPERATING COMPANIES.] *The income and deductions related to foreign operating companies, as defined in section 290.01, subdivision 6b, that are used to calculate Minnesota alternative minimum taxable income, are limited to the amounts included for purposes of calculating taxable income under section 290.01, subdivision 29.*

*Subd. 8.* [CARRYOVER CREDIT.] *(a) A corporation is allowed a credit against qualified regular tax for qualified alternative minimum tax previously paid. The credit is allowable only if the corporation has no tax liability under section 290.0921 for the taxable year and if the corporation has an alternative minimum tax credit carryover from a previous year. The credit allowable in a taxable year equals the lesser of*

*(1) the excess of the qualified regular tax for the taxable year over the amount computed under subdivision 1, paragraph (a), clause (1) multiplied by (one plus the surtax percentage under section 290.06, subdivision 1a) for the taxable year or*

*(2) the carryover credit to the taxable year.*

*(b) For purposes of this subdivision, the following terms have the meanings given.*

*(1) "Qualified alternative minimum tax" equals the amount determined under subdivision 1 for the taxable year multiplied by (one plus the surtax percentage rate under section 290.06, subdivision 1a. In computing the amount of alternative minimum tax*

*(i) the adjustment under section 56(c)(3) of the Internal Revenue Code must not be made;*

*(ii) the full amount of the charitable contribution deduction under section 290.21, subdivision 21, must be deducted in computing Minnesota alternative minimum taxable income; and*

*(iii) in the case of a corporation subject to an occupation tax under section 298.01 the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code must be deducted in computing Minnesota alternative minimum taxable income.*

*(2) "Qualified regular tax" means the tax imposed under section 290.06, subdivision 1, and a surtax imposed on that tax under section 290.06, subdivision 1a.*

*(c) The qualified alternative minimum tax for a taxable year is an alternative minimum tax credit carryover to each of the five taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. Any unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year in which alternative minimum tax was paid.*

Sec. 15. Minnesota Statutes 1988, section 290.17, subdivision 2, is amended to read:

Subd. 2. [INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.] The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources is treated as income from sources without this state.

(2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1987, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Except upon the sale of a partnership interest or the sale of stock of an S corporation, income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of stock held in an S corporation is allocable to this state in the ratio of the original cost of tangible property of the S corporation within this state to the original cost of tangible property of the S corporation everywhere.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets, *the Minnesota state lottery*, and lawful gambling as defined in section 349.12, subdivision 2, conducted within the boundaries of the state of Minnesota shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Sec. 16. Minnesota Statutes 1988, section 290.17, is amended by adding a subdivision to read:

*Subd. 7.* [ALLOCATION AND APPORTIONMENT OF CERTAIN FARM INCOME BY C CORPORATIONS.] *Notwithstanding any other subdivision, income to a taxpayer from the operation of a farm by a C corporation is assigned to this state and other states and countries under subdivision 3, the unitary business principle in subdivision 4, and the allocation provisions of sections 290.191 and 290.20, if:*

*(1) the farm operation provides material value added to an agricultural product by processing, packaging, grading, promotion, or distribution;*

*(2) the farm operation is industrial, manufacturing, or distributing under the United States Department of Commerce Standard Industrial Classification criteria;*

*(3) a material part of the income is attributable directly or indirectly to testing, research, genetic, or biological selection, genetic engineering, or creation or licensing of patents, copyrights, trademarks, or other intellectual property; or*

*(4) a material part of the income is derived from an activity that would*

*not in itself be income from farming if performed by another person not otherwise engaged in farming.*

Sec. 17. Minnesota Statutes 1988, section 290.191, subdivision 6, is amended to read:

Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.] (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations ~~not secured~~ *that are unsecured* by real or tangible personal property *or secured by intangible property* must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If

this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under paragraphs (e) to (h). A participation loan is ~~a loan in which more than one lender is a creditor to a common~~ *an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A syndication loan is a multibank loan transaction in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the* borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state. If the extent to which the benefits of services are consumed in this state is not readily determinable, the benefits of the services shall be deemed to be consumed at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the benefits of the services shall be deemed to be consumed at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

(o) Receipts from a financial institution's interest in any property described in section 290.015, subdivision 3, paragraph (b), is not included in the numerator or the denominator of the receipts factor provided the financial institution's activities within this state with respect to any interest in the property are limited in the manner provided in section 290.015, subdivision 3, paragraph (b). If a financial institution is subject to tax under this chapter, its interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included under paragraph (n) and subdivision 7.

Sec. 18. Minnesota Statutes 1988, section 290.21, subdivision 4, is amended to read:

Subd. 4. (a) Eighty percent of dividends received by a corporation during the taxable year from another corporation, in which the recipient owns 20 percent or more of the stock, by vote and value, not including stock described in section 1504(a)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1987, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom.

*The remaining 20 percent of dividends if the dividends received are the stock in an affiliated company transferred in an overall plan of reorganization and the dividend is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as amended through December 31, 1988.*

(b) Seventy percent of dividends received by a corporation during the taxable year from another corporation in which the recipient owns less than 20 percent of the stock, by vote or value, not including stock described in section 1504(a)(4) of the Internal Revenue Code of 1986 as amended through December 31, 1987, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of income and gain therefrom.

(c) The dividend deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

The dividend deduction provided in this subdivision does not apply to a dividend from a corporation which, for the taxable year of the corporation in which the distribution is made or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

The dividend deduction provided in this subdivision applies to the amount of regulated investment company dividends only to the extent determined under section 854(b) of the Internal Revenue Code of 1986, as amended through December 31, 1987.

The dividend deduction provided in this subdivision shall not be allowed with respect to any dividend for which a deduction is not allowed under the provisions of section 246(c) of the Internal Revenue Code of 1986, as amended through December 31, 1987.

(d) If dividends received by a corporation that does not have nexus with Minnesota under the provisions of Public Law Number 86-272 are included as income on the return of an affiliated corporation permitted or required to file a combined report under section 290.34, subdivision 2, then for purposes of this subdivision the determination as to whether the trade or business of the corporation consists principally of the holding of stocks and the collection of income and gains therefrom shall be made with reference to the trade or business of the affiliated corporation having a nexus with Minnesota.

(e) The deduction provided by this subdivision does not apply if the dividends are paid by a FSC as defined in section 922 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

(f) If one or more of the members of the unitary group whose income is included on the combined report received a dividend, the deduction under this subdivision for each member of the unitary business required to file a return under this chapter is the product of: (1) 100 percent of the dividends received by members of the group; (2) ~~80 percent or 70 percent.~~ *the percentage allowed* pursuant to paragraph (a) or (b); and (3) the percentage of the taxpayer's business income apportionable to this state for the taxable year under section 290.191 or 290.20.

Sec. 19. Minnesota Statutes 1988, section 290.37, subdivision 1, is amended to read:

Subdivision 1. [PERSONS MAKING RETURNS.] (a) A taxpayer shall file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1987, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's gross income derived from Minnesota sources under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for a single individual who is a full year resident of Minnesota.

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

Every corporation shall file a return, if the corporation is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return. The return in the case of a corporation must be signed by a person designated by the corporation. The commissioner ~~may~~ *shall* adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report ~~if the affiliated group includes a bank subject to tax under this chapter~~. Members of an affiliated group that elect to file one return on behalf of the members of the group under rules adopted by the commissioner may modify or rescind the election by filing the form required by the commissioner.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown

due thereon to the extent not timely paid.

*(c) An exempt organization that is subject to tax on unrelated business income under section 290.05, subdivision 3, must file a return for each taxable year in which the organization is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1988, because of the receipt of unrelated business income. If an organization is required to file a return under federal law but has no federal tax liability for the taxable year, the commissioner may provide that the filing requirement under this paragraph is satisfied by filing a copy of the taxpayer's federal return.*

Sec. 20. Minnesota Statutes 1988, section 290.38, is amended to read:

290.38 [RETURNS OF MARRIED PERSONS.]

A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several; provided that a spouse who is relieved of a liability attributable to a substantial underpayment under section 6013(e) of the Internal Revenue Code of 1986, as amended through December 31, 1987, shall also be relieved of the state tax liability on the substantial underpayment. *In the case of individuals who were a husband and wife prior to the dissolution of their marriage, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution from the husband or wife.* If the husband and wife have elected to file separate federal income tax returns they must file separate Minnesota income tax returns. This election to file a joint or separate returns must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by rule.

The determination of whether an individual is married shall be made under provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

Sec. 21. Minnesota Statutes 1988, section 290.92, subdivision 4b, as added by Laws 1989, chapter 28, section 19, is amended to read:

Subd. 4b. [WITHHOLDING BY PARTNERSHIPS.] (a) A partnership shall deduct and withhold a tax as provided in paragraph (b) when the partnership pays or credits amounts to any of its nonresident individual partners on account of their distributive shares of partnership income for a taxable year of the partnership.

(b) The amount of tax withheld is determined by multiplying the partner's distributive share allocable to Minnesota under section 290.17, paid or credited during the taxable year by the highest rate used to determine the income tax liability for an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined based on tables provided by the commissioner if the partner submits a withholding exemption certificate under subdivision 5.

(c) A partnership required to deduct and withhold tax under this subdivision shall file a return with the commissioner. The tax required to be deducted and withheld during that year must be paid with the return. The return and payment is due on or before the due date specified for filing the partnership return under section 290.42.

(d) A partnership required to withhold and remit tax under this subdivision is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due under this subdivision is personally liable for the tax due. The commissioner may reduce or abate the tax withheld under this subdivision if the partnership had reasonable cause to believe that no tax was due under this section.

(e) Notwithstanding paragraph (a), a partnership is not required to deduct and withhold tax for a nonresident partner if:

(1) the partner elects to have the tax due paid as part of the partnership's composite return under section 290.39, subdivision 5;

(2) the partner has Minnesota assignable federal adjusted gross income from the partnership of less than $1,000; ~~or~~

(3) the partnership is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year; *or*

*(4) the distributive shares of partnership income are attributable to:*

*(i) income required to be recognized because of discharge of indebtedness;*

*(ii) income recognized because of a sale, exchange, or other disposition of real estate, depreciable property, or property described in section 179 of the Internal Revenue Code of 1986, as amended through December 31, 1988; or*

*(iii) income recognized on the sale, exchange, or other disposition of any property that has been the subject of a basis reduction pursuant to sections 108, 734, 743, 754, or 1017 of the Internal Revenue Code of 1986, as amended through December 31, 1988,*

*to the extent that the income does not include cash received or receivable or, if there is cash received or receivable, to the extent that the cash is required to be used to pay indebtedness by the partnership or a secured debt on partnership property.*

(f) For purposes of subdivisions 6, paragraph (1)(c), 6a, 7, 11, and 15, a partnership is considered an employer.

*(g) To the extent that income is exempt from withholding under paragraph (e), clause (4), the commissioner has a lien in an amount up to the amount that would be required to be withheld with respect to the income of the partner attributable to the partnership interest, but for the application of paragraph (e), clause (4). The lien arises under section 270.69 from the date of assessment of the tax against the partner, and attaches to that partner's share of the profits and any other money due or to become due to that partner in respect of the partnership. Notice of the lien may be sent by mail to the partnership, without the necessity for recording the lien. The notice has the force and effect of a levy under section 270.70, and is enforceable against the partnership in the manner provided by that section.*

*Upon payment in full of the liability subsequent to the notice of lien, the partnership must be notified that the lien has been satisfied.*

Sec. 22. Minnesota Statutes 1988, section 290.92, is amended by adding a subdivision to read:

*Subd. 29.* [LOTTERY PRIZES.] *Eight percent of the payment of Minnesota State lottery winnings which are subject to withholding must be withheld as Minnesota withholding tax. For purposes of this subdivision, the term "winnings which are subject to withholding" has the meaning given in section 3402(q)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1988. For purposes of the provisions of this section, a payment to any person of winnings which are subject to withholding must be treated as if the payment was a wage paid by an employer to an employee. Every individual who is to receive a payment of winnings which are subject to withholding shall furnish the state agency responsible for operating the Minnesota state lottery with a statement, made under the penalties of perjury, containing the name, address, and social security account number of the person receiving the payment. The Minnesota state lottery is liable for the payment of the tax required to be withheld under this subdivision but is not liable to any person for the amount of the payment.*

Sec. 23. Minnesota Statutes 1988, section 290.92, subdivision 21, is amended to read:

Subd. 21. [EXTENSION OF WITHHOLDING TO UNEMPLOYMENT COMPENSATION BENEFITS.] (a) At the time an individual makes a claim for unemployment compensation benefits, the commissioner of jobs and training must notify the individual that the individual's unemployment compensation may be subject to state income taxes depending on the individual's other income and that the individual may elect to have the payments subject to withholding under this section. If the individual ~~so requests~~ *does not notify the commissioner of jobs and training that the individual elects to have the payments not be subject to withholding within five working days of receipt of the notice from the commissioner*, unemployment compensation benefits paid to the individual shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) For purposes of this section, any supplemental unemployment compensation benefit paid to an individual to the extent includable in such individual's Minnesota gross income, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

Sec. 24. Minnesota Statutes 1988, section 290.934, subdivision 3a, is amended to read:

Subd. 3a. [REQUIRED INSTALLMENTS.] (1) Except as otherwise provided in this subdivision, the amount of a required installment is 25 percent of the required annual payment.

(2) Except as otherwise provided in this subdivision, the term "required annual payment" means the lesser of:

(a) 90 percent of the tax shown on the return for the taxable year, or if no return is filed 90 percent of the tax for such year; or

(b) 100 percent of the tax shown on the return of the corporation for the preceding taxable year providing such return was for a full 12-month period, did show a liability, and was filed by the corporation.

(3) Except for determining the first required installment for any taxable year, paragraph (2), clause (b), does not apply in the case of a large corporation. The term "large corporation" means a corporation or any predecessor corporation that had taxable net income of $1,000,000 or more for any taxable year during the testing period. The term "testing period" means the three taxable years immediately preceding the taxable year involved. A reduction allowed to a large corporation for the first installment that is allowed by applying paragraph (2), clause (b), must be recaptured by increasing the next required installment by the amount of the reduction.

(4) In the case of a required installment, if the corporation establishes that the annualized income installment is less than the amount determined in paragraph (1), the amount of the required installment is the annualized income installment and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing subsequent required installments to the extent the reductions have not previously been recovered. ~~A reduction shall be treated as recaptured for purposes of this paragraph if 90 percent of the reduction is recaptured.~~

(5) The "annualized income installment" is the excess, if any, of:

(a) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) for the first two months of the taxable year, in the case of the first required installment;

(ii) for the first two months or for the first five months of the taxable year, in the case of the second required installment;

(iii) for the first six months or for the first eight months of the taxable year, in the case of the third required installment; and

(iv) for the first nine months or for the first 11 months of the taxable year, in the case of the fourth required installment, over;

(b) the aggregate amount of any prior required installments for the taxable year.

(c) For the purpose of this paragraph, the annualized income shall be computed by placing on an annualized basis the taxable income for the year up to the end of the month preceding the due date for the quarterly payment multiplied by 12 and dividing the resulting amount by the number of months in the taxable year (2, 5, 6, 8, 9, or 11 as the case may be) referred to in clause (a).

(d) The "applicable percentage" used in clause (a) is:

| In the case of the following required installments: | The applicable percentage is: |
|---|---|
| 1st | 22.5 |
| 2nd | 45 |
| 3rd | 67.5 |
| 4th | 90 |

(6)(a) If this paragraph applies, the amount determined for any installment must be determined in the following manner:

(i) take the taxable income for all months during the taxable year preceding the filing month;

(ii) divide that amount by the base period percentage for all months

during the taxable year preceding the filing month;

(iii) determine the tax on the amount determined under item (ii); and

(iv) multiply the tax computed under item (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(b) For purposes of this paragraph:

(i) the "base period percentage" for any period of months is the average percent which the taxable income for the corresponding months in each of the three preceding taxable years bears to the taxable income for the three preceding taxable years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this paragraph shall only apply if the base period percentage for any six consecutive months of the taxable year equals or exceeds 70 percent; and

(iv) the commissioner may provide by rule for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(c) In the case of a required installment, determined under this paragraph, if the corporation determines that the installment is less than the amount determined in paragraph (1), the amount of the required installment is the amount determined under this paragraph and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing subsequent required installments to the extent the reductions have not previously been recovered. ~~A reduction shall be treated as recaptured for purposes of this paragraph if 90 percent of the reduction is recaptured.~~

Sec. 25. Minnesota Statutes 1988, section 298.01, is amended by adding a subdivision to read:

*Subd. 3c.* [ALTERNATIVE MINIMUM TAX.] *For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 3, 3a, and 3b, and the provisions of section 290.0921, except that:*

*(1) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be determined using gross income as defined in subdivision 3a; and*

*(2) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be included in alternative minimum taxable income.*

Sec. 26. Minnesota Statutes 1988, section 298.01, is amended by adding a subdivision to read:

*Subd. 4d.* [ALTERNATIVE MINIMUM TAX.] *For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 4, 4a, 4b and 4c, and the provisions of section 290.0921, except that:*

*(1) for purposes of the depreciation adjustments provided by section 56(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, the basis for depreciable property placed in service is the remaining depreciable basis as defined in subdivision 4c;*

*(2) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be determined using gross income as defined in subdivision 4a;*

*(3) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be included in alternative minimum taxable income; and*

*(4) for purposes of calculating the tax preference for accelerated depreciation or amortization of certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code of 1986, as amended through December 31, 1988, the deduction allowable for the taxable year shall mean the deduction allowable under subdivision 4c, provided that this modification must not reduce the amount of tax preference to less than zero.*

Sec. 27. Laws 1988, chapter 719, article 1, section 22, is amended to read:

Sec. 22. [EFFECTIVE DATES.]

Except as otherwise provided, sections 1 to 3 and 16 are effective for taxable years beginning after December 31, 1986. Sections 5, 7 to 12, 14, 15, 17, and 21 are effective for taxable years beginning after December 31, 1987. The deduction allowed under section 4, clause (4) and the ability of surviving spouses to use the married filing joint rates in section 7 are effective for taxable years beginning after December 31, 1986. The rest of sections 4 and 7 are effective for taxable years beginning after December 31, 1987. Section 13 is effective for taxable years beginning after December 31, ~~1984~~ *1973*. Section 18 is effective the day following final enactment.

Sec. 28. [PENSION EXCLUSION; FEDERAL LAW ENFORCEMENT AND CORRECTIONS EMPLOYEES.]

*Notwithstanding Minnesota Statutes 1986, section 290.08, subdivision 26, paragraph (a), clause (4), for purposes of the pension income exclusion contained in Minnesota Statutes 1986, section 290.08, subdivision 26, for taxable years beginning after December 31, 1984, and before January 1, 1987, an individual who received pension income for service as a law enforcement or corrections officer employed by the federal government is a qualified recipient without regard to age.*

Sec. 29. [AMENDING RETURNS.]

*Individuals qualifying for the pension exclusion under section 28 for taxable years beginning after December 31, 1984, and before January 1, 1987, may file amended returns under Minnesota Statutes, section 290.391.*

Sec. 30. [STATEMENT OF PURPOSE; ALTERNATIVE MINIMUM TAX.]

*The purpose of the corporate alternative minimum tax provisions of this act is to insure that all corporations with economic profits, broadly defined, pay at least a minimum corporate franchise tax. The changes are intended to be revenue neutral, neither increasing nor reducing state corporate*

*franchise tax revenues. The legislature intends to continue, during 1989 and 1990, studying the corporate alternative minimum tax and attempting to develop a more appropriate tax structure for achieving that purpose.*

Sec. 31. [REPEALER.]

*Minnesota Statutes 1988, section 290.092, subdivision 5; Laws 1989, chapter 27, article 2, sections 2, 3, and 5, are repealed.*

Sec. 32. [EFFECTIVE DATE.]

*Section 1 is effective May 15, 1989 for returns filed after December 31, 1988.*

*Sections 2, 3, and 17 are effective for taxable years beginning after December 31, 1986.*

*Sections 4, 6, 7, 8, 14, subdivisions 1 to 6 and 8, and 19, paragraph (a), are effective for taxable years beginning after December 31, 1989.*

*Sections 5, 9, 11, 18, and 19 paragraph (c), are effective for taxable years beginning after December 31, 1988.*

*Sections 10 and 16 are effective for taxable years beginning after December 31, 1990.*

*Sections 12 and 13 are effective for alternative minimum tax paid in taxable years beginning after December 31, 1988 and for carryover credits allowed in taxable years beginning after December 31, 1989.*

*Section 14, subdivision 7, is effective for taxable years beginning after December 31, 1989, in its application to section 936 corporations and for taxable years beginning after December 31, 1990, in its application to all other foreign operating companies.*

*Sections 15, 21, 22, 27 and 31 are effective the day following final enactment.*

*Section 20 is effective the day following final enactment for taxable years beginning after December 31, 1973.*

*Section 23 is effective for notices sent by the commissioner of jobs and training after July 31, 1989.*

*Section 24 is effective for payments due after May 31, 1989.*

*Sections 25 and 26 are effective for ores mined after December 31, 1989.*

ARTICLE 2

PROPERTY TAX REFUND AND TARGETING

Section 1. Minnesota Statutes 1988, section 290A.04, subdivision 2, is amended to read:

Subd. 2. [HOMEOWNERS.] A claimant whose property taxes payable ~~or rent constituting property taxes~~ are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable ~~or rent constituting property taxes~~. The state refund ~~will be equal to~~ *equals* the amount of property taxes payable ~~or rent constituting property taxes~~ that remain, up to the state refund amount shown below.

| Household Income | Percent of Income | Percent Paid by Claimant | Maximum State Refund |
|---|---|---|---|
| ~~$0 to 999~~ | ~~1.0 percent~~ | ~~10 percent~~ | ~~$1,100~~ |
| ~~1,000 to 1,999~~ | ~~1.1 percent~~ | ~~11 percent~~ | ~~$1,100~~ |
| ~~2,000 to 2,999~~ | ~~1.2 percent~~ | ~~12 percent~~ | ~~$1,100~~ |
| ~~3,000 to 3,499~~ | ~~1.3 percent~~ | ~~13 percent~~ | ~~$1,100~~ |
| ~~3,500 to 3,999~~ | ~~1.3 percent~~ | ~~13 percent~~ | ~~$1,100~~ |
| ~~4,000 to 4,499~~ | ~~1.4 percent~~ | ~~14 percent~~ | ~~$1,100~~ |
| ~~4,500 to 4,999~~ | ~~1.4 percent~~ | ~~14 percent~~ | ~~$1,100~~ |
| ~~5,000 to 5,999~~ | ~~1.5 percent~~ | ~~15 percent~~ | ~~$1,100~~ |
| ~~6,000 to 6,999~~ | ~~1.5 percent~~ | ~~16 percent~~ | ~~$1,100~~ |
| ~~7,000 to 7,999~~ | ~~1.6 percent~~ | ~~17 percent~~ | ~~$1,100~~ |
| ~~8,000 to 8,999~~ | ~~1.6 percent~~ | ~~18 percent~~ | ~~$1,100~~ |
| ~~9,000 to 9,999~~ | ~~1.7 percent~~ | ~~19 percent~~ | ~~$1,100~~ |
| ~~10,000 to 10,999~~ | ~~1.7 percent~~ | ~~20 percent~~ | ~~$1,075~~ |
| ~~11,000 to 11,999~~ | ~~1.8 percent~~ | ~~22 percent~~ | ~~$1,075~~ |
| ~~12,000 to 12,999~~ | ~~1.8 percent~~ | ~~24 percent~~ | ~~$1,075~~ |
| ~~13,000 to 13,999~~ | ~~1.9 percent~~ | ~~26 percent~~ | ~~$1,075~~ |
| ~~14,000 to 14,999~~ | ~~2.0 percent~~ | ~~28 percent~~ | ~~$1,075~~ |
| ~~15,000 to 15,999~~ | ~~2.1 percent~~ | ~~30 percent~~ | ~~$1,075~~ |
| ~~16,000 to 16,999~~ | ~~2.2 percent~~ | ~~32 percent~~ | ~~$1,075~~ |
| ~~17,000 to 17,999~~ | ~~2.3 percent~~ | ~~34 percent~~ | ~~$1,050~~ |
| ~~18,000 to 18,999~~ | ~~2.4 percent~~ | ~~36 percent~~ | ~~$1,050~~ |
| ~~19,000 to 19,999~~ | ~~2.6 percent~~ | ~~38 percent~~ | ~~$1,050~~ |
| ~~20,000 to 20,999~~ | ~~2.8 percent~~ | ~~40 percent~~ | ~~$1,050~~ |
| ~~21,000 to 21,999~~ | ~~3.0 percent~~ | ~~42 percent~~ | ~~$1,050~~ |
| ~~22,000 to 22,999~~ | ~~3.2 percent~~ | ~~44 percent~~ | ~~$1,050~~ |
| ~~23,000 to 23,999~~ | ~~3.3 percent~~ | ~~46 percent~~ | ~~$1,025~~ |
| ~~24,000 to 24,999~~ | ~~3.4 percent~~ | ~~48 percent~~ | ~~$1,025~~ |
| ~~25,000 to 25,999~~ | ~~3.5 percent~~ | ~~50 percent~~ | ~~$1,025~~ |
| ~~26,000 to 26,999~~ | ~~3.6 percent~~ | ~~52 percent~~ | ~~$1,025~~ |
| ~~27,000 to 27,999~~ | ~~3.7 percent~~ | ~~54 percent~~ | ~~$1,000~~ |
| ~~28,000 to 28,999~~ | ~~3.8 percent~~ | ~~56 percent~~ | ~~$900~~ |
| ~~29,000 to 29,999~~ | ~~3.9 percent~~ | ~~58 percent~~ | ~~$800~~ |
| ~~30,000 to 30,999~~ | ~~4.0 percent~~ | ~~60 percent~~ | ~~$700~~ |
| ~~31,000 to 31,999~~ | ~~4.0 percent~~ | ~~60 percent~~ | ~~$600~~ |
| ~~32,000 to 32,999~~ | ~~4.0 percent~~ | ~~60 percent~~ | ~~$500~~ |
| ~~33,000 to 33,999~~ | ~~4.0 percent~~ | ~~60 percent~~ | ~~$300~~ |
| ~~34,000 to 34,999~~ | ~~4.0 percent~~ | ~~60 percent~~ | ~~$100~~ |
| *$0 to 999* | *1.2 percent* | *22 percent* | *$400* |
| *1,000 to 1,999* | *1.3 percent* | *24 percent* | *$400* |
| *2,000 to 2,999* | *1.4 percent* | *26 percent* | *$400* |
| *3,000 to 3,999* | *1.6 percent* | *28 percent* | *$400* |
| *4,000 to 4,999* | *1.7 percent* | *30 percent* | *$400* |
| *5,000 to 5,999* | *1.9 percent* | *33 percent* | *$400* |
| *6,000 to 6,999* | *1.9 percent* | *35 percent* | *$400* |
| *7,000 to 7,999* | *2.1 percent* | *37 percent* | *$400* |
| *8,000 to 8,999* | *2.2 percent* | *39 percent* | *$400* |
| *9,000 to 9,999* | *2.3 percent* | *41 percent* | *$400* |
| *10,000 to 10,999* | *2.4 percent* | *43 percent* | *$400* |
| *11,000 to 11,999* | *2.5 percent* | *45 percent* | *$400* |
| *12,000 to 13,999* | *2.6 percent* | *45 percent* | *$400* |
| *14,000 to 14,999* | *2.8 percent* | *45 percent* | *$400* |
| *15,000 to 15,999* | *3.0 percent* | *45 percent* | *$400* |

| | | | |
|---|---|---|---|
| *16,000 to 16,999* | *3.2 percent* | *45 percent* | *$400* |
| *17,000 to 20,999* | *3.3 percent* | *45 percent* | *$400* |
| *21,000 to 23,999* | *3.4 percent* | *45 percent* | *$400* |
| *24,000 to 24,999* | *3.5 percent* | *45 percent* | *$400* |
| *25,000 to 27,999* | *3.5 percent* | *50 percent* | *$400* |
| *28,000 to 29,999* | *4.0 percent* | *50 percent* | *$400* |
| *30,000 to 39,999* | *4.0 percent* | *55 percent* | *$400* |
| *40,000 to 46,999* | *4.5 percent* | *55 percent* | *$400* |
| *47,000 to 47,999* | *4.5 percent* | *55 percent* | *$300* |
| *48,000 to 48,999* | *4.5 percent* | *55 percent* | *$200* |
| *49,000 to 49,999* | *4.5 percent* | *55 percent* | *$100* |

The payment made to a claimant shall be the amount of the state refund calculated ~~pursuant to~~ *under* this subdivision. ~~For taxes payable in 1989, the amount of the refund must be reduced by the homestead credit.~~ No payment is allowed if the claimant's household income is ~~$35,000~~ *$50,000* or more.

Sec. 2. Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

*Subd. 2a.* [RENTERS.] *A claimant whose rent constituting property taxes exceeds the percentage of the household income stated below must pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of rent constituting property taxes. The state refund equals the amount of rent constituting property taxes that remain, up to the maximum state refund amount shown below.*

| *Household Income* | *Percent of Income* | *Percent Paid by Claimant* | *Maximum State Refund* |
|---|---|---|---|
| *$0 to 999* | *1.0 percent* | *9 percent* | *$1,000* |
| *1,000 to 1,999* | *1.1 percent* | *9 percent* | *$1,000* |
| *2,000 to 2,999* | *1.2 percent* | *10 percent* | *$1,000* |
| *3,000 to 3,999* | *1.3 percent* | *10 percent* | *$1,000* |
| *4,000 to 4,999* | *1.4 percent* | *11 percent* | *$1,000* |
| *5,000 to 5,999* | *1.5 percent* | *12 percent* | *$1,000* |
| *6,000 to 6,999* | *1.5 percent* | *13 percent* | *$1,000* |
| *7,000 to 7,999* | *1.6 percent* | *14 percent* | *$1,000* |
| *8,000 to 8,999* | *1.6 percent* | *15 percent* | *$1,000* |
| *9,000 to 9,999* | *1.7 percent* | *16 percent* | *$1,000* |
| *10,000 to 10,999* | *1.7 percent* | *17 percent* | *$1,000* |
| *11,000 to 11,999* | *1.8 percent* | *19 percent* | *$1,000* |
| *12,000 to 12,999* | *1.8 percent* | *21 percent* | *$1,000* |
| *13,000 to 13,999* | *1.9 percent* | *23 percent* | *$1,000* |
| *14,000 to 14,999* | *2.0 percent* | *24 percent* | *$1,000* |
| *15,000 to 15,999* | *2.0 percent* | *26 percent* | *$1,000* |
| *16,000 to 16,999* | *2.1 percent* | *27 percent* | *$1,000* |
| *17,000 to 17,999* | *2.2 percent* | *28 percent* | *$1,000* |
| *18,000 to 18,999* | *2.3 percent* | *30 percent* | *$1,000* |
| *19,000 to 19,999* | *2.5 percent* | *32 percent* | *$1,000* |
| *20,000 to 20,999* | *2.7 percent* | *34 percent* | *$1,000* |
| *21,000 to 21,999* | *2.9 percent* | *36 percent* | *$1,000* |
| *22,000 to 22,999* | *3.0 percent* | *37 percent* | *$1,000* |
| *23,000 to 23,999* | *3.1 percent* | *38 percent* | *$1,000* |
| *24,000 to 24,999* | *3.2 percent* | *40 percent* | *$1,000* |

| | | | |
|---|---|---|---|
| *25,000 to 25,999* | *3.3 percent* | *43 percent* | *$1,000* |
| *26,000 to 26,999* | *3.4 percent* | *43 percent* | *$1,000* |
| *27,000 to 27,999* | *3.5 percent* | *45 percent* | *$1,000* |
| *28,000 to 28,999* | *3.6 percent* | *47 percent* | *$ 900* |
| *29,000 to 29,999* | *3.7 percent* | *47 percent* | *$ 800* |
| *30,000 to 30,999* | *3.8 percent* | *48 percent* | *$ 700* |
| *31,000 to 31,999* | *3.9 percent* | *48 percent* | *$ 600* |
| *32,000 to 32,999* | *4.0 percent* | *50 percent* | *$ 500* |
| *33,000 to 33,999* | *4.0 percent* | *50 percent* | *$ 300* |
| *34,000 to 34,999* | *4.0 percent* | *50 percent* | *$ 100* |

*The payment made to a claimant is the amount of the state refund calculated under this subdivision. No payment is allowed if the claimant's household income is $35,000 or more.*

Sec. 3. Minnesota Statutes 1988, section 290A.04, subdivision 2h, is amended to read:

Subd. 2h. If the net property taxes payable ~~in 1989~~ on a homestead increase more than ten percent over the net property taxes payable in ~~1988~~ *the prior year* on the same property, and the amount of that increase is $40 or more, a claimant who is a homeowner shall be allowed an additional refund equal to 75 percent of the amount by which the increase exceeds ten percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead.

~~A refund under this subdivision shall not exceed $250.~~

For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made ~~pursuant to~~ *under* sections 273.13, subdivisions 22 and 23; 273.132; 273.135; 273.1391; and 273.42, subdivision 2, and any other state paid property tax credits and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivision 2.

In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

*The provisions of this subdivision apply to the increase in property taxes over the prior year for property taxes payable in 1989 and 1990 only.*

Sec. 4. Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

*Subd. 4.* [FARM NONHOMESTEAD.] *(a) A qualified owner of property classified as class 2b is allowed a refund under this chapter equal to the lesser of (1) 75 percent of the amount of the increase in net property taxes payable in 1990 over the net property taxes payable in 1989 on the same property that is in excess of ten percent or (2) $400. The $400 limitation applies both to the total refund allowable to a qualified owner for all properties and to the refund allowable for the increase for a parcel of property. No more than one application for a parcel of property may be filed under this subdivision.*

*(b) This subdivision does not apply to an increase in taxes payable that are attributable to improvements to the property or to class 2b property that is used exclusively for growing trees for timber, lumber, and wood products.*

*(c) "Net property taxes payable" are taxes payable after allowance of the agricultural credit under section 273.132 and any other state paid credit.*

*(d) A "qualified owner" means an individual who is a resident of Minnesota or a family farm corporation, as defined in section 500.24, that (1) is actively engaged in the business of farming and (2) is the record owner of 50 percent or more of a fee interest in the property.*

*(e) The commissioner may require applicants for refunds under this section to supply any information that the commissioner determines necessary or appropriate to insure compliance with the provisions of this subdivision.*

Sec. 5. [EFFECTIVE DATE.]

*Section 1 is effective beginning for property taxes paid in 1990. Section 2 is effective beginning for refunds based on rent paid in 1990. Section 3 is effective only for property taxes paid in 1989 and 1990. Section 4 is effective for taxes paid in 1990.*

ARTICLE 3

PROPERTY TAX

Section 1. Minnesota Statutes 1988, section 124A.23, subdivision 2, is amended to read:

Subd. 2. [GENERAL EDUCATION LEVY.] To obtain general education revenue, excluding supplemental revenue, a district may levy an amount not to exceed the general education tax capacity rate times the adjusted ~~gross~~ *net* tax capacity of the district for the preceding year. If the amount of the general education levy would exceed the general education revenue, excluding supplemental revenue, the general education levy shall be determined according to subdivision 3.

Sec. 2. Minnesota Statutes 1988, section 270.12, is amended by adding a subdivision to read:

*Subd. 4. For purposes of equalization only, public utility personal property shall be treated as a separate class of property notwithstanding the fact that its tax capacity percentage is the same as commercial-industrial property.*

Sec. 3. Minnesota Statutes 1988, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

(1) all public burying grounds;

(2) all public schoolhouses;

(3) all public hospitals;

(4) all academies, colleges, and universities, and all seminaries of learning;

(5) all churches, church property, and houses of worship;

(6) institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (c), clause (1) or (2), or paragraph (d), clause (2);

(7) all public property exclusively used for any public purpose;

(8) except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) ~~Real and~~ personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used~~, other than real property used primarily as a solid waste disposal site~~, *and real property which is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation or as part of an electric generation system. For purposes of this clause, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.*

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules, or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps

containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8, and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band.

An exemption provided by paragraph (15) shall apply for a period not to

exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

(19) Transitional housing facilities. "Transitional housing facility" means a facility that meets the following requirements. (i) It provides temporary housing to parents and children who are receiving AFDC or parents of children who are temporarily in foster care. (ii) It has the purpose of reuniting families and enabling parents to advance their education, get job training, or become employed in jobs that provide a living wage. (iii) It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals. (iv) It provides services to a resident of the facility for at least six months but no longer than one year, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years. (v) It is sponsored by an organization that has received a grant under section 256.7365 for the biennium ending June 30, 1989, for the purposes of providing the services in items (i) to (iv). (vi) It is sponsored by an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1987. This exemption applies notwithstanding the fact that the sponsoring organization receives financing by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency under the provisions of either Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant to it, and notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.

Sec. 4. Minnesota Statutes 1988, section 272.02, is amended by adding a subdivision to read:

*Subd. 7. Property, including real property, qualifies as exempt pollution*

*abatement property under subdivision 1, clause (9), if the following conditions are satisfied.*

*(a)(1) The property is part of a refuse derived fuel facility converted from a coal burning electric generation facility and the property consists of:*

*(i) boiler modifications necessary to efficient handling and burning of refuse derived fuel and transfer of the heat produced by combustion of the fuel;*

*(ii) ash handling and storage systems, such as vacuum-pneumatic equipment, conveyors, crushers, and storage buildings to remove, convey, process, and temporarily store bottom and fly ash from the burning of refuse derived fuel;*

*(iii) control systems, such as computers, to control the operation of equipment described in clauses (i) to (iv) and other pollution abatement equipment; and*

*(iv) equipment to monitor emissions into the air and combustion efficiency; or*

*(2) the property is a solid waste resource recovery mass burn facility.*

*(b) The facility was constructed and will be operated under a contractual arrangement providing for payment, in whole or part, of the property tax on the property by a political subdivision of the state.*

Sec. 5. Minnesota Statutes 1988, section 272.02, is amended by adding a subdivision to read:

*Subd. 8.* [PROPERTY LEASED TO SCHOOL DISTRICTS.] *Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:*

*(1) the lease must be for a period of at least 12 consecutive months;*

*(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;*

*(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12 or special education for handicapped children or adult basic and continuing education as described in section 124.26, including provision of administrative services directly related to the educational program at that site; and*

*(4) the lease must provide that the school district has the exclusive use of the property during the lease period.*

*If the property that is leased to the school district is less than a complete parcel for assessment purposes, the value of that portion of the parcel that is leased is exempt under this subdivision.*

Sec. 6. Minnesota Statutes 1988, section 272.025, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, clauses (1) to (7) *and (9)*, except churches and houses of worship and property solely used for educational purposes by academies, colleges, universities or seminaries of learning and property owned by the state of Minnesota or any political subdivision thereof, shall file a statement of

exemption with the assessor of the assessment district in which the property is located on or before February 15 of each year for which the taxpayer claims an exemption. In case of sickness, absence or other disability or for good cause, the assessor may extend the time for filing the statement of exemption for a period not to exceed 60 days. The commissioner of revenue shall prescribe the form and contents of the statement of exemption.

Sec. 7. Minnesota Statutes 1988, section 273.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivisions 6, 8, ~~and~~ 9, *and 11*, or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under $100 is rounded up to $100 and any amount exceeding $100 shall be rounded to the nearest $100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the gross tax capacity of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Sec. 8. Minnesota Statutes 1988, section 273.11, is amended by adding a subdivision to read:

*Subd. 11.* [HOMESTEADS; LIMITATION IN MARKET VALUE INCREASES.] *(a) After determining the market value of property classified class 1 or 2a, the assessor shall compare the market value with the market value determined in the preceding assessment. Notwithstanding any law to the contrary, the percentage increase in value entered in the current assessment over the previous year's assessment must not exceed the greater of $15,000 or ten percent.*

*(b) Any increase in value in excess of the amount determined in paragraph (a) must be entered equally in the three subsequent assessment years. An excess amount entered under this paragraph is not subject to the limitation in paragraph (a).*

*(c) This subdivision does not apply to increases in value attributable to improvements made to the property. It does not apply to property becoming subject to taxation since the last assessment.*

*(d) The limitation contained in this subdivision also applies to the local boards of review under section 274.01, the county boards of equalization under section 274.13, and the state board of equalization and the commissioner of revenue under sections 270.11, 270.12, and 270.16. Except for property subject to the provisions of paragraph (c), the cumulative increases made by the assessor, the boards, and the commissioner may not exceed the maximum increase allowed under paragraph (a). Excess increases must be entered in subsequent years under paragraph (b).*

Sec. 9. Minnesota Statutes 1988, section 273.111, subdivision 4, is amended to read:

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8 and 273.11. In determining ~~such~~ *the* value for ad valorem tax purposes, the assessor shall *use sales data obtained from agricultural lands located outside the seven metropolitan counties but within the region used for computing the range of values under section 273.11, subdivision 10. The sales shall have similar soil types, number of degree days, and other similar agricultural characteristics as contained in section 273.11, subdivision 10. Furthermore, the assessor shall* not consider any added values resulting from nonagricultural factors.

Sec. 10. Minnesota Statutes 1988, section 273.124, subdivision 6, is amended to read:

Subd. 6. [LEASEHOLD COOPERATIVES.] When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317 *and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988,* or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, homestead treatment may be claimed by the cooperative association on behalf of the members of the cooperative for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the social security numbers of those members. To qualify for the treatment provided by this subdivision, the following conditions must be met:

(a) the cooperative association must be organized under sections 308.05 to 308.18 *and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative*;

(b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years, *which permits the cooperative association, while not in default on the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent*;

(c) to the extent permitted under state or federal law, the cooperative association must have a right under a written agreement with the owner to

purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale; ~~and~~

(d) *the cooperative must meet one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 80 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" means the income of a member when the member acquires cooperative membership, and "median income" means the Saint Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development;*

*(e)* if a limited partnership owns the property, it must include as the managing general partner ~~either the cooperative association or~~ a nonprofit organization operating under the provisions of chapter 317 *and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988, and the limited partnership agreement must provide that the managing general partner have sufficient powers so that it materially participates in the management and control of the limited partnership;*

*(f) prior to becoming a member of a leasehold cooperative described in this subdivision, a person must have received notice that (1) describes leasehold cooperative property in plain language, including but not limited to the effects of classification under this subdivision on rents, property taxes and tax credits or refunds, and operating expenses, and (2) states that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner, and the owner must send or deliver the materials within seven days after receiving any request;*

*(g) if a dwelling unit of a building was occupied on the 60th day prior to the date on which the unit became leasehold cooperative property described in this subdivision, then (1) the notice described in paragraph (f) must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property, and (2) prior to the mailing of the notice, copies of the documents identified in the notice must have been filed with the secretary of state; and*

*(h) the county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision.* Homestead treatment must be afforded to units occupied by members of the cooperative association and the units must be assessed as provided in subdivision 3, provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

Sec. 11. Minnesota Statutes 1988, section 273.13, subdivision 22, is amended to read:

Subd. 22. [CLASS 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first $68,000 of market value of class 1a property has a net tax capacity of ~~one~~ *.95* percent of its market value and a gross tax capacity of 2.17 percent of its market value. The market value of class 1a property that exceeds $68,000 but does not exceed $100,000 has a tax capacity of ~~2.5~~ *1.8* percent of its market value. The market value of class 1a property that exceeds $100,000 has a tax capacity of ~~3.3~~ *three* percent of its market value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or

(iii) whose household income as defined in section 290A.03, subdivision

5, is 150 percent or less of the federal poverty level.

Property is classified and assessed pursuant to clause (1) only if the commissioner of jobs and training certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of jobs and training shall provide a copy of the certification to the commissioner of revenue.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first $32,000 market value of class 1b property has a net tax capacity of .4 percent of its market value and a gross tax capacity of .87 percent of its market value. The remaining market value of class 1b property has a gross or net tax capacity using the rates for class 1 or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, *which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort or a partner in a partnership that owns the resort, even if the title to the homestead is held by the corporation or partnership.* Class 1c property has a tax capacity of ~~.9~~ *.68* percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

~~(d) For taxes levied in 1988, payable in 1989 only, the tax to be paid on class 1a or class 1b property shall be reduced by 54 percent of the tax imposed on the first $68,000 of market value. The amount of the reduction shall not exceed $725.~~

Sec. 12. Minnesota Statutes 1988, section 273.13, subdivision 23, is amended to read:

Subd. 23. [CLASS 2.] (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land ~~that does not exceed $65,000 has a net tax capacity of .805 percent of market value and a gross tax capacity of 1.75 percent of market value. The excess market value over $65,000 has a tax capacity of 2.2 percent~~ *shall have the same tax capacity as if it were class 1a property under subdivision 22.* If the market value of the house, garage, and surrounding one acre of land is less than ~~$65,000~~ *$100,000*, the value of the remaining land including improvements equal to the difference between ~~$65,000~~ *$100,000* and the market value of the house, garage, and surrounding one acre of land has a net tax capacity of ~~1.12~~ *.34* percent of market value ~~and a gross tax capacity of 1.75 percent of market value for the first 320 acres of land and the remaining value over 320 acres has a net tax capacity of 1.295 percent of market value and a gross tax capacity of 1.75 percent of market value~~. The remaining value of class 2a property over ~~the $65,000~~ *$100,000 of* market value that does not exceed 320 acres has a net tax capacity of ~~1.44~~ *1.3* percent of market value and a gross tax capacity of 2.25 percent of market value. The remaining property over ~~the $65,000~~ *$100,000 of* market value in excess of 320

acres has a net tax capacity of ~~1.665~~ *1.6* percent of market value and a gross tax capacity of 2.25 percent of market value.

Noncontiguous land shall constitute class 2a only if the homestead is classified as class 2a and the detached land is located in the same township or city or not farther than two townships or cities or combination thereof from the homestead.

Agricultural land used for purposes of a homestead and actively farmed by a person holding a vested remainder interest in it must be classified class 2a. If agricultural land is classified class 2a, any other dwellings on the land used for purposes of a homestead by persons holding vested remainder interests who are actively engaged in farming the property, and up to one acre of the land surrounding each homestead and reasonably necessary for the use of the dwelling as a home, must also be assessed class 2a and is entitled to the homestead credit.

~~For taxes levied in 1988, payable in 1989 only, the tax to be paid on class 2a property and class 1b property under section 273.13, subdivision 22, paragraph (b), used for agricultural purposes shall be reduced by 54 percent of the tax. The amount of the reduction shall not exceed $725.~~

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; and (2) real estate that is nonhomestead agricultural land. Class 2b property has a net tax capacity of ~~1.665~~ *1.60* percent of market value and a gross tax capacity of 2.25 percent of market value.

*(c)* Agricultural land as used in this section means contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land, and land included in federal farm programs.

*(d)* Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, including the breeding of fish for sale and consumption provided that it is located on land zoned for agricultural use, shall be considered as agricultural land, if it is not used primarily for residential purposes.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Sec. 13. Minnesota Statutes 1988, section 273.13, subdivision 24, is amended to read:

Subd. 24. [CLASS 3.] (a) Commercial~~,~~ *and* industrial ~~,~~ *property* and utility *real and personal* property, *except class 5a property as identified in subdivision 31,* is class 3a. It has a tax capacity of ~~3.3~~ *3.15* percent of the first ~~$100,000~~ *$150,000* of market value and ~~5.25~~ *5.05* percent of the market value over ~~$100,000~~ *$150,000*. ~~For taxes payable in 1991, the 5.25 percent rate shall be 5.2 percent and for taxes payable in 1992 and subsequent years the rate shall be 5.15 percent.~~ In the case of state-assessed commercial, industrial, and utility property owned by one person or entity, only one parcel has a tax capacity ~~3.3~~ *of 3.15* percent. In the case of other commercial, industrial, and utility property owned by one person or entity, only one parcel in each county has a tax capacity of ~~3.3~~ *3.15* percent.

(b) Employment property defined in section 469.166, during the period provided in section 469.170, shall constitute class 3b and has a tax capacity of 2.5 percent of the first $50,000 of market value and 3.5 percent of the remainder, except that for employment property located in a border city enterprise zone designated pursuant to section 469.168, subdivision 4, paragraph (c), the tax capacity of the first ~~$100,000~~ *$150,000* of market value is ~~3.3~~ *3.15* percent and the tax capacity of the remainder is 4.8 percent, unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section 469.171, subdivision 1.

Sec. 14. Minnesota Statutes 1988, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a tax capacity of ~~4.1~~ *3.38* percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, recreational, ~~and a structure having five or more stories that is constructed with materials meeting the requirements for type I or II construction as defined in the state building code, 90 percent or more of which is used or is to be used as apartment housing for a period of 40 years from the date of completion of original construction, or the date of initial though partial use, whichever is the earlier date~~ *which has a tax capacity of 2.88 percent of market value*;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing, *which has a tax capacity of 2.88 percent of market value*;

(3) manufactured homes not classified under any other provision, *which has a tax capacity of 2.88 percent of market value*;

(4) a dwelling, garage, and surrounding one acre of property on a non-homestead farm classified under subdivision 23, paragraph (b), which has a tax capacity of ~~2.7~~ *2.88* percent of market value.

~~Class 4b property has a tax capacity of 3.5 percent of market value, except as provided in clause (4).~~

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made

by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, ~~1987~~ *1988*; or (ii) meets the requirements of that section. Classification pursuant to this clause is limited to buildings the construction or rehabilitation of which began after May 1, 1988, and to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph (d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents. The land on which these structures are situated has a tax capacity of ~~3.5~~ *2.88* percent of market value if the structure contains fewer than four units, and ~~4.1~~ *3.38* percent of market value if the structure contains four or more units.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property

devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than ~~200~~ *225* days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in clauses (5) and (6) also includes the remainder of class 1c resorts and has a tax capacity of ~~2.6~~ *2.4* percent of market value, except that noncommercial seasonal recreational property has a tax capacity of ~~2.3~~ *2.22* percent of market value; and

(6) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, ~~1986~~ *1988*. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property classified under clauses (1), (2), (3), ~~and~~ (4), *and (6)* has a tax capacity of 2.5 percent of market value.

(d) Class 4d property includes any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The 1.5 percent and 2.5 percent tax capacity assignments apply to the properties described in paragraph (c), clauses (1), (2), and (3) and this clause, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

Class 4d property has a tax capacity of 1.5 percent of market value.

*(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (2); paragraph (c), clauses (1), (2), (3), or (4); or paragraph (d), is assessed at the tax capacity percentage applicable to it under section 273.13, if it is found to be a substandard building under section 273.1316.*

Sec. 15. Minnesota Statutes 1988, section 273.13, subdivision 31, is amended to read:

Subd. 31. [CLASS 5.] All property not included in any other class is class 5 property.

(a) Tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures, have a tax capacity of 4.6 percent of market value.

(b) Unmined iron ore and low-grade iron-bearing formations as defined in section 273.14 have a tax capacity of ~~5.25~~ *5.05* percent of market value.

(c) Vacant land has a tax capacity of 5.25 percent of market value.

(d) All other property not otherwise classified has a tax capacity of 5.25 percent of market value.

Sec. 16. [273.1316] [CLASSIFICATION OF SUBSTANDARD RESIDENTIAL RENTAL PROPERTY.]

*Subdivision 1.* [DENIAL OF RENTAL CLASSIFICATION.] *A building that is classified as residential rental property under section 273.13, subdivision 25, and that is determined to be substandard under this section is assessed as provided in section 273.13, subdivision 25, paragraph (e).*

*Subd. 2.* [DEFINITION.] *"Substandard building" means a building that:*

*(1) has been determined by a state, county, or city agency that is charged by the governing body of the appropriate political subdivision with the responsibility for enforcing health, housing, building, fire prevention, or housing maintenance codes:*

*(i) to materially endanger the health and safety of the occupants; or*

*(ii) if unoccupied, to be a hazardous building within the meaning of section 463.15, subdivision 3; or*

*(iii) to be substantially out of compliance with the basic provisions of the housing and maintenance code of that county or city; and*

*(2) has not been repaired or brought to a condition of compliance within three months after the date of the violation notice to the owner as provided in subdivision 3, or within the time prescribed by the agency in the notice in accordance with applicable state law or local ordinance, whichever period is longer.*

*A building is not substandard under this subdivision if it was rendered substandard solely by reason of a tornado, flood, or other natural disaster.*

*Subd. 3.* [VIOLATION NOTICE.] *The initial notice of violation by the agency to the owner must be written and must contain:*

*(1) the details of the violation;*

*(2) the date by which repairs must be completed or compliance with other requirements must be achieved;*

*(3) a general description of the tax consequences if the violations are not corrected; and*

*(4) information on where and how an appeal may be filed.*

*The agency may extend the compliance date prescribed in the violation notice, for good cause shown, or may determine that good faith efforts at compliance are sufficient to prevent designation as a substandard building.*

*Subd. 4.* [NOTICE OF NONCOMPLIANCE.] *When the period specified in subdivision 3 has expired without compliance and the building has been determined to be substandard as defined in subdivision 2, the agency shall mail to the owner a notice of noncompliance. The notice of noncompliance must be mailed by certified mail, return receipt requested, to the owner of the property at the owner's last known address. The notice must contain:*

*(1) the details of the noncompliance;*

*(2) a statement that the local assessor has been notified of the noncompliance and that the property will be reclassified unless compliance is achieved within 30 days of the mailing of the notice;*

*(3) a general description of the tax consequences resulting from the denial of a residential rental property tax classification; and*

*(4) information on where and how an appeal may be filed.*

*Subd. 5.* [APPEALS TO BOARD.] *Appeals shall be made to the board created under this subdivision. Each county and city, prior to issuance of a violation notice under subdivision 3, must establish a board to hear appeals under this subdivision. The board shall have five members appointed by the governing body. A decision of the appeal board may be appealed to the district court of the county in which the building is located, concerning the violation and determination of material endangerment, hazard, or lack of substantial compliance with the basic provisions of the housing and maintenance code under subdivision 2, and concerning a determination of noncompliance under subdivision 4. An appeal must be made no later than 30 days after receipt of the notice of the action or determination being appealed. If the board determines that the substandard building has been brought to a condition of compliance, the board shall require the agency to mail to the taxpayer a notice of compliance, which shall be in the form and include the information prescribed by the local assessor.*

*Subd. 6.* [TIMING OF PROCESS.] *If a notice of noncompliance is mailed*

*before July 1 of any year, and the property owner has neither (1) successfully appealed the determination, nor (2) brought the property into compliance by October 15 of that year, the property will be assessed under section 273.13, subdivision 25, paragraph (e), for taxes levied in that year and all subsequent years until the agency determines that the property is no longer a substandard building, or the property owner prevails on an appeal of the matter. If a notice of noncompliance is mailed after June 30 of any year, the disqualification would initially be effective for taxes levied in the following year.*

*Subd. 7.* [REFUND UPON APPEAL.] *If the property owner prevails on an appeal at any time after taxes have been paid based on assessment of the property as provided in section 273.13, subdivision 25, paragraph (e), the agency shall notify the property owner concerning the procedures for the filing for a refund. The notice shall be in the form and include the information prescribed by the local tax assessor. The taxpayer may then file for a refund of the difference between the amount of the tax paid and the tax that would have been payable if the property had not been incorrectly assessed under this section, and each governmental subdivision that levied the tax on the property shall refund to the property owner its proportionate share of the refund.*

*Subd. 8.* [SPECIFICATION OF VIOLATIONS.] *A notice of noncompliance shall not be mailed by the agency to the taxpayer until the state or the governing body of the appropriate political subdivision has prescribed by statute or ordinance the nature and types of violations of codes referred to in subdivision 2, that would constitute substantial noncompliance with the basic provisions of the code or material endangerment to the health and safety of occupants of buildings, or that would constitute a hazardous building within the meaning of section 463.15, subdivision 3.*

Sec. 17. Minnesota Statutes 1988, section 273.135, subdivision 2, is amended to read:

Subd. 2. For taxes payable in ~~1989 only~~ *1990 and subsequent years*, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 66 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10.

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area but which is outside the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989*

*tax rate*. In no case will the reduction resulting from this credit be less than $10.

(c)~~(1)~~ The maximum reduction of the ~~net~~ tax ~~up to the taconite breakpoint~~ is $225.40 on property described in clause (a) and $200.10 on property described in clause (b), for taxes payable in 1985. These maximum amounts shall increase by $15 times the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

~~(2) The total maximum reduction of the net tax on property described in clause (a) is $490 for taxes payable in 1985. The total maximum reduction for the net tax on property described in clause (b) is $435 for taxes payable in 1985. These maximum amounts shall increase by $15 per year for taxes payable in 1986 and thereafter.~~

For the purposes of this subdivision, ~~"net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23, "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar,~~ "homestead credit equivalency percentage" means ~~a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22~~ *one minus the ratio of the net tax capacity rate to the gross tax capacity rate applicable to the first $68,000 of the market value of residential homesteads*, "effective tax rate" means tax divided by the market value of ~~the~~ *a* property, and the "base year effective tax rate" means the *payable 1988* tax on ~~the~~ *a* property *with an identical market value to that of the property receiving the credit in the current year* after the application of the credits payable under section 273.13, subdivisions 22 and 23, and this section ~~for taxes payable in 1988~~, divided by the market value of the property. ~~A new parcel of property or a parcel with a current year classification that is different from its base year classification has the same base year effective tax rate as an equivalent homesteaded parcel.~~

Sec. 18. Minnesota Statutes 1988, section 273.1391, subdivision 2, is amended to read:

Subd. 2. For taxes payable in 1989 only, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~ on qualified property located in the school district that does not meet the qualifications of section 273.134, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10. The reduction provided by this clause shall

only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, but not to exceed the maximums specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10.

(c)~~(1)~~ The maximum reduction of the ~~net~~ tax up to the taconite breakpoint is $200.10 for taxes payable in 1985. This maximum amount shall increase by $15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

~~(2) The total maximum reduction of the net tax is $435 for taxes payable in 1985. This total maximum amount shall increase by $15 per year for taxes payable in 1986 and thereafter.~~

For the purposes of this subdivision, ~~"net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23, "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar,~~ "homestead credit equivalency percentage" means ~~a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22~~ *one minus the ratio of the net tax capacity rate to the gross tax capacity rate applicable to the first $68,000 of the market value of residential homesteads*, and "effective tax rate" means tax divided by the market value of ~~the~~ *a* property, and the "base year effective tax rate" means the *payable 1988* tax on ~~the~~ *a* property *with an identical market value to that of the property receiving the credit in the current year* after application of the credits payable under section 273.13, subdivisions 22 and 23, and this section ~~for taxes payable in 1988~~, divided by the market value of the property. ~~A new parcel with a current year classification that is different from its base year classification has the same base year effective tax rate as an equivalent homesteaded parcel.~~

Sec. 19. Minnesota Statutes 1988, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of tax capacity rates.

(c) "Gross tax capacity" means the product of the appropriate percentages of market value listed as gross tax capacities in section 273.13 and ~~equalized~~ *estimated* market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the

unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located ~~and~~, (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the gross tax capacity of transmission lines deducted from a local government's total gross tax capacity under section 273.425*. ~~For purposes of determining the gross tax capacity of property referred to in clauses (1) and (2) for disparity reduction aid payable in 1989, the gross tax capacity before equalization shall equal the property's 1987 assessed value multiplied by 12 percent.~~ Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of the appropriate percentages of market value listed as net tax capacities in section 273.13 and ~~equalized~~ *estimated* market values. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located ~~and~~, (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425*. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity ~~before equalization~~ shall ~~equal the property's 1987 assessed value~~ *be* multiplied by ~~12 percent~~ *.962*. Net tax capacity cannot be less than zero.

(e) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. ~~For computation of aids payable in 1989 only, if the aggregate assessment sales ratio is less than or equal to 92 percent, the assessment sales ratios by class shall be adjusted proportionally so that the aggregate ratio of the unequalized market values to the equalized market values equals 92 percent; otherwise~~ The equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(f) "~~Homestead effective~~ *Local tax* rate" means ~~the product of (i) 46 percent; (ii) 2.17 percent; and (iii) the total tax capacity rate for taxes payable in 1989 within a unique taxing jurisdiction multiplied by the 1988 aggregate assessment sales ratio. A sales ratio of .92 is used if the actual sales ratio is less than .92~~ *the quotient derived by dividing the sum of (1) gross taxes levied within a unique taxing jurisdiction, and (2) the disparity reduction aid actually used to reduce taxes levied within the unique taxing jurisdiction for taxes payable in 1989, by (3) the gross tax capacity of the unique taxing jurisdiction*.

(g) For purposes of calculating the ~~transition~~ *homestead and agricultural credit* aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's ~~homestead effective~~ *local*

*tax* rate; (ii) its net tax capacity; and (iii) ~~103~~ *1.028146*.

(h) For purposes of calculating and allocating ~~transition~~ *homestead and agricultural credit* aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties" or "gross taxes" means the total gross taxes levied on all properties except that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473F.02, subdivision 3, subject to the areawide tax as provided in section 473F.08, subdivision 6, in a unique taxing jurisdiction before reduction by any credits for taxes payable in the year prior to that in which the aids are payable. ~~For purposes of disparity reduction aid only, total gross taxes shall be reduced by the taxes levied for any school district referendum levies authorized pursuant to section 124A.03, subdivision 2, and any school district debt levies authorized pursuant to section 475.61.~~ *Gross taxes are before any reduction for disparity reduction aid.* Gross taxes levied cannot be less than zero.

(i) "Income maintenance aids" means:

(1) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(2) preadmission screening and alternative care grants under section 256B.091, subdivision 8;

(3) general assistance, and work readiness under section 256D.03, subdivision 2;

(4) general assistance medical care under section 256D.03, subdivision 6;

(5) aid to families with dependent children under section 256.82, subdivision 1, including emergency assistance under section 256.871, subdivision 6; and funeral expense payments under section 256.935, subdivision 1; and

(6) supplemental aid under section 256D.36, subdivision 1.

*(j) "Adjustment factor" means one plus the percentage change in the ratio of estimated market value of residential homesteads to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. If the market value of farm homesteads exceeds the market value of residential homesteads in the city or township containing the unique taxing jurisdiction, "adjusted factor" means one plus the percentage change in the ratio of the estimated market value of farm homesteads to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. The adjustment factor cannot be less than one. Estimates of market value for the assessment one year prior to the year in which the aid is paid will be made on the basis of the abstract submitted pursuant to section 270.11. Discrepancies between the estimate and actual market values will not result in increased or decreased aid in the year in which*

*the estimates are used to compute aid, but the initial aid used to compute homestead and agricultural credit aid in the subsequent year will be adjusted to reflect actual market values.*

Sec. 20. Minnesota Statutes 1988, section 273.1398, subdivision 2, is amended to read:

Subd. 2. [~~TRANSITION~~ *HOMESTEAD AND AGRICULTURAL* CREDIT AID.] (a) ~~Transition~~ *Initial homestead and agricultural credit* aid for each unique taxing jurisdiction for taxes payable in 1990 equals the total gross taxes levied on all properties, minus the unique taxing jurisdiction's subtraction factor. ~~Transition~~ *The commissioner of revenue may, in computing the amount of the homestead and agricultural credit aid paid in 1990, adjust the gross tax capacity, net tax capacity, and gross taxes of a taxing jurisdiction for taxes payable in 1989 to reflect auditor's errors in computing taxes payable for 1989 in unique taxing jurisdictions within independent school district Nos. 720 and 792. Homestead and agricultural credit* aid cannot be less than zero. ~~The transition aid so determined for school districts for purposes of general education and transportation levies shall be multiplied by the ratio of the adjusted gross tax capacity based upon the 1988 adjusted gross tax capacity to the estimated 1987 adjusted gross tax capacity based upon the 1987 adjusted assessed value. Each county assessor and the city assessors of Minneapolis, Duluth, and St. Cloud shall furnish the commissioner of revenue with the 1988 market values for taxes payable in 1989 for any new classes of property established in this article. The commissioner shall use those values, and estimate values where needed, in developing the 1988 tax capacity for each unique taxing jurisdiction under this section.~~

(b) (1) The ~~transition~~ *homestead and agricultural credit* aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's *payable 1989* gross taxes bears to the total *payable 1989* gross taxes levied within the unique taxing jurisdiction.

(2) *The 1990 homestead and agricultural credit aid so determined for school districts for purposes of general education levies pursuant to section 124A.25, subdivisions 2 and 2a, and transportation levies pursuant to section 275.125, subdivision 5, shall be multiplied by the ratio of the adjusted gross tax capacity based upon the 1988 adjusted gross tax capacity to the estimated 1987 adjusted gross tax capacity based upon the 1987 adjusted assessed value.*

*(3)* If a local government's total tax capacity rate for all funds for taxes payable in 1989 varies within the area in which it exercises taxing authority, the local government's allocated ~~transition~~ *homestead and agricultural credit* aid must be further allocated between the part of its levy in respect to which the tax capacity rate is constant throughout the area in which it exercises taxing authority and the part of its levy in respect to which the tax capacity rate varies throughout the area in which it exercises taxing authority.

(c) ~~In 1991 and subsequent years, a local government shall receive transition aid equal to that it received in 1990 subject to the requirement of the last sentence of subdivision 6.~~

~~(d) The difference between (1) the income maintenance aids payable to a county and (2) the income maintenance aids that would be payable to~~

~~the county pursuant to the rates in effect for calendar year 1989 shall be reduced by the sum of the amount of transition aid a county receives under this subdivision for all unique taxing jurisdictions located within its borders. The reduction must not reduce the difference to less than zero. The reduction shall be prorated among all payments of the increased income maintenance aids so that each payment is reduced by an equal percentage amount. The commissioner of revenue shall certify each county's transition aid to the commissioner of human services for purposes of this adjustment.~~ *In 1991 and subsequent years, the initial homestead and agricultural credit aid shall equal that calculated for taxes payable in 1990. The final homestead and agricultural credit aid shall equal the initial homestead and agricultural credit aid increased by the adjustment factor.*

*(d) Payments under this subdivision to counties in 1990 and subsequent years shall be reduced by the amount provided in section 477A.012, subdivision 3, paragraph (d).*

Sec. 21. Minnesota Statutes 1988, section 273.1398, is amended by adding a subdivision to read:

*Subd. 2a.* [EDUCATION LEVY REDUCTION.] *(a) As used in this subdivision, "equalized levies" means the sum of the maximum amounts that may be levied for:*

*(1) general education under section 124A.23, subdivision 2;*

*(2) supplemental revenue under section 124A.23, subdivision 2a;*

*(3) capital expenditure facilities revenue under section 124.243, subdivision 3;*

*(4) capital expenditure equipment revenue under section 124.44, subdivision 2; and*

*(5) basic transportation under section 275.125, subdivision 5;*

*as reduced for general education levy equity under section 124A.24.*

*(b) By June 15, 1990, the commissioner of education shall determine and certify to the commissioner of revenue the amount of the homestead and agricultural credit aid offset. The offset shall be equal to the amount by which:*

*(1) the amount that would have been computed as the district's equalized levies for property taxes payable in 1991, if the levies had been based upon the district's gross tax capacity, exceeds*

*(2) the district's equalized levies for property taxes payable in 1991.*

*(c) Effective for property taxes payable in 1991 and subsequent years, the amount of the education levy reduction shall be deducted from the homestead and agricultural credit aid payable to each school district under subdivision 2.*

Sec. 22. Minnesota Statutes 1988, section 273.1398, subdivision 3, is amended to read:

Subd. 3. [DISPARITY REDUCTION AID.] (a) ~~For taxes payable in 1989, a disparity reduction aid shall be calculated for each unique taxing jurisdiction. The aid is the greater of:~~

~~(1) the difference between (i) the total 1988 gross tax payable on all~~

~~taxable property within the unique taxing jurisdiction, and (ii) the gross tax capacity of the unique taxing jurisdiction; or~~

~~(2) 20 percent of the difference between (i) the 1988 gross tax of the city or township, and (ii) 23 percent of the city's or township's gross tax capacity.~~

~~In no case can the aid be less than $0.~~ *For taxes payable in 1990, the amount of disparity aid originally certified for each unique taxing jurisdiction for taxes payable in 1989 shall be multiplied by (1) 1.028146, and (2) the ratio of the jurisdiction's net tax capacity to its gross tax capacity, based upon market values for taxes payable in 1989.*

(b) The disparity reduction aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's payable gross taxes bears to the total payable gross taxes levied within the unique taxing jurisdiction.

(c) In ~~1990~~ *1991* and subsequent years, a local government shall receive disparity reduction aid equal to that it received in ~~1989~~ *1990*.

Sec. 23. Minnesota Statutes 1988, section 273.1398, subdivision 5, is amended to read:

Subd. 5. [HOMESTEAD AND AGRICULTURAL CREDIT GUARANTEE.] Beginning with taxes payable in 1990, each unique taxing jurisdiction may receive additional homestead and agricultural credit payments.

(1) Each year, the commissioner shall ~~certify to the county auditor~~ *determine* the total education aids paid under chapters 124 and 124A, ~~transition~~ *homestead and agricultural credit* aid and disparity reduction aid paid under section 273.1398, local government aid to cities, counties, and towns paid under chapter 477A, and income maintenance aid paid to counties for each taxing jurisdiction. The ~~county auditor~~ *commissioner* shall apportion each local government's aids to the unique taxing jurisdiction based upon the proportion that the unique taxing jurisdiction's tax capacity bears to the total tax capacity of the local government.

(2) Each year, the ~~county auditor~~ *commissioner* will compute a gross tax capacity rate for each taxing jurisdiction equal to its total levy divided by its gross tax capacity. For each unique taxing jurisdiction, a total gross tax capacity rate will be determined. This total gross tax capacity rate will be applied against the gross tax capacity of ~~each~~ property that would have been eligible for the homestead credit or the agricultural credit for taxes payable in 1989. ~~A~~ *An estimated* credit amount will be determined for ~~each parcel~~ *all qualifying parcels* based upon the credit rate structure in effect for taxes payable in 1989. The resulting credit amounts will be summed for all parcels in the unique taxing jurisdiction.

If the amount determined in clause (2) is greater than the amount determined in clause (1), the difference will be additional homestead and agricultural credit payments for the unique taxing jurisdiction. The additional credit amount shall proportionately reduce the tax capacity rates of all local governments levying taxes within the unique taxing jurisdiction *in the following year*. The ~~county auditor~~ *commissioner* shall certify the amounts of ~~all~~ additional credits determined under this section ~~in~~ a ~~form prescribed by the commissioner~~ *to the county auditor at the time provided in subdivision 6*.

Sec. 24. Minnesota Statutes 1988, section 273.1398, subdivision 6, is amended to read:

Subd. 6. [PAYMENT.] The commissioner shall certify the aids provided in subdivisions 2 ~~and~~, 3, *and 5* before September ~~30~~ *1* of the year preceding the distribution year to the county auditor of the affected local government and pay them and the credit reimbursements to local governments other than school districts at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions. Aids and credit reimbursements to school districts must be certified to the commissioner of education and paid under section 273.1392. Payment shall not be made to any taxing jurisdiction that has ceased to levy a property tax nor shall transition aid be payable on the part of a levy to which transition aid was separately allocated under subdivision 2, paragraph (b), clause (2), which is no longer levied.

Sec. 25. Minnesota Statutes 1988, section 298.28, subdivision 6, is amended to read:

Subd. 6. [PROPERTY TAX RELIEF.] (a) ~~Twelve~~ *Fifteen* cents per taxable ton, less any amount required to be distributed under paragraphs (b) and (c), must be allocated to St. Louis county acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136.

(b) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a county other than the county in which the mining and the concentrating processes are conducted, .1875 cent per taxable ton of the tax imposed and collected from such taxpayer shall be paid to the county.

(c) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a school district other than a school district in which the mining and concentrating processes are conducted, .5625 cent per taxable ton of the tax imposed and collected from the taxpayer shall be paid to the school district.

Sec. 26. Minnesota Statutes 1988, section 477A.012, is amended by adding a subdivision to read:

*Subd. 3.* [AID OFFSET FOR COURT COSTS.] *(a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for assumption of the cost of district court administration and operation of the trial court information system in the county and, in the case of Hennepin and Ramsey counties, of public defense services in juvenile and misdemeanor cases in the county. The amount of the deduction shall be computed as provided in this subdivision.*

*(b) By June 15, 1990, the board of public defense shall determine and certify to the supreme court the cost of the state-financed public defense services in juvenile and misdemeanor cases for Hennepin and Ramsey counties during the fiscal year beginning the following July 1. By June 30, 1990, the supreme court shall determine and certify to the department of revenue for each county, except counties located in the eighth judicial district, the pro rata share for each county of district court administration and trial court information system costs during the fiscal year beginning on the following July 1 plus, in the case of Hennepin and Ramsey counties, the costs certified by the board of public defenders.*

*(c) Twenty-five percent of the amount computed under paragraph (b)*

*for each county shall be deducted from each payment to the county under section 477A.015 in 1990. One-half of the amount computed under paragraph (b) for each county shall be deducted from each payment to the county under section 477A.015 in 1991 and each subsequent year.*

*(d) If the amount computed under paragraph (b) exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the aid payable to the county under section 273.1398, subdivision 2.*

Sec. 27. Minnesota Statutes 1988, section 273.061, subdivision 1, as amended by 1989 H.F. No. 266, article 2, section 17, if enacted, 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, 1992, or within two years of the assessor's first appointment under this section, whichever is later.

Sec. 28. [MINNESOTA INTERGOVERNMENTAL FINANCE.]

*Subdivision 1.* [POLICY STATEMENT.] *Under state and federal law, the responsibilities for providing public service, and the raising of revenues to finance those services, are divided between the federal, state, and local governments. This division of service delivery and revenue raising functions is complex and often lacks rational policy bases. This division also results in confusion and reduced accountability to the public by the various levels of government.*

*In addition, the legislature finds that reductions in federal aid, recent major increases in local property tax levies, and the growing cost of state financing of local governments and property tax relief, are placing growing and unsustainable demands on state revenue sources.*

*Subd. 2.* [STUDY.] *The legislature finds there is a need for a major review and reconsideration of the role of state government in helping to finance local government operations in Minnesota. Therefore, the legislature hereby authorizes that a joint legislative/executive effort be undertaken to examine the existing and appropriate fiscal relationship between the state and local units of government.*

*The study should address the following general issues:*

*(1) the appropriate distribution of service delivery and revenue raising responsibilities between state and local government;*

*(2) the extent to which programs required by state law influence the cost of local government operations; and*

*(3) the degree to which the state should subsidize local government operations and provide property tax relief.*

Sec. 29. [STUDY AND COMMISSION REPORT.]

*Subdivision 1.* [COMMISSION.] *Under the authority of the executive branch, there is created the commission on intergovernmental finance which shall report to the governor and the legislative commission on planning and fiscal policy. Members shall include:*

*(1) six persons appointed by the governor, one of whom shall be designated by the governor to serve as chair;*

*(2) five persons appointed by the senate in a manner provided by the senate committee on rules and administration, appointees may include members of the senate; and*

*(3) five persons appointed by the house in a manner as provided by the house rules committee, appointees may include members of the house.*

*Subd. 2.* [OUTSIDE RESOURCES.] *The commission in encouraged to appoint advisory committees consisting of other interested legislators and representatives of local governments, employee organizations, legislative and executive staff, and other groups and institutions interested in intergovernmental finance. The commission may seek funding and other resources from legislative committees, state agencies, higher education institutions, and private sources.*

*Subd. 3.* [RECOMMENDATIONS.] *The commission shall make recommendations for improvements in the system of intergovernmental finance consistent with the general issues listed in section 28, subdivision 2.*

*Subd. 4.* [REPORTS.] *The commission shall report regularly to the governor and the legislative commission on planning and fiscal policy, and shall submit an interim report to the legislature by January 1, 1990. The legislative commission on planning and fiscal policy shall monitor the work of the commission and may recommend amendments to the commission's work plan. A final report shall be submitted to the legislature by September 1, 1990.*

*Subd. 5.* [IMPLEMENTATION.] *The governor is encouraged to recommend implementation of the commission's recommendations in the governor's budget recommendations for the 1992-1993 biennium.*

*Subd. 6.* [EXPIRATION.] *The commission shall expire June 30, 1991.*

Sec. 30. [STUDY AND REPORT.] *The legislature directs the legislative commission on planning and fiscal policy to collect and analyze information on:*

*(1) the distribution of responsibility among the various local units of government and the state government for determining the services that must be provided and the financing of those services;*

*(2) the current and appropriate levels of property tax funding for those programs required by state law; and*

*(3) the extent to which the state is funding both those programs and services required by state law and those within the discretion of local public officials.*

*The commission shall oversee and monitor the progress of the executive commission on intergovernmental finance and develop its own recommendations for a more effective and efficient state and local fiscal relationship. These recommendations should take into account both the distribution of*

*need and the resources available within the various local taxing jurisdictions. The commission shall make preliminary recommendations to the 1990 legislature and a final report to the 1991 legislature. With respect to those programs required by federal or state law, the study and report shall:*

*(1) examine the program requirements;*

*(2) evaluate the current and alternative funding sources for the program;*

*(3) evaluate the current and alternative mechanisms for limiting the property tax affects of these programs;*

*(4) develop a system of reporting any property tax consequences of the program, including separate levy reporting of the property tax proportion of the local program costs; and*

*(5) develop methods for more accurately estimating any property tax consequences of programs or policies.*

Sec. 31. [NOTIFICATION OF ADMINISTRATIVE DIRECTIVES.]

*The commissioner of revenue shall notify the chairs of the senate committee on taxes and tax laws and the house committee on taxes of administrative directives or interpretations of the provisions of this article. The notice must be given at least five days before a directive or interpretation is released to the public or provided to a local government to allow time for the chairs to provide advice or to comment on the commissioner's directive or interpretation of the law. An administrative directive or interpretation includes an explanation of a provision, a clarification of its application to a particular circumstance, a directive on how to apply or administer a provision, and other similar communications that are intended to direct or guide local government officials in administering the law. This section applies only to written materials that are either released to the public or mailed, sent, or provided to a local government or a local government official.*

Sec. 32. [LOCAL GOVERNMENTAL EXPENDITURES FOR LOBBYISTS.]

*On or before September 1, 1989, and each year thereafter, all counties, cities, school districts, metropolitan agencies, regional railroad authorities, and the regional transit board shall report to the state auditor, on forms prescribed by the auditor, their estimated expenditures paid for the previous calendar year to a lobbyist as defined in section 10A.01, subdivision 11, and to any staff person not registered as a lobbyist but who spends over 25 percent of his or her time during the legislative session on legislative matters.*

Sec. 33. [PROPERTY TAX REFUNDS FOR TENANTS OF DISQUALIFIED LEASEHOLD COOPERATIVES.]

*Property tax refunds payable under Minnesota Statutes, chapter 290A, for rent paid in 1988 and property taxes payable in 1989 to residents of a leasehold cooperative that is disqualified from classification as a leasehold cooperative under Minnesota Statutes, section 273.124, subdivision 6, effective for assessment year 1989 shall not be reduced by the commissioner of revenue because of the disqualification.*

Sec. 34. [REPEALER.]

*Minnesota Statutes 1988, sections 273.135, subdivision 2a; and 273.1391,*

*subdivision 2a, are repealed.*

Sec. 35. [EFFECTIVE DATE.]

*Sections 1, 3, 6, 9, and 21, are effective for taxes payable in 1991 and subsequent years.*

*Section 2 is effective the day following final enactment and is intended to confirm and clarify the original intent of the legislature in the taxation and equalization of state-assessed public utility property.*

*Sections 4, 7, 11 to 15, 19, 20, 22 to 24, and 26, are effective for taxes payable in 1990 and subsequent years.*

*Section 5 is effective January 1, 1989.*

*Sections 6 and 16 are effective for the 1989 assessment and thereafter.*

*Section 8 is effective for assessments of market value in 1989 and thereafter. If an assessor has increased the market value for the 1989 assessment by an amount in excess of the amount allowed under section 8, the assessor shall reduce the market value to that allowed under section 8. If the assessor has mailed a notice of the increase in market value to the property owner, the assessor must mail a revised notice to the property owner. Notices must state that the increases in market value have been limited under this act.*

*Section 10 is effective for taxes levied in 1989, payable in 1990, and thereafter, provided that cooperatives that qualified under Minnesota Statutes, section 273.124, subdivision 6, on January 2, 1989, shall meet the board membership requirements of paragraph (a) by September 1, 1989, and shall meet the requirements of section 501(c)(3) or 501(c)(4) status under the Internal Revenue Code in the first paragraph and in paragraph (e) by January 1, 1990, and that the notice and filing requirements of paragraphs (f) and (g) shall apply only to leasehold cooperatives created later than 60 days after the date of enactment of this act.*

*Section 25 is effective for taconite produced in 1989, proceeds distributed in 1990, and thereafter.*

*Sections 27, 31, and 34, are effective the day following final enactment.*

ARTICLE 4

INCOME MAINTENANCE AND LEVY LIMITS

Section 1. Minnesota Statutes 1988, section 256.018, is amended to read:

256.018 [COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.]

~~Beginning~~ In 1990, ~~$1,000,000~~ ~~is~~ *the amount provided in Laws 1988, chapter 719, article 8, section 34, is* appropriated from the general fund to the department ~~in each fiscal year~~ for awards to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agencies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding

of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

Sec. 2. Minnesota Statutes 1988, section 256.82, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY PAYMENTS.] For the period from January 1 to June 30, based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to 85 percent of the difference between the total estimated cost and the federal funds so available for payments made except as provided for in section 256.017. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period except as provided for in section 256.017. For the period from July 1 to December 31 based upon the estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made, *subject to section 273.1398, subdivision 2a,* monthly in advance by the state to the counties of all state and federal funds available for that purpose for the succeeding month except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision, *subject to section 273.1398, subdivision 2a.* Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a,* be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation.

Sec. 3. Minnesota Statutes 1988, section 256.871, subdivision 6, is amended to read:

Subd. 6. [ESTIMATED EXPENDITURES; PAYMENTS.] The county agency shall submit to the state agency an estimate of expenditures for each succeeding month in such form as required by the state agency. For the period from January 1 to June 30, payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month, together with an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds so available, except as provided for in section 256.017. Subsequent to July 1 of each year the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, payment shall, *subject to section 273.1398, subdivision 2a,* be made monthly in

advance by the state agency to the counties, of all state and federal funds available for that purpose for the succeeding month, except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision, *subject to section 273.1398, subdivision 2a*. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a*, be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

Sec. 4. Minnesota Statutes 1988, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding $370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. For the period from January 1 to June 30, the state shall reimburse the county for 50 percent of any payments made for funeral expenses except as provided for in section 256.017. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a*, reimburse the county agency for the funds expended during the January 1 to June 30 period. For the period from July 1 to December 31, the state shall, *subject to section 273.1398, subdivision 2a*, reimburse the county for 100 percent of any payments made for funeral expenses except as provided for in section 256.017.

Sec. 5. Minnesota Statutes 1988, section 256B.041, subdivision 5, is amended to read:

Subd. 5. [PAYMENT BY COUNTY TO STATE TREASURER.] If required by federal law or rules promulgated thereunder, or by authorized rule of the state agency, each county shall pay to the state treasurer the portion of medical assistance paid by the state for which it is responsible. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a*, be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation.

For the period from January 1 to June 30, the county shall advance ten percent of that portion of medical assistance costs not met by federal funds, based upon estimates submitted by the state agency to the county agency, stating the estimated expenditures for the succeeding month. Upon the

direction of the county agency, payment shall be made monthly by the county to the state for the estimated expenditures for each month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, payments will be made by the state agency, except as provided for in section 256.017 *and subject to section 273.1398, subdivision 2a*, and the county agency will be advised of the amounts paid monthly.

Sec. 6. Minnesota Statutes 1988, section 256B.091, subdivision 8, is amended to read:

Subd. 8. [ALTERNATIVE CARE GRANTS.] The commissioner shall provide grants to counties participating in the program to pay costs of providing alternative care to individuals screened under subdivision 4 and nursing home or boarding care home residents who request a screening. Prior to July of each year, the commissioner shall allocate state funds available for alternative care grants to each local agency. This allocation must be made as follows: half of the state funds available for alternative care grants must be allocated to each county according to the total number of adults in that county who are recipients age 65 or older who are reported to the department by March 1 of each state fiscal year and half of the state funds available for alternative care grants must be allocated to a county according to that county's number of Medicare enrollments age 65 or older for the most recent statistical report. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home or boarding care home admission, or continued stay if alternative care were not available; (2) who are receiving medical assistance or who would be eligible for medical assistance within 180 days of admission to a nursing home; (3) who need services that are not available at that time in the county through other public assistance; and (4) who are age 65 or older.

The commissioner shall establish by rule, in accordance with chapter 14, procedures for determining grant reallocations, limits on the rates for payment of approved services, including screenings, and submittal and approval of a biennial county plan for the administration of the preadmission screening and alternative care grants program. Grants may be used for payment of costs of providing care-related supplies, equipment, and services such as, but not limited to, foster care for elderly persons, day care whether or not offered through a nursing home, nutritional counseling, or medical social services, which services are provided by a licensed health care provider, a home health service eligible for reimbursement under Titles XVIII and XIX of the federal Social Security Act, or by persons employed by or contracted with by the county board or the local welfare agency. The county agency shall ensure that a plan of care is established for each individual in accordance with subdivision 3, clause (e)(2), and that a client's service needs and eligibility is reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary and follow up services as necessary. The county agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program and shall provide documentation in

each individual's plan of care and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private. The county agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care grants program, including a minimum of 14 days written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection, and that the agency allowed potential providers an opportunity to be selected to contract with the county board. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The county must select providers for contracts or agreements using the following criteria and other criteria established by the county:

(1) the need for the particular services offered by the provider;

(2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;

(3) the geographic area to be served;

(4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;

(5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

The commissioner shall establish a sliding fee schedule for requiring payment for the cost of providing services under this subdivision to persons who are eligible for the services but who are not yet eligible for medical assistance. The sliding fee schedule is not subject to chapter 14 but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final forms.

The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. The commissioner shall provide grants to counties from the nonfederal share, unless the commissioner obtains a federal waiver for medical assistance payments, of medical assistance appropriations. A county agency may use grant money to supplement but not supplant services available through other public assistance or service programs and shall not use grant money to establish new programs for which public money is available through sources other than grants provided under this subdivision. A county agency shall not use grant money to provide care under this subdivision to an individual if the anticipated cost of providing this care would exceed the average payment, as determined by the commissioner, for the level of care that the

recipient would receive if placed in a nursing home or boarding care home. For the period from January 1 to June 30, the nonfederal share may be used to pay up to 90 percent of the start-up and service delivery costs of providing care under this subdivision. Each county agency that receives a grant shall pay ten percent of the costs for persons who are eligible for the services but who are not yet eligible for medical assistance. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, the nonfederal share may be used to pay up to 100 percent of the start-up and service delivery costs of providing care under this subdivision, *subject to section 273.1398, subdivision 2a.*

The commissioner shall promulgate emergency rules in accordance with sections 14.29 to 14.36, to establish required documentation and reporting of care delivered.

Sec. 7. Minnesota Statutes 1988, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: For the period from January 1 to June 30, payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. Ninety percent of the expense of assistance not paid by federal funds available for that purpose shall be paid by the state and ten percent shall be paid by the county of financial responsibility, except as provided for in section 256.017.

For the period from January 1 to June 30, for counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, except as provided for in section 256.017 *and subject to section 273.1398, subdivision 2a,* payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. The expense of assistance not paid by federal funds available for that purpose shall be paid by the state, *subject to section 273.1398, subdivision 2a.*

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 8. Minnesota Statutes 1988, section 256D.03, subdivision 2, is amended to read:

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, state aid shall, *subject to section 273.1398, subdivision 2a,* be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all general assistance grants if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.05, subdivision 1, paragraph (a), clause (15).

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or, (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, but for whom the aid would further the purposes established in the general assistance program in accordance with rules promulgated by the commissioner pursuant to the administrative procedure act.

Sec. 9. Minnesota Statutes 1988, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of tax capacity rates.

(c) "Gross tax capacity" means the product of the appropriate percentages of market value listed as gross tax capacities in section 273.13 and equalized market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located and (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2. For purposes of determining the gross tax capacity of property referred to in clauses (1) and (2) for disparity reduction aid payable in 1989, the gross tax capacity

before equalization shall equal the property's 1987 assessed value multiplied by 12 percent. Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of the appropriate percentages of market value listed as net tax capacities in section 273.13 and equalized market values. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473E02, subdivision 3, multiplied by the ratio determined pursuant to section 473E08, subdivision 6, for the municipality, as defined in section 473E02, subdivision 8, in which the unique taxing jurisdiction is located and (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity before equalization shall equal the property's 1987 assessed value multiplied by 12 percent. Net tax capacity cannot be less than zero.

(e) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. For computation of aids payable in 1989 only, if the aggregate assessment sales ratio is less than or equal to 92 percent, the assessment sales ratios by class shall be adjusted proportionally so that the aggregate ratio of the unequalized market values to the equalized market values equals 92 percent; otherwise the equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(f) "Homestead effective rate" means the product of (i) 46 percent; (ii) 2.17 percent; and (iii) the total tax capacity rate for taxes payable in 1989 within a unique taxing jurisdiction multiplied by the 1988 aggregate assessment sales ratio. A sales ratio of .92 is used if the actual sales ratio is less than .92.

(g) For purposes of calculating the transition aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's homestead effective rate; (ii) its net tax capacity; and (iii) 103.

(h) For purposes of calculating and allocating transition aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties" or "gross taxes" means the total gross taxes levied on all properties except that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473E02, subdivision 3, subject to the areawide tax as provided in section 473E08, subdivision 6, in a unique taxing jurisdiction before reduction by any credits for taxes payable in the year prior to that in which the aids are payable. For purposes of disparity reduction aid only, total gross taxes shall be reduced by the taxes levied for any school district referendum levies authorized pursuant to section 124A.03, subdivision 2, and any school district debt levies authorized pursuant to section 475.61. Gross taxes levied cannot be less than zero.

(i) "Income maintenance aids" means *the state funded portion of*:

(1) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(2) preadmission screening and alternative care grants under section 256B.091, subdivision 8;

(3) general assistance, and work readiness under section 256D.03, subdivision 2;

(4) general assistance medical care under section 256D.03, subdivision 6;

(5) aid to families with dependent children under section 256.82, subdivision 1, including emergency assistance under section 256.871, subdivision 6; and funeral expense payments under section 256.935, subdivision 1; and

(6) supplemental aid under section 256D.36, subdivision 1.

*"Increased income maintenance aids" means the difference between:*

*(1) the income maintenance aids payable to a county under Laws 1988, chapter 719, article 8; and*

*(2) the income maintenance aids that would be payable to the county under the rates in effect for calendar year 1989 before reduction under subdivision 2a.*

*(j) "Income maintenance programs" means the programs cited in the definition of income maintenance aids in paragraph (i).*

*(k) "County share levy" means the difference between a county's costs for income maintenance programs and income maintenance program revenues from all nonproperty tax sources. Nonproperty tax sources do not include money provided from budgeted reserves.*

Sec. 10. Minnesota Statutes 1988, section 273.1398, is amended by adding a subdivision to read:

*Subd. 2a.* [INCOME MAINTENANCE AIDS REDUCTION.] *(a) The increased income maintenance aids payable to a county must be reduced by the amount of the county share levy, but not below zero.*

*(b) On July 15, 1989, each county shall certify to the department of revenue the county share levy for taxes payable in 1989 and the estimate of income maintenance program costs and income maintenance program revenues from nonproperty tax sources used at the time the levy was certified in 1988. At that time each county may revise its county share levy for taxes payable in 1989 for purposes of this subdivision only to reflect changes in estimated income maintenance program costs and income maintenance program revenues from nonproperty tax sources for 1989. The resulting county share levy shall be each county's county share levy under section 275.50, subdivision 5, paragraph (a) for taxes levied in 1989 payable in 1990 and must be used to determine each county's increased income maintenance aid for 1990. The county share levy shall be prorated among the income maintenance programs on the basis of their individual costs to the total costs for all income maintenance programs.*

*(c) On July 15, 1990, each county shall certify to the department of revenue the difference between the income maintenance program costs and income maintenance program revenues from nonproperty tax sources for 1989. That difference shall be each county's county share levy under section*

*275.50, subdivision 5, paragraph (a) for taxes levied in 1990, payable in 1991, and thereafter, and must be used to determine each county's increased income maintenance aid for 1991 and thereafter. The county share levy shall be prorated among the income maintenance programs on the basis of their individual costs to the total costs for all income maintenance programs.*

*(d) The county share levies certified in paragraphs (b) and (c) shall be certified to the department of human services by the department of revenue. The department of human services shall make the appropriate reduction in the income maintenance aids payable in 1990 and thereafter. The increased income maintenance aids payable after reduction per this subdivision shall be separately identified and accounted for by the department of human services.*

Sec. 11. Minnesota Statutes 1988, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in ~~1988~~ *1989* payable in ~~1989~~ *1990* and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. ~~Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21,~~ The aggregate amounts levied ~~pursuant to~~ *under* this ~~clause~~ *paragraph for the costs of purchase or delivery of social services and income maintenance programs, other than those identified in section 273.1398, subdivision 1, paragraph (j) and paragraph (b)* are subject to a maximum increase *over the amount levied for the previous year* of ~~18~~ *12* percent ~~over the amount levied for these purposes in the previous year~~ *for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties. For purposes of this clause, "income maintenance programs" include income maintenance programs in section 273.1398, subdivision 1, to the extent the county provides benefits under those programs over the state mandated minimums.* Effective with taxes levied in 1989, the portion of this special levy for ~~income maintenance programs~~ *the county share levy* identified in section 273.1398, subdivision 1, paragraph ~~(i)~~ *(k)*, is ~~eliminated~~ *limited to the amount calculated under section 273.1398, subdivision 2a*;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16; ~~and~~

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5~~.~~*;*

*(k) pay the cost of hospital care under section 261.21;*

*(l) pay the unreimbursed costs incurred in the previous year to satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, provided that an appeal for the unreimbursed costs under this clause was approved by the commissioner of revenue under section 15;*

*(m) pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes such as earthquake, fire, flood, wind storm,*

*wave action, oil spill, water contamination, air contamination, or drought in accordance with standards formulated by the emergency services division of the state department of public safety, provided that an appeal for the expenses incurred under this clause were approved by the commissioner of revenue under section 15;*

*(n) pay a portion of the losses in tax receipts to a city due to tax abatements or court actions in the year preceding the current levy year, provided that an appeal for the tax losses was approved by the commissioner of revenue under section 15. This special levy is limited to the amount of the losses times the ratio of the nonspecial levies to total levies for taxes payable in the year the abatements were granted. County governments are not authorized to claim this special levy;*

*(o) pay the operating cost of regional library services authorized under section 134.34, subject to a maximum increase of the greater of (1) 103 percent multiplied by one plus the percentage increase determined for the governmental subdivision under section 275.51, subdivision 3h, clause (b), or (2) six percent. If a governmental subdivision elected to include some or all of its levy for libraries within its adjusted levy limit base in the prior year, but elects to claim the levy as a special levy in the current levy year, the allowable increase is determined by applying the greater percentage determined under clause (1) or (2) to the total amount levied for libraries in the prior levy year. After levy year 1989, the increase must not be determined using a base amount other than the amount that could have been levied as a special levy in the prior year. In no event shall the special levy be less than the minimum levy required under sections 134.33 and 134.34, subdivisions 1 and 2;*

*(p) pay the amount of the county building fund levy permitted under section 373.40, subdivision 6;*

*(q) pay the county's share of the costs levied in 1989, 1990, and 1991 for the Minnesota cooperative soil survey under Minnesota Statutes 1988, section 40.07, subdivision 15; and*

*(r) for taxes levied in 1989, payable in 1990 only, pay the cost incurred for the minimum share required by counties levying for the first time under section 134.34 as required under section 134.341. For taxes levied in 1990, and thereafter, counties levying under this provision must levy under paragraph (o), and their allowable increase must be determined with reference to the amount levied in 1989 under this paragraph.*

Sec. 12. Minnesota Statutes 1988, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 ~~plus the amount of any payments the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014 and minus any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4). A county's levy limit base will be increased by the amount of any increase in its levy under section 134.07 over that levied under section 134.07 for taxes payable in 1988 which is required under section 134.341. For governmental subdivisions located in the seven-county metropolitan area, the total actual levy for taxes payable in 1988 shall include the fiscal disparities distribution~~

~~levy pursuant to Minnesota Statutes 1986, section 473F.08, subdivision 7a~~ *with additions and subtractions as specified in paragraphs (b) and (c).*

*(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.*

*(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.*

~~(b)~~ *(d)* For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year ~~not including the adjustment made under subdivision 3h, paragraph (e), plus~~, *provided that* for taxes levied in 1989, *the amount of* the administrative reimbursement aid received in 1988 *shall be added to the base.*

*(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 and subsequent years, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of $30 for civil and probate filings and $55 for marriage dissolutions.*

*(f) For taxes levied by a county that is located in the eighth judicial district in 1989 only, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state less the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 only by those counties, the levy limit base determined under paragraphs (d) and (e) shall be reduced by an amount equal to the cost of operation of the trial courts in the county during the first six months of calendar year 1991 that are assumed by the state, less the amount of fees collected by the courts in the county during the first six months of calendar year 1989.*

*(g) By July 1, 1989, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By July 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during*

*the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.*

*By July 1, 1990, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.*

Sec. 13. Minnesota Statutes 1988, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. [ADJUSTED LEVY LIMIT BASE.] For taxes levied in ~~1988~~ *1989* and thereafter, the adjusted levy limit base is equal to the levy limit base computed pursuant to subdivision 3f, increased by:

(a) ~~a percentage equal to four percent for taxes levied in 1988 and~~ three percent for taxes levied in 1989 and subsequent years; ~~and~~

(b) a percentage equal to *(1) one-half of* the greater of the percentage increases in population or in number of households, if any, ~~for the most recent 12-month period for which data is available,~~ *for cities and towns and (2) the lesser of the percentage increase in population or the number of households, if any, for counties,* using figures derived pursuant to subdivision 6~~.~~*;*

~~For taxes levied in 1989 and subsequent years, to the resulting product must be added the estimated reduction in a county's income maintenance aids as defined in section 273.1398, subdivision 1, pursuant to section 273.1398, subdivision 2, paragraph (d). The department of human services shall annually estimate the increase in income maintenance aids referred to in section 273.1398, subdivision 2, paragraph (d), and certify it by county to the department of revenue by July 15 of the levy year preceding that in which the aids are payable. If the actual increase in a county's income maintenance aid referred to in section 273.1398, subdivision 2, paragraph (d), is less than or greater than the amount added to a county's adjusted levy limit base in the prior year, its adjusted levy limit base for the subsequent year will be increased or decreased by the appropriate amount.~~

*(c) the amount of a permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending September 30 of the levy year under section 275.58, subdivisions 1 and 2;*

*(d) for levy year 1989, for a county which incurred costs since October 1978, for the litigation of federal land claims under United States Code, title 18, section 1162; United States Code, title 25, section 331; and United States Code, title 28, section 1360; an amount of up to the actual costs incurred by the county for this purpose. This adjustment shall not exceed $250,000; and*

*(e) for levy year 1989, an amount of $1,724,000 for Ramsey county for implementing the local government pay equity act under sections 471.991*

*to 471.999. Furthermore, in levy years 1990 and 1991, an additional amount of $862,000 shall be added to Ramsey county's adjusted levy limit base under this clause for each of the two years.*

Sec. 14. Minnesota Statutes 1988, section 275.51, subdivision 3i, is amended to read:

Subd. 3i. [LEVY LIMITATION.] The levy limitation for a governmental subdivision shall be equal to the adjusted levy limit base determined pursuant to subdivision 3h, reduced by:

*(1)* the local government aid that the governmental subdivision has been certified to receive pursuant to sections 477A.011 to 477A.014~~.~~, *excluding the additional aid distribution received under section 477A.013, subdivision 5; and*

*(2) taconite aids under sections 298.28 and 298.282 including any aid received in the levy year that was required to be placed in a special fund for expenditure in the next succeeding year.*

*As provided in section 298.28, one cent per taxable ton of the amount distributed under section 298.28, subdivision 5, paragraph (d), must not be deducted from the levy limit base of a county that receives the aid.*

This amount is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

*For taxes levied in 1989 and later years, the levy limit for a county calculated under clause (1) must be decreased by an additional amount equal to the difference between what would have been a county's production year 1986 payable 1987 distribution under Minnesota Statutes 1984, section 298.28, based on 1986 production and its actual distribution for production year 1986, payable 1987.*

Sec. 15. Minnesota Statutes 1988, section 275.51, subdivision 3j, is amended to read:

Subd. 3j. [APPEALS.] *(a)* A ~~governmental subdivision subject to the limitations in this section~~ *county* may appeal to the commissioner of revenue for an adjustment in its levy limit base ~~under this section~~. If the ~~governmental subdivision~~ *county* can provide evidence satisfactory to the commissioner that its levy for taxes payable in ~~1988 had been reduced because it had made expenditures from reserve funds~~ *1989 under Minnesota Statutes 1988, section 275.50, subdivision 5, paragraph (a), included a levy for the cost of administration of the programs listed in that paragraph*, the commissioner may permit the ~~governmental subdivision~~ *county* to increase its levy limit base under this section by the amount determined by the commissioner *to have been levied for that purpose, provided that the total adjustment shall not be in excess of three percent of the county's expense for income maintenance programs as defined in section 273.1398, subdivision 1, paragraph (j), for 1989 and certified in section 273.1398, subdivision 2a*. The commissioner's decision is final.

*(b) A governmental subdivision subject to the limitations in this section may appeal to the commissioner of revenue for authorization to levy for the special levies as contained in section 275.50, subdivision 5, clauses (l), (m), and (n). If the governmental subdivision can provide evidence satisfactory to the commissioner that it incurred costs for the specified purposes of those levies, the commissioner may allow the governmental*

*subdivision to levy under section 275.50, subdivision 5, clause (l), (m), or (n), by the amount determined by the commissioner. The commissioner's decision is final.*

Sec. 16. Minnesota Statutes 1988, section 275.51, subdivision 4, is amended to read:

Subd. 4. If the levy made by a governmental subdivision exceeds the limitation provided in sections 275.50 to 275.56, except when such excess levy is due to the rounding of the tax capacity rates of the governmental subdivision in accordance with section 275.28, subsequent distributions required to be made by the commissioner of finance from any formula aids pursuant to sections 477A.011 to 477A.014 *or homestead and agricultural credit aid under section 273.1398*, shall be reduced 33 cents for each full dollar the levy exceeds the limitation.

Sec. 17. Minnesota Statutes 1988, section 275.51, subdivision 6, is amended to read:

Subd. 6. [POPULATION AND HOUSEHOLD ESTIMATES.] For the purpose of determining the amount of tax that a governmental subdivision may levy in accordance with limitation established by this chapter, the population or the number of households of the governmental subdivision shall be that established by the last federal census, by a census taken pursuant to section 275.14, or by an estimate made by the metropolitan council, or by the state demographer made pursuant to section 116K.04, subdivision 4, whichever is the most recent as to the stated date of count or estimate, ~~up to and including July 1 of~~ *for the calendar year preceding* the current levy year.

Sec. 18. Minnesota Statutes 1988, section 275.58, subdivision 1, is amended to read:

Subdivision 1. ~~Notwithstanding~~ *Subject to* the provisions of sections 275.50 to 275.56, ~~but subject~~ *and* to other law or charter provisions establishing per capita, mill or other limitations on the amount of taxes that may be levied, the levy of a governmental subdivision, as defined by section 275.50, subdivision 1, may be increased ~~above the limitation imposed by sections 275.50 to 275.56~~ in any per capita or dollar amount which is approved by the majority of voters of the governmental subdivision voting on the question at a general or special election. When the governing body of the governmental subdivision resolves to increase the levy of the governmental subdivision pursuant to this section, it shall provide for submission of the proposition of an increase in the levy limit base per capita or the proposition of an additional levy, as the case may be, at a general or special election. Notice of such election shall be given in the manner required by law. If the proposition is for an adjustment to the governmental subdivision's levy limit base per capita, increasing the levy limit base per capita over the per capita amount established pursuant to section 275.51, subdivision 3, such notice shall state the purpose of such per capita adjustment and the per capita amount of such adjustment. If the proposition is for an additional levy, such notice shall state the purpose and maximum yearly amount of such additional levy.

Sec. 19. Minnesota Statutes 1988, section 398A.04, is amended by adding a subdivision to read:

*Subd. 8a.* [TAXATION; LIGHT RAIL TRANSIT.] *(a) A regional railroad authority may not levy a tax under subdivision 8 to finance light rail*

*transit planning, land acquisition, facilities, equipment, or construction in the metropolitan area, as defined in section 473.121, until a law is enacted that allows light rail transit plans and projects to be implemented only after approval by a metropolitan agency having transit planning or transportation planning responsibility under chapter 473, in order to ensure regional coordination of light rail transit plans and projects and conformity with regional transit plans.*

*(b) Paragraph (a) shall not inhibit the ability of a regional railroad authority to (1) levy a tax for one line segment, shops, yards, or vehicles for taxes payable in 1990 to fulfill a local funds matching requirement for a line segment, shops, yards, or vehicles in order to qualify for a federal grant, if application has been made before May 1, 1989, and (2) levy a tax for taxes payable in 1991 and subsequent years to fulfill the local funds matching requirement for a line segment, shops, yards, or vehicles if the grant application has been approved by May 1, 1990.*

*(c) If any regional railroad authority levies a tax to fulfill a local funds matching requirement under paragraph (b) which would not otherwise be allowed under paragraph (a), all regional railroad authorities may levy a tax for light rail transit planning in the metropolitan area, as defined in section 473.121, for taxes payable in 1990. The amount of this tax may not exceed an amount, determined by the commissioner of revenue, equivalent to the product of*

*(1) the regional railroad authority's maximum levy authority under subdivision 8 for taxes payable in 1990, and*

*(2) the ratio of the largest amount actually levied under subdivision 8 for light rail transit by a regional railroad authority for taxes payable in 1989 to the maximum amount which that same regional railroad authority would be authorized to levy under subdivision 8 for taxes payable in 1989.*

Sec. 20. Minnesota Statutes 1988, section 473.167, subdivision 3, is amended to read:

Subd. 3. [TAX.] The council may levy a tax on all taxable property in the metropolitan area, as defined in section 473.121, to provide funds for loans made pursuant to subdivisions 2 and 2a. This tax for the right-of-way acquisition loan fund shall be certified by the council, levied, and collected in the manner provided by section 473.13. The tax shall be in addition to that authorized by section 473.249 and any other law and shall not affect the amount or rate of taxes which may be levied by the council or any metropolitan agency or local governmental unit. The amount of the levy shall be as determined and certified by the council, except as otherwise provided in this subdivision.

The property tax levied by the metropolitan council for the right-of-way acquisition loan fund shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 5/100 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, except as provided in section 473.249, subdivision 3, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes

payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; ~~and~~

(c) *for taxes payable in 1990, an amount not to exceed $2,700,000; and*

*(d)* for taxes payable in ~~1990~~ *1991* and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the ~~previous year~~ *taxes payable in 1988* determined ~~pursuant to this subdivision~~ *under clause (a)* multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the ~~previous~~ *1987* assessment year.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The property tax levied under this subdivision for taxes payable in 1988 and subsequent years shall not be levied at a rate higher than that determined by the metropolitan council to be sufficient, considering the other anticipated revenues of and disbursements from the right-of-way acquisition loan fund, to produce a balance in the loan fund at the end of the next calendar year equal to twice the amount of the property tax levy limitation for taxes payable in the next calendar year determined under this section.

Sec. 21. Minnesota Statutes 1988, section 473.167, subdivision 5, is amended to read:

Subd. 5. [LEVY INCREASE.] For the purpose of determining the levy limitation for taxes payable in 1989 under subdivision 3, the levy limitation for taxes payable in 1988 shall be multiplied by two. ~~The levy limitation so determined for taxes payable in 1989 shall be the basis for determining levy limitations for taxes payable in 1990 and subsequent years under subdivision 3.~~

Sec. 22. Minnesota Statutes 1988, section 473.249, subdivision 1, is amended to read:

Subdivision 1. The metropolitan council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law. This tax for general purposes shall be levied and collected in the manner provided by section 473.13.

The property tax levied by the metropolitan council for general purposes shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 8/30 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (2) *the least of*

*(i)* an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the previous assessment year~~.~~, *or*

*(ii) an index equal to the implicit price deflator for state and local government purchases of goods and services for the most recent month for which data is available divided by the implicit price deflator for state and local government purchases of goods and services for the same month of the previous year, or*

*(iii) 103 percent.*

For the purpose of determining the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Sec. 23. [ITASCA COUNTY; LEVY LIMIT PENALTY EXEMPTION.]

*The amount of any tax levied by Itasca county under Laws 1988, chapter 517, is not subject to a penalty imposed under Minnesota Statutes, section 275.51, subdivision 4, for exceeding levy limits under Minnesota Statutes, sections 275.50 to 275.56.*

Sec. 24. [LEVY LIMIT EXCEPTION.]

*For taxes levied in 1989 and 1990 only, payable in 1990 and 1991 only, a levy by the Itasca county board under Laws 1988, chapter 517, is not subject to the levy limitations of Minnesota Statutes, sections 275.50 to 275.56, or other law.*

Sec. 25. [APPLICATION.]

*Sections 20 to 22 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.*

Sec. 26. [REPEALER.]

*Minnesota Statutes 1988, section 473.249, subdivision 3, is repealed.*

Sec. 27. [EFFECTIVE DATE.]

*Except as otherwise provided, sections 9 to 22 and 24 to 26 are effective for taxes levied in 1989, payable in 1990 and subsequent years except as*

*otherwise provided. Section 23 is effective upon approval by the Itasca county board for taxes levied in 1988, payable in 1989 only.*

ARTICLE 5

PROPOSED AND FINAL TAX NOTICE

Section 1. Minnesota Statutes 1988, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED GROSS TAX CAPACITY.] (a) [COMPUTATION.] The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures referenced in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized gross tax capacity for the various strata of taxable property in each school district, which tax capacity shall be designated as the adjusted gross tax capacity. The department of revenue shall take such steps as are necessary in the performance of that duty and may incur such expense as is necessary therefor. The commissioner of revenue is authorized to reimburse any county or governmental official for requested services performed in ascertaining such adjusted gross tax capacity. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted gross tax capacities. On or before ~~June~~ *April* 15, annually, the department of revenue shall file its final report on the gross tax capacities established by the previous year's assessment with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of mill rates. A copy of the adjusted gross tax capacity so filed shall be forthwith mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which each district is located.

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for proper execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted gross tax capacity of agricultural lands for the calculation of 1987 adjusted gross tax capacities and thereafter, the market value of agricultural lands shall be the price for which the property would sell in an arms length

transaction.

Sec. 2. Minnesota Statutes 1988, section 124.42, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATION; APPLICATION; AWARD; INTEREST.] Any school district in which the required levy for debt service in any year will exceed its maximum effort debt service levy by ten percent or by $5,000, whichever is less, is qualified for a debt service loan hereunder in an amount not exceeding the amount applied for, and not exceeding one percent of the net debt of the district, and not exceeding the difference between the required and the maximum effort debt service levy in that year. Applications shall be filed with the commissioner in each calendar year up to and including ~~September 15~~ *July 1*. The commissioner shall determine whether the applicant is entitled to a loan and the amount thereof, and on or before October 1 shall certify to each applicant district the amount granted and its due date. The commissioner shall notify the county auditor of each county in which the district is located that the amount certified is available and appropriated for payment of principal and interest on its outstanding bonds, and the auditors shall reduce by that amount the taxes otherwise leviable as the district's debt service levy on the tax rolls for that year. Each debt service loan shall bear interest from its date at a rate equal to the average annual rate payable on Minnesota state school loan bonds most recently issued prior to the disbursement of the loan to the district, but in no event less than 3-1/2 percent per annum on the principal amount from time to time remaining unpaid, payable on December 15 of the year following that in which the loan is received and annually thereafter.

Sec. 3. Minnesota Statutes 1988, section 124.42, subdivision 4, is amended to read:

Subd. 4. Each district receiving a debt service loan shall levy for debt service in that year and each year thereafter, until all its debts to the fund are paid, (a) the amount of its maximum effort debt service levy, or (b) the amount of its required debt service levy less the amount of any debt service loan in that year, whichever is greater. Whenever the maximum effort debt service levy is greater the district shall remit to the commissioner, within ten days after its receipt of the last regular tax distribution in the year in which it is collected, that portion of the maximum effort debt service tax collections, including penalties and interest, which exceeds the required debt service levy. On or before ~~November 1~~ *September 1* in each year the commissioner shall notify the county auditor of each county containing taxable property situated within the school district of the amount of the maximum effort debt service levy of the district for that year, and said county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified.

Sec. 4. Minnesota Statutes 1988, section 124.83, subdivision 1, is amended to read:

Subdivision 1. [HEALTH AND SAFETY PROGRAM.] To receive health and safety revenue a district must submit to the commissioner of education an application for aid and levy by ~~August 15~~ *July 1* in the previous school year. The application may be for hazardous substance removal, fire code compliance, or life safety repairs. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost of the program by fiscal year.

Sec. 5. Minnesota Statutes 1988, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] (1) The levy authorized by section 124A.23, subdivision 2, may be increased in any amount that is approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum shall be held on a date set by the school board. Only two elections may be held to approve a levy increase that will commence in a specific school year. The ballot shall state the maximum amount of the increased levy in mills, the amount that will be raised by that tax capacity rate in the first year it is to be levied, and that the tax capacity rate shall be used to finance school operations. The ballot ~~may~~ *shall* designate ~~a specific~~ *the* number of years for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the levy proposed by (petition to) the board of . . . . . , School District No. . . . . , be approved?"

If approved, the amount provided by the approved tax capacity rate applied to each year's gross tax capacity shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(2) *The school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the election to each taxpayer at the address listed on the school district's current year's assessment roll, a notice of the referendum and the proposed levy increase. The notice must project the anticipated amount of increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments and commercial-industrial property within the school district.*

*(3)* A referendum on the question of revoking or reducing the increased levy amount authorized pursuant to clause (1) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A levy approved by the voters of the district pursuant to clause (1) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one such revocation or reduction election may be held to revoke or reduce a levy for any specific year and for years thereafter.

~~(3)~~ *(4)* A petition authorized by clause (1) shall be effective if signed by a number of qualified voters in excess of 15 percent, or ten percent if the school board election is held in conjunction with a general election, of the average number of voters at the two most recent district wide school elections. A referendum invoked by petition shall be held within three months of submission of the petition to the school board.

~~(4)~~ *(5)* A petition authorized by clause (2) shall be effective if signed by a number of qualified voters in excess of five percent of the residents of the school district as determined by the most recent census. A revocation or reduction referendum invoked by petition shall be held within three months of submission of the petition to the school board.

~~(5)~~ *(6)* Notwithstanding any law to the contrary, the approval of 50 percent plus one of those voting on the question is required to pass a referendum.

~~(6)~~ *(7)* Within 30 days after the district holds a referendum pursuant to this clause, the district shall notify the commissioner of education of the results of the referendum.

Sec. 6. Minnesota Statutes 1988, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX CAPACITY RATE.] The commissioner of revenue shall establish the general education tax capacity rate and certify it to the commissioner of education by ~~September 1~~ *July 1* of each year for levies payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the nearest tenth of a ~~mill~~ *percent*, that, when applied to the adjusted gross tax capacity for all districts, raises the amount specified in this subdivision. The general education tax capacity rate for the 1990 fiscal year shall be the rate that raises $1,100,580,000. The general education tax capacity rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 7. Minnesota Statutes 1988, section 124A.26, subdivision 1, is amended to read:

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

(1) the amount of the excess, or

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

*The final adjustment payments made under section 124.195, subdivision 6, must be adjusted to reflect actual net operating fund balances as of June 30 of the second prior school year.*

Sec. 8. Minnesota Statutes 1988, section 270.11, subdivision 2, is amended to read:

Subd. 2. [COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.] Each county assessor shall file by ~~June 15~~ *April 1* with the commissioner of revenue a copy of the abstract that will be acted upon by the *local and* county ~~board~~ *boards* of review. The abstract must list the real and personal property in the county~~, as equalized by the local board of review or equalization,~~ itemized by assessment districts. ~~A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner.~~ The assessor of each county in the state shall file with the commissioner, within five working days following final action of *the local board of review or equalization and within five days following final action of* the county board of equalization, any changes made by the *local or* county board ~~of equalization~~. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the ~~county board of equalization~~ *appropriate board*.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before ~~November 15~~ *September 1* of each calendar year. *The final abstract must separately report the captured tax*

*capacity of tax increment financing districts under section 469.177, subdivision 2, the metropolitan revenue contribution value under section 473F.07, and the value subject to the power line credit under section 273.42.*

Sec. 9. Minnesota Statutes 1988, section 270.12, subdivision 2, is amended to read:

Subd. 2. The board shall meet annually between ~~July~~ *April* 15 and ~~October 1~~ *June 30* at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its market value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its market value in money, such percent as will bring the same to its market value in money;

(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its market value in money, such percent as will reduce the same to its market value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its market value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the market value thereof, such percent as will raise the same to its market value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the market value thereof, such percent as will reduce the same to its market value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof;

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales *that are filed in the county auditor's office*

*under section 272.115, by November 1 of the previous year and* that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the median ratio as the statistical measure of the level of assessment for any particular category of property.

Sec. 10. Minnesota Statutes 1988, section 270.12, subdivision 3, is amended to read:

Subd. 3. When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted gross tax capacity value in one of the counties is less than ten percent of the total adjusted gross tax capacity in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted gross tax capacity as determined by the commissioner in each portion is to the total adjusted gross tax capacity of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Gross tax capacities as determined by the commissioner shall be the gross tax capacities as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on ~~July~~ *April* 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following ~~October 1~~ *June 30*.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and

when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 11. Minnesota Statutes 1988, section 270.13, is amended to read:

270.13 [RECORD OF PROCEEDINGS CHANGING GROSS TAX CAPACITY; DUTIES OF COUNTY AUDITOR.]

A record of all proceedings of the commissioner of revenue affecting any change in the gross tax capacity of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before ~~October 1~~ *June 30* or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the gross tax capacity of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the gross tax capacity thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no gross tax capacity of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the gross tax capacity thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no gross tax capacity of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

Sec. 12. Minnesota Statutes 1988, section 270.18, is amended to read:

270.18 [REASSESSMENT; COMPENSATION; REIMBURSEMENT BY COUNTIES.]

The compensation of each special assessor and deputies, appointed under the provisions of sections 270.11, subdivision 3, and 270.16, and the expenses as such, shall be fixed by the commissioner of revenue and paid out of money appropriated for operation of the department of revenue. The commissioner of revenue on ~~October~~ *August* 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since ~~October~~ *August* 1 of the preceding year, whereupon the county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same. One-half of such tax shall be levied in the year in which the commissioner of revenue so notifies the county auditor and the remaining one-half shall be levied in the following year. The respective counties shall reimburse the state by paying one-half of the tax so assessed on or before July 1 and the remaining one-half on or before December 1 in the year in which the tax is payable by owner, whether or not the tax was collected by the county.

The reimbursement shall be credited to the general fund. If any county fails to reimburse the state within the time specified herein, the commissioner of revenue is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent.

Sec. 13. Minnesota Statutes 1988, section 270.82, is amended to read:

270.82 [REPORTS OF RAILROAD COMPANIES.]

Subdivision 1. Every railroad company doing business in Minnesota shall annually file with the commissioner on or before ~~April 30~~ *March 31* a report under oath setting forth the information prescribed by the commissioner to enable the commissioner to make the valuation and equalization required by Laws 1979, chapter 303, article 7, sections 1 to 13.

Subd. 2. The commissioner for good cause may extend *for up to 15 days* the time for filing the report required by subdivision 1.

Sec. 14. Minnesota Statutes 1988, section 270.84, is amended to read:

270.84 [ANNUAL VALUATION OF OPERATING PROPERTY.]

Subdivision 1. The commissioner shall annually between ~~April 30~~ *March 31* and ~~July~~ *May* 31 make a determination of the fair market value of the operating property of every railroad company doing business in this state as of January 2 of the year in which the valuation is made. In making this determination, the commissioner shall employ generally accepted appraisal principles and practices which may include the unit method of determining value. The commissioner may promulgate emergency rules adopting valuation procedures under sections 14.29 to 14.36.

~~The commissioner shall give a report to the legislature in February 1985 and in February 1986 on the formula used to determine the value of railroad operating property pursuant to Laws 1984, chapter 502, article 9. This report shall also contain the valuation for taxes payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary.~~

Subd. 2. The commissioner, after determining the fair market value of the operating property of each railroad company, shall give notice ~~by first class mail~~ to the railroad company of the valuation *by first class mail, overnight delivery, or messenger service.*

Sec. 15. Minnesota Statutes 1988, section 270.85, is amended to read:

270.85 [REVIEW OF VALUATION.]

A railroad company may within ~~15~~ *ten* days of ~~receipt~~ *the date* of the notice of valuation file a written request for a conference with the commissioner relating to the value of its operating property. The commissioner shall thereupon designate a time and place for the conference which the commissioner shall conduct, upon commissioner's entire files and records and such further information as may be offered. ~~Said~~ *The* conference ~~shall~~ *must* be held no later than ~~30~~ *20* days after ~~mailing~~ *the date* of the commissioner's valuation notice. At a reasonable time after such conference the commissioner shall make a final determination of the fair market value of the operating property of the railroad company and shall notify the company promptly ~~thereof~~ *of the determination.*

Sec. 16. Minnesota Statutes 1988, section 270.87, is amended to read:

270.87 [CERTIFICATION TO COUNTY ASSESSORS.]

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor on or before ~~October 1, which shall constitute~~ *June 30*. The equalized fair market value of the operating property of the railroad company in ~~such~~ *the* county and the taxing districts therein ~~upon~~ *is the value on* which taxes ~~shall~~ *must* be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

Sec. 17. Minnesota Statutes 1988, section 272.02, subdivision 4, is amended to read:

Subd. 4. Any property exempt from taxation on January 2 of any year which, due to sale or other reason, loses its exemption prior to ~~October 1~~ *December 20* of any year, shall be placed on the current assessment rolls for that year.

The valuation shall be determined with respect to its value on January 2 of such year. The classification shall be based upon the use to which the property was put by the purchaser, or in the event the purchaser has not utilized the property by ~~October 1~~ *December 20*, the intended use of the property, determined by the county assessor, based upon all relevant facts.

Sec. 18. Minnesota Statutes 1988, section 272.115, subdivision 1, is amended to read:

Subdivision 1. Whenever any real estate is sold on or after January 1, 1978 for a consideration in excess of $1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located *within 30 days of the sale*. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed. The certificate of value shall include the classification to which the property belongs for the purpose of determining the fair market value of the property. The certificate shall include financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. The commissioner of revenue shall promulgate administrative rules specifying the financing terms and conditions which must be included on the certificate.

Sec. 19. Minnesota Statutes 1988, section 273.064, is amended to read:

273.064 [EXAMINATION OF LOCAL ASSESSOR'S WORK; COMPLETION OF ASSESSMENTS.]

The county assessor shall examine the assessment appraisal records of each local assessor anytime after January 15 of each year and shall immediately give notice in writing to the governing body of said district of any deficiencies in the assessment procedures with respect to the quantity of or quality of the work done as of that date and indicating corrective measures to be undertaken and effected by the local assessor not later than 30 days

thereafter. If, upon reexamination of such records at that time, the deficiencies noted in the written notice previously given have not been substantially corrected to the end that a timely and uniform assessment of all real property in the county will be attained, then the county assessor with the approval of the county board shall collect the necessary records from the local assessor and complete the assessment or employ others to complete the assessment. When the county assessor has completed the assessments, the local assessor shall thereafter resume the assessment function within the district. In this circumstance the cost of completing the assessment shall be charged against the assessment district involved. The county auditor shall certify the costs thus incurred to the appropriate governing body not later than ~~September~~ *August* 1 and if unpaid as of ~~October 10~~ *September 1* of the assessment year, the county auditor shall levy a tax upon the taxable property of said assessment district sufficient to pay such costs. The amount so collected shall be credited to the general revenue fund of the county.

Sec. 20. Minnesota Statutes 1988, section 273.065, is amended to read:

273.065 [DELIVERY OF ASSESSMENT APPRAISAL RECORDS; EXTENSIONS.]

Assessment districts shall complete the assessment appraisal records on or before ~~March 15~~ *February 1*. The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by ~~March 15~~ *February 1* shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064. Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Sec. 21. Minnesota Statutes 1988, section 273.119, subdivision 2, is amended to read:

Subd. 2. [REIMBURSEMENT FOR LOST REVENUE.] The county may transfer money from the county conservation account created in section 40A.152 to the county revenue fund to reimburse the fund for the cost of the property tax credit. The county auditor shall certify to the commissioner of revenue ~~on or before June 1 of each year~~ *as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29* the amount of tax lost to the county from the property tax credit under subdivision 1 and the extent that the tax lost exceeds funds available in the county conservation account. ~~On or before July 15 of each year,~~ The commissioner shall reimburse ~~the county~~ *each taxing district, other than school districts,* from the Minnesota conservation fund under section 40A.151 for the taxes lost in excess of the county account. *The payments must be made at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions in the same proportion that the ad valorem tax is distributed.*

Sec. 22. Minnesota Statutes 1988, section 273.123, subdivision 4, is amended to read:

Subd. 4. [STATE REIMBURSEMENT.] The county auditor shall calculate the tax on the property described in subdivision 2 based on the assessment made on January 2 of the year in which the disaster or emergency occurred. The difference between the tax determined on the January

2 gross tax capacity and the tax actually payable based on the reassessed gross tax capacity determined under subdivision 2 shall be reimbursed to each taxing jurisdiction in which the damaged property is located. The amount shall be certified by the county auditor and reported to the commissioner of revenue. The commissioner shall make the payments to the taxing jurisdictions, *other than school districts,* containing the property at the time distributions are made ~~pursuant to section 273.13 for taxes payable in 1989, and pursuant to section 273.1398 for taxes payable in 1990 and thereafter~~ *under section 477A.015*, in the same proportion that the ad valorem tax is distributed.

Sec. 23. Minnesota Statutes 1988, section 273.123, subdivision 5, is amended to read:

Subd. 5. [COMPUTATION OF CREDITS.] The amounts of any credits or tax relief which reduce the gross tax shall be computed upon the reassessed gross tax capacity determined under subdivision 2. ~~Payment shall be made pursuant to section 273.13 for taxes payable in 1989, and pursuant to section 273.1398 for taxes payable in 1990 and thereafter.~~ For purposes of the property tax refund, property taxes payable, as defined in section 290A.03, subdivision 13, and net property taxes payable, as defined in section 290A.04, subdivision 2d, shall be computed upon the reassessed gross tax capacity determined under subdivision 2.

Sec. 24. Minnesota Statutes 1988, section 273.1392, is amended to read:

273.1392 [PAYMENT; AIDS TO SCHOOL DISTRICTS.]

The amounts of *conservation tax credits under section 273.119;* disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; homestead credit under section 273.13; agricultural credit under section 273.132; aids and credits under section 273.1398; *enterprise zone property credit payments under section 469.171;* and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 25. Minnesota Statutes 1988, section 273.33, subdivision 2, is amended to read:

Subd. 2. The personal property, consisting of the pipeline system of mains, pipes, and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline, crude oil, or other petroleum products by pipelines, shall be listed with and assessed by the commissioner of revenue. This subdivision shall not apply to the assessment of the products transported through the pipelines nor to the lines of local commercial gas companies engaged primarily in the business of distributing gas to consumers at retail nor to pipelines used by the owner thereof to supply natural gas or other petroleum products exclusively for such owner's own consumption and not for resale to others. On or before ~~October 1~~ *June 30*, the commissioner shall certify to the auditor of each county, the amount of such personal property assessment against each company in each district in which such property is located.

Sec. 26. Minnesota Statutes 1988, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69

kv and above located in an unorganized township, and distribution lines, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before ~~the 15th day of November~~ *June 30*, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 27. [273.371] [REPORTS OF UTILITY COMPANIES.]

*Subdivision 1.* [REPORT REQUIRED.] *Every electric light, power, gas, water, express, stage, and transportation company and pipeline doing business in Minnesota shall annually file with the commissioner on or before March 31 a report under oath setting forth the information prescribed by the commissioner to enable the commissioner to make valuations, recommended valuations, and equalization required under sections 273.33, 273.35, 293.36, and 273.37.*

*Subd. 2.* [EXTENSION.] *The commissioner for good cause may extend the time for filing the report required by subdivision 1. The extension may not exceed 15 days.*

Sec. 28. Minnesota Statutes 1988, section 274.14, is amended to read:

274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it shall meet during the last two weeks in June *that contain ten meeting days, excluding Saturday and Sunday*. ~~The commissioner may extend the session period to July 15 but~~ No action taken by the county board of review after ~~the extended termination date~~ *June 30* is valid. The county auditor shall keep an accurate record of the proceedings and orders of the board. The record must be published like other proceedings of county commissioners. A copy of the published record must be sent to the commissioner of revenue, with the abstract of assessment required by section 274.16.

Sec. 29. [274.175] [VALUES FINALIZED.]

*The assessments recorded by the county assessor and the county auditor under sections 273.124, subdivision 9; 274.16; 274.17; or other law for real and personal property are final on July 1 of the assessment year, except for property added to the assessment rolls under section 272.02, subdivision 4, or deleted because of tax forfeiture pursuant to chapter 281. No changes in value may be made after July 1 of the assessment year.*

Sec. 30. Minnesota Statutes 1988, section 275.065, subdivision 1, is amended to read:

Subdivision 1. [PROPOSED LEVY.] On or before ~~August~~ *September 15 for levy year 1989 and September 1 for levy years thereafter*, each taxing authority, *other than a school district*, shall adopt a proposed budget and *each taxing authority shall* certify to the county auditor the proposed property tax levy for taxes payable in the following year. *At the same time, a county, city, or township must certify its change in population or, in the case of a school district, its change in pupils, as required in subdivision*

*3, paragraph (d), clause (3).* For purposes of this section, "taxing authority" ~~shall include~~ *includes* all home rule and statutory cities ~~with a population of over 2,500~~, *towns,* counties, *and* school districts~~, the metropolitan council, and the metropolitan regional transit commission~~ *for taxes levied in 1989 and thereafter. For taxes levied in 1990 and thereafter, "taxing authority" also includes special taxing districts.*

Sec. 31. Minnesota Statutes 1988, section 275.065, is amended by adding a subdivision to read:

*Subd. 1a.* [OVERLAPPING JURISDICTIONS.] *In the case of a taxing authority lying in two or more counties, the home county auditor shall certify the proposed levy to the other county auditor by September 20 for taxes levied in 1989, and thereafter, and the proposed tax capacity rate by September 5 for taxes levied in 1990, and thereafter, for counties containing a city of the first class. The home county auditor must estimate the levy or rate in preparing the notices required in subdivision 3, if the other county has not certified the appropriate information. If requested by the home county auditor, the other county auditor must furnish an estimate to the home county auditor.*

Sec. 32. Minnesota Statutes 1988, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) ~~If there is a percentage increase in property taxes proposed by the taxing authority, on or before September 15, The county auditor shall compute for each parcel of property on the assessment rolls within the taxing authority the proposed property tax for taxes levied in the current year. In the case of cities under 2,500 population, and all special taxing districts except the metropolitan council and the metropolitan regional transit commission, the auditor shall use the taxing district's previous year tax capacity rate for use in computing the total property tax.~~ *On or before November 10, each year,* the county auditor shall prepare and *the county treasurer shall* deliver by first class mail to each taxpayer at the address listed on the ~~city's~~ *county's* current year's assessment roll, a notice of ~~the taxpayer's~~ proposed property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) ~~A notice in substantially the following form shall be sufficient.~~

~~NOTICE OF PROPOSED PROPERTY TAXES~~

~~DO NOT PAY THIS IS NOT A BILL~~

~~This notice shows the amount your next property tax bill will be if proposed budgets are approved by the local government districts you live in. It also shows the amount of your next property tax bill if the local government districts you live in do not change their budgets from this year.~~

| ~~Name of property owner~~ | ~~Description of property~~ | ~~Market value of property~~ | ~~Class of property~~ |
|---|---|---|---|
| ~~John Q. and Mary~~ | ~~Lot 1, Block 1~~ | ~~$65,000~~ | ~~residential homestead~~ |

~~W. Smith~~ ~~Pleasant Acres sub-division Middletown, Minnesota~~

~~Based on their proposed budgets, next year the governing bodies of the county, city, school district, and special tax districts you live in are proposing to collect from you the amount of property tax shown below. At the meetings listed below, the governing bodies will discuss and vote on the amount of their budgets for next year. The larger the amount of the budget, the more property tax you will pay. You can attend the meetings and express your opinions about the amount of the budget before the budget is voted on.~~

| ~~These local governments These local governments collect property tax from you~~ | ~~Amount of your tax Amount of your tax next year if they do not change their budgets from this year~~ | ~~Amount of your tax Amount of your tax next year if they adopt their proposed budgets~~ | ~~Time and place of Time and place of meetings on proposed budgets~~ |
|---|---|---|---|
| ~~County: Spruce~~ | ~~$218.55~~ | ~~$257.75~~ | ~~September 1, 1988, 7:30 pm Room 123, Spruce Co. Courthouse~~ |
| ~~City or Town: Middletown~~ | ~~$168.63~~ | ~~$184.09~~ | ~~October 1, 1988, 8:00 pm Middletown Town Hall~~ |
| ~~Public School: Ind. Dist. 123~~ | | | |
| ~~set by school board~~ | ~~$47.56~~ | ~~$146.88~~ | ~~September 25,~~ 1988. |
| ~~set by state law~~ | ~~$300.00~~ | ~~$300.00~~ | ~~Cafeteria, Middletown Town Hall~~ |
| ~~Special Tax Districts~~ | | | |
| ~~Metropolitan Council~~ | ~~$25.00~~ | ~~$50.00~~ | ~~October 5, 1988, 3:00 pm Board Room, Tri-County Hospital~~ |
| ~~Metropolitan Regional Transit~~ | ~~$10.00~~ | ~~$12.00~~ | ~~October 12, 1988, 6:00 pm~~ |

~~Board~~ ~~Common Room, Tri-County Library~~

~~Tax before State payments:~~ ~~$769.74~~ ~~$950.72~~

~~Payments by State:~~ ~~(subtract: $215.00)~~ ~~(subtract: $235.00)~~

---

~~Your tax if budget is not changed: $554.74~~

~~Your tax if proposed budget is adopted: $715.72~~

*The notice must inform taxpayers that it contains the amount of property taxes each taxing authority proposes to collect for taxes payable the following year as required in paragraph (d) or (e). It must clearly state that each taxing authority, other than a town or special taxing district, will hold a public meeting to receive public testimony on the proposed budget. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail.*

*(d) Except as provided in paragraph (e) and section 80, for taxes levied in 1989, and thereafter, the notice must state by county, city or town, and school district:*

*(1) the total proposed property tax levy for taxes payable the following year after reduction for state aid;*

*(2) the percentage increase or decrease from the actual property tax levy for taxes payable in the current year; and*

*(3) for cities and towns, the increase in population from the second previous calendar year to the immediately prior calendar year, as determined under section 477A.011, subdivision 3, and for school districts, the increase in the number of pupils from the second previous school year to the immediately prior school year.*

*For purposes of this paragraph, "proposed property taxes after reduction for state aid" means the taxing authority's levy certified under section 275.07, subdivision 1.*

*(e) In the case of a county containing a city of the first class, or taxing authority lying wholly within a county or counties containing a city of the first class, for taxes levied in 1990, and thereafter, the notice must state for each parcel:*

*(1) the market value of the property under section 273.03, subdivision 8, and the limited market value of the property under section 273.11, subdivision 11, for property taxes payable in the following year and for taxes payable the current year;*

*(2) by county, city or town, school district, the sum of the special taxing districts, and as a total of the taxing authorities, including special taxing districts, the proposed net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year; and*

*(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed taxes payable the following year, expressed as a dollar amount and as a percentage.*

*(f) The notice must clearly state that the proposed taxes do not include*

*the following:*

*(1) special assessments;*

*(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;*

*(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified; and*

*(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified.*

Sec. 33. Minnesota Statutes 1988, section 275.065, subdivision 4, is amended to read:

Subd. 4. [COSTS.] ~~The taxing authority shall pay the county for~~ *If* the reasonable cost of the county auditor's services and ~~for~~ the ~~costs~~ *cost* of preparing and mailing the notice required in this section *exceed the amount distributed to the county by the commissioner of revenue to administer this section, the taxing authority must reimburse the county for the excess cost. The excess cost must be apportioned between taxing jurisdictions as follows:*

*(1) one-third is allocated to the county;*

*(2) one-third is allocated to cities and towns within the county; and*

*(3) one-third is allocated to school districts within the county.*

*The amounts in clauses (2) and (3) must be further apportioned among the cities and towns and among the school districts in the proportion that the population of the city and town, or school district, bears to the population of all the cities and towns, or school districts, within the county.*

Sec. 34. Minnesota Statutes 1988, section 275.065, subdivision 6, is amended to read:

Subd. 6. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] ~~Prior to October 25~~ *Between November 15 and December 20*, the governing ~~body~~ *bodies* of the city *and county* shall *each* hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year, *and the governing body of the school district shall hold a public hearing to adopt its property tax levy for taxes payable in the following year.* ~~The hearing must be held not less than two days or more than five days after the day the notice is first published.~~

At the hearing, the taxing authority, *other than a school district,* may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy, *and the school district may amend the proposed property tax levy and must adopt a final property tax levy.*

The *adopted* property tax levy ~~adopted may~~ *must* not exceed the final proposed levy determined under subdivision 2, paragraph (c)~~.~~, *except by an amount up to the sum of the following amounts:*

*(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124A.03, subdivision 2, after the proposed levy was certified;*

*(2) the amount of a city or county levy approved by the voters under section 275.58 after the proposed levy was certified;*

*(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;*

*(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a; and*

*(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a.*

At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body shall adopt its final property tax levy prior to adopting its final budget.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. ~~The school board and county board shall~~ *The commissioner of revenue shall provide for the coordination of hearing dates so that a taxing authority does* not schedule public meetings on ~~days~~ *the day* scheduled for the hearing by ~~the governing body of the city~~ *another taxing authority.*

If the hearing is recessed, the taxing authority shall publish a notice in a qualified newspaper of general paid circulation in the ~~city~~ *taxing authority.* The notice must state the time and place for the continuation of the hearing and must be published at least two days but not more than five days prior to the date the hearing will be continued.

*This subdivision does not apply to towns and special taxing districts.*

Sec. 35. Minnesota Statutes 1988, section 275.065, is amended by adding a subdivision to read:

*Subd. 6a.* [APPROVAL OF COMMISSIONER.] *(a) A taxing authority may appeal to the commissioner of revenue for authorization to levy an amount over the amount of the proposed levy. The taxing authority must provide evidence satisfactory to the commissioner that it has incurred costs for the purposes specified in paragraph (b). The commissioner may approve an increase in the taxing authority's levy of up to the amount of costs incurred or a lesser amount determined by the commissioner. The commissioner's decision is final.*

*(b) A levy addition may be made under paragraph (a) for the following costs incurred after the proposed levy is certified: (1) the unreimbursed costs to satisfy judgments rendered against the taxing authority by a court of competent jurisdiction in a tort action in excess of $50,000 or ten percent of the current year's proposed certified levy whichever is less; and (2) the costs incurred in clean up of a natural disaster. For purposes of this subdivision, "natural disaster" includes the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from causes such as earthquake, fire, flood, windstorm, wave action, oil spill, water contamination, air contamination, or drought.*

Sec. 36. Minnesota Statutes 1988, section 275.065, subdivision 7, is

amended to read:

Subd. 7. [CERTIFICATION OF COMPLIANCE.] ~~At the time~~ The taxing authority ~~certifies its tax levy under section 275.07, it~~ shall certify to the commissioner of revenue its compliance with this section. The certification must contain ~~copies of the advertisement required under subdivision 5, the resolution adopting the final property tax levy under subdivision 6, and any other~~ *the* information required by the commissioner of revenue *to determine compliance with this section*. If the commissioner determines that the taxing authority has failed to substantially comply with the requirements of this section, the commissioner of revenue shall notify the county auditor. *The decision of the commissioner is final.* When fixing rates under section 275.08 for a taxing authority that has not complied with this section, the county auditor must use the ~~no increase tax rate~~ *taxing authority's previous year's levy*.

Sec. 37. Minnesota Statutes 1988, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before ~~October~~ 25 *five working days after December 20* in each year. The taxes certified shall not be adjusted by the aid received under section 273.1398, subdivisions 2 and 3. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. ~~If the local unit notifies the commissioner of revenue before October 25 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension.~~

Sec. 38. Minnesota Statutes 1988, section 275.07, is amended by adding a subdivision to read:

*Subd. 4.* [REPORT TO COMMISSIONER.] *On or before September 30 for taxes levied in 1989, and on or before September 15 for taxes levied thereafter, the county auditor shall report to the commissioner of revenue the proposed levy certified by local units of government under section 275.065, subdivision 1. On or before January 15, the county auditor shall report to the commissioner of revenue the final levy certified by local units of government under subdivision 1. The levies must be reported in the manner prescribed by the commissioner. The reports must show a total levy and the amount of each special levy.*

Sec. 39. Minnesota Statutes 1988, section 275.08, subdivision 2, is amended to read:

Subd. 2. [ESTIMATES.] If, by ~~December~~ *January* 15 of any year, the county auditor has not received from another county auditor the tax capacity rate or gross tax capacity applicable to any taxing district lying in two or more counties, the county auditor who has not received the necessary information may levy taxes for the overlapping district by estimating the tax capacity rate or the gross tax capacity.

Sec. 40. Minnesota Statutes 1988, section 275.08, subdivision 3, is amended to read:

Subd. 3. [ASSISTANCE OF COUNTY AUDITOR.] A county auditor who has not furnished the tax capacity rate or gross tax capacity of property in the county by ~~December~~ *January* 15 shall, on request, furnish the county auditor of a county in the overlapping district an estimate of the tax capacities or the tax capacity rate. The auditor may request the assistance of the county assessor in determining the estimate.

Sec. 41. Minnesota Statutes 1988, section 275.124, is amended to read:

275.124 [REPORT OF CERTIFIED LEVY.]

Prior to ~~February 1~~ *April 1* of each year, each county auditor shall report to the commissioner of education on forms furnished by the commissioner, the amount of the certified levy made by each school district within the county which has taxable property and any other information concerning these levies that is deemed necessary by the commissioner.

Sec. 42. Minnesota Statutes 1988, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax capacity rate times the adjusted gross tax capacity of the district for the preceding year. The commissioner of revenue shall establish the basic transportation tax capacity rate and certify it to the commissioner of education by ~~September 1~~ *July 1* of each year for levies payable in the following year. The basic transportation tax capacity rate shall be a rate, rounded up to the nearest hundredth of a mill, that, when applied to the adjusted gross tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax capacity rate for transportation for the 1990 fiscal year shall be the rate that raises $72,681,200. The basic transportation tax capacity rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 43. Minnesota Statutes 1988, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] In any fiscal year, if the basic transportation levy under subdivision 5 in a district attributable to a particular fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the *second* year following each fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.

Sec. 44. Minnesota Statutes 1988, section 275.14, is amended to read:

275.14 [CENSUS.]

For the purposes of sections 275.11 to 275.16, the population of a city shall be that established by the last federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by

the metropolitan council, or by the state demographer made according to section 116K.04, subdivision 4, whichever has the latest stated date of count or estimate, before July 2 of the current levy year. The population of a school district must be determined by the most recent federal census.

In any year in which no federal census is taken pursuant to law in any school district affected by sections 275.11 to 275.16 a population estimate may be made and submitted to the state demographer for approval as hereinafter provided. The school board of a school district, in case it desires a population estimate, shall pass a resolution by ~~September~~ *July* 1 containing a current estimate of the population of the school district and shall submit the resolution to the state demographer. The resolution shall describe the criteria on which the estimate is based and shall be in a form and accompanied by the data prescribed by the state demographer. The state demographer shall determine whether or not the criteria and process described in the resolution provide a reasonable basis for the population estimate and shall inform the school district of that determination within 30 days of receipt of the resolution. If the state demographer determines that the criteria and process described in the resolution do not provide a reasonable basis for the population estimate, the resolution shall be of no effect. If the state demographer determines that the criteria and process do provide a reasonable basis for the population estimate, the estimate shall be treated as the population of the school district for the purposes of sections 275.11 to 275.16 until the population of the school district has been established by the next federal census or until a more current population estimate is prepared and approved as provided herein, whichever occurs first. The state demographer shall establish guidelines for acceptable population estimation criteria and processes. The state demographer shall issue advisory opinions upon request in writing to cities or school districts as to proposed criteria and processes prior to their implementation in an estimation. The advisory opinion shall be final and binding upon the demographer unless the demographer can show cause why it should not be final and binding.

In the event that a census tract employed in taking a federal or local census overlaps two or more school districts, the county auditor shall, on the basis of the best information available, allocate the population of said census tract to the school districts involved.

The term "council," as used in sections 275.11 to 275.16, means any board or body, whether composed of one or more branches, authorized to make ordinances for the government of a city within this state.

Sec. 45. Minnesota Statutes 1988, section 275.28, subdivision 1, is amended to read:

Subdivision 1. [AUDITOR TO MAKE.] The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts. The rate percent necessary to raise the required amount of the various taxes shall be calculated on the gross tax capacity of property as determined by the state board of equalization, but, in calculating such rates, no rate shall be used resulting in a fraction other than a decimal fraction, or less than one-tenth of a mill; and, in extending any tax, whenever it amounts to the fractional part of a cent, it shall be made one cent. The tax lists shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation and for the various items of tax included in the total amount of all taxes set down opposite each description; and

opposite each description which has been sold for taxes, and which is subject to redemption, but not redeemed, shall be placed the words "sold for taxes." The amount of all special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate percent of each tax at the head of the proper columns, without extending the same, in which case a schedule of the rates percent of such taxes shall be made on the first page of each tax list. If the auditor shall fail to enter on any such list before its delivery to the treasurer any tax levied, such tax may be subsequently entered. The tax lists shall be deemed completed, and all taxes extended thereon, as of ~~October 16~~ *January 1* annually.

Sec. 46. Minnesota Statutes 1988, section 275.29, is amended to read:

275.29 [ABSTRACTS TO COMMISSIONER OF REVENUE.]

~~On or before January 1~~ *Not later than March 31*, in each year, the county auditor shall make and transmit to the commissioner of revenue, in such form as may be prescribed by the commissioner of revenue, complete abstracts of the tax lists of the county, showing the number of acres of land assessed; its value, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the several assessment districts; the aggregate amount of all taxable property in the county, and the total amount of taxes levied therein for state, county, town, and all other purposes for that year.

Sec. 47. Minnesota Statutes 1988, section 275.51, is amended by adding a subdivision to read:

*Subd. 7.* [LEVY LIMIT CERTIFICATION.] *The commissioner of revenue must certify the levy limitations under sections 275.50 to 275.58 to each governmental subdivision by August 1 of the levy year.*

Sec. 48. Minnesota Statutes 1988, section 275.58, subdivision 2, is amended to read:

Subd. 2. A levy limit base per capita adjustment approved pursuant to subdivision 1 at a general or special election held prior to ~~October 1~~ *five working days after December 20* in any levy year increases the levy limit base per capita in that same levy year by the approved per capita amount and provides a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy limit base per capita adjustment approved pursuant to subdivision 1 at a general or special election held *on or* after ~~September 30~~ *five working days after December 20* in any levy year shall not increase the levy limit base per capita in that same levy year but shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years.

Sec. 49. Minnesota Statutes 1988, section 275.58, subdivision 3, is amended to read:

Subd. 3. An additional levy approved pursuant to subdivision 1 at a general or special election held prior to ~~October 1~~ *five working days after December 20* in any levy year may be levied in that same levy year and in any levy years thereafter. An additional levy approved pursuant to subdivision 1 at a general or special election held *on or* after ~~September 30~~ *five working days after December 20* in any levy year shall not be levied in that same levy year, but may be levied in the subsequent levy year and in levy years thereafter.

Sec. 50. Minnesota Statutes 1988, section 276.04, subdivision 2, is

amended to read:

Subd. 2. [CONTENTS OF TAX STATEMENTS.] (a) The treasurer shall~~, whether or not directed by the county board, cause to be printed on all~~ *provide for the printing of the* tax statements~~, or on an attachment,~~. *The commissioner of revenue shall prescribe the form of the property tax statement and its contents. The statement must contain* a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district must be separately stated. The amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in boldface print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT."

(b) The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property.

(c) ~~For taxes payable in 1990 and thereafter, real and personal property tax statements must contain (1) the property's market value, as defined in section 272.03, subdivision 8, (2) the net tax capacity rate applicable to the property's classification under section 273.13, and the product of (1) and (2), the property's initial tax. The statement must show the difference between a property's gross tax capacity and net tax capacity multiplied by the tax capacity rate as "state paid homestead and agricultural credit." The statement must also show the decrease in tax attributable to that portion of the sum of the following aids attributable to the property as "state paid tax relief": (i) education aids payable under chapters 124 and 124A, (ii) local government aid for cities, towns, and counties under chapter 477A, (iii) disparity reduction aid paid under section 273.1398, and (iv) income maintenance aids as defined in section 273.1398, subdivision 1, paragraph (i). The commissioner of revenue shall certify to the county auditor the actual or estimated aids local governments will receive in the following year.~~

~~(d) For taxes payable in 1989 only, the statement must show the property's market value, as defined in section 272.03, subdivision 8, and the amount attributable to section 273.13, subdivisions 22 and 23, as "state paid homestead credit" and the amount attributable to section 273.132 as "state paid agricultural credit." The statement must also show the decrease in tax attributable to that portion of the sum of the following aids attributable to the property as "state paid tax relief": (i) education aids under chapters 124 and 124A, (ii) local government aid for cities, towns, and counties under chapter 477A, and (iii) disparity reduction aid under section 273.1398. The commissioner of revenue shall certify to the county auditor the actual or estimated aids local governments will receive in the following year.~~

*Real and personal property tax statements must contain the following information in the order given in this paragraph. The information must*

*contain the current year tax information in the left column with the corresponding information for the previous year in a column on the right:*

*(1) the property's estimated market value as defined in section 272.03, subdivision 8, and the limited market value under section 273.11, subdivision 11;*

*(2) the property's gross tax, calculated by multiplying the property's gross tax capacity times the total tax capacity rate plus any credits received under sections 273.119; 273.123; 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and 473H.10 and adding to the result the sum of the aids enumerated in clause (3);*

*(3) a total of the following aids:*

*(i) education aids payable under chapters 124 and 124A;*

*(ii) local government aids for cities, towns, and counties under chapter 477A; and*

*(iii) disparity reduction aid under section 273.1398;*

*(4) for homestead residential and agricultural properties, the homestead and agricultural credit aid apportioned to the property. This amount is obtained by multiplying the total tax capacity rate by the difference between the property's gross and net tax capacities under section 273.13. This amount must be separately stated and identified as "homestead and agricultural credit." For purposes of comparison with the the previous year's amount for the statement for taxes payable in 1990, the statement must show the homestead credit for taxes payable in 1989 under section 273.13, and the agricultural credit under section 273.132 for taxes payable in 1989;*

*(5) any credits received under sections 273.119; 273.123; 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and 473H.10; and*

*(6) the net tax payable in the manner required in paragraph (a).*

*The commissioner of revenue shall certify to the county auditor the actual or estimated aids enumerated in clauses (3) and (4) that local governments will receive in the following year. In the case of a county containing a city of the first class, or a county that has adopted the provisions of section 80, the commissioner must certify this amount by September 1.*

Sec. 51. Minnesota Statutes 1988, section 276.04, subdivision 3, is amended to read:

Subd. 3. [MAILING OF TAX STATEMENTS.] The county treasurer shall mail to taxpayers statements of their personal property taxes due not later than ~~February 15~~ *March 31*, except in the case of manufactured homes and sectional structures taxed as personal property. Statements of the real property taxes due shall be mailed not later than ~~January 31~~ *March 31*. The validity of the tax shall not be affected by failure of the treasurer to mail the statement. The taxpayer is defined as the owner who is responsible for the payment of the tax.

Sec. 52. Minnesota Statutes 1988, section 276.09, is amended to read:

276.09 [SETTLEMENT BETWEEN AUDITOR AND TREASURER.]

On ~~March 5, and~~ May 20 of each year, the county treasurer shall make full settlement with the county auditor of all receipts collected for all

purposes, from the date of the last settlement up to and including each day mentioned. The county auditor shall, within 30 days after ~~each~~ *the* settlement, send an abstract of it to the state auditor in the form prescribed by the state auditor. At ~~each~~ *the* settlement the treasurer shall make complete returns of the receipts on the current tax list, showing the amount collected on account of the several funds included in the list.

Settlement of receipts from May 20 to December 31 of each year must be made as provided in section 276.111.

For purposes of this section, "receipts" includes all tax payments received by the county treasurer on or before the settlement date.

Sec. 53. Minnesota Statutes 1988, section 276.10, is amended to read:

276.10 [APPORTIONMENT AND DISTRIBUTION OF FUNDS.]

On the settlement day in ~~March and~~ May of each year, the county auditor and county treasurer shall distribute all undistributed funds in the treasury. The funds must be apportioned as provided by law, and credited to the state, town, city, school district, special district and each county fund. Within 20 days after the distribution is completed, the county auditor shall report to the state auditor in the form prescribed by the state auditor. The county auditor shall issue a warrant for the payment of money in the county treasury to the credit of the state, town, city, school district, or special districts on application of the persons entitled to receive the payment. The county auditor may apply the tax capacity rate from the year before the year of distribution when apportioning and distributing delinquent tax proceeds, if the composition of the previous year's tax capacity rate between taxing districts is not significantly different than the tax capacity rate that existed for the year of the delinquency.

Sec. 54. Minnesota Statutes 1988, section 276.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] As soon as practical after the ~~March and~~ May ~~settlements~~ *settlement* the county treasurer shall pay to the state treasurer or the treasurer of a town, city, school district, or special district, on the warrant of the county auditor, all receipts of taxes levied by the taxing district and deliver up all orders and other evidences of indebtedness of the taxing district, taking triplicate receipts for them. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its receipt to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall keep the receipt in the clerk's office. Upon written request of the taxing district, to the extent practicable, the county treasurer shall make partial payments of amounts collected periodically in advance of the next settlement and distribution. A statement prepared by the county treasurer must accompany each payment. It must state the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties on the tax. Upon written request of a taxing district, except school districts, the county treasurer shall pay at least 70 percent of the estimated collection within 30 days after the ~~March and~~ May settlement ~~dates~~ *date*. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district. The remaining 50 percent of the estimated collections must be paid to the treasurer of the school district within the next seven business days. The

treasurer shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the ~~March and~~ May settlement ~~dates~~ *date*. After 45 days interest at an annual rate of eight percent accrues and must be paid to the taxing district. Interest must be paid upon appropriation from the general revenue fund of the county. If not paid, it may be recovered by the taxing district, in a civil action.

Sec. 55. Minnesota Statutes 1988, section 277.01, subdivision 1, is amended to read:

Subdivision 1. All unpaid personal property taxes ~~where the amount is $50 or less~~ shall be deemed delinquent on ~~the later of March 1~~ *May 16* next after they become due ~~or 30 days after the postmark date on the envelope containing the property tax statement~~, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. ~~When the amount of such tax exceeds the sum of $50 the first half shall become delinquent if not paid prior to March 1 or 30 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on such unpaid first half. The second half of a tax in excess of $50 shall become delinquent if not paid prior to July 1 and thereupon a penalty of eight percent shall attach on such unpaid second half.~~ This section shall not apply to class 2a property.

A county may provide by resolution that in the case of a property owner that has multiple personal property tax statements with the aggregate taxes exceeding $50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 56. Minnesota Statutes 1988, section 277.02, is amended to read:

277.02 [DELINQUENT LIST FILED IN COURT.]

~~On the last secular day of July,~~ *By June 15* of each year, the county treasurer shall make a list of all personal property taxes remaining delinquent ~~July first~~ *May 16*, and shall immediately certify to and file the same with the court administrator of the district court of the county, and upon such filing the list shall be prima facie evidence that all of the provisions of law in relation to the assessment and levy of such taxes have been complied with.

Sec. 57. Minnesota Statutes 1988, section 277.05, is amended to read:

277.05 [SHERIFF TO FILE LIST OF UNCOLLECTED TAXES.]

If the sheriff is unable, for want of goods and chattels whereon to levy, to collect by a distress, or otherwise, the taxes, or any part thereof, assessed upon the personal property of any persons, the sheriff shall file with the court administrator of the district court, on ~~September first~~ *July 15* following, a list of such taxes, with an affidavit of the sheriff, or of the deputy sheriff entrusted with the collection thereof, stating that the affiant has made diligent search and inquiry for goods and chattels from which to

collect such taxes, and is unable to collect the same. The list of such taxes as they apply to manufactured homes shall be filed on December 1. The sheriff shall note on the margin of such list the place to which any delinquent taxpayer may have removed, with the date of removal, if known. At the time of filing the list the sheriff shall also return all the warrants with endorsements thereon showing the doings of the sheriff or deputy in the premises, and the court administrator shall file and preserve the same. On or before September tenth thereafter, the court administrator shall deliver such list and affidavit to the county treasurer, who shall, by comparison of such list with the tax duplicates in the treasurer's office, ascertain whether or not all personal property taxes reported by the treasurer to the court administrator as delinquent, except those included in such list, have been paid into the treasurer's office, and shall attach to the list a certificate stating whether or not all taxes reported by the treasurer to the court administrator as delinquent and not included in the list have been received, and stating the items of such taxes, if any, as have been received. The court administrator shall deliver such list and affidavit as they apply to manufactured homes on or before December 10. The treasurer shall deliver such list and affidavit, with the certificate attached, to the county board at its first session thereafter, which shall cancel such taxes as it is satisfied cannot be collected. A copy of the tax list so revised, and also a separate list of the taxes so canceled, shall be included in the records of the proceedings of the board, and published in full, as a part of the proceedings.

Sec. 58. Minnesota Statutes 1988, section 277.06, is amended to read:

277.06 [CITATION TO DELINQUENTS; DEFAULT JUDGMENT.]

On ~~October 20~~ *September 5*, or within ten days after the adjournment of the county board, whichever occurs first, the county auditor shall file a copy of such revised list with the court administrator of the district court. The county auditor shall file a copy of the revised list as it applies to manufactured homes on January 20. Within ten days after the list has been filed, the court administrator shall issue a citation to each delinquent named in the list, stating the amount of tax and penalty, and requiring such delinquent to appear on a day to be set by the district court in the county, appointed to be held at a time not less than 30 days after the issuance of such citation, and show cause, if any there be, why the delinquent should not pay the tax and penalty. The citation shall be delivered for service to the sheriff of the county where such person may at the time reside or be. If such person, after service of the citation, fails to pay such tax, penalty, and costs to the sheriff before the first day of the term, or on such day to show cause as aforesaid, the court shall direct judgment against the person for the amount of such tax, penalty, and costs. When unable to serve the citation, the sheriff shall return the same to the court administrator, with a return thereto to that effect, and thereupon, or if the court decides that the service of such citation made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation, requiring such delinquent to appear on the first day of the next general term to be held in the county, and show cause as aforesaid, and if the delinquent fails to pay or to show cause, the court shall direct judgment as aforesaid. Whenever the sheriff has been unable to serve any such citation theretofore issued in any year or years, or whenever the court decides that the service of any such citation theretofore made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation requiring

such delinquent to appear, as in the case last provided, and with like effect; provided, that all citations other than the first shall be issued only on the request of the county attorney.

Sec. 59. Minnesota Statutes 1988, section 277.13, is amended to read:

277.13 [REMOVAL OF DELINQUENT; DUTY OF COUNTY AUDITOR.]

~~Within 30 days after June first~~ *By July 30*, in each year, the county auditor shall make out and forward to the court administrator of the district court of any county to which any delinquent personal property taxpayer may have removed a statement of such delinquent taxes, specifying the value of the property on which such taxes were levied and the amount of the taxes, to which the auditor shall add an amount equal to 25 percent on the taxes levied if such delinquent taxpayer left the county in which the taxes were levied after the day upon which they became due, but not otherwise. On receipt of such statement or account, the court administrator shall issue a warrant to the sheriff of the county, who shall immediately proceed to collect the same of the person so charged with the taxes and percent, together with a court administrator's fee of 25 cents for each warrant so issued. The sheriff shall deliver such warrant, with the doings thereunder, to the court administrator, together with the amount of collections thereon. The court administrator shall remit all taxes thus collected to the treasurer of the county to which they belong, and at the same time shall return the original statement to the auditor of such county, certifying the amount of such collections, and, if any taxes remain unpaid, the reason why they could not be collected. The auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel such taxes from the list. Receipts shall be issued to the sheriff for delinquent taxes collected and the payment shall be made in the manner provided in section 276.05.

Sec. 60. Minnesota Statutes 1988, section 469.171, is amended by adding a subdivision to read:

*Subd. 7a.* [PROPERTY TAX CREDIT; APPROPRIATION.] *There is annually appropriated from the general fund to the commissioner of revenue the amounts required to reimburse taxing jurisdictions for the revenue lost due to the property tax credit provided in subdivision 1, clause (4). Payment shall be made to taxing jurisdictions in the same proportion that the ad valorem tax is distributed. Payment shall be made to taxing jurisdictions, other than school districts, at the times provided in section 477A.015.*

Sec. 61. Minnesota Statutes 1988, section 469.177, subdivision 6, is amended to read:

Subd. 6. [REQUEST FOR CERTIFICATION OF NEW TAX INCREMENT FINANCING DISTRICT.] A request for certification of a new tax increment financing district pursuant to subdivision 1 or of a modification to an existing tax increment financing district pursuant to section 469.175, subdivision 4, received by the county auditor on or before ~~October 10~~ *July 1* of the calendar year shall be recognized by the county auditor in determining tax capacity rates for the current and subsequent levy years. Requests received by the county auditor after ~~October 10~~ *July 1* of the calendar year shall not be recognized by the county auditor in determining tax capacity rates for the current levy year but shall be recognized by the county auditor in determining tax capacity rates for subsequent levy years.

Sec. 62. Minnesota Statutes 1988, section 473.167, subdivision 4, is amended to read:

Subd. 4. [STATE REVIEW.] *The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax for the right-of-way acquisition loan fund certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

Sec. 63. Minnesota Statutes 1988, section 473.249, subdivision 2, is amended to read:

Subd. 2. *The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the ad valorem property tax certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. ~~To the extent practicable,~~ The determination shall be completed prior to ~~December~~ *September* 1 of each year. If current information regarding gross tax capacity in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current gross tax capacity within that county for purposes of making the calculation.

Sec. 64. Minnesota Statutes 1988, section 473.446, subdivision 8, is amended to read:

Subd. 8. [STATE REVIEW.] *The board must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax for general purposes certified by the regional transit board for levy following the adoption of its budget is within the levy limitation imposed by subdivision 1. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.

Sec. 65. Minnesota Statutes 1988, section 473.711, subdivision 5, is amended to read:

Subd. 5. [STATE REVIEW.] *The commission must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax certified by the metropolitan mosquito control commission for levy following the adoption of its budget is within the levy limitation imposed by subdivision 2. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

Sec. 66. Minnesota Statutes 1988, section 473F.05, is amended to read:

473F.05 [GROSS TAX CAPACITY; ~~1988 AND SUBSEQUENT~~ YEARS.]

On or before ~~November 20~~ *August 5* of ~~1988~~ ~~and~~ each ~~subsequent~~ year, the assessors within each county in the area shall determine and certify to the county auditor the gross tax capacity in that year of commercial-industrial property subject to taxation within each municipality in the county, determined without regard to section 469.177, subdivision 3.

Sec. 67. Minnesota Statutes 1988, section 473F.06, is amended to read:

473F.06 [INCREASE IN GROSS TAX CAPACITY.]

On or before ~~September 1~~ *July 15* of ~~1976~~ ~~and~~ each ~~subsequent~~ year, the auditor of each county in the area shall determine the amount, if any, by which the gross tax capacity determined in the preceding year pursuant to section 473F.05, of commercial-industrial property subject to taxation within each municipality in the auditor's county exceeds the gross tax capacity in 1971 of commercial-industrial property subject to taxation within that municipality. If a municipality is located in two or more counties within the area, the auditors of those counties shall certify the data required by section 473F.05 to the county auditor who is responsible under other provisions of law for allocating the levies of that municipality between or among the affected counties. That county auditor shall determine the amount of the net excess, if any, for the municipality under this section, and certify that amount under section 473F.07. Notwithstanding any other provision of sections 473F.01 to 473F.13 to the contrary, in the case of a municipality which is designated on July 24, 1971, as a redevelopment area pursuant to section 401(a)(4) of the Public Works and Economic Development Act of 1965, Public Law Number 89-136, the increase in its gross tax capacity of commercial-industrial property for purposes of this section shall be determined in each year subsequent to the termination of such designation by using as a base the gross tax capacity of commercial-industrial property in that municipality in the year following that in which such designation is terminated, rather than the gross tax capacity of such property in 1971. The increase in gross tax capacity determined by this section shall be reduced by the amount of any decreases in the gross tax capacity of commercial-industrial property resulting from any court decisions, court related stipulation agreements, or abatements for a prior year, and only in the amount of such decreases made during the 12-month period ending on ~~June 30~~ *May 1* of the current assessment year, where such decreases, if originally reflected in the determination of a prior year's gross tax capacity under section 473F.05, would have resulted in a smaller contribution from the municipality in that year. An adjustment for such decreases shall be made only if the municipality made a contribution in a prior year based on the higher gross tax capacity of the commercial-industrial property.

Sec. 68. Minnesota Statutes 1988, section 473F.07, subdivision 1, is amended to read:

Subdivision 1. Each county auditor shall certify the determinations pursuant to sections 473F.05 and 473F.06 to the administrative auditor on or before ~~November 20~~ *August 1* of each year. The administrative auditor shall determine the sum of the amounts certified pursuant to section 473F.06, and divide that sum by 2-1/2. The resulting amount shall be known as the "areawide gross tax capacity for . . . . . (year)."

Sec. 69. Minnesota Statutes 1988, section 473F.07, subdivision 2, is

amended to read:

Subd. 2. The commissioner of revenue shall certify to the administrative auditor, on or before ~~November 20~~ *August 10* of each year, the population of each municipality for the *second* preceding year, the proportion of that population which resides within the area, the average fiscal capacity of municipalities for the preceding year, and the fiscal capacity of each municipality for the preceding year.

Sec. 70. Minnesota Statutes 1988, section 473F.07, subdivision 5, is amended to read:

Subd. 5. The product of the multiplication prescribed by subdivision 4 shall be known as the "areawide gross tax capacity for . . . . . (year) attributable to . . . . . (municipality)." The administrative auditor shall certify such product to the auditor of the county in which the municipality is located on or before ~~November 25~~ *August 15*.

Sec. 71. Minnesota Statutes 1988, section 473F.08, subdivision 3, is amended to read:

Subd. 3. ~~On or before October 15 of 1976 and each subsequent year,~~ The county auditor shall apportion the levy of each governmental unit in the auditor's county in the manner prescribed by this subdivision. The auditor shall:

(a) *by August 20,* determine the areawide portion of the levy for each governmental unit by multiplying the tax capacity rate of the governmental unit for the preceding levy year times the distribution value set forth in subdivision 2, clause (b); and

(b) *by September 5,* determine the local portion of the current year's levy by subtracting the resulting amount from clause (a) from the governmental unit's current year's levy.

Sec. 72. Minnesota Statutes 1988, section 473F.08, subdivision 5, is amended to read:

Subd. 5. On or before ~~November 30 of 1972 and~~ *August 25 of* each ~~subsequent~~ year, the county auditor shall certify to the administrative auditor that portion of the levy of each governmental unit determined pursuant to subdivision 3, clause (a). The administrative auditor shall then determine the tax capacity rate sufficient to yield an amount equal to the sum of such levies from the areawide gross tax capacity. On or before ~~December 5~~ *September 1 of each year,* the administrative auditor shall certify said rate to each of the county auditors.

Sec. 73. Minnesota Statutes 1988, section 473F.09, is amended to read:

473F.09 [ADJUSTMENTS IN DATES.]

If, by reason of the enactment of any other law, the date by which the commissioner of revenue is required to certify to the county auditors the records of proceedings affecting the gross tax capacity of property is advanced to a date earlier than ~~November 15~~ *June 30*, the dates specified in sections 473F.07 and 473F.10 may be modified in the years to which such other law applies in the manner and to the extent prescribed by the administrative auditor.

Sec. 74. Minnesota Statutes 1988, section 473H.10, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF TAX; STATE REIMBURSEMENT.] (a) After having determined the market value of all land valued according to

subdivision 2, the assessor shall compute the gross tax capacity of those properties by applying the appropriate classification percentages. When computing the rate of tax pursuant to section 275.08, the county auditor shall include the gross tax capacity of land as provided in this clause.

(b) The county auditor shall compute the tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the gross tax capacity times the total rate of tax for all purposes as provided in clause (a).

(c) The county auditor shall then compute the maximum ad valorem property tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the gross tax capacity times 105 percent of the previous year's statewide average tax capacity rate levied on property located within townships for all purposes.

(d) The tax due and payable by the owner of preserve land valued according to subdivision 2 and nonresidential buildings will be the amount determined in clause (b) or (c), whichever is less. If the gross tax in clause (c) is less than the gross tax in clause (b), the state shall reimburse the taxing jurisdictions for the amount of difference. Residential buildings shall continue to be valued and classified according to the provisions of sections 273.11 and 273.13, as they would be in the absence of this section, and the tax on those buildings shall not be subject to the limitation contained in this clause.

The county may transfer money from the county conservation account created in section 40A.152 to the county revenue fund to reimburse the fund for the tax lost as a result of this subdivision or to pay taxing jurisdictions within the county for the tax lost. The county auditor shall certify to the commissioner of revenue on or before June 1 the total amount of tax lost to the county and taxing jurisdictions located within the county as a result of this subdivision and the extent that the tax lost exceeds funds available in the county conservation account. Payments shall be made by the state ~~as provided in section 273.13, subdivision 15a,~~ *at the times provided in section 477A.015* to each of the affected taxing jurisdictions, *other than school districts, in the same proportion that the ad valorem tax is distributed* if the county conservation account is insufficient to make the reimbursement. There is annually appropriated from the Minnesota conservation fund under section 40A.151 to the commissioner of revenue an amount sufficient to make the reimbursement provided in this subdivision. If the amount available in the Minnesota conservation fund is insufficient, the balance that is needed is appropriated from the general fund.

Sec. 75. Minnesota Statutes 1988, section 477A.011, subdivision 3, is amended to read:

Subd. 3. [POPULATION.] Population means the population established by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the metropolitan council, or by a population estimate of the state demographer made pursuant to section 116K.04, subdivision 4, clause (10), whichever is the most recent as to the stated date of the count or estimate *for the preceding calendar year*. The term "per capita" refers to population as defined by this subdivision.

Sec. 76. Minnesota Statutes 1988, section 477A.011, subdivision 3a, is amended to read:

Subd. 3a. [NUMBER OF HOUSEHOLDS.] Number of households means the number of households established by the most recent federal census, by

a special census conducted under contract with the United States bureau of the census, by an estimate made by the metropolitan council, or by an estimate of the state demographer made pursuant to section 116K.04, subdivision 4, whichever is the most recent as to the stated date of the count or estimate *for the preceding calendar year.*

Sec. 77. [APPROPRIATION.]

*$1,840,000 is appropriated for fiscal year 1990 from the general fund to the commissioner of revenue to reimburse counties for costs of compliance with Minnesota Statutes, section 275.065, for taxes payable in 1990. This appropriation must be apportioned among the counties and distributed by the commissioner of revenue in the same manner that the appropriation in Laws 1988, chapter 719, article 5, section 85, was apportioned and distributed.*

Sec. 78. [APPROPRIATION; COMPLEMENT INCREASE.]

*$80,000 is appropriated for fiscal year 1990 and $80,000 for fiscal year 1991 is appropriated from the general fund to the commissioner of education for costs to administer Minnesota Statutes, section 275.065. The complement of the department of education is increased by two.*

Sec. 79. [SCHOOL DISTRICT CASH FLOW FUND.]

*A permanent school district cash flow revolving fund of $1,000,000 is created. $1,000,000 is appropriated from the general fund to the cash flow fund. The amount in the fund is annually appropriated to the commissioner of education. The commissioner may loan the money in the fund to school districts who demonstrate to the satisfaction of the commissioner that the delay of property tax settlement payments due to implementation of this article has an adverse cash flow impact on the district. Each school district receiving money under this section must reimburse the commissioner at the time required by the commissioner. The reimbursements must be deposited by the commissioner in the revolving fund.*

Sec. 80. [KOOCHICHING COUNTY TAXING AUTHORITIES; PROPOSED PROPERTY TAX NOTICE.]

*Subdivision 1.* [APPLICABILITY.] *Notwithstanding Minnesota Statutes, section 275.065, for property taxes payable in 1991, and thereafter, proposed budgets and property tax levies shall be certified and adopted in Koochiching county under this section.*

*Subd. 2.* [PROPOSED LEVY.] *On or before September 1, each taxing authority shall adopt a proposed budget and certify to the county auditor the proposed property tax levy for taxes payable in the following year. For purposes of this section, "taxing authority" includes the county of Koochiching and home rule and statutory cities with a population of over 2,500 within the county. If the taxing authority's proposed levy and estimated local government aid under chapter 477A payable in the following year have a total increase of more than "normal growth" over the taxing authority's current year's levy plus local government aid, the taxing authority shall be required to comply with the provisions contained in this section. The county auditor shall notify those taxing authorities which exceed the limit of "normal growth." For purposes of this section, "normal growth" is defined as the sum of 5.0 percent and the taxing authority's annual percent increase, if any, in population, based on the most recent available estimates.*

*Subd. 3.* [NOTICE OF PROPOSED PROPERTY TAXES.] *(a) All taxing*

*authorities for which a notice is required under subdivision 1, shall, on or before November 10, prepare and deliver by first class mail to each taxpayer within the boundaries of the taxing authority at the address listed on its current year's assessment roll, a notice of its proposed property tax levy.*

*(b) The commissioner of revenue shall prescribe the form of the notice. The notice must be easy to read and understand.*

*(c) The notice must inform taxpayers that it contains the amount of property taxes the taxing authority proposes to collect for taxes payable the following year. It must clearly state that the taxing authority will hold a public meeting to receive public testimony on the proposed budget. It must clearly state the time and place of the taxing authority's meeting and an address where comments will be received by mail.*

*The notice must show for the taxing authority the following proposed amounts for taxes payable in the current year compared to actual amounts for taxes payable in the previous year, and expressed as a percentage increase or decrease:*

*(1) the amount of property taxes before reduction for state aid described in clause (2);*

*(2) the amount of aid paid by the state to reduce property taxes; and*

*(3) the amount of property tax to be collected.*

*Subd. 4.* [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] *Between November 15 and December 20, the governing body of the taxing authority shall hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year.*

*At the hearing the taxing authority may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy. The adopted property tax levy must not exceed the proposed levy stated in the notice under subdivision 3, paragraph (c), clause (3).*

*At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding the proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body shall adopt its final property tax levy prior to adopting its final budget.*

*The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. A city council shall not schedule public meetings on the day scheduled for the hearing by the county board.*

*If the hearing is recessed, the taxing authority shall publish a notice in a qualified newspaper of general paid circulation in the taxing authority. The notice must state the time and place for the continuation of the hearing and must be published at least two days but not more than five days prior to the date the hearing will be continued.*

*Subd. 5.* [CERTIFICATION OF COMPLIANCE.] *The taxing authority shall certify to the commissioner of revenue its compliance with this section. The certification must contain the information required by the commissioner of revenue to determine compliance with this section. If the commissioner*

*determines that the taxing authority has failed to substantially comply with the requirements of this section, the commissioner of revenue shall notify the taxing authority and the county auditor. The decision of the commissioner is final. When fixing rates under section 275.08 for a taxing authority that has not complied with this section, the county auditor must use the taxing authority's previous year's levy.*

Sec. 81. [KOOCHICHING COUNTY TAXING AUTHORITIES; PROPERTY TAX NOTICES.]

*Subdivision 1.* [APPLICABILITY.] *Notwithstanding Minnesota Statutes, section 276.04, for property taxes payable in 1991, and thereafter, property tax notices shall be mailed and payments collected in Koochiching county as provided in this section.*

*Subd. 2.* [MAILING OF STATEMENTS.] *On or before March 31, 1991, and each year thereafter, and on or before August 31, 1991, and each year thereafter, the treasurer shall mail to the owner of each parcel of real property located in the county, three separate statements of the real property taxes due, each for one-half of the current year amount due. One statement shall contain the taxes due to the county, a second statement shall contain the taxes due to the city or township, and a third statement shall contain the taxes due to the school district. For purposes of this paragraph, the amount of tax levied by a special taxing district shall be included, but aggregated as one separate amount, on the county statement. For 1991 only, the statement for the county taxes which are due shall be mailed five days prior to the statements for the city, township, and school district. An insert shall be included in the county tax envelope stating:*

*"This is the first of three separate tax bills you will be receiving. Your property taxes will be paid directly to each taxing jurisdiction which levies taxes.*

*Your county tax will be mailed to your county.*

*Your city/township taxes will be mailed to your city/township.*

*Your school taxes will be mailed to your school district."*

*Each statement shall be mailed in a separate envelope and the statement, along with a return address envelope, shall be color coded so that the taxpayer can easily identify the three separate taxing jurisdiction statements from each other. The contents of the statement shall be in substantially the following form. If any special assessments are due on the property, the dollar amount of the special assessments shall be itemized clearly and separately on the statement to which the assessments are due.*

*City/Township of . . . . . .*

| | |
|---|---|
| . . . . . | . . . . . |
| *Taxpayer's Name* | *Property Description* |
| *Social Security No.* | |
| *Address* | |
| *City, State, ZIP* | |
| . . . . . | . . . . . |

*The property taxes you owe this year on the property described above go directly to the taxing authority listed at the top of this bill. You will be receiving a separate property tax bill on this parcel from the county, city/*

*township, and school district.*

. . . . . .

*The state does not receive any property tax revenues. The state of Minnesota does, however, pay "property tax relief" to the above taxing jurisdiction. The relief is paid by the state in various forms, such as education aid for schools, local government aid to counties and cities, homestead credit, etc. The state uses money collected primarily from individual income, corporate, and sales taxes to provide you with relief to reduce your property tax.*

| | |
|---|---|
| *The gross amount of dollars required by the city/township on this parcel last year was* $ . . . . . | *The gross amount of dollars required by the city/township on this parcel this year was* $ . . . . . |
| *The state of Minnesota reduced that amount on your parcel last year by* $ . . . . . | *The state of Minnesota reduced that amount on your parcel this year by* $ . . . . . |
| *Therefore, the net property taxes you actually paid last year was* $ . . . . . | *Therefore, the net property taxes due this year are* $ . . . . . |

. . . . . .

| | |
|---|---|
| *The total tax amount due to the city/township for this year is* $ . . . . . *It is due in two equal installments, shown on the right.* | *Pay this amount by May 15, 19 . . . . .,* $ . . . . . |
| | *Pay this amount by . . . . . 15, 19 . . . . .,* $ . . . . . |

*The name on each of the return envelopes shall be the name of the taxing jurisdiction to which the tax is due. Unless an agreement has been made under subdivision 5, the address on each return envelope shall be to a uniform post office box within the county.*

*Subd. 3.* [DIRECT PAYMENTS.] *A school district or city which decides to require that the real property tax payments be mailed directly to it shall notify the county treasurer, in writing, by January 15 of the year in which the taxes are due. In those instances, the address on the return envelope, which will be mailed with the tax statement, shall be the school district or city's address, as provided by the school or city official making the request. The county treasurer shall furnish the taxing authority with a list containing the owner of each parcel of real property located within the district, its property identification number, and the amount of real property taxes due for each installment. On or before January 1 of the year following the year the tax is due, the finance officer of the school district or city shall provide the county auditor with a list identifying the unpaid tax amounts. The unpaid amounts shall be treated in the same manner as provided in section 279.02.*

*If a school district requires direct payments under this subdivision, payments received by the district shall be included in and treated as school district tax settlement revenue under Minnesota Statutes, section 121.904, subdivision 4a.*

Sec. 82. [PRESCRIPTION OF TAX STATEMENTS; NOTIFICATION.]

*At least 15 working days before the commissioner prescribes the property*

*tax statement for taxes payable in 1990 as required under Minnesota Statutes, section 276.04, the commissioner shall notify the chairs of the senate committee on taxes and tax laws and the house committee on taxes of the property tax statement that the commissioner proposes to prescribe. The commissioner shall consider the advice and comments of the chairs before prescribing the statement.*

Sec. 83. [REPEALER.]

*Minnesota Statutes 1988, sections 270.81, subdivision 5; and 275.065, subdivisions 2 and 5, are repealed.*

Sec. 84. [EFFECTIVE DATES.]

*Section 5 is effective for school district referenda held after July 15, 1989, for property taxes levied in 1989, payable in 1990, and thereafter.*

*Sections 2 to 4, 6, 7, 12, 17, 19, 21 to 24, 37 to 60, 62 to 65, 74, and 83 are effective for taxes levied in 1989, payable in 1990, and thereafter.*

*Sections 1, 8 to 11, 13, 16, 20, 25 to 29, and 66 to 73 are effective for taxes levied in 1990, payable in 1991, and thereafter.*

*Section 18 is effective for sales after July 1, 1989.*

*Sections 30 to 36 are effective for taxes levied in 1989, payable in 1990, except as otherwise provided.*

*Sections 61 and 77 to 79 are effective July 1, 1989.*

*Sections 80 and 81 are effective for taxes payable in 1991 and thereafter upon approval by the Koochiching county board and compliance with Minnesota Statutes, section 645.021.*

*Section 82 is effective the day following final enactment.*

ARTICLE 6

LOCAL GOVERNMENT AIDS

Section 1. Minnesota Statutes 1988, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before October 25 in each year. The taxes certified shall not be adjusted by the aid received under section 273.1398, subdivisions 2 and 3 *and section 477A.013, subdivision 5*. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 25 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension.

Sec. 2. Minnesota Statutes 1988, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy certified under subdivision 1 by the amount of ~~transition~~ *homestead and agricultural credit* aid certified by section 273.1398, subdivision 2 *and*

*section 477A.013, subdivision 5.* If a local government's ~~transition~~ *homestead and agricultural credit* aid was further allocated between portions of its levy pursuant to section 273.1398, subdivision 2, paragraph (b)(2), the levy or fund to which the ~~transition~~ *homestead and agricultural credit* aid was allocated is the levy or fund which must be adjusted.

Sec. 3. Minnesota Statutes 1988, section 477A.011, subdivision 1a, is amended to read:

Subd. 1a. [CITY.] City means a statutory or home rule charter city. *City also means a town having a population of 5,000 or more for purposes of the aid payable under section 477A.013, subdivision 3. Towns are not eligible to be treated as cities for purposes of aid payable under section 477A.013, subdivision 4.*

Sec. 4. Minnesota Statutes 1988, section 477A.011, is amended by adding a subdivision to read:

*Subd. 1b.* [TOWN.] *"Town" means a township with a population of less than 5,000.*

Sec. 5. Minnesota Statutes 1988, section 477A.011, subdivision 20, is amended to read:

Subd. 20. [CITY TAX CAPACITY.] "City tax capacity" means (1) 23 percent of the net tax capacity computed using *the net tax capacity rates listed in Minnesota Statutes 1988, section 273.13, for aids payable in 1990 and* the net tax capacity rates listed in section 273.13 *for aids payable in 1991 and subsequent years* for all taxable property within the city based on the assessment two years prior to that for which aids are being calculated, plus (2) a city's levy on the fiscal disparities distribution under section 473F.08, subdivision 3, paragraph (a), for taxes payable in the year prior to that for which aids are being calculated. The market value utilized in computing net tax capacity shall be reduced by the sum of (1) a city's market value of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 2, paragraph (a), ~~and~~ (2) the market value of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the market value of transmission lines deducted from a city's total net tax capacity under section 273.425.* The net tax capacity will be computed using equalized market values.

Sec. 6. Minnesota Statutes 1988, section 477A.011, is amended by adding a subdivision to read:

*Subd. 25.* [NET TAX CAPACITY.] *"Net tax capacity" means for aids payable under section 477A.013, subdivision 5, the net tax capacity of a city computed using the net tax capacity rates in Minnesota Statutes 1988, section 273.13, and based on 1988 estimated market values. The market value utilized in computing net tax capacity shall be reduced by the sum of (1) a city's market value of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 2, paragraph (a), (2) the market value of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the market value of transmission lines deducted from a city's total net tax capacity under section 273.425. The net tax capacity will be computed using equalized market values.*

Sec. 7. Minnesota Statutes 1988, section 477A.013, subdivision 1, is

amended to read:

Subdivision 1. [TOWNS.] ~~In calendar year 1988, each town which had levied for taxes payable in the previous year at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to the greater of: (a) 60 percent of the amount received in 1983 pursuant to Minnesota Statutes 1982, sections 273.138, 273.139, and 477A.011 to 477A.03; or (b) the amount certified in 1987 pursuant to sections 477A.011 to 477A.03.~~ In calendar year 1989, each town that had levied for taxes payable in 1988 at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to 106 percent of the distribution received under Minnesota Statutes 1987 Supplement, section 477A.013, subdivision 1, in 1988. In calendar year 1990 and subsequent years, each town that had levied for taxes payable in the prior year a tax capacity rate of at least .0125 shall receive a distribution equal to *106 percent of* the amount received in 1989 under this subdivision.

Sec. 8. Minnesota Statutes 1988, section 477A.013, subdivision 3, is amended to read:

Subd. 3. [CITY AID DISTRIBUTION.] In 1989, a city whose initial aid is greater than $0 will receive the following aid increases in addition to an amount equal to the local government aid it received in 1988 under Minnesota Statutes 1987 Supplement, section 477A.013:

(1) for a city whose expenditure/unlimited aid ratio is at least 1.5, two percent of city revenue;

(2) for a city whose expenditure/unlimited aid ratio is at least 1.4 but less than 1.5, 2.5 percent of city revenue;

(3) for a city whose expenditure/unlimited aid ratio is at least 1.3 but less than 1.4, three percent of city revenue;

(4) for a city whose expenditure/unlimited aid ratio is at least 1.2 but less than 1.3, four percent of city revenue;

(5) for a city whose expenditure/unlimited aid ratio is at least 1.1 but less than 1.2, five percent of city revenue;

(6) for a city whose expenditure/unlimited aid ratio is at least 1.05 but less than 1.1, six percent of city revenue;

(7) for a city whose expenditure/unlimited aid ratio is at least 1.0 but less than 1.05, seven percent of city revenue;

(8) for a city whose expenditure/unlimited aid ratio is at least .95 but less than 1.0, 7.5 percent of city revenue;

(9) for a city whose expenditure/unlimited aid ratio is at least .75 but less than .95, 8.5 percent of city revenue; and

(10) for a city whose expenditure/unlimited aid ratio is less than .75, nine percent of city revenue.

In 1990 and subsequent years, a city whose initial aid is greater than $0 will receive an amount equal to the aid it received under this ~~subdivision and subdivision 4~~ *section* in the year prior to that for which aids are being calculated plus an aid increase equal to 50 percent of the rates listed in clauses (1) to (10) multiplied by city revenue.

A city's aid increase under this subdivision is limited to the lesser of (1)

20 percent of its levy for taxes payable in the year prior to that for which aids are being calculated after the adjustments provided in section 273.1398, subdivision 2, or (2) its initial aid amount, *or (3) 15 percent of the total amount received under this section in the previous year,* provided that no city will receive an increase that is less than two percent of its ~~1988~~ *1989* local government aid for aids payable in ~~1989~~ *1990*.

A city whose initial aid is $0 will receive in ~~1989~~ *1990* an amount equal to 102 percent of the local government aid it received in ~~1988~~ *1989* under Minnesota Statutes ~~1987 Supplement~~ *1988*, section 477A.013. A city whose initial aid is $0 will receive in ~~1990~~ *1991* and subsequent years an amount equal to the aid it received in the previous year under this ~~subdivision and subdivision~~ 4 *section. For purposes of this subdivision the term "local government aid" includes equalization aid for aids payable in 1991 and thereafter.*

Sec. 9. Minnesota Statutes 1988, section 477A.013, is amended by adding a subdivision to read:

*Subd. 5.* [EQUALIZATION AID.] *A city is eligible for equalization aid in 1990 only. The amount of the aid is equal to (1) the product of (i) a city's average levy for the three immediately preceding years less the disparity reduction aids allocated to the city pursuant to Minnesota Statutes 1988, section 273.1398, subdivision 3, (ii) .36, and (iii) one minus the ratio of the net tax capacity per capita to 900; less (2) the local government aid increase for the city under subdivision 3. The aid under this section is limited to 15 percent of the total local government aid the city received in 1989. The aid under this section cannot be less than zero. For the purposes of this subdivision "levy" includes a city's levy on fiscal disparities distribution under section 473F.08, subdivision 3, paragraph (a).*

Sec. 10. [REPEALER.]

*Minnesota Statutes 1988, sections 477A.011, subdivision 24, and 477A.013, subdivision 4, are repealed.*

Sec. 11. [EFFECTIVE DATE.]

*Sections 1 and 2 are effective for taxes levied in 1989 and thereafter, payable in 1990, and thereafter. Sections 3 to 9 are effective for local government aid paid in 1990.*

## ARTICLE 7

## INSURANCE PREMIUMS AND SALES TAXES

Section 1. Minnesota Statutes 1988, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES.] (a) On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies and domestic mutual insurance companies, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. ~~For insurers other than town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) principally writing workers' compensation insurance, (ii) writing life insurance, or (iii) whose total assets at the end of the preceding calendar year exceed $1,600,000,000~~ *Except as provided in paragraph (b),* installments must be based on a sum equal to two percent

of the premiums described in paragraph ~~(b)~~ *(c)*.

*(b)* For town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) ~~principally writing workers' compensation insurance,~~ ~~(ii)~~ writing life insurance, or ~~(iii)~~ *(ii)* whose total assets at the end of the preceding calendar year exceed $1,600,000,000, the installments must be based on an amount equal to the following percentages of the premiums described in paragraph ~~(b)~~ *(c)*:

~~(1) for premiums paid after December 31, 1987, and before January 1, 1989, 1.5 percent;~~

~~(2)~~ for premiums paid after December 31, 1988, and before January 1, 1992, one percent; and

~~(3)~~ *(2)* for premiums paid after December 31, 1991, one-half of one percent.

~~(b)~~ *(c)* Installments under paragraph (a) *or (b)* are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6.

~~(c)~~ *(d)* Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section.

Sec. 2. Minnesota Statutes 1988, section 270.77, is amended to read:

270.77 [SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.]

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner, *except a tax imposed under chapter 297A*.

There must be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) $10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) $5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer

acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 3. Minnesota Statutes 1988, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals or drinks, not including meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges. "Sales" also includes meals furnished by employers to employees at less than fair market value, except meals furnished at no charge to employees of hospitals, nursing homes, boarding care homes, sanitariums, group homes, and correctional, detention, and detoxification facilities, who are required to eat with the patients, residents, or inmates residing in them. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, massage parlors, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. *The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause.* Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association;

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(j) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1;

(v) pet grooming services; and

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for

public utility lines.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as a member of an affiliated group under United States Code, title 26, section 1504, and who are eligible to file a consolidated tax return for federal income tax purposes;

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(l) The granting of membership in a club, association, or other organization if:

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under.

Sec. 4. Minnesota Statutes 1988, section 297A.02, subdivision 2, is amended to read:

Subd. 2. [MACHINERY AND EQUIPMENT.] Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of special tooling, ~~and capital equipment~~ is four percent, *and upon sales of capital equipment is three percent,* and upon sales of farm machinery is two percent.

Sec. 5. Minnesota Statutes 1988, section 297A.25, subdivision 3, is amended to read:

Subd. 3. [MEDICINES; MEDICAL DEVICES.] The gross receipts from the sale of prescribed drugs, prescribed medicine and insulin, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings are exempt, together with prescription glasses, therapeutic, and prosthetic devices. "Prescribed drugs" or "prescribed medicine" includes over-the-counter drugs or medicine prescribed by a licensed physician. *"Therapeutic devices" includes reusable finger pricking devices for the extraction of blood and blood glucose monitoring machines used in the treatment of diabetes.* Nonprescription analgesics consisting principally (determined by the weight of all ingredients) of acetaminophen, acetylsalicylic acid, ibuprofen, or a combination thereof are exempt.

Sec. 6. Minnesota Statutes 1988, section 297A.257, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION OF DISTRESSED COUNTIES.] (a) The commissioner of trade and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies at least one of the following criteria:

(1) the county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs, or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivision shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1, *except that a designation made June 1, 1988 shall remain in effect until December 31, 1989 with respect to equipment placed in service by December 31, 1989.* A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires on June 30, ~~1989~~ *1988.*

Sec. 7. Minnesota Statutes 1988, section 297A.257, is amended by adding a subdivision to read:

*Subd. 4.* [CONTINUED EXEMPTION.] *The exemptions provided under subdivisions 2 and 2a apply to capital equipment and construction materials and supplies purchased by a person, partnership, or corporation in connection with the expansion of a major manufacturing facility in any county that was designated as a distressed county under subdivision 1 for any year from 1985 through 1989. For the purposes of this subdivision, "expansion of a major manufacturing facility" means an expansion of an existing manufacturing facility requiring at least $100,000,000 of capital investment over a three-year period. To qualify for the exemption under this subdivision, contracts for purchase of the capital equipment and the construction materials and supplies must be executed by June 30, 1992.*

Sec. 8. [297A.259] [LOTTERY TICKETS; IN LIEU TAX.]

*Sales of state lottery tickets are exempt from the tax imposed under section 297A.02. The state agency responsible for operating a state lottery must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the tax rate under section 297A.02, subdivision 1. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the moneys transmitted in the general fund as provided by section 297A.44 and the moneys must be treated as other proceeds of the sales tax. Gross receipts for purposes of this section mean the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.*

Sec. 9. Minnesota Statutes 1988, section 297A.39, is amended by adding a subdivision to read:

*Subd. 9.* [INTENTIONAL DISREGARD OF LAW OR RULES.] *If any part of any underpayment resulting from an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The penalty imposed by this subdivision must be collected as part of the tax and is in addition to any other penalties provided by this chapter. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.*

Sec. 10. [REFUND ON ACCESS CHARGES.]

*All persons, other than persons in the business of providing telecommunications services, who purchased telecommunications services from a*

*long distance carrier and who on January 1, 1988, utilized customer provided access for such long distance telecommunication services but who were directly or indirectly billed by the long distance carrier a surcharge, reflecting the tax on long distance access charges under Minnesota Statutes, section 295.34, subdivision 1, are entitled to a refund of all such amounts. The refund claim shall be filed at the end of each calendar year with the commissioner of revenue and shall set forth the basis for the refund and the amount to be refunded. The money necessary to pay the refunds is hereby appropriated to the commissioner out of the general fund. This section is effective for all amounts paid in calendar year 1989.*

Sec. 11. [EFFECTIVE DATE.]

*Section 1 is effective for premiums paid after December 31, 1988. Sections 2 and 9 are effective for penalties imposed after June 30, 1989. Sections 3 to 5 and 7 are effective for sales after June 30, 1989, provided that section 4 does not apply to sales made under bona fide contracts that were enforceable before July 1, 1989, if delivery is made before January 1, 1990.*

*Section 6 is effective the day following final enactment.*

ARTICLE 8

LAWFUL GAMBLING TAX

Section 1. Minnesota Statutes 1988, section 349.12, subdivision 11, is amended to read:

Subd. 11. [LAWFUL PURPOSE.] *(a)* "Lawful purpose" means one or more of the following: ~~(a)~~

*(1)* benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; ~~(b)~~

*(2)* initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; ~~(c)~~

*(3)* lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; ~~or~~ ~~(d)~~

*(4)* payment of *local* taxes ~~imposed~~ *authorized* under this chapter, and ~~other~~ taxes imposed by ~~the~~ ~~state~~ ~~or~~ the United States on receipts from lawful gambling*;*

*(5) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization; or*

*(6) if approved by the board, construction, improvement, expansion, maintenance, and repair of athletic fields and outdoor ice rinks and their appurtenances, owned by the organization or a public agency.*

*(b)* "Lawful purpose" does not include the erection, acquisition, improvement, expansion, repair, or maintenance of any real property owned or leased by ~~the~~ *an* organization, unless the board *has first* specifically ~~authorizes~~ *authorized* the expenditures after finding*:*

*(1)* that the property will be used exclusively for one or more of the purposes specified in *paragraph (a)*, clauses ~~(a)~~ *(1)* to ~~(c)~~ *(3)*; *or*

*(2) with respect to expenditures for repair or maintenance only, that the property is or will be used as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; or*

*(3) with respect to expenditures for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance.* The board ~~may~~ *shall* by rule adopt procedures and standards to administer this subdivision.

Sec. 2. Minnesota Statutes 1988, section 349.12, subdivision 13, is amended to read:

Subd. 13. [GROSS PROFIT.] "*Gross* profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes *and less the tax imposed by section 349.212*.

Sec. 3. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 21.* [GROSS RECEIPTS.] *"Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:*

*(1) gross sales of pull-tab and tipboard tickets or cards before reduction for prizes, expenses, or any other charges or offsets;*

*(2) gross sales of raffle tickets before reduction for prizes, expenses, or any other charges or offsets;*

*(3) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and*

*(4) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.*

*Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3, for duly licensed bingo hall lessors.*

Sec. 4. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 22.* [FISCAL YEAR.] *"Fiscal year" means the period from July 1 to June 30.*

Sec. 5. Minnesota Statutes 1988, section 349.15, is amended to read:

349.15 [USE OF PROFITS.]

Profits from lawful gambling may be expended only for lawful purposes or *allowable* expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 55 percent of ~~profits~~ *the gross profit* from bingo, and no more than ~~45~~ *50* percent ~~for~~ *of the gross profit from* other forms of lawful gambling, may be expended for ~~necessary~~ *allowable* expenses related to lawful gambling.

The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

Sec. 6. Minnesota Statutes 1988, section 349.16, is amended by adding a subdivision to read:

*Subd. 1a.* [RESTRICTIONS ON LICENSE ISSUANCE.] *On and after July 1, 1989, the board shall not issue an initial license to any organization if the board, in consultation with the department of revenue, determines that the organization is seeking licensing for the primary purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.*

Sec. 7. Minnesota Statutes 1988, section 349.161, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.] No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt from licensing under section 349.214, except to an organization licensed for lawful gambling; ~~or~~

(2) sell, offer for sale, or furnish gambling equipment to an organization licensed for lawful gambling without having obtained a distributor license under this section;

*(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or*

*(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.*

No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.

Sec. 8. Minnesota Statutes 1988, section 349.163, subdivision 3, is amended to read:

Subd. 3. [PROHIBITED SALES.] A manufacturer may not:

*(1)* sell gambling equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; *or*

*(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use in this state.*

Sec. 9. Minnesota Statutes 1988, section 349.19, subdivision 6, is amended to read:

Subd. 6. [PRESERVATION OF RECORDS.] ~~The board may require that~~

Records required to be kept by this section must be preserved by a licensed organization for at least ~~two~~ *3-1/2* years and may be inspected by ~~employees of~~ the ~~board~~ *commissioner of revenue* at any reasonable time without notice or a search warrant.

Sec. 10. Minnesota Statutes 1988, section 349.212, subdivision 1, is amended to read:

Subdivision 1. [~~RATE~~ *IMPOSITION.*] There is hereby imposed a tax on all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, ~~and~~ (2) tipboards purchased and placed into inventory after June 30, 1988, ~~conducted by organizations licensed by the board~~ *and (3) bingo* at the rate ~~specified in this subdivision~~ *of two percent of actual gross receipts. A tax is imposed at the rate of ten percent on the gross revenues of a licensed organization from bingo less prizes actually paid.* The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

~~On all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988,~~ The tax *imposed under this subdivision* is ~~ten percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out,~~ payable by the organization *or party conducting, directly or indirectly, the gambling.*

Sec. 11. Minnesota Statutes 1988, section 349.212, subdivision 2, is amended to read:

Subd. 2. [COLLECTION; DISPOSITION.] The ~~tax must be paid to the board at times and in a manner the board prescribes by rule~~ *taxes imposed by this section are due and payable to the commissioner of revenue at the time when the gambling tax return is required to be filed. Returns covering the taxes imposed under this section must be filed with the commissioner of revenue on or before the 20th day of the month following the close of the previous calendar month.* The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.21 and 349.211, 349.212, and 349.213, must be paid to the state treasurer for deposit in the general fund.

Sec. 12. Minnesota Statutes 1988, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB AND TIPBOARD TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs and tipboards sold by a licensed distributor ~~to a licensed organization, or to an organization holding an exemption identification number~~. The rate of the tax is ~~ten~~ *two* percent of the ideal ~~net~~ *gross* of the pull-tab ~~and~~ *or* tipboard deal. ~~The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund.~~ The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the licensed distributor ~~to an organization~~ is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards ~~by the organization~~ is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the ~~licensed or exempt organization~~ *customer*, to a common or contract carrier for delivery to the ~~organization~~ *customer*, or when received by the ~~organization's~~ *customer's* authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

*The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:*

*(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;*

*(2) sales to distributors licensed under this chapter;*

*(3) sales to distributors licensed under the laws of another state or of a Province of Canada, as long as all statutory and regulatory requirements are met in the other state or province; and*

*(4) sales of promotional tickets as defined in section 349.12.*

(c) ~~The exemptions contained in section 349.214, subdivision 2, paragraph (b), do not apply to the tax imposed in this subdivision.~~ *Pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.214, subdivision 2, paragraph (b), are exempt from the tax imposed by this subdivision. A distributor must require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to such an organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.*

Sec. 13. Minnesota Statutes 1988, section 349.212, is amended by adding a subdivision to read:

*Subd. 6.* [COMBINED RECEIPTS TAX.] *In addition to the taxes imposed under subdivisions 1 and 4, there is imposed a tax on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling other than bingo for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:*

| *If the combined receipts for the fiscal year are:* | *The tax is:* |
|---|---|
| *Not over $500,000* | *zero* |
| *Over $500,000 but not over $700,000* | *two percent of the amount over $500,000 but not over $700,000* |
| *Over $700,000 but not over $900,000* | *$4,000 plus four percent of the amount over $700,000 but not over $900,000* |
| *Over $900,000* | *$12,000 plus six percent of the amount over $900,000* |

Sec. 14. Minnesota Statutes 1988, section 349.214, subdivision 2, is amended to read:

Subd. 2. [LAWFUL GAMBLING.] (a) Raffles may be conducted by an organization ~~as defined in section 349.12, subdivision 12,~~ without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed $750.

(b) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.212 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a $250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

(d) Merchandise prizes must be valued at their fair market value.

*(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 349.212, subdivision 4, paragraph (c), must return to the distributor tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.*

Sec. 15. [349.215] [EXAMINATIONS.]

*Subdivision 1.* [EXAMINATION OF TAXPAYER.] *To determine the accuracy of a return or report, or in fixing liability under this chapter, the commissioner of revenue may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.*

*Subd. 2.* [ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER.] *When conducting an investigation or an audit of a taxpayer, the commissioner of revenue may examine, except where privileged by law, the relevant records and files of a person, business, institution, financial institution, state agency, agency of the United States government, or agency of another state where permitted*

*by statute, agreement, or reciprocity. The commissioner of revenue may compel production of these records by subpoena. A subpoena may be served directly by the commissioner of revenue.*

*Subd. 3.* [POWER TO COMPEL TESTIMONY.] *In the administration of this chapter, the commissioner of revenue may:*

*(1) Administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data.*

*(2) Examine under oath or affirmation any person regarding the business of a taxpayer concerning a matter relevant to the administration of this chapter. The fees of witnesses required by the commissioner of revenue to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law.*

*(3) In addition to other remedies available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state shall have jurisdiction over the action and disobedience of an injunction issued under this clause shall be punished as a contempt of district court.*

*Subd. 4.* [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN.] *An investigation may extend to any person that the commissioner of revenue determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records under subdivision 2 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner of revenue.*

*Subd. 5.* [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN.] *A subpoena that does not identify the person or persons whose tax liability is being investigated may be served only if:*

*(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;*

*(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with tax laws administered by the commissioner of revenue;*

*(3) the subpoena is clear and specific concerning information sought to be obtained; and*

*(4) the information sought to be obtained is limited solely to the scope of the investigation.*

*A party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within three days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination whether the commissioner of revenue has complied with all the requirements in clauses (1) to (4), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the*

*subpoena has the effect of a court order.*

*Subd. 6.* [REQUEST BY TAXPAYER FOR SUBPOENA.] *When the commissioner of revenue has the power to issue a subpoena for investigative or auditing purposes, then the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf, if in connection with the investigation or audit.*

*Subd. 7.* [APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.] *The commissioner of revenue or the taxpayer may apply to the district court of the county of the taxpayer's residence, place of business, or county where the subpoena can be served as with any other case at law, for any order compelling the appearance of the subpoenaed witness or the production of the subpoenaed records. Failure to comply with the order of the court for the appearance of a witness or the production of records may be punished by the court as for contempt.*

*Subd. 8.* [COST OF PRODUCTION OF RECORDS.] *The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner of revenue. In other cases where the taxpayer is unable to produce records and the commissioner of revenue then initiates a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner of revenue may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.*

Sec. 16. [349.2151] [ASSESSMENTS.]

*Subdivision 1.* [GENERALLY.] *The commissioner of revenue shall make determinations, corrections, and assessments with respect to taxes (including interest, additions to taxes, and assessable penalties) imposed under this chapter.*

*Subd. 2.* [COMMISSIONER OF REVENUE FILED RETURNS.] *If a taxpayer fails to file a return required by this chapter, the commissioner of revenue may make a return for the taxpayer from information in the commissioner's possession or obtainable by the commissioner. The return is prima facie correct and valid.*

*Subd. 3.* [ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER.] *(a) When a return has been filed and the commissioner of revenue determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An assessment by the commissioner of revenue must be made by recording the liability of the taxpayer in the office of the commissioner of revenue, which may be done by keeping a copy of the order of assessment sent to the taxpayer. An order of assessment is final when made but may be reconsidered by the commissioner under section 349.219.*

*(b) The amount of unpaid tax shown on the order must be paid to the commissioner of revenue: (1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner of revenue; or (2) if an administrative appeal is filed under section 349.219 within 60 days following the determination or compromise of the appeal.*

*Subd. 4.* [ERRONEOUS REFUNDS.] *An erroneous refund is considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.*

*Subd. 5.* [ASSESSMENT PRESUMED VALID.] *A return or assessment made by the commissioner of revenue is prima facie correct and valid. The taxpayer has the burden of establishing the incorrectness or invalidity of the return or assessment in any action or proceeding in respect to it.*

*Subd. 6.* [AGGREGATE REFUND OR ASSESSMENT.] *On examining returns of a taxpayer for more than one year or period, the commissioner of revenue may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.*

*Subd. 7.* [SUFFICIENCY OF NOTICE.] *An order of assessment sent by United States mail, postage prepaid to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.*

Sec. 17. [349.2152] [EXTENSIONS FOR FILING RETURNS AND PAYING TAXES.]

*When, in the commissioner of revenue's judgment, good cause exists, the commissioner may extend the time for filing tax returns and/or paying taxes for not more than six months.*

Sec. 18. [349.216] [LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.]

*Subdivision 1.* [GENERAL RULE.] *Except as otherwise provided in this chapter, the amount of taxes assessable must be assessed within 3-1/2 years after the return is filed (whether or not the return is filed on or after the date prescribed). A return must not be treated as filed until it is in processible form. A return is in processible form when it is filed on a permitted form and contains sufficient data to identify the taxpayer and permit the mathematical verification of the tax liability shown on the return.*

*Subd. 2.* [FALSE OR FRAUDULENT RETURN.] *Notwithstanding subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or if a taxpayer fails to file a return.*

*Subd. 3.* [OMISSION IN EXCESS OF 25 PERCENT.] *Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if the taxpayer omits from a tax return taxes in excess of 25 percent of the taxes reported in the return.*

*Subd. 4.* [TIME LIMIT FOR REFUNDS.] *Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or two years from the time the tax is paid, whichever period expires later. Interest on refunds must be computed at the rate specified in section 270.76 from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.*

*Subd. 5.* [BANKRUPTCY; SUSPENSION OF TIME.] *The time during which a tax must be assessed or collection proceedings begun is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either: (1) notice to the commissioner of revenue that the bankruptcy proceedings have been closed or dismissed, or (2) the automatic stay has been ended or has expired, whichever occurs first.*

*The suspension of the statute of limitations under this section applies to the person the petition in bankruptcy is filed against, and all other persons who may also be wholly or partially liable for the tax.*

*Subd. 6.* [EXTENSION AGREEMENT.] *If before the expiration of time prescribed in subdivisions 1 and 4 for the assessment of tax or the filing of a claim for refund, both the commissioner of revenue and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.*

Sec. 19. [349.217] [CIVIL PENALTIES.]

*Subdivision 1.* [PENALTY FOR FAILURE TO PAY TAX.] *If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is three percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 24 percent in the aggregate.*

*If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.*

*Subd. 2.* [PENALTY FOR FAILURE TO MAKE AND FILE RETURN.] *If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days, during which the failure continues, not exceeding 23 percent in the aggregate.*

*If a taxpayer fails to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must be at least the lesser of: (1) $200; or (2) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (b) $50.*

*Subd. 3.* [COMBINED PENALTIES.] *When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.*

*Subd. 4.* [PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES.] *If part of an additional assessment is due to negligence or intentional disregard of the provisions of the applicable chapters of rules of the commissioner of revenue (but without intent to defraud), there is added to*

*the tax an amount equal to ten percent of the additional assessment.*

*Subd. 5.* [PENALTY FOR FALSE OR FRAUDULENT RETURN; EVASION.] *If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.*

*Subd. 6.* [PENALTY FOR SALES AFTER REVOCATION, SUSPENSION, OR EXPIRATION.] *A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of $1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.*

*Subd. 7.* [PAYMENT OF PENALTIES.] *The penalties imposed by this section must be collected and paid in the same manner as taxes.*

*Subd. 8.* [PENALTIES ARE ADDITIONAL.] *The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.*

*Subd. 9.* [ORDER PAYMENTS CREDITED.] *All payments received may be credited first to the oldest liability not secured by a judgment or lien in the discretion of the commissioner of revenue, but in all cases must be credited first to penalties, next to interest, and then to the tax due.*

Sec. 20. [349.2171] [TAX-RELATED CRIMINAL PENALTIES.]

*Subdivision 1.* [PENALTY FOR FAILURE TO FILE OR PAY.] *(a) A person required to file a return, report, or other document with the commissioner of revenue, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.*

*(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required, is guilty of a felony.*

*Subd. 2.* [FALSE OR FRAUDULENT RETURNS; PENALTIES.] *(a) A person required to file a return, report, or other document with the commissioner of revenue, who delivers to the commissioner of revenue a return, report, or other document known by the person to be fraudulent or false concerning a material matter, is guilty of a felony.*

*(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.*

*Subd. 3.* [SALES WITHOUT PERMIT; VIOLATIONS.] *(a) A person who engages in the business of selling pull-tabs or tipboards in Minnesota without the licenses or permits required under this chapter, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.*

*(b) A person selling gambling equipment in Minnesota after revocation of a license or permit under this chapter, when the commissioner of revenue or the board has not issued a new license or permit, is guilty of a felony.*

*Subd. 4.* [CRIMINAL PENALTIES.] *Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.*

*Subd. 5.* [STATUTE OF LIMITATIONS.] *Notwithstanding section 628.26, or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this section, in the proper court within six years after the offense is committed.*

Sec. 21. [349.218] [INTEREST.]

*Subdivision 1.* [INTEREST RATE.] *When an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.*

*Subd. 2.* [LATE PAYMENT.] *If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.*

*Subd. 3.* [EXTENSIONS.] *If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.*

*Subd. 4.* [ADDITIONAL ASSESSMENTS.] *If a taxpayer is liable for additional taxes because of a redetermination by the commissioner of revenue, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.*

*Subd. 5.* [ERRONEOUS REFUNDS.] *In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.*

*Subd. 6.* [INTEREST ON JUDGMENTS.] *Notwithstanding section 549.09, if judgment is entered in favor of the commissioner of revenue with regard to any tax, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.*

*Subd. 7.* [INTEREST ON PENALTIES.] *(a) A penalty imposed under section 349.217, subdivision 1, 2, 3, 4, or 5 bears interest from the date the return or payment was required to be filed or paid (including any extensions) to the date of payment of the penalty.*

*(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.*

Sec. 22. [349.219] [ADMINISTRATIVE REVIEW.]

*Subdivision 1.* [TAXPAYER RIGHT TO RECONSIDERATION.] *A taxpayer may obtain reconsideration by the commissioner of revenue of an order assessing tax, a denial of a request for abatement of penalty assessed*

*under section 349.152, subdivision 1, clause (5), or 349.217, or a denial of a claim for refund of money paid to the commissioner of revenue under provisions, assessments, or orders under this chapter by filing an administrative appeal as provided in subdivision 4. A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.*

*Subd. 2.* [APPEAL BY TAXPAYER.] *A taxpayer who wishes to seek administrative review must follow the procedure provided by subdivision 4.*

*Subd. 3.* [NOTICE DATE.] *For purposes of this section the term "notice date" means the date of the order adjusting the tax or order denying a request for abatement, or, in the case of a denied refund, the date of the notice of denial.*

*Subd. 4.* [TIME AND CONTENT FOR ADMINISTRATIVE APPEAL.] *Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner of revenue. The appeal need not be in any particular form but must contain the following information:*

*(1) name and address of the taxpayer;*

*(2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;*

*(3) the Minnesota identification number or social security number of the taxpayer;*

*(4) the type of tax involved;*

*(5) the date;*

*(6) the tax years or periods involved and the amount of tax involved for each year or period;*

*(7) the findings in the notice that the taxpayer disputes;*

*(8) a summary statement that the taxpayer relies on for each exception; and*

*(9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.*

*Subd. 5.* [EXTENSIONS.] *When requested in writing and within the time allowed for filing an administrative appeal, the commissioner of revenue may extend the time for filing an appeal for a period not to exceed 30 days from the expiration of the 60 days from the notice date.*

*Subd. 6.* [AUTOMATIC EXTENSION OF STATUTE OF LIMITATIONS.] *Notwithstanding any statute of limitations to the contrary, when the commissioner of revenue has made a determination and the taxpayer has authority to file an administrative appeal, the period during which the commissioner can make further assessments or other determinations does not expire before:*

*(1) 90 days after the notice date if no protest is filed under subdivision 4; or*

*(2) 90 days after the commissioner of revenue notifies the taxpayer of the determination on the appeal.*

*Subd. 7.* [DETERMINATION OF APPEAL.] *On the basis of applicable*

*law and available information, the commissioner of revenue shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.*

*Subd. 8.* [AGREEMENT DETERMINING TAX LIABILITY.] *When it appears to be in the best interests of the state, the commissioner of revenue may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner of revenue and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. An agreement must be filed in the office of the commissioner of revenue.*

*Subd. 9.* [APPEAL OF AN ADMINISTRATIVE APPEAL.] *Following the determination or settlement of an appeal, the commissioner of revenue must issue an order reflecting that disposition. Except in the case of an agreement determining tax under this section, the order is appealable to the Minnesota tax court under section 271.06.*

*Subd. 10.* [APPEAL WHERE NO DETERMINATION.] *If the commissioner of revenue does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.*

*Subd. 11.* [EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.] *This section is not subject to chapter 14.*

Sec. 23. [STATE TO BE SUPPLIER OF GAMBLING EQUIPMENT.]

*Notwithstanding any other law to the contrary, after June 30, 1990, the state of Minnesota will be the sole supplier of all gambling equipment under Minnesota Statutes, chapter 349. The commissioner of revenue shall no later than January 15, 1990, submit to the legislature a bill making all statutory changes required to implement this section including proposing the required staff and appropriation. The bill shall include provisions requiring the state to provide an adequate supply and variety of gambling equipment and to supply it efficiently. The commissioner of revenue shall provide copies of this bill to the chair of the house of representatives tax committee and to the chair of the senate committee on taxes and tax laws.*

Sec. 24. [INSTRUCTION TO THE REVISOR.]

*The revisor of statutes is directed to change the words "charitable gambling" wherever they appear in Minnesota Statutes to "lawful gambling" in Minnesota Statutes 1990 and subsequent editions of the statutes.*

Sec. 25. [REPEALER.]

*Minnesota Statutes 1988, section 349.2121, subdivision 4, is repealed.*

Sec. 26. [EFFECTIVE DATE.]

*Sections 1 to 14 and 25 are effective July 1, 1989.*

*Section 19 is effective for tax or reporting periods beginning on or after July 1, 1989.*

*Sections 15 to 18, 21, and 22 are effective for returns and reports becoming due on or after July 1, 1989.*

*Section 20 is effective for violations occurring on or after July 1, 1989.*

ARTICLE 9

TAX INCREMENT FINANCING

Section 1. Minnesota Statutes 1988, section 469.174, subdivision 7, is amended to read:

Subd. 7. [ORIGINAL GROSS TAX CAPACITY.] (a) Except as provided in paragraph (b), "original gross tax capacity" means the gross tax capacity of all taxable real property within a tax increment financing district as most recently certified by the commissioner of revenue as of the date of the request by an authority for certification by the county auditor, together with subsequent adjustments as set forth in section 469.177, subdivisions 1 and 4. In determining the original gross tax capacity the gross tax capacity of real property exempt from taxation at the time of the request shall be zero, except for real property which is tax exempt by reason of public ownership by the requesting authority and which has been publicly owned for less than one year prior to the date of the request for certification, in which event the gross tax capacity of the property shall be the gross tax capacity as most recently determined by the commissioner of revenue.

(b) The original gross tax capacity of any designated hazardous substance site or hazardous substance subdistrict shall be determined ~~on January 2 following~~ *as of* the date the ~~agency or municipality~~ *authority* certifies to the county auditor that the agency or municipality has entered a redevelopment or other agreement for the removal actions or remedial actions specified in a development response action plan, or otherwise provided funds to finance the development response action plan. The original gross tax capacity equals (i) the gross tax capacity of the parcel *or parcels in the site or subdistrict*, as most recently determined by the commissioner of revenue, less (ii) the estimated ~~reasonable and necessary~~ costs of the removal actions and remedial actions as specified in a development response action plan to be undertaken with respect to the parcel ~~as certified to the county auditor by the municipality or agency~~ *or parcels*, (iii) but not less than zero.

(c) The original gross tax capacity of a hazardous substance site or subdistrict shall be increased by the amount by which it was reduced pursuant to paragraph (b), clause (ii), upon certification by the municipality that the *cost of the* removal and remedial actions specified in the development response action plan, except for long-term monitoring and similar activities, have been ~~completed~~ *paid or reimbursed*.

(d) For purposes of this subdivision, "real property" shall include any property normally taxable as personal property by reason of its location on or over publicly owned property.

Sec. 2. Minnesota Statutes 1988, section 469.174, subdivision 10, is amended to read:

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

(1) *parcels consisting of* 70 percent of the ~~parcels in~~ *area of* the district are occupied by buildings, streets, utilities, or other improvements and

more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) *parcels consisting of* 70 percent of the ~~parcels in~~ *area of* the district are occupied by buildings, streets, utilities, or other improvements and 20 percent of the buildings are structurally substandard and an additional 30 percent of the buildings are found to require substantial renovation or clearance in order to remove such existing conditions as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvement or conversion, or other identified hazards to the health, safety, and general well-being of the community; or

~~(3) the property consists of underutilized air rights existing over a public street, highway, or right-of-way; or~~

~~(4)~~ the property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way; ~~or~~

~~(5) the district consists of an existing or proposed industrial park no greater in size than 250 acres, which contains a sewage lagoon contaminated with polychlorinated biphenyls~~.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

*(c) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, or other improvements unless 15 percent of the area of the parcel contains improvements.*

*(d) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a), clauses (1) to (3), to be included in the district, and the entire area of the district must satisfy paragraph (a).*

Sec. 3. Minnesota Statutes 1988, section 469.174, subdivision 16, is amended to read:

Subd. 16. [DESIGNATED HAZARDOUS SUBSTANCE SITE.] "Designated hazardous substance site" means any parcel or parcels with respect to which the authority ~~or municipality~~ has certified to the county auditor that the authority ~~or municipality~~ has entered into a redevelopment or other agreement providing for the removal actions or remedial actions specified in a development response action plan or the ~~municipality or~~ authority will use other available money, including without limitation tax increments, to finance the removal or remedial actions. *A parcel described in the plan or plan amendment may be designated for inclusion in the hazardous substance subdistrict prior to approval of the development action response plan on the basis of the reasonable expectation of the municipality. Such parcel may not be certified as part of the subdistrict until the development action response plan has been approved.*

Sec. 4. Minnesota Statutes 1988, section 469.174, subdivision 17, is amended to read:

Subd. 17. [DEVELOPMENT ACTION RESPONSE PLAN.] "Development action response plan" means a plan or proposal for removal actions or remedial actions if the plan or proposal is submitted to the pollution control agency and the actions ~~contained~~ *recommended* in the plan or proposal are approved in writing by the commissioner of the agency as reasonable and necessary to protect the public health, welfare, and environment. *The commissioner shall review the development action response plan and approve, modify or reject the recommended actions within 60 days after submission of the plan (or revised plan) by the authority. The commissioner shall notify the authority in writing of the decision on the recommended actions within 30 days after the decision and, if the recommended actions are rejected, shall specify the reasons for rejection.*

Sec. 5. Minnesota Statutes 1988, section 469.174, is amended by adding a subdivision to read:

*Subd. 20.* [INTERNAL REVENUE CODE.] *"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1988.*

Sec. 6. Minnesota Statutes 1988, section 469.175, subdivision 3, is amended to read:

Subd. 3. [MUNICIPALITY APPROVAL.] A county auditor shall not certify the original gross tax capacity of a tax increment financing district until the tax increment financing plan proposed for that district has been approved by the municipality in which the district is located. If an authority that proposes to establish a tax increment financing district and the municipality are not the same, the authority shall apply to the municipality in which the district is proposed to be located and shall obtain the approval of its tax increment financing plan by the municipality before the authority may use tax increment financing. The municipality shall approve the tax increment financing plan only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. ~~This~~ *The published notice must include a map of the area of the district from which increments may be collected and, if the project area includes additional area, a map of the project area in which the increments may be expended. The* hearing may be held before or after the approval or creation of the project or it may be held in conjunction with a hearing to approve the project. Before or at the time of approval of the tax increment financing plan, the municipality shall make the following findings, and shall set forth in writing the reasons and supporting facts for each determination:

(1) that the proposed tax increment financing district is a redevelopment district, a mined underground space development district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) to (5), must be retained and made available to the public by the authority until the district has been terminated.

(2) that the proposed development or redevelopment, in the opinion of the municipality, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

(3) that the tax increment financing plan conforms to the general plan for the development or redevelopment of the municipality as a whole.

(4) that the tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or redevelopment of the project by private enterprise.

(5) that the municipality elects the method of tax increment computation set forth in section 469.177, subdivision 3, clause (b), if applicable.

When the municipality and the authority are not the same, the municipality shall approve or disapprove the tax increment financing plan within 60 days of submission by the authority, or the plan shall be deemed approved. When the municipality and the authority are not the same, the municipality may not amend or modify a tax increment financing plan except as proposed by the authority pursuant to subdivision 4. Once approved, the determination of the authority to undertake the project through the use of tax increment financing and the resolution of the governing body shall be conclusive of the findings therein and of the public need for the financing.

Sec. 7. Minnesota Statutes 1988, section 469.175, is amended by adding a subdivision to read:

*Subd. 6a.* [REPORTING REQUIREMENTS.] *(a) The municipality must annually report to the commissioner of revenue the following amounts for the entire municipality:*

*(1) the total principal amount of nondefeased tax increment financing bonds that are outstanding at the end of the previous calendar year; and*

*(2) the total annual amount of principal and interest payments that are due for the current calendar year on (i) general obligation tax increment financing bonds, and (ii) other tax increment financing bonds.*

*(b) The municipality must annually report to the commissioner of revenue the following amounts for each tax increment financing district located in the municipality:*

*(1) the type of district, whether economic development, redevelopment, housing, soils condition, mined underground space, or hazardous substance site;*

*(2) the date on which the district is required to be decertified;*

*(3) the captured tax capacity of the district, by property class as specified by the commissioner of revenue, for taxes payable in the current calendar year;*

*(4) the tax increment revenues for taxes payable in the current calendar year; and*

*(5) whether the tax increment financing plan or other governing document permits increment revenues to be expended (i) to pay bonds, the proceeds of which were or may be expended on activities located outside of the district, (ii) for deposit into a common fund from which money may be expended on activities located outside of the district, or (iii) to otherwise finance activities located outside of the tax increment financing district.*

*(c) The report required by this subdivision must be filed with the commissioner of revenue on or before March 1 of each year.*

*(d) This section applies to districts certified before, on, and after August*

*1, 1979.*

Sec. 8. Minnesota Statutes 1988, section 469.175, subdivision 7, is amended to read:

Subd. 7. [CREATION OF HAZARDOUS SUBSTANCE SUBDISTRICT; RESPONSE ACTIONS.] (a) ~~A municipality or~~ *An* authority which is creating or has created a tax increment financing district may establish within the district a hazardous substance subdistrict upon the notice and after the discussion, public hearing, and findings required for approval of *or modification to* the original plan. The geographic area of the subdistrict is made up of any parcels in the district designated for inclusion by the municipality or authority that are designated hazardous substance sites, and any additional parcels in the district designated for inclusion that are contiguous *to the hazardous substance site* except for the interposition of a right-of-way. Before or at the time of approval of the tax increment financing plan *or plan modification providing for the creation of the hazardous substance subdistrict*, the ~~municipality~~ *authority* must make the findings under paragraphs (b) to (d), and set forth in writing the reasons and supporting facts for each.

(b) Development or redevelopment of the site, in the opinion of the ~~municipality~~ *authority*, would not reasonably be expected to occur solely through private investment and tax increment otherwise available, and therefore the hazardous substance district is deemed necessary.

(c) Other parcels that are not designated hazardous substance sites are expected to be developed together with a designated hazardous substance site.

(d) The subdistrict is not larger than, and the period of time during which increments are elected to be received is not longer than, that which is necessary in the opinion of the municipality to provide for the additional costs due to the designated hazardous substance site.

(e) Upon request by ~~a municipality or~~ *an* authority that has incurred expenses for removal or remedial actions to implement a development response action plan, the attorney general may:

(1) bring a civil action on behalf of the ~~municipality or~~ authority to recover the expenses, including administrative costs and litigation expenses, under section 115B.04 or other law; or

(2) assist the ~~municipality or agency~~ *authority* in bringing an action as described in clause (1), by providing legal and technical advice, intervening in the action, or other appropriate assistance.

The decision to participate in any action to recover expenses is at the discretion of the attorney general.

(f) If the attorney general brings an action as provided in paragraph (e), clause (1), the ~~municipality or~~ authority shall certify its reasonable and necessary expenses incurred to implement the development response action plan and shall cooperate with the attorney general as required to effectively pursue the action. The certification by the ~~municipality or~~ authority is prima facie evidence that the expenses are reasonable and necessary. The attorney general may deduct litigation expenses incurred by the attorney general from any amounts recovered in an action brought under paragraph (e), clause (1). The ~~municipality or~~ authority shall reimburse the attorney

general for litigation expenses not recovered in an action under paragraph (e), clause (1), ~~and~~ *but only from the additional tax increment required to be used as described in section 469.176, subdivision 4e. The authority must reimburse the attorney general* for litigation expenses incurred to assist in bringing an action under paragraph (e), clause ~~(1)~~ *(2), but only from amounts recovered by the authority in an action or, if the amounts are insufficient, from the additional tax increment required to be used as described in section 469.176, subdivision 4e.* All money recovered or paid to the attorney general for litigation expenses under this paragraph shall be paid to the general fund of the state for deposit to the account of the attorney general. For the purposes of this section, "litigation expenses" means attorney fees and costs of discovery and other preparation for litigation.

(g) The ~~municipality or~~ authority shall reimburse the pollution control agency for its administrative expenses incurred to review and approve a development action response plan ~~and associated activities, and~~. *The authority must reimburse the pollution control agency* for expenses incurred for any services rendered to the attorney general to support the attorney general in actions brought or assistance provided under paragraph (e), *but only from amounts recovered by the municipality or authority in an action brought under paragraph (e) or from the additional tax increment required to be used as described in section 469.176, subdivision 4e.* All money paid to the pollution control agency under this paragraph shall be deposited in the environmental response, compensation and compliance fund.

(h) Actions taken by ~~a municipality or~~ *an* authority consistent with a development response action plan are deemed to be authorized response actions for the purpose of section 115B.17, subdivision 12. ~~A municipality or agency~~ *An authority* that takes actions consistent with a development response action plan qualifies for the defenses available under sections 115B.04, subdivision 11, and 115B.05, subdivision 9.

(i) All money recovered by ~~a municipality or~~ *an* authority in an action brought under paragraph (e) in excess of the amounts paid to the attorney general and the pollution control agency must be treated as excess increments and be distributed as provided in section 469.176, subdivision 2, clause (4), to the extent the removal and remedial actions were initially financed with increment revenues.

Sec. 9. Minnesota Statutes 1988, section 469.176, subdivision 1, is amended to read:

Subdivision 1. [DURATION OF TAX INCREMENT FINANCING DISTRICTS.] (a) Subject to the limitations contained in paragraphs (b) to ~~(f)~~ *(g)*, any tax increment financing district as to which bonds are outstanding, payment for which the tax increment and other revenues have been pledged, shall remain in existence at least as long as the bonds continue to be outstanding. *The municipality may, at the time of approval of the initial tax increment financing plan, provide for a shorter maximum duration limit than specified in paragraphs (b) to (g). The specified limit applies in place of the otherwise applicable limit.*

(b) The tax increment pledged to the payment of the bonds and interest thereon may be discharged and the tax increment financing district may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or date of redemption and interest thereon to the maturity or redemption date.

(c) For bonds issued pursuant to section 469.178, subdivisions 2 and 3, the full faith and credit and any taxing powers of the municipality or authority shall continue to be pledged to the payment of the bonds until the principal of and interest on the bonds has been paid in full.

(d) No tax increment shall be paid to an authority for a tax increment financing district after three years from the date of certification of the original gross tax capacity of the taxable real property in the district by the county auditor or after August 1, 1982, for tax increment financing districts authorized prior to August 1, 1979, unless within the three-year period (1) bonds have been issued pursuant to section 469.178, or in aid of a project pursuant to any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979, or (2) the authority has acquired property within the district, or (3) the authority has constructed or caused to be constructed public improvements within the district.

(e) No tax increment shall in any event be paid to the authority from a redevelopment district after 25 years from date of receipt by the authority of the first tax increment, after 25 years from the date of the receipt for a housing district, after 25 years from the date of the receipt for a mined underground space development district, after 12 years from approval of the tax increment financing plan for a soils condition district, and after eight years from the date of the receipt, or ten years from approval of the tax increment financing plan, whichever is less, for an economic development district.

For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or defease (i) bonds issued before April 1, 1990, or (ii) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs, provided the average maturity of the refunding bonds does not exceed the bonds refunded.

(f) Modification of a tax increment financing plan pursuant to section 469.175, subdivision 4, shall not extend the durational limitations of this subdivision.

(g) If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the period otherwise provided by this subdivision. The extended period for collection of tax increment begins on the date of receipt of the first tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under section 469.175, subdivision 7, paragraph (b), and received after the date of certification to the county auditor described in section 469.175, subdivision 7, paragraph (b). The extended period for collection of tax increment is the lesser of: (1) 25 years from the date of commencement of the extended period; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.

Sec. 10. Minnesota Statutes 1988, section 469.176, is amended by adding a subdivision to read:

*Subd. 4j.* [REDEVELOPMENT DISTRICTS.] *At least 90 percent of the revenues derived from tax increments from a redevelopment district must be used to finance the cost of correcting conditions that allow designation of redevelopment districts under section 469.174, subdivision 10. These costs include acquiring properties containing structurally substandard buildings or improvements, acquiring adjacent parcels necessary to provide a site of sufficient size to permit development, demolition of structures, clearing of the land, and installation of utilities, roads, sidewalks, and parking facilities for the site. The allocated administrative expenses of the authority may be included in the qualifying costs.*

Sec. 11. Minnesota Statutes 1988, section 469.176, subdivision 6, is amended to read:

Subd. 6. [ACTION REQUIRED.] If, after four years from the date of certification of the original gross tax capacity of the tax increment financing district pursuant to section 469.177, no demolition, rehabilitation, or renovation of property or other site preparation, including *qualified* improvement of a street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel, and the original gross tax capacity of that parcel shall be excluded from the original gross tax capacity of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation, or renovation or other site preparation on that parcel including *qualified* improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor that the activity has commenced, and the county auditor shall certify the gross tax capacity thereof as most recently certified by the commissioner of revenue and add it to the original gross tax capacity of the tax increment financing district. The county auditor must enforce the provisions of this subdivision. The authority must submit to the county auditor evidence that the required activity has taken place for each parcel in the district. The evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. *For purposes of this subdivision, qualified improvements of a street are limited to (1) construction or opening of a new street, (2) relocation of a street, and (3) substantial reconstruction or rebuilding of an existing street.*

Sec. 12. [469.1761] [INCOME REQUIREMENTS; HOUSING PROJECTS.]

*Subdivision 1.* [REQUIREMENT IMPOSED.] *In order for a tax increment financing district to qualify as a housing district, the income limitations provided in this section must be satisfied. The requirements imposed by this section apply to residential property receiving assistance financed with tax increments, including interest reduction, land transfers at less than the authority's cost of acquisition, utility service or connections, roads, or other subsidies. The provisions of this section do not apply (1) to interest reduction programs, provided that the duration of the district is limited to 12 years from the collection of the first increment or (2) to*

*districts located in a targeted area as defined in section 462C.08, subdivision 9, clause (e).*

*Subd. 2.* [OWNER OCCUPIED HOUSING.] *For owner occupied residential property, 95 percent of the housing units must be initially purchased and occupied by individuals whose family income is less than or equal to the income requirements for qualified mortgage bond projects under section 143(f) of the Internal Revenue Code.*

*Subd. 3.* [RENTAL PROPERTY.] *For residential rental property, the property must satisfy the income requirements for a qualified residential rental project as defined in section 142(d) of the Internal Revenue Code. A property also satisfies the requirements of section 142(d) if 50 percent of the residential units in the project are occupied by individuals whose income is 80 percent or less of area median gross income. The requirements of this subdivision apply for the duration of the tax increment financing district.*

*Subd. 4.* [NONCOMPLIANCE; ENFORCEMENT.] *Failure to comply with the requirements of this section results in application of the duration limits for economic development districts to the district. If at the time of the noncompliance the district has exceeded the duration limits for an economic development district, the district must be decertified effective for taxes assessed in the next calendar year. The commissioner of revenue shall enforce the provisions of this section. The commissioner may waive insubstantial violations. Appeal of the commissioner's orders of noncompliance must be made to the tax court in the manner provided in section 271.06.*

Sec. 13. Minnesota Statutes 1988, section 469.177, subdivision 10, is amended to read:

Subd. 10. [PAYMENT TO SCHOOL FOR REFERENDUM LEVY.] The provisions of this subdivision apply to tax increment financing districts and projects for which certification was requested before May 1, 1988, that are located in a school district in which the voters have approved new tax capacity rates or an increase in tax capacity rates after the tax increment financing district was certified (1) if there are no outstanding bonds on May 1, 1988, to which increment from the district is pledged, or (2) if the referendum is approved after May 1, 1988, and there are no bonds outstanding at the time the referendum is approved, that were issued before May 1, 1988, or (3) if the referendum increasing the tax capacity rate was approved after the most recent issue of bonds to which increment from the district is pledged. If clause (1) or (2) applies, the authority must annually pay to the school district an amount of increment equal to the increment that is attributable to the increase in the tax capacity rate under the referendum. If clause (3) applies, upon approval by a majority vote of the governing body of the municipality and the school board, the authority must pay to the school district an amount of increment equal to the increment that is attributable to the increase in the tax capacity rate under the referendum. The amounts of these increments may be expended and must be treated by the school district in the same manner as provided for the revenues derived from the referendum levy approved by the voters. *The provisions of this subdivision apply to projects for which certification was requested before, on, and after August 1, 1979.*

Sec. 14. Laws 1988, chapter 719, article 12, section 29, is amended to read:

Sec. 29. [TRANSITION RULES.]

(a) The provisions of sections 3, 6, 10, and ~~14~~ *16* do not apply to proposed tax increment financing districts for which the authority called for a public hearing in a resolution dated March 23, 1987, and for which a public hearing was held on April 28, 1987. The provisions of Minnesota Statutes 1987 Supplement, section 469.174, subdivision 10, and 469.176, subdivision 4, apply to such districts.

(b) The provisions of sections 3, 6, 10, and ~~14~~ *16* do not apply to candidate sites ~~in the old highway 8 corridor tax increment project area,~~ identified in the old highway 8 corridor plan as approved by an authority on October 14, 1986, if the requests for certification of the districts are filed with the county before January 1, 1998. The provisions of Minnesota Statutes 1987 Supplement, sections 469.174, subdivision 10, and 469.176, subdivision 4, apply to such districts.

(c) The provisions of section ~~14~~ *16*, subdivision 4c, do not apply to an economic development district located in a development district approved on November 9, 1987, provided the request for certification of the tax increment district is submitted to the county by ~~September 30, 1988~~ *August 15, 1989*.

Sec. 15. [HOMESTEAD AND AGRICULTURAL CREDIT AID; TIF DISTRICTS; FALCON HEIGHTS AND LAUDERDALE.]

*Subdivision 1.* [PAYMENT OF AID.] *The commissioner of revenue shall pay the cities of Falcon Heights and Lauderdale homestead and agricultural credit aid as provided by this section. The payments must be made at the times provided by Minnesota Statutes, section 273.1398.*

*Subd. 2.* [DEFINITIONS.] *For purposes of this section, (1) the definitions contained in Minnesota Statutes, section 273.1398 apply, and (2) qualified tax increment financing district means a tax increment financing district comprised exclusively of class 1 and class 4 property.*

*Subd. 3.* [CALCULATION OF AID AMOUNT.] *(a) Homestead and agricultural credit aid for a qualified tax increment financing district for taxes payable in 1990 equals the lesser of the following:*

*(1) total tax increment revenues for the district for taxes payable in 1989, minus the product of (i) the qualified tax increment financing district's gross tax capacity rate; (ii) its net tax capacity based on payable 1989 market values and net tax capacity percentages in effect for taxes payable in 1990, and (iii) 1.028146; or*

*(2) 105 percent of the principal and interest, due during the calendar year, on bonds that were issued before January 1, 1989, and to which the qualified district's increment revenues are pledged, less the total tax capacity rate year multiplied by the captured tax capacity of the tax increment financing district.*

*(b) For 1991 and later years, the district must receive aid equal to the amount it received in 1990 or the amount under paragraph (a), clause (2), for the year, whichever is less.*

*Subd. 4.* [APPROPRIATION.] *The amount necessary to make the payments required by this section is annually appropriated to the commissioner of revenue.*

*Subd. 5.* [CITY INFORMATION.] *The cities of Falcon Heights and Lauderdale must provide the commissioner of revenue with the information necessary to make the calculations required under subdivision 3, clause (2).*

Sec. 16. [MOORHEAD TAX INCREMENT FINANCING.]

*In the case of a tax increment financing district in the city of Moorhead created prior to August 1, 1979, and used to finance a hotel, parking facility, and conference project, the date "April 1, 1992" must be substituted for "April 1, 1990" in Minnesota Statutes, section 469.176, subdivision 1, paragraph (e), each place it occurs.*

Sec. 17. [DURATION OF TAX INCREMENT FINANCING DISTRICT.]

*Notwithstanding Minnesota Statutes, section 469.176, subdivision 1, tax increment financing district No. 2 in development district No. 1 within the city of Chanhassen may continue to receive tax increments through the year 1992, provided that any increment received during the years 1990 through 1992 may only be used to pay development costs associated with improvement of those portions of state trunk highway 101 or 5 within the development district or to pay the administrative expenses of the tax increment financing district.*

Sec. 18. [TRANSITION RULES.]

*Subdivision 1. Section 10 does not apply to tax increment financing districts established in development districts approved by an authority under Minnesota Statutes, sections 469.124 through 469.134 on April 24, 1989, provided the request for certification of the district is submitted to the county before June 1, 1991.*

*Subd. 2. Sections 2 and 10 do not apply to municipal redevelopment districts established or enlarged in a development district originally approved by an authority on September 1, 1980, under Minnesota Statutes 1978, chapter 472A, if those redevelopment districts are established or enlarged for proposed projects identified in exclusive negotiations agreements dated March 7, 1989.*

*Subd. 3. Section 10 does not apply to a redevelopment district in the city of Minneapolis that includes the former Sheraton Ritz hotel site, provided the request for certification of the district is submitted to the county before June 1, 1991.*

Sec. 19. [EFFECTIVE DATE.]

*Sections 2, 6, 9, 10, 11, and 12 are effective for districts for which the request for certification was filed with the county after June 30, 1989. Sections 1, 3, 4, 5, 7, 8, 13, 14, 15, and 18, subdivisions 1 and 2 are effective the day following final enactment. Section 16 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Moorhead. Section 17 is effective the day after compliance with Minnesota Statutes, section 645.021, by the Chanhassen city council. Section 18, subdivision 3, is effective upon compliance by the city council of the city of Minneapolis with Minnesota Statutes, section 645.021.*

ARTICLE 10

BUDGET RESERVE

Section 1. Minnesota Statutes 1988, section 16A.15, subdivision 6, is amended to read:

Subd. 6. [BUDGET AND CASH FLOW RESERVE ACCOUNT.] A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. The commissioner of finance shall transfer to the budget and cash flow reserve account such amounts as are available to bring the total amount, including any existing balance in the account on June 30, ~~1988~~ *1989*, to ~~$265,000,000~~ *$550,000,000*. The amounts restricted shall remain in the account until drawn down under subdivision 1 or increased under section 16A.1541.

Sec. 2. Minnesota Statutes 1988, section 16A.1541, is amended to read:

16A.1541 [ADDITIONAL REVENUES; PRIORITY.]

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget and cash flow reserve account until the total amount in the account equals ~~$550,000,000~~ *five percent of total general fund appropriations for the current biennium as established by the most recent legislative session*.

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

Sec. 3. [EFFECTIVE DATE.]

*This article is effective the day following final enactment.*

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 270.067, subdivision 1, is amended to read:

Subdivision 1. [STATEMENT OF PURPOSE.] State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the ability of the state and local governments to lower tax rates or to increase expenditures. As a result, tax expenditures should receive a regular and comprehensive review by the legislature as to (a) their total cost, (b) their effectiveness in achieving their objectives, (c) their effect on the fairness and equity of the distribution of the tax burden, and (d) the public and private cost of administering tax expenditure financed programs. This section is intended to facilitate a regular review of the state and local tax expenditure budget by the legislature by providing for the preparation of a regular ~~biennial~~ tax expenditure budget.

Sec. 2. Minnesota Statutes 1988, section 270.067, subdivision 2, is amended to read:

Subd. 2. [PREPARATION; SUBMISSION.] The commissioner of revenue shall prepare a tax expenditure budget for the state *every four years*. The tax expenditure budget report shall be submitted to the legislature as a supplement to the governor's budget and at the same time as provided for submission of the budget pursuant to section 16A.11, subdivision 1, *except that the next such report shall be submitted in 1993, and every four years thereafter*.

Sec. 3. Minnesota Statutes 1988, section 295.34, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, including long distance access charges, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, 1988, four percent,

for calendar year 1989, three percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of four percent,

for calendar year 1990, 1.5 percent,

for calendar year 1991, one percent, and

for calendar years beginning after December 31, 1991, exempt; and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, 1988, seven percent,

for calendar year 1989, 5.5 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of seven percent,

for calendar year 1990, three percent,

for calendar year 1991, 2.5 percent, and

for calendar years beginning after December 31, 1991, exempt.

A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating outside of Minnesota, except that the gross earnings tax is imposed on all long distance access charges allocated to interstate service received in payment from a telephone company before December 31, 1989.

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in 1989, payable in 1990, and sales and use taxes imposed as a result of chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid. For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

(c) For the period January 1, 1984 through December 31, 1986, all money paid by a company for connecting fees and switching charges,

including carriers access charges except that portion paid for directory assistance and billing and collection services, to any other company must be reported as earnings by the company to which they are paid, but are not deemed to be earnings of the collecting and paying company.

*(d) Gross earnings include customer access charges. Customer access charges are not gross earnings from business originating or terminating outside of Minnesota for purposes of the gross earnings tax. Customer access charges include the flat rate monthly charges received by a telephone company from its customers, that are authorized by the Federal Communications Commission and that compensate a telephone company for the cost of a local telephone plant to the extent attributable to interstate service.*

Sec. 4. [STATEMENT OF PURPOSE.]

*The purpose of section 3 is to confirm and clarify the original intent of the legislature in enacting the exemption for gross earnings from business originating or terminating outside of Minnesota in Minnesota Statutes, section 295.34. Section 3 does not create a new category of earnings subject to the gross earnings tax. It ratifies existing state interpretation of the telephone gross earnings tax and Minnesota Statutes, section 295.34.*

Sec. 5. Minnesota Statutes 1988, section 373.40, subdivision 1, is amended to read:

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

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, and roads and bridges. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it *or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.*

(c) "Commissioner" means the commissioner of trade and economic development.

(d) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(e) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the metropolitan council or by the state demographer under section 116K.04, subdivision 4, clause (10).

(f) "~~Taxable gross~~ Tax capacity" means total taxable ~~gross~~ tax capacity, but does not include captured ~~gross~~ tax capacity.

Sec. 6. Minnesota Statutes 1988, section 373.40, subdivision 2, is amended to read:

Subd. 2. [APPLICATION OF ELECTION REQUIREMENT.] (a) Bonds issued by a county to finance capital improvements under an approved capital improvement plan are not subject to the election requirements of section 375.18 or 475.58. The bonds must be approved by vote of at least three-fifths of the members of the county board. In the case of a metropolitan county, the bonds must be approved by vote of at least two-thirds of the members of the county board.

(b) Before ~~each~~ issuance of bonds qualifying under this section, the county must publish a notice of its intention to issue the bonds and the date and time of a hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the county or in a newspaper of general circulation in the county. The notice must be published at least 14, but not more than 28, days before the date of the hearing.

(c) A county may issue the bonds only upon obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the county in the last general election and is filed with the county auditor within 30 days after the public hearing. The commissioner of revenue shall prepare a suggested form of the question to be presented at the election.

Sec. 7. Minnesota Statutes 1988, section 444.075, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the term "municipality" means a home rule charter or statutory city, ~~wherever located,~~ except a city of the first class, or a town ~~located in a metropolitan county as defined in section 473.121, subdivision 4~~ *that is not in an orderly annexation process on the date of enactment of this act*. The term "governing body" means the town board ~~of supervisors~~ with respect to towns.

Sec. 8. Minnesota Statutes 1988, section 444.16, is amended to read:

444.16 [STORM SEWER IMPROVEMENT DISTRICTS; ~~MUNICIPALITY DEFINED~~.]

*Subdivision 1.* [DEFINITIONS.] For the purposes of ~~Laws 1974, chapter 206 "municipality" means any city, however organized~~ *sections 444.16 to 444.21 the terms in this section have the meanings given them.*

*Subd. 2.* [MUNICIPALITY.] *"Municipality" means a home rule charter or statutory city or a town that is not in an orderly annexation process on the date of enactment of this act.*

*Subd. 3.* [GOVERNING BODY.] *"Governing body" means the city council for a city and the town board for a town.*

Sec. 9. Minnesota Statutes 1988, section 444.17, is amended to read:

444.17 [ESTABLISHMENT OF DISTRICT.]

The ~~council~~ *governing body* of a municipality may by ordinance adopted by a two-thirds vote of all of its members, establish within its ~~corporate~~ *territorial* limits a storm sewer improvement tax district. The ordinance

shall describe with particularity the territory or area within the municipality to be included within the district. No such ordinance shall be adopted until after a public hearing has been held on the question. A notice of the time, place and purpose of the hearing shall be published for two successive weeks in the official newspaper of the municipality *or in a qualified newspaper of general circulation in the municipality* and the last notice shall be at least seven days prior to the day of the hearing. The ordinance when adopted shall be filed with the county auditor and county recorder.

Sec. 10. Minnesota Statutes 1988, section 444.18, is amended to read:

444.18 [AUTHORITY OF ~~COUNCIL~~ *GOVERNING BODY*; RECOVERY OF COST; IMPROVEMENT PROCEDURES.]

Subdivision 1. Following the adoption of an ordinance ~~pursuant to Laws 1974, chapter 206~~ *under sections 444.16 to 444.21*, the ~~council~~ *governing body* may acquire, construct, reconstruct, extend, maintain, and otherwise improve storm sewer systems and related facilities within the district. Storm water holding areas and ponds within and without the ~~corporate limits~~ *municipality* may also be acquired, constructed, maintained, and improved for the benefit of any such district. The cost of the systems and facilities described in this subdivision may be recovered by the tax authorized in section 444.20.

Subd. 2. The procedures of sections 429.031 to 429.081 shall apply when the ~~council~~ *governing body* of a municipality determines to make an improvement pursuant to this section.

Sec. 11. Minnesota Statutes 1988, section 444.19, is amended to read:

444.19 [BONDS.]

At any time after a contract for the construction of all or part of an improvement has been entered into or the work has been ordered done by day labor, the ~~council~~ *governing body* may issue obligations in ~~such~~ *an* amount ~~as~~ it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making the improvement, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvement or the financing thereof. The obligations shall be payable primarily out of the proceeds of the tax levied pursuant to section 444.20. The ~~council~~ *governing body* may by resolution adopted prior to the sale of obligations pledge the full faith, credit and taxing power of the municipality to assure payment of the principal and interest in the event the proceeds of the tax levy in the district are insufficient to pay ~~such~~ *the* principal and interest. Obligations shall be issued in accordance with chapter 475, except that an election is not required, and the amount of ~~any such~~ *the* obligations is not included in determining the net indebtedness of the municipality under the provisions of any law or charter limiting such indebtedness.

Sec. 12. Minnesota Statutes 1988, section 444.20, is amended to read:

444.20 [TAXES.]

The ~~council~~ *governing body* of a municipality may levy *a tax* on all taxable property within the district ~~such taxes as are~~ *in an amount* necessary to finance the cost of the improvement, including maintenance and to pay the principal and interest on obligations issued pursuant to section 444.19. ~~Such taxes~~ *The tax* shall be collected and paid over as other taxes, but shall be spread only upon the property described in the ordinance. ~~Such taxes~~

*The tax* shall be disbursed by the ~~council~~ *governing body* only for the benefit of district as established by the ordinance.

Sec. 13. Minnesota Statutes 1988, section 469.167, subdivision 2, is amended to read:

Subd. 2. [DURATION.] The designation of an area as an enterprise zone shall be effective for seven years after the date of designation, *except that enterprise zones in border cities eligible to receive allocations for tax reductions under section 469.169, subdivisions 7 and 8, and under section 469.171, subdivision 6a, shall be effective until these allocations have been expended.*

Sec. 14. Minnesota Statutes 1988, section 469.171, subdivision 7, is amended to read:

Subd. 7. [DURATION.] Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business unless the business is located in a border city enterprise zone designated under section 469.168, subdivision 4, clause (c), that is not a city of the first class. Each tax reduction provided to a business that is located in a border city enterprise zone designated under section 469.168, subdivision 4, clause (c), that is not located in a city of the first class ~~shall terminate not longer than seven years after the effective date of the tax reduction for the business~~, *may be provided until the allocations provided under subdivision 6a, and under section 469.169, subdivisions 7 and 8, have been expended.* Subject to the ~~five-year or the seven-year~~ limitation *in this subdivision*, the tax reductions may be provided after expiration of the zone's designation.

Sec. 15. [KANDIYOHI COUNTY RURAL DEVELOPMENT FINANCE AUTHORITY.]

*Subdivision 1.* [ESTABLISHMENT.] *The Kandiyohi county board may, by adopting a written enabling resolution, establish a county rural development finance authority that, subject to subdivision 2, has the following powers: powers of an economic development authority under Minnesota Statutes, sections 469.090 to 469.107, except for the authority to issue general obligation bonds under Minnesota Statutes, section 469.102; and powers of a rural development financing authority under sections 469.142 to 469.151.*

*Subd. 2.* [ECONOMIC DEVELOPMENT AUTHORITY POWERS.] *If the county rural development finance authority exercises the powers of an economic development authority, the county may exercise all of the powers relating to an economic development authority granted to a city under Minnesota Statutes, sections 469.090 to 469.108. The levy imposed by the county board under Minnesota Statutes, section 469.107, is not subject to the levy limitations in Minnesota Statutes, sections 275.50 to 275.56. The county rural development finance authority may create and define the boundaries of economic development districts at any place or places within the county. Minnesota Statutes, section 469.174, subdivision 10, and the contiguity requirement specified under Minnesota Statutes, section 469.101, subdivision 1, do not apply to limit the areas that may be designated as county economic development districts.*

*Subd. 3.* [LIMIT OF POWERS.] *(a) The enabling resolution may impose the following limits on the actions of the authority:*

*(1) that the authority may not exercise any of the powers contained in subdivision 1 unless those powers are specifically authorized in the enabling resolution; and*

*(2) any other limitation or control established by the county board by the enabling resolution.*

*(b) The enabling resolution may be modified at any time, but may not be applied in a manner that impairs contracts executed before the modification is made. All modifications to the enabling resolution must be by written resolution.*

*(c) Before the commencement of a project by the authority, the governing body of the municipality in which the project is to be located or the Kandiyohi county board, if the project is outside municipal corporate limits, shall by majority vote approve the project as recommended by the authority.*

*Subd. 4.* [BOARD OF DIRECTORS.] *(a) The authority consists of a board of seven directors. The directors shall be appointed by the Kandiyohi county board. Each director shall be appointed to serve for three years or until a successor is appointed and qualified. No director may serve more than two consecutive terms. The initial appointment of directors must be made so that no more than one-third of the directors' positions will require appointment in any one year due to fulfillment of their three-year appointment. The appointment of directors must be made to reflect representation of the entire county by population, appointing one director to represent each of the five county commissioner districts. The other two directors must be representatives of various county-based economic development organizations or be directors at-large. No more than two directors may reside in any one county commissioner district.*

*(b) Two of the directors initially appointed shall serve for terms of one year, two for two years, and three for three years. Each vacancy must be filled for the unexpired term in the manner in which the original appointment was made. A vacancy occurs if a director no longer resides in the county. No director shall be an officer, employee, director, shareholder, or member of any corporation, firm, or association with which the authority has entered into any operating lease, or other agreement. The directors may be removed by the county for the reasons and in the manner provided under Minnesota Statutes, section 469.010, and shall receive no compensation other than reimbursement for expenses incurred in the performance of their duties. Directors shall have no personal liability for obligations of the authority or the methods of enforcement and collection of the obligations.*

Sec. 16. [TOWN OF OTSEGO; ECONOMIC DEVELOPMENT.]

*Subdivision 1.* [ECONOMIC DEVELOPMENT AUTHORITY.] *The town of Otsego may establish an economic development authority. The town may establish the authority in the manner provided in Minnesota Statutes, sections 469.091 to 469.101, and may impose the limits on the authority enumerated in Minnesota Statutes, section 469.092. An authority established under this subdivision has all the powers and duties granted to or imposed upon economic development authorities under Minnesota Statutes, sections 469.090 to 469.106 and 469.174 to 469.178.*

*Subd. 2.* [POWERS OF A CITY OR MUNICIPALITY.] *The town of Otsego and its governing body have all the powers and duties granted to*

*or imposed upon (1) a city and the governing body of a city under Minnesota Statutes, sections 469.090 to 469.107, including the power to levy a tax subject to referendum under Minnesota Statutes, section 469.107; and (2) a municipality and the governing body of a municipality under Minnesota Statutes, sections 469.174 to 469.178 with respect to a project undertaken by an economic development authority under subdivision 1. General obligation bonds may be issued and a tax imposed to pay the principal and interest on the bonds only if the issuance and the tax are approved by a vote of the electors of the town at a regular town meeting. A tax may be levied under Minnesota Statutes, section 469.107, only if approved by a vote of the electors of the town at a regular town meeting.*

Sec. 17. [CONTINUATION OF PRODUCTION TAX LIABILITY.]

*Notwithstanding Minnesota Statutes, section 298.25, or any other law to the contrary, the provisions of Minnesota Statutes, section 298.24, will continue to apply to a taconite production facility that has ceased production in 1986 for production years 1989 and 1990 if ownership of that facility is transferred in 1989 to a new owner that intends to resume taconite production at that facility no later than December 31, 1991. The new owner must provide evidence to the commissioner of revenue of its intent and ability to do so. If the new owner fails to resume taconite production at the facility by December 31, 1991, the property shall become subject to ad valorem taxes for the 1991 levy year, taxes payable in 1992, and thereafter, and an additional tax equal to the amount of ad valorem tax that would have been payable on the property for taxes payable in 1990 and 1991, less any taxes paid under Minnesota Statutes, section 298.24, during 1990 and 1991, shall also be extended against the property on the tax list for 1992.*

Sec. 18. [APPROPRIATIONS.] *There is appropriated from the general fund to the commissioner of revenue the following amounts for the administration of this act.*

| | *Fiscal Year 1990* | *Fiscal Year 1991* |
|---|---|---|
| *Total* | *$763,300* | *$446,730* |
| *Summary by purpose* | | |
| *Truth in Taxation* | *$147,800* | *$ 92,000* |
| *UBIT and Corporate Tax Changes* | *$113,000* | *$153,530* |
| *Charitable Gambling* | *$132,500* | *$103,200* |
| *Property Tax Refunds* | *$ 94,000* | *$ 98,000* |
| *Systems* | *$200,000* | |
| *Tax Samples* | *$ 76,000* | |

Sec. 19. [APPROVED COMPLEMENT.] *The approved complement of the department of revenue is increased by nine for fiscal year 1990 and by ten for fiscal year 1991.*

Sec. 20. [REPEALER.]

*Minnesota Statutes 1989, sections 60A.151 and 271.061, are repealed.*

Sec. 21. [EFFECTIVE DATE.]

*Sections 1, 2, 13, 14, and 17 are effective the day following final*

*enactment. Section 3 is effective retroactive to January 1, 1986. Sections 5 and 6 are effective July 1, 1989, and for bonds issued after June 30, 1989. Section 15 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the county board of Kandiyohi county. Section 16 is effective the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the town board of the town of Otsego. Section 20 is effective for appeals filed after the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; changing tax increment financing provisions; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; setting the amount of the budget reserve; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.31, subdivision 5; 16A.15, subdivision 6; 16A.1541; 60A.15, subdivision 1; 124.2131, subdivision 1; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.03, subdivision 2; 124A.23, subdivisions 1 and 2; 124A.26, subdivision 1; 256.018; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256B.091, subdivision 8; 256B.19, subdivision 1; 256D.03, subdivision 2; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivisions 2, 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivisions 1, 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.061, subdivision 1; 273.064; 273.065; 273.11, subdivision 1, and by adding a subdivision; 273.111, subdivision 4; 273.119, subdivision 2; 273.123, subdivisions 4 and 5; 273.124, subdivision 6; 273.13, subdivisions 22, 23, 24, 25, and 31; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1392; 273.1398, subdivisions 1, 2, 3, 5, 6, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivisions 1, 3, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.125, subdivisions 5 and 5b; 275.14; 275.28, subdivision 1; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 1, 2, and 3; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 290.015, subdivisions 3 and 4; 290.02; 290.05, subdivision 3; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.0802, subdivision 1; 290.091, subdivision 2, and by adding a subdivision; 290.17, subdivision 2, and by adding a subdivision; 290.191, subdivision 6; 290.21, subdivision 4; 290.37,

subdivision 1; 290.38; 290.92, subdivisions 4b, 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.04, subdivisions 2, 2h, and by adding subdivisions; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.25, subdivision 3; 297A.257, subdivision 1, and by adding a subdivision; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivision 6; 349.12, subdivisions 11, 13, and by adding subdivisions; 349.15; 349.16, by adding a subdivision; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.214, subdivision 2; 373.40, subdivisions 1 and 2; 398A.04, by adding a subdivision; 444.075, subdivision 1; 444.16; 444.17; 444.18; 444.19; 444.20; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 7, 10, 16, 17, and by adding a subdivision; 469.175, subdivisions 3, 7, and by adding a subdivision; 469.176, subdivisions 1, 6, and by adding a subdivision; 469.177, subdivisions 6 and 10; 473.167, subdivisions 3, 4, and 5; 473.249, subdivisions 1 and 2; 473.446, subdivision 8; 473.711, subdivision 5; 473F.05; 473F.06; 473F.07, subdivisions 1, 2, and 5; 473F.08, subdivisions 3 and 5; 473F.09; 473H.10, subdivision 3; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding a subdivision; 477A.013, subdivisions 1, 3, and by adding a subdivision; and Laws 1988, chapter 719, articles 1, section 22; and 12, section 29; proposing coding for new law in Minnesota Statutes, chapters 273; 274; 290; 297A; 349; and 469; repealing Minnesota Statutes 1988, sections 60A.151; 270.81, subdivision 5; 271.061; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 290.092, subdivision 5; 349.2121, subdivision 4; 473.249, subdivision 3; 477A.011, subdivision 24; 477A.013, subdivision 4; and Laws 1989, chapter 27, article 2, sections 2, 3, and 5."

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

House Conferees: (Signed) Dee Long, Ann Wynia, Alan W. Welle, Edgar L. Olson, Ann H. Rest

Senate Conferees: (Signed) Douglas J. Johnson, John E. Brandl, Steven G. Novak, Lawrence J. Pogemiller, LeRoy A. Stumpf

Mr. Johnson, D.J. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1734 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1734 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 37 and nays 29, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Langseth | Novak | Schmitz |
| Beckman | Dicklich | Lantry | Peterson, D.C. | Solon |
| Berglin | Diessner | Luther | Peterson, R.W. | Spear |
| Brandl | Frank | Marty | Piper | Stumpf |
| Brataas | Frederickson, D.J. | Merriam | Pogemiller | Vickerman |
| Cohen | Freeman | Moe, D.M. | Purfeerst | |
| Dahl | Hughes | Moe, R.D. | Reichgott | |
| Davis | Johnson, D.J. | Morse | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Chmielewski | Knaak | McQuaid | Ramstad |
| Belanger | Decker | Knutson | Mehrkens | Renneke |
| Benson | Frederick | Kroening | Metzen | Storm |
| Berg | Frederickson, D.R. | Laidig | Olson | Taylor |
| Bernhagen | Gustafson | Larson | Pariseau | Waldorf |
| Bertram | Johnson, D.E. | McGowan | Pehler | |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1625, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1625: A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 136.31, subdivisions 3 and 5; 136A.04; 136A.05; 136A.08; 136A.095; 136A.101, subdivisions 1 and 7; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivision 1; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.29, subdivision 9; 136C.04, subdivisions 1, 2, 6, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding a subdivision; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; and 136C.43, subdivisions 1, 2, and 3.

Senate File No. 1625 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 738

and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 738: A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

Senate File No. 738 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 139, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 139: A bill for an act relating to liquor; increasing age for provisional driver's license to 21 years; changing provisional licenses to "under-21" licenses; prohibiting the issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages; providing penalty for misuse of Minnesota identification card; increasing the period for suspension of a drivers license for use of a license to illegally purchase alcohol; including other forms of identification and persons who lend identification; increasing the penalty for counterfeiting a drivers license or Minnesota identification card; prohibiting lending any form of identification for use by an underage person to purchase alcohol; clarifying the application of the carding defense for illegal sales; providing for transfer of confiscated identification; amending Minnesota Statutes 1988, sections 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 340A.

Senate File No. 139 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 299, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 299: A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally

killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

Senate File No. 299 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 46, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 46 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 46

A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; providing for deficiencies in and supplementing appropriations for the expenses of state government; authorizing issuance of state bonds; providing for the maximum effort school loan program and the cooperative secondary facilities grant program; clarifying the definition of mental health service provider and providing for a fee for the providers; clarifying requirements of manufactured home parks in certain cases; reducing certain bond sales authorizations; distributing the proceeds of certain litigation; increasing authorizations for certain state transportation bonds; increasing the allocation for bridges to political subdivisions; providing for certain adjustment grants; approving a capital loan; appropriating money; amending Minnesota Statutes 1988, sections 116.18, subdivision 3d; 124.477; 124.493, subdivision 1; 124.494, subdivisions 1, 2, and 4; 124.495; 129B.72, subdivision 2, and by adding a subdivision; 129B.73, subdivision 4, and by adding a subdivision; 148B.40, subdivision 3; 148B.42, by adding a subdivision; 327.20, subdivision 1; and Laws 1979, chapter 280, sections 1 and 2, as amended; proposing coding for new law in Minnesota Statutes, chapter 129B; repealing Laws 1987, chapter 400, section 59, as amended; and Laws 1988, chapter 686, article 1, section 37, subdivision 10.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 46, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 46 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. [CAPITAL IMPROVEMENTS APPROPRIATIONS.]

The sums in the column marked "APPROPRIATIONS" are appropriated from the state building fund, or another named fund, to the state agencies indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this act.

SUMMARY

| | |
|---|---|
| TECHNICAL INSTITUTES | $ 5,485,000 |
| COMMUNITY COLLEGES | 5,805,000 |
| STATE UNIVERSITIES | 27,830,000 |
| UNIVERSITY OF MINNESOTA | 14,415,000 |
| EDUCATION | 2,703,000 |
| HUMAN SERVICES | 11,751,000 |
| CORRECTIONS | 2,600,000 |
| HEALTH | 390,000 |
| VETERANS HOMES BOARD | 165,000 |
| JOBS AND TRAINING | 1,000,000 |
| BOARD OF WATER AND SOIL RESOURCES | 1,500,000 |
| MINNESOTA HISTORICAL SOCIETY | 301,000 |
| ADMINISTRATION | 38,312,000 |
| CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD | 450,000 |
| NATURAL RESOURCES | 6,857,000 |
| POLLUTION CONTROL AGENCY | 10,125,000 |
| PUBLIC FACILITIES AUTHORITY | 12,700,000 |
| TRADE AND ECONOMIC DEVELOPMENT | 6,780,000 |
| MILITARY AFFAIRS | 400,000 |
| TRANSPORTATION | 8,000,000 |
| BOND SALE EXPENSES | 119,000 |
| TOTAL | $157,688,000 |
| General Fund | 2,103,000 |
| Building Fund | 142,585,000 |
| Reinvest in Minnesota Resources Fund | 5,000,000 |
| Transportation Fund | 8,000,000 |

APPROPRIATIONS

$

Sec. 2. TECHNICAL INSTITUTES

Subdivision 1. To the state board of vocational technical education for the purposes specified in this section 5,485,000

The state board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Post-secondary vocational technical construction in the school districts listed in this subdivision 675,000

(a) Independent School District No. 564, Thief River Falls 505,000

This appropriation is added to the appropriation in Laws 1987, chapter 400, section 17, subdivision 2, clause (p), for the same purposes. The total amount of the project may not exceed $2,708,000.

(b) Independent School District No. 819, Wadena 170,000

This appropriation is added to the appropriation in Laws 1987, chapter 400, section 17, subdivision 2, clause (q), for the same purposes. The total amount of the project may not exceed $2,321,000.

Subd. 3. Statewide

Notwithstanding Minnesota Statutes, section 136C.44, during the biennium ending June 30, 1991, the state board of vocational technical education must not make grants to school districts but shall directly supervise and control the preparation of plans and specifications to construct, alter, or enlarge the technical institute buildings, structures, and improvements provided for in this subdivision. The state board of vocational technical education may provide grants to school districts for land purchases authorized in this act. The school district must still finance 15 percent of the cost of each project, other than in a joint

vocational technical district as defined in Minnesota Statutes, section 136C.60.

During the biennium, the state board of vocational technical education shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Plans must be paid for out of this appropriation. The remainder of the appropriation must not be spent until the board has secured suitable plans and specifications, prepared by a competent architect or engineer. The plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this act. The state board of vocational technical education may employ appropriate staff to implement this subdivision and may delegate responsibilities to technical institute staff.

(a) Acquire land 950,000

This appropriation is to acquire land at the campuses at Bemidji, Detroit Lakes, Pine City, St. Paul, and Winona.

(b) To continue development of the master facility plan at each technical institute campus 250,000

(c) Miscellaneous 3,610,000

This appropriation is for capital improvement grants to school districts for roofs, parking lots, hazardous material abatement, fuel tank removal, electrical, mechanical, and other physical plant repairs and betterments at technical institute campuses.

Sec. 3. COMMUNITY COLLEGES

Subdivision 1. To the commissioner of administration for the purposes specified in the following subdivisions 5,805,000

Notwithstanding Minnesota Statutes, section 16B.24, subdivision 2, the state board for community colleges shall supervise and control the making of necessary repairs to all state community college buildings and structures during the biennium ending June 30, 1991.

The state board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Brainerd Community College 360,000

This appropriation is to prepare working drawings to provide space for drama, child care, physical education, laboratories, biology, a library, classrooms, a campus center, an art studio and classroom, offices, parking, and storage areas.

Subd. 3. Fergus Falls Community College 200,000

This appropriation is to prepare working drawings for a campus center, child care, laboratories, offices, administration and counseling, classrooms, continuing education, physical education, parking, and storage.

Subd. 4. Fond du Lac Center 100,000

This appropriation is to prepare working drawings for classrooms, laboratories, offices, and other necessary purposes. This appropriation is available only after receipt of a gift of land upon which the structures will be located.

Subd. 5. Hibbing Community College 25,000

This appropriation is to prepare working drawings for athletic facilities. The plans must be developed in cooperation with the local school board.

Subd. 6. Lakewood Community College 320,000

This appropriation is to prepare working drawings to provide space for classrooms, child care, continuing education, physical education, parking, student services, administration, laboratories, campus center, and faculty office areas.

Subd. 7. Normandale Community College 580,000

This appropriation is to prepare working drawings to provide space for administration, classrooms, a campus center, laboratories, a library, continuing education, maintenance, student services areas, and parking areas.

Subd. 8. Rainy River Community College 155,000

This appropriation is to prepare working drawings for classrooms, laboratories, student services areas, faculty offices, a bookstore, child care, maintenance facilities, library, administration areas, and parking areas.

Subd. 9. Southeastern Education Center 825,000

This appropriation is to prepare working drawings for: (1) a facility to be shared by the University of Minnesota, Rochester Community College, and Winona State University; and (2) the space vacated on the community college campus as a result of the new structure.

Subd. 10. Willmar Community College 185,000

This appropriation is to prepare working drawings for laboratories, a library, offices, parking, heating systems, fine arts, and classroom areas.

Subd. 11. Systemwide

(a) Acquire land 1,000,000

This appropriation is to the community college board to acquire land at Willmar, Brainerd, and Anoka-Ramsey community colleges.

Before taking action, the board shall consult with the chairs of the senate finance committee and the house appropriations committee about the proposed action. The board shall explain the need to acquire property, specify the property to be acquired, and indicate the source and amount of money needed for the

acquisition. Should either chair object to the proposed purchase, then further action must be suspended pending presentation of the proposal to the legislature for consideration.

The community college board may pay relocation costs, at its discretion, when acquiring property.

(b) To continue effective facility and program planning at community college campuses 250,000

(c) Miscellaneous 1,805,000

This appropriation is for capital improvements at community colleges statewide, including roofs, hazardous material abatement, repair or construction of parking lots, electrical, mechanical, and other physical plant repairs and betterments.

Sec. 4. STATE UNIVERSITIES

Subdivision 1. To the state university board for the purposes specified in the following subdivisions 27,830,000

Notwithstanding Minnesota Statutes, sections 16B.30 and 16B.31, during the biennium, the state university board shall supervise and control the preparation of plans and specifications for the construction, alteration, or enlargement of the state university buildings, structures, and improvements provided for in this section. During the biennium, the board shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Plans must be paid for out of this appropriation. The remainder of the appropriation must not be spent until the board has secured suitable plans and specifications, prepared by a competent architect or engineer. The plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no

improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this act.

The board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

Notwithstanding Minnesota Statutes, section 16B.24, subdivision 2, the state university board shall supervise and control the making of necessary repairs to all state university buildings and structures during the biennium ending June 30, 1991.

Notwithstanding other law, during the biennium, the state university board, on behalf of St. Cloud State and Winona State universities, may purchase property adjacent to or in the vicinity of the campuses as necessary for the development of the universities.

Before taking action, the board shall consult with the chairs of the senate finance committee and the house appropriations committee about the proposed action. The board shall explain the need to acquire property, specify the property to be acquired, and indicate the source and amount of money needed for the acquisition. Should either chair object to the proposed purchase, then further action must be suspended pending presentation of the proposal to the legislature for consideration.

The state university board may pay relocation costs, at its discretion, when acquiring property.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Bemidji Campus 150,000

This appropriation is from the general fund to replace the theater lighting in Bangsberg Hall.

Subd. 3. Mankato Campus

| | |
|---|---|
| (a) Val Imm Drive | 500,000 |
| This appropriation is to pay a special assessment by the city of Mankato for the cost of reconstruction and improvement of Val Imm Drive. | |
| During the biennium ending June 30, 1991, the city of Mankato may assess the state university board for costs of a storm water system. The assessment must not be made until completion of the work and must not be more than $275,000 or 50 percent of the project, whichever is less. | |
| (b) Remodel and construct an addition to Memorial Library | 11,200,000 |
| Subd. 4. Metropolitan Campus | |
| Plan for a consolidated administrative and student center - working drawings | 600,000 |
| Subd. 5. Moorhead Campus | |
| Prepare working drawings for a classroom and office building | 210,000 |
| Subd. 6. St. Cloud Campus | |
| Repair exterior of business building | 295,000 |
| Subd. 7. Southwest Campus | |
| Waterproof tunnels | 365,000 |
| The appropriation in Laws 1987, chapter 400, section 19, subdivision 6, item (e), must not be spent for telecommunication towers and equipment for the southwest regional microwave system, but must be spent to develop the facilities and purchase the necessary fiber optic and microwave equipment to develop the regional system. | |
| Subd. 8. Winona Campus | |
| Construct Health And Applied Science Building. | 10,310,000 |
| Subd. 9. This appropriation is for capital improvements on state university campuses statewide. | |
| (a) Abate hazardous materials | 1,200,000 |
| (b) Replace roofs | 1,400,000 |
| (c) Acquire land | 1,600,000 |
| This appropriation is to acquire land adjacent to or in the vicinity of the Winona | |

and St. Cloud campuses.

Up to $350,000 of the unencumbered balance remaining from the money appropriated in Laws 1987, chapter 400, section 19, subdivision 7, for planning and land acquisition at Winona State University may be used for acquiring additional land adjacent to or in the vicinity of the Winona State campus.

Options for purchase of land may be negotiated for the Science Center at Moorhead.

Subd. 10. Wood-Fired Boilers

Effective upon enactment of this act, no more money shall be paid out of the treasury of this state in connection with an agreement under Minnesota Statutes, section 16B.16, to provide a wood-fired boiler heating system at the campus of either Bemidji State University or St. Cloud State University. This prohibition is intended to be permanent.

Minnesota Statutes, section 16B.16, authorizes the commissioner of administration to enter into installment purchase agreements to acquire equipment that will improve the energy efficiency of a state building or facility if, among other things, the entire cost of the contract is a percentage of the resultant savings in energy costs and the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract. Section 16B.16 does not authorize the commissioner to commit the state to pay for equipment that does not work nor to pay more for energy as a result of the installment purchase agreement than would be needed without the agreement. If there are no savings in energy costs through use of the equipment, there should be no compensation due under the agreement.

The commissioner of administration acted under Minnesota Statutes, section 16B.16, when entering into installment purchase agreements to install wood-fired boiler heating systems at the campuses of Bemidji State University and St. Cloud State University. The wood-fired boiler heating system installed at the Bemidji campus did not work as promised and

the promised energy savings were not achieved. The state refused to make further payments under the agreement for Bemidji and canceled the agreement for St. Cloud. The state later resumed making payments under the agreement for Bemidji, even though it believed there had been a complete failure of consideration.

The purpose of this subdivision is to make clear to all potential investors in state and local bonds and to financial institutions that the state is not and never has been responsible for financing the wood-fired boiler heating systems at Bemidji and St. Cloud state universities, other than through payment to the vendor of a percentage of the resultant savings in energy costs. Since the equipment and technology chosen by the vendor did not produce savings in energy costs, the entire loss should be borne by the vendor and by the vendor's financial backers, not by the state.

Sec. 5. UNIVERSITY OF MINNESOTA

Subdivision 1. To the regents of the University of Minnesota for the purposes specified in the following subdivisions 14,415,000

The regents shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Twin Cities Campus

(a) Plan Walter Library Renovation 2,270,000

(b) Biological Sciences and Basic Sciences Construction Projects - Working Drawings 5,114,000

(c) Upgrade Indoor-Outdoor Track 270,000

(d) Physiology Building - Working Drawings 60,000

(e) Earth Sciences and Materials Engineering Building - Schematic Plans 1,035,000

Subd. 3. Waseca Campus

| | |
|---|---|
| Prepare working drawings for a food service and campus center | 266,000 |
| Subd. 4. Statewide | 5,400,000 |
| $3,040,000 is for health and life safety improvements at University of Minnesota facilities statewide. | |
| $2,200,000 is the final appropriation for the state's share of the cost of clean up of the Rosemount Research Center. | |
| $160,000 is to prepare schematic plans for integrated waste management. | |
| Subd. 5. Other Provisions | |
| The regents of the University of Minnesota may use nonstate money to plan an addition to Ferguson Hall and to plan the next phase of the recreation sports facility. | |
| In addition to the purpose stated in Laws 1987, chapter 400, section 20, subdivision 8, clause (a), the regents are authorized to use the appropriation to construct an attached greenhouse. | |
| Sec. 6. EDUCATION | |
| Subdivision 1. To the commissioner of administration for the purposes specified in this section | 2,703,000 |
| Subd. 2. Minnesota State Academy for the Blind and Deaf - Faribault | |
| (a) Rewire Rodman Service Building and Tate Hall | 318,000 |
| (b) Abate asbestos | 135,000 |
| Subd. 3. Minnesota School and Resource Center for the Arts - St. Paul | |
| Demolish buildings on the art school site | 250,000 |
| Subd. 4. Desegregation Grants | 2,000,000 |
| This appropriation is for desegregation grants to school districts under the desegregation capital improvement grant act according to Minnesota Statutes, sections 129B.71 to 129B.73. | |
| Sec. 7. HUMAN SERVICES | |
| To the commissioner of administration for the purposes specified in this section | 11,751,000 |
| (a) Plan and construct eight state-operated community service facilities, to be owned by the state | 2,640,000 |

(b) Upgrade or install heating, ventilating, and air conditioning equipment in state-owned residential and program buildings 4,200,000

This appropriation is for Anoka, Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar regional treatment centers, and for Ah-Gwah-Ching and Oak Terrace state nursing homes. The commissioner of human services shall determine the priority for each project.

$150,000 is for the state board for community colleges and the commissioner of human services to jointly study the feasibility of converting buildings at the Cambridge regional treatment center for use by the Cambridge community college center. The study must be submitted to the chairs of the senate finance committee and house appropriations committee for their advisory recommendations. Following receipt of the recommendations, the state board and the commissioner shall prepare a preliminary plan for the conversion and submit it to the legislature by January 1, 1990. The plan must include a timetable for the transfer and for any construction, remodeling, or repairs required to make the facilities ready for use by the college center. It must also include the estimated costs of the facility improvements required to convert the buildings to college use.

(c) Prepare working drawings to renovate and reconstruct Anoka, Cambridge, Moose Lake, and Fergus Falls regional treatment centers, and evaluate the need for additional security and nursing home beds in the metropolitan area 1,228,000

(d) Remodel residential buildings at regional treatment centers to meet standards for skilled nursing facilities 3,000,000

This appropriation is to remodel and plan to remodel buildings at Brainerd and Fergus Falls and to plan to remodel buildings at Faribault and Moose Lake.

(e) Replace boilers and make related steam system renovations at Ah-Gwah-Ching State Nursing Home 683,000

Sec. 8. CORRECTIONS

Subdivision 1. To the commissioner of administration for the purposes specified in this section 2,600,000

| | |
|---|---|
| Subd. 2. Minnesota Correctional Facility — Red Wing | |
| Install and upgrade appropriate fire and safety equipment on boilers #1 and #2 | 300,000 |
| Subd. 3. Minnesota Correctional Facility — St. Cloud | |
| Replace and reinsulate steam, condensate, sewer, and water lines in utility tunnels | 1,100,000 |
| Subd. 4. Minnesota Correctional Facility — Shakopee | |
| Demolish old Shakopee correctional facility | 250,000 |
| Subd. 5. Minnesota Correctional Facility — Stillwater | |
| Complete various projects required to comply with OSHA regulations | 350,000 |
| Subd. 6. Systemwide | |
| Repair roofs at various state correctional facilities | 600,000 |
| Sec. 9. HEALTH | |
| To the commissioner of administration for the purposes specified in this section | 390,000 |
| (a) Conduct evaluation of public health laboratories ventilation system and make structural changes necessary for adequate ventilation | 260,000 |
| (b) Conduct long-range space utilization study of the laboratories at the present health building focusing on safety and changing laboratory technologies | 130,000 |
| Sec. 10. VETERANS HOMES BOARD | |
| Subdivision 1. To the commissioner of administration for the purpose specified in this section. | |
| Subd. 2. Minnesota Veterans Home — Minneapolis | |
| Demolish Building 5 | 165,000 |
| Sec. 11. JOBS AND TRAINING | |
| Acquire site and building in Minneapolis for department offices | 1,000,000 |
| Sec. 12. BOARD OF WATER AND SOIL RESOURCES | |
| To the board of water and soil resources for the reinvest in Minnesota resources program | 1,500,000 |

This appropriation is from the reinvest in Minnesota resources fund to acquire conservation easements under Minnesota Statutes, section 40.43, subdivision 3. The board shall give priority to acquiring easements on cropland in sensitive groundwater areas. The approved complement of the board of water and soil resources is increased by one position to administer these projects, to be paid from this appropriation.

Sec. 13. MINNESOTA HISTORICAL SOCIETY

To the Minnesota historical society for the purposes specified in this section 301,000

(a) Red Lake Tribal Information Center 165,000

This appropriation is to prepare working drawings for a Red Lake Tribal Information Center to be owned by the state or a political subdivision.

(b) Red Wing Energy Park Archaeological Site 136,000

This appropriation is for a grant to Goodhue county to acquire Lot 6, Block 2, Red Wing Energy Park, city of Red Wing for historic preservation and educational purposes. The property consists of archaeological lands and resources adjacent to the Cannon Valley Trail and affords unique educational opportunities.

Sec. 14. ADMINISTRATION

To the commissioner of administration for the purposes specified in this section 38,312,000

(a) Provide handicapped persons with access to state buildings - statewide 29,000,000

$390,000 is for use by the state board of vocational technical education.

$95,000 is for use by the state board for community colleges.

$400,000 is for the regents of the University of Minnesota.

$2,050,000 is for use by the commissioner of administration.

No more than $2,935,000 of this $29,000,000 may be spent before June 30, 1990.

The legislature declares its continuing intent

to make state-owned buildings fully accessible to disabled persons by June 30, 1993.

The commissioner of administration shall update and review the 1984 accessibility survey for accuracy, completeness, and currency; shall prepare preliminary plans and specifications to correct identified deficiencies; shall prepare a report and work plan, including schedules and updated cost estimates for submission to the legislature by February 15, 1990; and shall begin construction and remodeling of buildings identified in the report and work plan as having the greatest need. In preparing the report and work plan and any changes to it, the commissioner shall consult with and receive the recommendations and priorities of the council on people with disabilities. The commissioner of administration shall submit by each February 15 a progress report to the chair of the senate committee on finance and the house committee on appropriations on the status of the construction and remodeling of state buildings paid for out of this appropriation.

The commissioner of administration shall apply for the maximum federal share for each capital improvement project for which money is appropriated in this item.

The commissioner of finance shall schedule the sale of state general obligation bonds so that during fiscal years 1990 and 1991 no more than $811,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest expenses resulting from the expenditure of $2,935,000 appropriated in this item. Additional amounts may be transferred for debt service related to this item only as specifically authorized by law.

(b) Remove or encapsulate asbestos in state buildings - statewide 1,500,000

(c) Remodel State Capitol 3,000,000

The commissioner of administration must not prepare final plans and specifications for projects included in this appropriation until the commissioner has presented the program and schematic plans and cost estimates for all elements necessary to complete the projects to the committee on rules and administration of the senate and the

committee has made its recommendations on the plans. The recommendations are advisory only. Failure or refusal to make a recommendation is deemed a negative recommendation.

$400,000 of this appropriation is from the general fund to the senate for relocation and other expenses related to remodeling senate space.

(d) Restore State Capitol 575,000

This appropriation is to replace interior downspouts and replace the northwest plaza.

(e) Relocate state agencies 1,160,000

This appropriation is from the general fund to relocate state agencies to the Judicial Center and move the department of commerce.

(f) Renovate house space in state capitol 2,200,000

This appropriation for the remodeling of the house space, including the house chamber. Any plans developed for the project shall include design requirements for an automated chamber.

(g) Minnesota Public Radio 393,000

This appropriation is from the general fund for equipment grants to Minnesota Public Radio for its Appleton, Thief River Falls, and central Minnesota stations.

(h) Select site and plan for new agriculture department building 420,000

This appropriation is to the commissioner of administration to plan, select a site, and prepare schematic plans for a new agriculture department building. In the planning and site selection process, the commissioner shall give priority to a building site within or in close proximity to the University of Minnesota St. Paul campus. Before preparing the schematic plans, the commissioner shall report to the legislature by February 15, 1990, with a recommendation for a new location for the state department of agriculture. The report must include a recommended site, cost, and timetable for implementing the recommendations.

(i) Interest on arbitration award for remodeling State Office Building 64,000

This appropriation is to pay to the parties receiving a portion of the arbitrator's award for remodeling the state office building, other than the prime contractor, an amount to make up the difference between the interest paid on the award, which was at a rate of eight percent a year, and the average interest rate paid by them on money borrowed to provide them with operating capital pending receipt of the arbitrator's award, assumed to be 11.1 percent.

Sec. 15. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

Plan for office building 450,000

This appropriation is for the site selection work to select a site in the capitol area for the construction of future state office buildings to house executive branch agencies and for the design competition necessary for one office building in the capitol area for housing executive branch agencies.

Sec. 16. NATURAL RESOURCES

Subdivision 1. To the commissioner of natural resources for the purposes specified in this section 6,857,000

Subd. 2. Reinvest in Minnesota 3,500,000

This appropriation is from the reinvest in Minnesota resources fund for fish and wildlife land acquisition and development.

$1,000,000 of this appropriation is for transfer to the private sector critical habitat matching account under Minnesota Statutes, section 84.943.

Subd. 3. Other Programs

(a) Acquire and develop trails 1,200,000

Included in this appropriation is money to appraise the Paul Bunyan trail, engineer and begin development of the Soo Line trail, and acquire land for the Red River, Minnesota Valley, and Heartland state trails.

(b) Water Bank Program under Minnesota Statutes, section 105.392 600,000

(c) Flood damage reduction and prevention under Minnesota Statutes, section 104.11 1,032,000

(d) Construct hazardous chemical storage buildings at six regional headquarters and restore Hibbing airport apron 525,000

Sec. 17. POLLUTION CONTROL AGENCY

To the pollution control agency for the purposes specified in this section 10,125,000

(a) Combined sewer overflow grants 6,750,000

(b) State match to federal grants for construction of wastewater treatment facilities 2,500,000

Any money remaining after all grants have been awarded under this section may be used for the award of grants under Minnesota Statutes, section 116.18, subdivision 3a. The pollution control agency may transfer appropriations to the public facilities authority to accomplish this purpose.

(c) Grant administration 875,000

This appropriation is for 23 administrative positions that are directly related to the construction of these projects.

Sec. 18. PUBLIC FACILITIES AUTHORITY

To the public facilities authority for the purposes specified in this section 12,700,000

(a) State Independent Grants Program 8,000,000

For fiscal year 1990, money appropriated for the state independent grants program is not subject to Minnesota Statutes, section 116.18, subdivision 3a, paragraph (b), or section 116.181.

$2,000,000 is for new grants for reimbursement or new projects under Minnesota Statutes, section 116.18, subdivision 3a, paragraph (c). This appropriation is not available to communities that are eligible for federal grants and must be divided pro rata among the communities in amounts not to exceed their eligible grants.

$3,000,000 is for continuation grants under Minnesota Statutes, section 116.18, subdivision 3a, paragraphs (a) and (b). A continuation grant must not exceed $654,900 to a grantee.

$3,000,000 of this appropriation is for grant adjustments to those municipalities identified in Minnesota Statutes, section 116.18, subdivision 3d. A supplemental grant must not exceed two and one-half percent of the total eligible costs of construction. A municipality is eligible for this grant

increase if it meets the requirements of Minnesota Statutes, section 116.18, subdivision 3d.

The public facilities authority may transfer appropriations to the pollution control agency to address insufficient state match to federal grants under Minnesota Statutes, section 116.18, subdivision 2a.

(b) State match to federal grants to capitalize the state water pollution control revolving fund 4,700,000

Any money in excess of the amount needed for the 20 percent state match to the federal grant may be used for grants under Minnesota Statutes, section 116.18, subdivision 3a, paragraph (a) or (c).

Sec. 19. TRADE AND ECONOMIC DEVELOPMENT

To the commissioner of trade and economic development for the purposes specified in this section 6,780,000

(a) Dredge upper harbor area of Duluth Harbor 6,100,000

This appropriation is for payment of a grant to the seaway port authority of Duluth and is available only after the commissioner of trade and economic development has determined that it will be matched by at least $7,100,000 of federal money and $2,850,000 of private investment.

(b) National shooting sports center 400,000

This appropriation is for the planning for the construction of a national shooting sports center to be located at Giant's Ridge in Biwabik.

(c) Kayaking center 280,000

This appropriation is for a grant to Carlton county for the planning and construction of facilities for the kayaking center at Carlton.

Sec. 20. MILITARY AFFAIRS

To the adjutant general for the purpose specified in this section.

Remove asbestos from national guard facilities statewide and correct code violations at building U-1 at Camp Ripley 400,000

The appropriation for building U-1 is only

available upon demonstration to the commissioner of finance that federal money is available for this project.

Sec. 21. BOND SALE EXPENSES

To the commissioner of finance for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8 119,000

Sec. 22. DEBT SERVICE

The commissioner of finance shall schedule the sale of state general obligation bonds so that, during the biennium ending June 30, 1991, no more than $369,000,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on outstanding state general obligation bonds. Before each sale of state general obligation bonds, the commissioner of finance shall calculate the amount of debt service payments needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

Sec. 23. [BOND SALE.]

*Subdivision 1.* [BUILDING FUND.] *To provide the money appropriated in this act from the state building fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $142,585,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

*Subd. 2.* [REINVEST IN MINNESOTA FUND.] *To provide the money appropriated in this act from the reinvest in Minnesota resources fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $5,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

Sec. 24. Minnesota Statutes 1988, section 16A.69, is amended to read:

16A.69 [APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.]

*Subdivision 1.* [APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.] The commissioner shall place the money from two or more appropriations for the same or related projects in one account if all the

appropriations do not lapse until their purposes are accomplished or abandoned. The commissioner of administration shall first certify which accounts are involved to the commissioner.

*Subd. 2.* [TRANSFER BETWEEN ACCOUNTS.] *Upon the awarding of final contracts for the completion of a project for construction or other permanent improvement, or upon the abandonment of the project, the agency to whom the appropriation was made may transfer the unencumbered balance in the project account to another project enumerated in the same section of that appropriation act. The transfer must be made only to cover bids for the other project that were higher than was estimated when the appropriation for the other project was made and not to cover an expansion of the other project. The money transferred under this section is appropriated for the purposes for which transferred. For transfers by the state board of vocational technical education, the total cost of both projects and the required local share for both projects are adjusted accordingly. The agency proposing a transfer shall report to the chair of the senate finance committee and the chair of the house appropriations committee before the transfer is made under this subdivision.*

Sec. 25. Minnesota Statutes 1988, section 16B.31, subdivision 3, is amended to read:

Subd. 3. [FEDERAL AID.] (a) [APPLICATION FOR AID.] *The commissioner, or any other agency to whom an appropriation is made for a capital improvement, shall apply for the maximum federal share for each project.*

*(b)* [ACCEPTANCE OF AID.] The commissioner is the state agency empowered to accept money provided for or made available to this state by the United States of America or any federal department or agency for the construction and equipping of any building for state purposes not otherwise provided for by law, other than University of Minnesota buildings, in accordance with the provisions of federal law and any rules or regulations promulgated under federal law. The commissioner may do whatever is required of this state by federal law, rules, and regulations in order to obtain the federal money.

~~(b)~~ *(c)* [FEDERAL FUNDS CONSIDERED PART OF APPROPRIATION.] The commissioner may after consultation with the chairs of the senate finance committee and house of representatives appropriations committee, adopt a plan, provide for an improvement, or construct a building that contemplates expenditure for its completion of more money than the appropriation for it, if the excess money is provided by the United States government and granted to the state of Minnesota under federal law or any rule or regulation promulgated under federal law. This federal money, for the purpose of this section, is a part of the appropriation for the project.

~~(c)~~ *(d)* [DELAYED FEDERAL MONEY.] If an amount is payable to a creditor of the state from a project account which is financed partly with federal money and the project is included in appropriations made to the commissioner for public buildings and equipment, and the amount cannot be paid on time because of a deficiency of money in the project account caused by a delay in the receipt of federal money, the commissioner may provide money needed to pay the amount by temporarily transferring the sum to the project account from any other appropriation made to the commissioner in the same act. Required money for a payment is appropriated

for that purpose. When the delayed federal money is received, the commissioner shall have the amount of money transferred returned to the account from which it came.

Sec. 26. Minnesota Statutes 1988, section 16B.31, is amended by adding a subdivision to read:

*Subd. 5.* [METHODS OF ACQUISITION.] *If money has been appropriated to the commissioner to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 27. [16B.335] [REVIEW OF PLANS AND PROJECTS.]

*Subdivision 1.* [CONSTRUCTION AND MAJOR REMODELING.] *The commissioner, or any other agency to whom an appropriation is made to acquire or better public lands or buildings or other public improvements of a capital nature, must not prepare final plans and specifications for any construction, major remodeling, or land acquisition authorized by the appropriation until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house appropriations committee and the chairs have made their recommendations. "Construction or major remodeling" means construction of a new building or substantial alteration of the exterior dimensions or interior configuration of an existing building. The presentation must note any significant changes in the work that will be done, or in its cost, since the appropriation for the project was enacted. The program plans and estimates must be presented for review at least two weeks before a recommendation is needed. The recommendations are advisory only. Failure or refusal to make a recommendation is considered a negative recommendation.*

*Subd. 2.* [OTHER PROJECTS.] *All other projects, including building improvements, small structures at experiment stations, asbestos removal, life safety, PCB removal, tuckpointing, roof repair, code compliance, landscaping, drainage, electrical and mechanical systems work, paving of streets, parking lots, and the like must not proceed until the agency undertaking the project has notified the chair of the senate finance committee and the chair of the house appropriations committee that the work is ready to begin.*

Sec. 28. Minnesota Statutes 1988, section 116.18, subdivision 3d, is amended to read:

Subd. 3d. [ADJUSTMENTS TO MATCHING GRANTS AND STATE INDEPENDENT GRANTS.] A municipality with a population of 25,000 or less that was tendered a state matching grant under subdivision 2a, or a state independent grant under subdivision 3a, or a federal grant under the federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299, from October 1, 1984, through September 30, 1987, shall, after the municipality has awarded bids for construction of the treatment works, and upon request, receive a grant increase of ~~five~~ *2.5* percent of the total eligible costs of construction, up to the maximum entitlement for grants awarded on or after October 1, 1987, under subdivisions 2a and 3a. The municipality must inform other entities that are providing funding for construction of the treatment works of the grant increase, and repay any funds to which it is not entitled. A municipality must not receive funding

for more than 100 percent of the total costs of the treatment works. Documentation of money received from other sources must be submitted with the request for the grant increase. Money remaining after all grants have been awarded under this subdivision may be used for the award of grants under subdivisions 2a and 3a. *An adjustment grant awarded after July 1, 1989, that is a continuation of a previously awarded adjustment grant must be awarded through a letter from the agency to the municipality stating the grant amount. A formal grant agreement is not required.*

Sec. 29. Minnesota Statutes 1988, section 136.03, is amended to read:

136.03 [MANAGEMENT OF STATE UNIVERSITIES.]

*Subdivision 1.* [MANAGEMENT.] The state universities shall be under the management, jurisdiction, and control of the state university board; and it shall have and possess all of the powers, jurisdiction, and authority, and shall perform all of the duties by them possessed and performed on and prior to April 1, 1901, except as hereinafter stated. Notwithstanding the provisions of sections 136.01, 136.015, and 136.017, the state university board, as it deems necessary, may close state universities under its jurisdiction. Prior to closing a state university the board shall hold a public hearing on the issue in the area which would be affected by the closing. At the hearing affected persons shall have an opportunity to present testimony. The hearing shall be conducted by the office of administrative hearings. The administrative law judge shall prepare a summary of testimony received at the hearing for the board. The board shall give notice of this hearing by publishing notice in the State Register and in a newspaper of general circulation in the affected area at least 30 days before the scheduled hearing.

*Subd. 2.* [METHODS OF ACQUISITION.] *If money has been appropriated to the state university board to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 30. Minnesota Statutes 1988, section 136.65, is amended by adding a subdivision to read:

*Subd. 3.* [METHODS OF ACQUISITION.] *If money has been appropriated to the community college board to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 31. Minnesota Statutes 1988, section 137.02, is amended by adding a subdivision to read:

*Subd. 3a.* [CONSULTATION REQUIRED.] *Land must not be purchased and a building must not be purchased, constructed, or erected on land of the University of Minnesota until the regents have first consulted with the chair of the senate finance committee and the chair of the house appropriations committee and obtained their advisory recommendations.*

Sec. 32. Minnesota Statutes 1988, section 268.027, is amended to read:

268.027 [DEPARTMENT OF JOBS AND TRAINING; MINNEAPOLIS LOCATION; *RIGHT OF EMINENT DOMAIN.*]

Notwithstanding sections 16B.24 and 268.026 or chapter 94, the commissioner of administration, in consultation with the commissioner of jobs and training, is authorized to buy and sell real property in Minneapolis and the greater Minneapolis area for the purpose of relocating department offices to locations more accessible to the residents of Minneapolis and colocating with other social service agencies.

*Property acquired under authority of this section may be acquired by gift, purchase, or condemnation proceedings. Condemnation proceedings must be done under chapter 117. Condemnation proceedings authorized by this section may be used to acquire property at only one proposed office site.*

Sec. 33. Laws 1979, chapter 280, section 1, is amended to read:

Section 1. [STATE TRANSPORTATION BONDS; ISSUANCE AND SALE.] The commissioner of finance shall, upon the request of the commissioner of transportation, issue and sell Minnesota state transportation bonds for the purposes provided in Minnesota Statutes, Section 174.51, Subdivision 1, in the aggregate principal amount of ~~$52,000,000~~ *$60,000,000* in the manner and upon the conditions prescribed in Minnesota Statutes, Section 174.51 and in Article XI of the Minnesota Constitution. The proceeds of the bonds, except as provided in Minnesota Statutes, Section 174.51, Subdivision 5, shall be deposited in the Minnesota state transportation fund for expenditure in accordance with section 2, subdivisions 2 and 3, and Minnesota Statutes, Section 174.50.

Sec. 34. Laws 1979, chapter 280, section 2, as amended by Laws 1982, chapter 617, section 25, Laws 1985, chapter 299, section 39, and Laws 1985, First Special Session, chapter 16, article 2, section 16, is amended to read:

Sec. 2. [APPROPRIATION.] Subdivision 1. ~~$52,000,000~~ *$60,000,000*, or so much thereof as is determined to be needed, is appropriated from the Minnesota state transportation fund to the department of transportation to be expended for disbursement in the form of grants by the commissioner of transportation for construction and reconstruction of key bridges on the state transportation system and shall be allocated pursuant to subdivisions 2 and 3. The appropriation shall not lapse, but shall remain available until expended.

Subd. 2. ~~$50,500,000~~ *$58,500,000* or so much thereof as is needed, is available for expenditure ~~at a rate not exceeding $12,500,000 per fiscal year~~ for grants to political subdivisions for construction and reconstruction of key bridges on highways, streets and roads under their jurisdiction. The grants shall not exceed the following aggregate amounts:

(1) To counties . . . . . ~~$11,500,000~~ *$16,220,000*

(2) To home rule charter and statutory cities . . . . . ~~$1,500,000~~ *$2,620,000*

(3) To towns . . . . . ~~$21,000,000~~ *$23,160,000*

*Grants under clauses (1) to (3) may be used by political subdivisions to match federal-aid grants for construction and reconstruction of key bridges under their jurisdictions.* Additional grants may be made in an aggregate amount not to exceed $16,500,000 to the political subdivisions to match federal-aid grants for construction and reconstruction of key bridges under their jurisdiction. Appropriations made in subdivisions 1, 2, or 3 may also be used

for the following purposes:

(1) The costs of abandoning an existing bridge that is deficient and is in need of replacement, but where no replacement will be made.

(2) The costs of constructing a road or street that would facilitate the abandonment of an existing bridge determined to be deficient. The construction of the road or street must be judged to be more cost efficient than the reconstruction or replacement of the existing bridge.

Subd. 3. An additional amount not to exceed $1,500,000 is available for grants for preliminary engineering and environmental studies pursuant to section 3.

Sec. 35. [BOND SALE REDUCTIONS.]

*The bond sale authorization in Laws 1981, chapter 334, section 12, is reduced by $37,880,000.*

Sec. 36. [EFFECTIVE DATE.]

*This article is effective the day after its final enactment.*

ARTICLE 2

ELEMENTARY AND SECONDARY EDUCATION

Section 1. Minnesota Statutes 1988, section 124.477, is amended to read:

124.477 [BOND ISSUE; MAXIMUM EFFORT SCHOOL LOANS; 1988.]

To provide money to be loaned to school districts as agencies and political subdivisions of the state to acquire and to better public land and buildings and other public improvements of a capital nature, in the manner provided by the maximum effort school aid law, the commissioner of finance shall issue and sell school loan bonds of the state of Minnesota in the maximum amount of ~~$20,000,000~~ *$22,000,000*, in addition to the bonds already authorized for this purpose. The same amount is appropriated to the maximum effort school loan fund and must be spent under the direction of the commissioner of education to make debt service loans and capital loans to school districts as provided in sections 124.36 to 124.47. The bonds must be issued and sold and provision for their payment must be made according to section 124.46. Enough money to pay interest on the bonds to and including July 1 in the second year after the date of issue must be credited from the bond proceeds to the school loan bond account in the state bond fund. Expenses incidental to the sale, printing, execution, and delivery of the bonds, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for those purposes, must be paid from the maximum effort school loan fund, and the money necessary for the expenses is appropriated from that fund.

Sec. 2. Minnesota Statutes 1988, section 124.494, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATION.] Any group of school districts that meets the criteria required under subdivision 2 may apply for an incentive grant in an amount ~~up to~~ *not to exceed the lesser of $6,000,000 or* 75 percent of the approved construction costs of a cooperative secondary education facility.

Sec. 3. Minnesota Statutes 1988, section 124.494, subdivision 2, is

amended to read:

Subd. 2. [REVIEW BY COMMISSIONER.] (a) Any group of districts that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to acquire, construct, remodel or improve the secondary facility. The commissioner must not approve an application for an incentive grant for any secondary facility unless the facility receives a favorable review and comment under section 121.15 and the following criteria are met:

(1) a minimum of three or more districts, with kindergarten to grade 12 enrollments in each district of no more than ~~1,000~~ *1,200* pupils, enter into a joint powers agreement;

(2) a joint powers board representing all participating districts is established under section 471.59 to govern the cooperative secondary facility;

(3) the planned secondary facility will result in the joint powers district meeting the requirements of Minnesota Rules, parts 3500.2010 and 3500.2110;

(4) at least 240 pupils would be served in grades 10 to 12, 320 pupils would be served in grades 9 to 12, or 480 pupils would be served in grades 7 to 12;

(5) no more than one superintendent is employed by the joint powers board as a result of the cooperative secondary facility agreement;

(6) a statement of need is submitted, that may include reasons why the current secondary facilities are inadequate, unsafe or inaccessible to the handicapped;

(7) an educational plan is prepared, that includes input from both community and professional staff;

(8) a combined seniority list for all participating districts is developed by the joint powers board;

(9) an education program is developed that provides for more learning opportunities and course offerings, *including the offering of advanced placement courses,* for students than is currently available in any single member district; and

(10) a plan is developed for providing instruction of any resident students in other districts when distance to the secondary education facility makes attendance at the facility unreasonably difficult or impractical.

(b) To the extent possible, the joint powers board is encouraged to provide for severance pay or for early retirement incentives under section 125.611, for any teacher or administrator, as defined under section 125.12, subdivision 1, who is placed on unrequested leave as a result of the cooperative secondary facility agreement.

Sec. 4. Minnesota Statutes 1988, section 124.494, subdivision 4, is amended to read:

Subd. 4. [AWARD OF GRANTS.] The commissioner shall examine and consider all applications for grants, and if any joint powers district is found not qualified, the commissioner shall promptly notify that joint powers board. On July 1 of ~~1988~~ *1989*, the commissioner shall make awards to no

more than two qualified applicants whose applications have been on file with the commissioner more than one month. A grant award is subject to verification by the joint powers districts as specified in subdivision 6. *A grant award must not be made until the site of the secondary facility has been determined.* If the total amount of the approved applications exceeds the amount that is or can be made available, the commissioner shall allot the available amount equally between the approved applicant districts. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded to it.

Sec. 5. Minnesota Statutes 1988, section 124.495, is amended to read:

124.495 [STATE BOND AUTHORIZATION.]

To provide money for the cooperative secondary facilities grant program, the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of ~~$16,000,000~~ *$14,000,000* in the manner, upon the terms and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 6. Minnesota Statutes 1988, section 129B.72, subdivision 2, is amended to read:

Subd. 2. [APPLICATION FORMS; ~~RULES~~.] The commissioner of education shall prepare application forms *and establish application dates*. ~~The state board of education shall adopt rules under chapter 14 to govern the application process set out in section 129B.73.~~

Sec. 7. Minnesota Statutes 1988, section 129B.72, is amended by adding a subdivision to read:

*Subd. 3.* [CRITERIA.] *A district applying for a grant under this section must match with local district funds to be used for construction, enlarging, or modifying school buildings. The commissioner of education must determine that the costs are directly related to reducing or eliminating racial imbalance and are part of an approved desegregation plan. The district must also certify that the district has sought all available federal funds before submitting a grant application.*

Sec. 8. Minnesota Statutes 1988, section 129B.73, subdivision 4, is amended to read:

Subd. 4. [MATCHING REVENUE.] Upon being awarded a grant under subdivision 3, the board shall determine the need to bond for additional revenue. If the board determines that there is no need to bond, it shall certify to the commissioner of education that other funds are available for the purpose. If a bond issue is required, the board shall submit, within 90 days, the question of authorizing the borrowing of funds for remodeling or improvements to the voters of the district at a special election, that may be held in conjunction with the annual election of the school board members. If a majority of those voting on the question do not vote in the affirmative, *and the district does not have other funds available,* the grant must be canceled.

Sec. 9. Minnesota Statutes 1988, section 129B.73, is amended by adding a subdivision to read:

*Subd. 5.* [PROJECT BUDGET.] *A district that receives a grant must provide the commissioner with the project budget and any other information*

*the commissioner requests.*

Sec. 10. [129B.76] [ISSUANCE AND SALE OF BONDS.]

*To provide money for grants under the desegregation capital improvement grant act, the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of $2,000,000 in the manner, upon the terms, and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.*

Sec. 11. [CAPITAL LOAN; FOLEY AND OGILVIE SCHOOL DISTRICTS.]

*Subdivision 1.* [FOLEY SCHOOL DISTRICT.] *A capital loan in an amount not to exceed $4,853,000 to independent school district No. 51, Foley, is approved.*

*Subd. 2.* [OGILVIE SCHOOL DISTRICT.] *A capital loan in an amount not to exceed $11,341,048 to independent school district No. 333, Ogilvie, is approved. Notwithstanding Minnesota Statutes, section 124.43, subdivision 3a, if the aggregate amount of the capital loans approved exceeds the amount that is or can be made available, the commissioner of education shall reduce the amount allotted to independent school district No. 333, Ogilvie, by the amount of the deficit, rather than pro rating the deficit between Ogilvie and Foley.*

Sec. 12. [MAXIMUM EFFORT SCHOOL LOAN AND COOPERATIVE SECONDARY FACILITIES STUDY.]

*The commissioner of education shall evaluate the effectiveness of the maximum effort school loan program and the cooperative secondary facilities capital grant program, both individually and as they compare to each other, and recommend changes in one or both programs, if appropriate, in a report that must be submitted to the legislature by January 1, 1990.*

Sec. 13. [REPEALER.]

*Laws 1987, chapter 400, section 59, as amended by Laws 1988, chapter 718, article 8, section 22, is repealed. The sections repealed by Laws 1987, chapter 400, section 59, as amended by Laws 1988, chapter 718, article 8, section 22, remain effective.*

Sec. 14. [EFFECTIVE DATE.]

*This article is effective the day after its final enactment.*

ARTICLE 3

DEFICIENCY APPROPRIATIONS

Section 1. [APPROPRIATIONS.]

The sums shown in the column marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal year ending June 30, 1989.

SUMMARY BY FUND

| | |
|---|---|
| General | $2,849,000 |
| Game and Fish | 260,000 |
| Special Revenue | 642,000 |

TOTAL $3,751,000

APPROPRIATIONS
Available for the Year
Ending June 30, 1989

Sec. 2. EDUCATION AIDS

Department of Education

Education Aids Law Litigation $ 116,000

This appropriation is added to the appropriation in Laws 1987, chapter 398, article 10, section 2, subdivision 3.

Sec. 3. HEALTH AND HUMAN SERVICES

Subdivision 1. Human Services Residents of Institutions for Mental Disease 957,000

This appropriation is to pay the cost of Minnesota supplemental assistance and general assistance medical care to replace medical assistance formerly provided to residents of institutions for mental disease and is added to the appropriation in Laws 1987, chapter 403, article 1, section 2, subdivision 6.

Notwithstanding any other law to the contrary, and with the approval of the commissioner of finance, the commissioner of human services may transfer any unencumbered funds from any department account, except the income maintenance entitlement accounts, to the regional treatment salary account during fiscal year 1989. Any such funds moved must be identified to the chair of the senate finance subcommittee on health and human services and the house appropriations division on health and human services.

Subd. 2. Health-Related Boards

The appropriations in this subdivision are from the special revenue fund and are added to the appropriations in Laws 1987, chapter 403, article 1, section 10.

(a) Board of Optometry 4,000

(b) Board of Podiatry 16,000

(c) Board of Pharmacy 10,000

(d) Board of Psychology 6,000

(e) Board of Veterinary Medicine 6,000

Sec. 4. AGRICULTURE, TRANSPORTATION, SEMI-STATE ACTIVITIES

Subdivision 1. Public Safety

Disaster Relief 212,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 5, subdivision 3.

Subd. 2. Agriculture

(a) Laboratory Equipment to Test for Aflatoxin 75,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 7, subdivision 2.

(b) Costs of Testing for the Varroa Mite 52,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 7, subdivision 2.

(c) Haylift 100,000

This appropriation is for another haylift to help farmers who are short of hay to feed their livestock.

Sec. 5. STATE DEPARTMENTS

Subdivision 1. Court of Appeals

Disability Retirement 78,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 4.

Subd. 2. Trial Courts

Workers Compensation 146,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 5.

Subd. 3. Board of Public Defense

Trial Transcripts 160,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 7.

Subd. 4. Attorney General

(a) Education Aids Law Litigation 61,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 13, subdivision 4.

(b) LTV and Reserve Bankruptcy Litigation 75,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 13, subdivision 5.

Subd. 5. Secretary of State

The reimbursement to the general fund of $500,000 required by Laws 1987, chapter 356, section 5, subdivision 2, is reduced to $200,000.

Subd. 6. Administration

Volunteer Services 70,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 16, subdivision 2.

Subd. 7. Finance

(a) Biennial Budget System 150,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 18, subdivision 4.

(b) College Savings Bonds 22,000

Subd. 8. Employee Relations

Applicant Processing System 40,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 31, subdivision 4.

Subd. 9. Natural Resources

(a) Drought Emergency 201,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 22, subdivisions 3 and 8.

(b) Park Operations 600,000

This appropriation is from the state park maintenance and operation account in the special revenue fund and is added to the appropriation in Laws 1987, chapter 404, section 22, subdivision 5.

(c) Deer Feeding 260,000

This appropriation is from the game and fish fund and is added to the appropriation in Laws 1987, chapter 404, section 22, subdivision 7.

Subd. 10. Pollution Control Agency

Waste Management Board Audit 279,000

This appropriation is for transfer to the siting bond account in the state building fund to reimburse the account for routine

operating expenses of the waste management board inappropriately charged to the bond account.

Subd. 11. Veterans Affairs

Veterans Relief 55,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 36, subdivision 2.

Sec. 6. Minnesota Statutes 1988, section 148B.40, subdivision 3, is amended to read:

Subd. 3. [MENTAL HEALTH SERVICE PROVIDER.] "Mental health service provider" or "provider" means any person who provides, for a remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; or the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license. *In addition, the term does not include employees of the state of Minnesota or any of its political subdivisions while acting within the scope of their public employment; hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting as marriage and family counselors within the scope of their employment by the hospital or nursing home; and persons certified as chemical dependency professionals by the Institute for Chemical Dependency Professionals of Minnesota, Inc.*

Sec. 7. Minnesota Statutes 1988, section 148B.42, is amended by adding a subdivision to read:

*Subd. 6.* [FILING FEE.] *The fee for filing as an unlicensed mental health service provider is $50 until permanent rules establishing fees for filing under this section are in effect.*

Sec. 8. [TEMPORARY PROVISIONS RELATING TO INSTITUTIONS FOR MENTAL DISEASES.]

*Subdivision 1.* [ELIGIBILITY FOR GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTA SUPPLEMENTAL AID.] *For the period beginning January 1, 1989, and ending June 30, 1989, general assistance medical care and Minnesota supplemental aid may be paid for any person who is over age 18 and would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases.*

*Subd. 2.* [COVERED SERVICES.] *For the period beginning January 1, 1989, and ending June 30, 1989, reimbursement under general assistance medical care includes, in addition to services covered under Minnesota Statutes 1988, section 256D.03, subdivision 4, the following services for a person who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human*

*services or the federal health care financing administration to be an institution for mental diseases:*

*(1) case management services for a person with serious and persistent mental illness;*

*(2) medical supplies and equipment; and*

*(3) psychological services.*

*Subd. 3.* [EXCEPTION TO RESIDENTIAL FACILITY LIMITS.] *For the period beginning January 1, 1989, and ending June 30, 1989, a residential facility certified to participate in the medical assistance program, licensed as a boarding care home or nursing home, and determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases is exempt from the maximum negotiated rate in Minnesota Statutes, section 256D.37. The rate for eligible individuals residing in these facilities is the individual's medical assistance rate using the individual's assigned case mix classification. Counties must be reimbursed for payments made between January 1, 1989, and June 30, 1989, to certified nursing homes and boarding care homes declared institutions for mental diseases by January 1, 1989, on behalf of persons otherwise eligible for medical assistance. The reimbursement must not exceed the state share of supplemental aid funds expended for each person at the appropriate medical assistance rate.*

Sec. 9. [EFFECTIVE DATE.]

*This article is effective the day after its final enactment.*"

Delete the title and insert:

"A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state bonds; providing for deficiencies in and supplementing appropriations for the expenses of state government; setting filing fees for mental health service providers; appropriating money; amending Minnesota Statutes 1988, sections 16A.69; 16B.31, subdivision 3, and by adding a subdivision; 116.18, subdivision 3d; 124.477; 124.494, subdivisions 1, 2, and 4; 124.495; 129B.72, subdivisions 2, and by adding a subdivision; 129B.73, subdivision 4, and by adding a subdivision; 136.03; 136.65, by adding a subdivision; 137.02, by adding a subdivision; 148B.40, subdivision 3; 148B.42, by adding a subdivision; and 268.027; Laws 1979, chapter 280, sections 1 and 2, as amended; proposing coding for new law in Minnesota Statutes, chapters 16B and 129B; repealing Minnesota Statutes 1988, section 268.027; and Laws 1987, chapter 400, section 59, as amended."

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

House Conferees: (Signed) Glen H. Anderson, Bob Anderson, Lyndon R. Carlson, John Dorn, Richard Krueger

Senate Conferees: (Signed) Michael O. Freeman, Don Samuelson, Gene Waldorf, Steven Morse, Dean E. Johnson

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 46 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 46 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 6, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Berg | Diessner | McQuaid | Storm |
| Benson | | | | |

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

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Kroening moved that the following members be excused for a Conference Committee on H.F. No. 372 at 9:30 p.m.:

Messrs. Kroening, Luther, Solon, Merriam and Frederickson, D.R. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

## SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Mr. Luther moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1194 and that the rules of the Senate be so far suspended as to give H.F. No. 1194, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

H.F. No. 1194: A bill for an act relating to insurance; requiring obligors to issue an insurance identification card; requiring a driver or owner to produce an insurance identification card, policy, or written statement; providing for administrative review; exempting certain vehicles; providing for the impoundment of license plates; providing for a limited license in certain circumstances; defining terms; providing penalties; amending Minnesota Statutes 1988, sections 65B.67, subdivisions 2 and 4; 168.041, subdivisions 4, 4a, and by adding a subdivision; 169.09, subdivision 14; and 171.30, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 65B and 169; repealing Minnesota Statutes 1988, section 65B.481.

Mr. Luther moved that the amendment made to H.F. No. 1194 by the Committee on Rules and Administration in the report adopted May 20, 1989, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Luther then moved to amend H.F. No. 1194 as follows:

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. [65B.482] [INSURANCE IDENTIFICATION CARDS.]

*Subdivision 1.* [ISSUANCE OF CARD.] *Every obligor transacting business in this state shall provide an insurance identification card for each vehicle covered at the time of initiating each policy of automobile insurance, as defined in section 65B.14, subdivision 2, and at the time of policy renewal. When an insured has five or more vehicles registered in this state, the obligor may use the designation "all owned vehicles" on each identification card in lieu of a specified description. The card must state:*

*(1) the insured's name;*

*(2) the policy number;*

*(3) the policy dates of coverage;*

*(4) the make, model, and year of the vehicle being covered;*

*(5) the vehicle identification number or at least the last three digits of that number; and*

*(6) the name of the obligor providing coverage.*

*Subd. 2.* [NOTICE OF CRIMINAL PENALTIES.] *Every obligor transacting business in this state shall provide to the insured at the time of issuing an insurance identification card under subdivision 1 a plain-language summary of the criminal penalties imposed by section 65B.67, section 10, and section 12.*"

Page 3, line 2, strike "misdemeanor" and insert "*crime*"

Page 3, lines 3 to 6, delete the new language

Page 3, delete section 4 and insert:

"Sec. 3. Minnesota Statutes 1988, section 65B.67, subdivision 3, is amended to read:

Subd. 3. [VIOLATION BY DRIVER.] Any other person who operates a motor vehicle or motorcycle upon a public highway, street or road in this state who knows or has reason to know that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a ~~misdemeanor~~ *crime* and shall be sentenced as provided in subdivision 4.

Sec. 4. Minnesota Statutes 1988, section 65B.67, subdivision 3a, is amended to read:

Subd. 3a. [FALSE STATEMENTS.] Any owner of a motor vehicle or motorcycle who falsely claims to have a plan of reparation security in effect at the time of registration of a motor vehicle or motorcycle pursuant to section 65B.48 is guilty of a ~~misdemeanor~~ *crime* and shall be sentenced as provided in subdivision 4.

Sec. 5. Minnesota Statutes 1988, section 65B.67, subdivision 4, is amended

to read:

Subd. 4. [PENALTY.] ~~Any operator of a motor vehicle or motorcycle~~ *(a) A person* who ~~is convicted under the terms of~~ *violates* this section~~,~~ is guilty of a misdemeanor~~, and shall be sentenced as provided in section 609.03, clause (3)~~. ~~Also~~ *A person who violates this section within ten years of the first of two prior convictions under this section, or a statute or ordinance from another state in conformity with this section, is guilty of a gross misdemeanor. The operator of a motor vehicle or motorcycle who violates subdivision 3 and who causes or contributes to causing a motor vehicle or motorcycle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section.*

*(b) In addition to the criminal penalty*, the ~~operator's~~ driver's license *of an operator convicted under this section* shall be revoked for not more than 12 months. If the operator is also an owner of the motor vehicle or motorcycle, the registration of the motor vehicle or motorcycle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

*(c)* The commissioner shall include a notice of the penalties contained in this section on all forms for registration of motor vehicles or motorcycles required to maintain a plan of reparation security."

Page 4, line 9, delete everything after "*safety*" and insert a period

Page 4, delete line 10

Page 6, line 26, delete "AN" and insert "PROOF OF" and delete "IDENTIFICATION CARD"

Page 6, after line 26, insert:

"*Subdivision 1.* [TERMS.] *(a) For purposes of this section and sections 11 to 15, the following terms have the meanings given.*

*(b) "Commissioner" means the commissioner of public safety.*

*(c) "Insurance identification card" means a card issued by an obligor to an insured stating that security as required by section 65B.48 has been provided for the insured's vehicle.*

*(d) "Proof of insurance" means an insurance identification card, written statement, or insurance policy as defined by section 65B.14, subdivision 2.*

*(e) "Written statement" means a written statement by a licensed insurance agent in a form acceptable to the commissioner stating that security has been provided for the insured's vehicle and the dates of the coverage.*"

Page 6, line 28, delete "*immediate*"

Page 6, line 29, delete everything after "*vehicle*" and insert "*and shall produce on demand of a peace officer proof of insurance in force at the time of the demand covering the vehicle being operated.*"

Page 6, delete lines 30 and 31

Page 6, line 32, delete everything before "*If*"

Page 6, line 34, delete "*an*" and insert "*proof of insurance*"

Page 6, delete lines 35 and 36

Page 7, delete line 1

Page 7, line 2, delete everything before "*stating*"

Page 7, line 7, delete "*2*" and insert "*3*"

Page 7, line 22, delete "*then*"

Page 7, line 31, delete "*or motorcycle*"

Page 7, line 32, delete the first "*the*" and insert "*proof of*" and delete "*identification card or policy*"

Page 7, line 33, delete everything after "*operated*"

Page 7, delete line 34

Page 7, line 35, delete "*operated*"

Page 7, line 36, delete "*within*"

Page 8, line 7, delete "*an*" and insert "*proof of*" and delete everything after "*insurance*"

Page 8, line 8, delete "*statement*"

Page 8, line 9, after "*to*" insert "*a charge against*"

Renumber the subdivisions in sequence

Page 8, line 26, delete "AN" and insert "PROOF OF" and delete "IDENTIFICATION CARD"

Page 8, lines 28, 33, and 34, delete "*or motorcycle*"

Page 9, line 4, delete "*or motorcycle*" and delete "*either immediately or*"

Page 9, line 5, delete "*an*" and insert "*proof of insurance*"

Page 9, delete lines 6 to 9

Page 9, line 10, before "*for*" insert "*in force*"

Page 9, line 23, delete everything after "*produce*" and insert "*proof of insurance in force at the time of the demand covering the motor vehicle being operated.*"

Page 9, delete lines 24 and 25

Page 9, line 26, delete everything before the third "*The*"

Page 9, line 35, delete "*an*" and insert "*proof of*"

Page 9, line 36, delete "*identification card*"

Page 10, line 8, delete everything after "*the*" and insert "*proof of insurance*"

Page 10, line 9, delete "*written statement*"

Page 10, line 11, before "*policy*" insert "*insurance*"

Page 10, line 21, delete everything after "*privileges*" and insert "*for a minimum of 30 days;*"

Page 10, delete lines 22 to 28

Page 10, lines 30, 34, and 35, before "*policy*" insert "*insurance*"

Page 11, line 2, delete "*a valid*" and insert "*the required proof of*" and delete everything after "*insurance*"

Page 11, line 3, delete "*policy, or written statement*"

Page 11, line 5, delete "*of public safety*"

Page 11, line 6, delete "*a*" and insert "*the required proof of insurance*"

Page 11, delete line 7

Page 11, line 8, delete "*statement*"

Page 11, line 9, delete "*of public safety*"

Page 11, lines 11 and 12, delete "*of public safety*"

Page 11, line 19, delete "*not less than*"

Page 11, line 22, delete everything after "*safety*" and insert a period

Page 11, delete line 23

Page 11, line 27, delete "*of public safety*"

Page 12, line 14, delete everything after "*produce*" and insert "*proof of insurance*"

Page 12, line 15, delete "*statement*"

Page 12, lines 16 and 17, delete "*of public safety*"

Page 13, line 15, delete "*1*" and insert "*6*"

Page 13, line 23, before the period, insert ", *arising in connection with the release of the information*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 4, delete "an" and insert "proof of" and delete everything after "insurance"

Page 1, line 5, delete everything before the semicolon

Page 1, line 11, after "2" insert ", 3, 3a,"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1194 as follows:

Page 14, lines 30 and 31, delete "*under section 169.792*"

The motion prevailed. So the amendment was adopted.

H.F. No. 1194 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 41 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brataas | Knaak | Novak | Spear |
| Anderson | Chmielewski | Laidig | Olson | Storm |
| Beckman | Decker | Lantry | Pariseau | Taylor |
| Belanger | Diessner | Larson | Piper | Vickerman |
| Berg | Frank | Luther | Pogemiller | Waldorf |
| Berglin | Frederick | McGowan | Ramstad | |
| Bernhagen | Freeman | Mehrkens | Reichgott | |
| Bertram | Gustafson | Moe, D.M. | Renneke | |
| Brandl | Johnson, D.E. | Moe, R.D. | Schmitz | |

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 257 a Special Order to be heard immediately.

## SPECIAL ORDER

H.F. No. 257: A bill for an act relating to state government; regulating markings on state vehicles; eliminating the requirement that certain reports of occupational licensing boards be summarized; eliminating certain prohibitions against state purchase of insurance; regulating state sale of goods and services; regulating certain small business assistance programs; clarifying responsibility for the operation and maintenance of certain buildings; regulating government record keeping; prescribing compensation for certain board members; amending Minnesota Statutes 1988, sections 15.0575, subdivision 3; 15.16; 15.17, subdivision 1; 15.39, subdivision 1; 15A.081, subdivisions 1 and 7; 16A.85, subdivision 2; 16B.06, subdivision 4; 16B.19, subdivision 6; 16B.20, subdivision 2; 16B.22, subdivision 1; 16B.24, subdivisions 1, 5, and 6; 16B.405, subdivision 1; 16B.48; 16B.54, subdivision 2; 138.17, subdivision 1; 214.07, subdivision 2; 214.09, subdivision 3; 473.141, subdivision 3; and 600.135, subdivision 1; repealing Minnesota Statutes 1988, section 15.38.

Mr. Moe, D.M. moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 10, line 10, delete "*and*"

Page 10, line 13, delete the period and insert "*; and*

*(7) develop a plan for interconnection of the network with private colleges in the state.*

*Subd. 4.* [PROGRAM PARTICIPATION.] *The commissioner may require the participation of state agencies and the governing boards of the state universities, the community colleges, and the technical institutes, and may request the participation of the board of regents of the University of Minnesota, in the planning and implementation of the network to provide interconnective technologies. The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.*"

Renumber the subdivisions in sequence

The motion prevailed. So the amendment was adopted.

Mr. Moe, D.M. then moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 7, after line 20, insert:

"Sec. 10. Minnesota Statutes 1988, section 16B.24, is amended by adding a subdivision to read:

*Subd. 6a.* [LEASE MORATORIUM.] *The commissioner may not rent or lease space in a new or substantially renovated building for the purpose of providing office space for state agencies if the terms of the lease or rental are negotiated before the construction or renovation of the space and the cost of the construction or renovation exceeds $2,000,000.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Mr. Knaak moved to amend the second Moe, D.M., amendment to H.F. No. 257, adopted by the Senate May 19, 1989, as follows:

Page 2, line 32, after "*to*" insert "*a total expenditure, for each institution, of more than $5,000 for*"

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

Mr. Frank moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 17, delete section 20

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

## CALL OF THE SENATE

Mr. Frank imposed a call of the Senate for the balance of the proceedings on H.F. No. 257. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment of Mr. Frank.

The roll was called, and there were yeas 19 and nays 36, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Berglin | Davis | Kroening | Novak | Samuelson |
| Chmielewski | Diessner | Lantry | Piper | Solon |
| Cohen | Frank | Marty | Pogemiller | Spear |
| Dahl | Freeman | Moe, R.D. | Reichgott | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brandl | Knaak | Moe, D.M. | Storm |
| Anderson | Brataas | Knutson | Morse | Stumpf |
| Beckman | Decker | Laidig | Olson | Taylor |
| Belanger | Frederick | Langseth | Pariseau | Vickerman |
| Benson | Frederickson, D.J. | Larson | Purfeerst | |
| Berg | Frederickson, D.R. | McGowan | Ramstad | |
| Bernhagen | Gustafson | McQuaid | Renneke | |
| Bertram | Johnson, D.E. | Mehrkens | Schmitz | |

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

## RECONSIDERATION

Having voted on the prevailing side, Mrs. Adkins moved that the vote whereby the second Moe, D.M. amendment to H.F. No. 257 failed on May 20, 1989, be now reconsidered.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 21 and nays 37, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brataas | Moe, D.M. | Reichgott | Waldorf |
| Beckman | Davis | Moe, R.D. | Renneke | |
| Berg | Luther | Morse | Schmitz | |
| Berglin | Marty | Peterson, D.C. | Spear | |
| Bertram | Merriam | Piper | Stumpf | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Dicklich | Johnson, D.E. | McGowan | Ramstad |
| Benson | Diessner | Johnson, D.J. | McQuaid | Samuelson |
| Bernhagen | Frank | Knaak | Mehrkens | Solon |
| Brandl | Frederick | Knutson | Metzen | Storm |
| Cohen | Frederickson, D.J. | Kroening | Novak | Vickerman |
| Dahl | Frederickson, D.R. | Laidig | Olson | |
| Decker | Freeman | Langseth | Pariseau | |
| DeCramer | Hughes | Larson | Purfeerst | |

The motion did not prevail.

H.F. No. 257 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 48 and nays 12, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Knaak | Metzen | Schmitz |
| Anderson | Davis | Knutson | Moe, D.M. | Solon |
| Beckman | Decker | Laidig | Morse | Spear |
| Belanger | DeCramer | Langseth | Olson | Storm |
| Benson | Diessner | Larson | Pariseau | Stumpf |
| Berg | Frederick | Luther | Pehler | Taylor |
| Bernhagen | Frederickson, D.J. | McGowan | Peterson, R.W. | Vickerman |
| Bertram | Frederickson, D.R. | McQuaid | Purfeerst | Waldorf |
| Brandl | Hughes | Mehrkens | Ramstad | |
| Brataas | Johnson, D.E. | Merriam | Renneke | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Berglin | Frank | Lantry | Novak | Pogemiller |
| Dahl | Freeman | Marty | Peterson, D.C. | Samuelson |
| Dicklich | Johnson, D.J. | | | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Morse moved that the names of Messrs. Moe, R.D. and Pogemiller be added as co-authors to S.F. No. 813. The motion prevailed.

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1532:

H.F. No. 1532: 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; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Dawkins, Jacobs, Ogren, Haukoos and Carlson, D. have been appointed as such committee on the part of the House.

House File No. 1532 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Dicklich moved that H.F. No. 1532 be laid on the table. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Pehler moved that S.F. No. 1254, No. 34 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

## MEMBERS EXCUSED

Mr. Frank was excused from the Session of today from 12:00 noon to 2:45 p.m. Mr. Lessard was excused from the Session of today from 2:00 to 4:00 p.m., from 7:00 to 8:00 p.m. and at 10:00 p.m. Mr. Johnson, D.J. was excused from the Session of today from 3:00 to 5:00 p.m. and other brief periods of time. Mr. Kroening was excused from the Session of today from 3:00 to 9:30 p.m. Ms. Reichgott was excused from the Session of today from 4:00 to 4:45 p.m. Mr. Spear was excused from the Session of today from 7:30 to 9:30 p.m. Mr. Pogemiller was excused from the Session of today from 1:00 to 6:00 p.m.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:00 a.m., Monday, May 22, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

# FIFTY-EIGHTH DAY

St. Paul, Minnesota, Monday, May 22, 1989

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

## CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Monsignor Ambrose V. Hayden.

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

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

The President declared a quorum present.

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

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 19, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 391, 736, 829, 834, 1020, 1031, 1039, 1252 and 1502.

Sincerely,
Rudy Perpich, Governor

## MOTIONS AND RESOLUTIONS

Messrs. Moe, R.D. and Benson introduced—

Senate Resolution No. 140: A Senate resolution relating to conduct of Senate business during the interim between Sessions.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The powers, duties and procedures set forth in this resolution apply during the interim between the adjournment of the 76th Legislature, 1989 session and the convening of the 76th Legislature, 1990 session.

The Subcommittee on Committees of the Committee on Rules and Administration shall appoint persons as necessary to fill any vacancies that may occur in committees, commissions, and other bodies whose members are to be appointed by the Senate authorized by rule, statute, resolution, or otherwise.

The Committee on Rules and Administration shall establish positions, set compensation and benefits, appoint employees and authorize expense reimbursement as it deems proper to carry out the work of the Senate.

The Secretary of the Senate shall classify as "permanent" for purposes of Minnesota Statutes, sections 3.095 and 43A.24 the Senate employees certified as "permanent" by the Committee on Rules and Administration.

The Secretary of the Senate may employ after the close of the session the employees necessary to finish the business of the Senate at the salaries paid under the rules of the Senate for the 1989 regular session. The Secretary of the Senate may employ the necessary employees to prepare for the 1990 session at the salaries in effect at that time.

The Secretary of the Senate, as authorized and directed by the Committee on Rules and Administration, shall furnish each member of the Senate with postage and supplies, and may reimburse each member for long distance telephone calls and answering service upon proper verification of the expenses incurred, and for such other expenses authorized from time to time by the Committee on Rules and Administration.

The Secretrary of the Senate shall correct and approve the Journal of the Senate for those days that have not been corrected and approved by the Senate, and shall correct printing errors found in the Journal of the Senate for the 1989 session. The Secretary of the Senate may include in the Senate Journal proceedings of the last day, appointments by the Subcommittee on Committees to interim commissions created by legislative action, permanent commissions or committees established by statute, standing committees, official communications and other matters of record received on or after May 22, 1989.

The Secretary of the Senate may pay election and litigation costs as authorized by the Committee on Rules and Administration.

The Secretary of the Senate, with the approval of the Committee on Rules and Administration, shall secure bids and enter into contracts for remodeling and improvement of Senate office space, and shall purchase all supplies, equipment, and other goods and services necessary to carry out the work of the Senate. Contracts in excess of $5,000 must be signed by the Chair of the Committee on Rules and Administration and another member designated by the Chair.

The Secretary of the Senate shall draw warrants from the legislative expense fund in payment of the accounts referred to in this resolution.

All Senate records, including committee books, are subject to the direction of the Committee on Rules and Administration.

The Senate Chamber, retiring room, committee rooms, all conference rooms, storage rooms, Secretary of the Senate's office, Rules and Administration office, and any and all other space assigned to the Senate, are reserved for use by the Senate and its standing committees only and must not be released or used for any other purpose except upon the authorization of the Secretary of the Senate with the approval of the Committee on Rules and Administration or its Chair.

The Custodian of the Capitol shall continue to provide parking space for members and staff of the Legislature under Senate Concurrent Resolution No. 2.

Mr. Moe, R.D. moved the adoption of the foregoing resolution.

The question was taken on the adoption of the foregoing resolution.

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Knutson | Merriam | Renneke |
| Anderson | Diessner | Laidig | Metzen | Schmitz |
| Beckman | Frank | Langseth | Moe, R.D. | Solon |
| Belanger | Frederick | Lantry | Morse | Spear |
| Benson | Frederickson, D.J. | Larson | Novak | Storm |
| Berg | Frederickson, D.R. | Lessard | Olson | Stumpf |
| Bernhagen | Hughes | Luther | Pariseau | Taylor |
| Bertram | Johnson, D.E. | Marty | Piper | Vickerman |
| Brandl | Johnson, D.J. | McQuaid | Ramstad | |
| Chmielewski | Knaak | Mehrkens | Reichgott | |

The motion prevailed. So the resolution 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.

## REPORTS OF COMMITTEES

Mr. Moe, R.D., from the Committee on Rules and Administration, makes the following report: that the General Orders calendar for May 22, 1989, be designated a Special Orders calendar for immediate consideration.

Mr. Moe, R.D. moved the adoption of the Committee report.

## CALL OF THE SENATE

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

The question was taken on the adoption of the motion of Mr. Moe, R.D.

The roll was called, and there were yeas 38 and nays 23, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Kroening | Morse | Reichgott |
| Beckman | Dicklich | Lantry | Novak | Schmitz |
| Berglin | Diessner | Luther | Pehler | Solon |
| Bertram | Frank | Marty | Peterson, D.C. | Spear |
| Brandl | Frederickson, D.J. | Merriam | Peterson, R.W. | Vickerman |
| Cohen | Freeman | Metzen | Piper | Waldorf |
| Dahl | Hughes | Moe, D.M. | Pogemiller | |
| Davis | Johnson, D.J. | Moe, R.D. | Purfeerst | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knaak | McQuaid | Renneke |
| Belanger | Frederick | Knutson | Mehrkens | Storm |
| Benson | Frederickson, D.R. | Laidig | Olson | Taylor |
| Bernhagen | Gustafson | Larson | Pariseau | |
| Brataas | Johnson, D.E. | McGowan | Ramstad | |

The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate revert to the Orders of Business of Messages From the House and First Reading of Senate Bills. The motion prevailed.

## MESSAGES FROM THE HOUSE

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. 470: A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

There has been appointed as such committee on the part of the House:

Winter, Gruenes and Solberg.

Senate File No. 470 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 13:

H.F. No. 13: A bill for an act relating to courts; raising the jurisdictional limit on claims heard in conciliation court; permitting bail in civil contempt cases to be used to satisfy the judgment; requiring a report; amending Minnesota Statutes 1988, sections 487.30, subdivisions 1 and 5; 488A.12, subdivision 3; 488A.14, subdivision 6; 488A.16, subdivision 8; 488A.29, subdivision 3; 488A.31, subdivision 6; and 488A.33, subdivision 7.

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

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

House File No. 13 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Luther moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 13, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1421:

H.F. No. 1421: A bill for an act relating to surplus United States government property; directing the commissioner of natural resources to seek acquisition of certain surplus property of the United States government; directing the commissioner to lease the property to a nonprofit organization for development as housing for certain homeless veterans and their families.

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

McLaughlin, Ostoff and Boo have been appointed as such committee on the part of the House.

House File No. 1421 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Freeman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1421, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 624:

H.F. No. 624: A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension,

and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

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

Morrison, Battaglia and Scheid have been appointed as such committee on the part of the House.

House File No. 624 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Freeman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 624, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 661:

H.F. No. 661: A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Kahn, Greenfield and Dille have been appointed as such committee on the part of the House.

House File No. 661 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 661, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 257:

H.F. No. 257: A bill for an act relating to state government; regulating

markings on state vehicles; eliminating the requirement that certain reports of occupational licensing boards be summarized; eliminating certain prohibitions against state purchase of insurance; regulating state sale of goods and services; regulating certain small business assistance programs; clarifying responsibility for the operation and maintenance of certain buildings; regulating government record keeping; prescribing compensation for certain board members; amending Minnesota Statutes 1988, sections 15.0575, subdivision 3; 15.16; 15.17, subdivision 1; 15.39, subdivision 1; 15A.081, subdivisions 1 and 7; 16A.85, subdivision 2; 16B.06, subdivision 4; 16B.19, subdivision 6; 16B.20, subdivision 2; 16B.22, subdivision 1; 16B.24, subdivisions 1, 5, and 6; 16B.405, subdivision 1; 16B.48; 16B.54, subdivision 2; 138.17, subdivision 1; 214.07, subdivision 2; 214.09, subdivision 3; 473.141, subdivision 3; and 600.135, subdivision 1; repealing Minnesota Statutes 1988, section 15.38.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Williams; Johnson, R.; Winter; Olson, K. and Burger have been appointed as such committee on the part of the House.

House File No. 257 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

Mr. Moe, D.M. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 257, and that a Conference Committee of 5 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.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Langseth moved that the following members be excused for a Conference Committee on H.F. No. 723 from 9:00 to 11:30 a.m.:

Messrs. Langseth, DeCramer, Larson, Vickerman and Bertram. The motion prevailed.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on H.F. No. 1046 at 11:30 a.m.:

Messrs. Stumpf, Chmielewski and DeCramer. The motion prevailed.

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 207 and 1201.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## FIRST READING OF HOUSE BILLS

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

H.F. No. 207: A bill for an act relating to corrections; establishing the board of jail employee training and standards; regulating jail employees; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 214.01, subdivision 3; 214.04, subdivisions 1 and 3; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 214; proposing coding for new law as Minnesota Statutes, chapter 644.

Referred to the Committee on Governmental Operations.

H.F. No. 1201: A bill for an act relating to the environment; regulating genetic engineering; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116C.

Referred to the Committee on Finance.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. DeCramer introduced—

S.F. No. 1662: A bill for an act relating to natural resources; requiring the director of the division of waters to maintain current wetland values; authorizing wetland authorities to establish, maintain, and develop wetlands; amending Minnesota Statutes 1988, section 105.40, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 103J.

Referred to the Committee on Environment and Natural Resources.

Messrs. DeCramer; Frederickson, D.R. and Frederickson, D.J. introduced—

S.F. No. 1663: A bill for an act relating to Redwood county; abandoning judicial ditch number 37.

Referred to the Committee on Environment and Natural Resources.

Mr. Dahl introduced—

S.F. No. 1664: A bill for an act relating to the environment; changing the requirements for the solid waste disposal facilities schedule; amending Minnesota Statutes 1988, section 473.149, subdivision 2e.

Referred to the Committee on Environment and Natural Resources.

Messrs. Dicklich; Johnson, D.J. and Laidig introduced—

S.F. No. 1665: A bill for an act relating to elections; providing for a presidential primary; amending Minnesota Statutes 1988, sections 201.071, subdivision 1, and by adding a subdivision; 201.091, subdivision 1; 203B.06, subdivisions 1, 3, and 4; 203B.17, subdivision 2; 204C.10, subdivision 1; 204C.13, subdivision 1; 204C.18, subdivision 1; 204C.20, by adding a subdivision; 204C.24, subdivision 1; and 204C.32, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 207A.

Referred to the Committee on Elections and Ethics.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Dicklich moved that H.F. No. 1532 be taken from the table. The motion prevailed.

H.F. No. 1532: 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; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

Mr. Dicklich moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1532, and that a Conference Committee of 5 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.

Pursuant to the report from the Committee on Rules and Administration adopted May 22, 1989, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 892 a Special Order to be heard immediately.

Mr. Knaak raised a point of order as to whether H.F. No. 892 could be taken up as a Special Order.

The President ruled that the point of order was not well taken.

Mr. Knaak appealed the decision of the President.

## CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate for the balance of today's proceedings. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken of "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 35 and nays 22, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Luther | Novak | Reichgott |
| Beckman | Diessner | Marty | Pehler | Samuelson |
| Berglin | Frank | Merriam | Peterson, D.C. | Schmitz |
| Brandl | Frederickson, D.J. | Metzen | Peterson, R.W. | Solon |
| Cohen | Hughes | Moe, D.M. | Piper | Spear |
| Dahl | Johnson, D.J. | Moe, R.D. | Pogemiller | Vickerman |
| Davis | Lantry | Morse | Purfeerst | Waldorf |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knaak | Mehrkens | Storm |
| Belanger | Frederick | Knutson | Olson | Taylor |
| Benson | Frederickson, D.R. | Laidig | Pariseau | |
| Bernhagen | Gustafson | McGowan | Ramstad | |
| Brataas | Johnson, D.E. | McQuaid | Renneke | |

The decision of the President was sustained.

## SPECIAL ORDER

H.F. No. 892: A bill for an act relating to public safety; changing the definition of "dwelling"; authorizing more stringent local smoke detector requirements; creating the position of public fire safety educator; appropriating money; amending Minnesota Statutes 1988, section 299F.362, subdivisions 1 and 9.

Mr. Merriam moved to amend H.F. No. 892, the unofficial engrossment, as follows:

Pages 1 and 2, delete section 1

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 892 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Knaak | Moe, D.M. | Reichgott |
| Anderson | Davis | Knutson | Morse | Renneke |
| Beckman | Decker | Laidig | Novak | Samuelson |
| Belanger | Diessner | Lantry | Olson | Schmitz |
| Benson | Frank | Lessard | Pariseau | Solon |
| Berg | Frederick | Luther | Peterson, D.C. | Spear |
| Berglin | Frederickson, D.R. | Marty | Peterson, R.W. | Storm |
| Bernhagen | Gustafson | McGowan | Piper | Taylor |
| Brandl | Hughes | McQuaid | Pogemiller | Vickerman |
| Brataas | Johnson, D.E. | Merriam | Purfeerst | Waldorf |
| Cohen | Johnson, D.J. | Metzen | Ramstad | |

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

Pursuant to the report from the Committee on Rules and Administration adopted May 22, 1989, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1150 a Special Order to be heard immediately.

Mr. Knaak raised a point of order as to whether H.F. No. 1150 could be taken up as a Special Order.

The President ruled that the point of order was not well taken.

Mr. Knaak appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 32 and nays 20, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Frank | Marty | Peterson, D.C. | Solon |
| Beckman | Hughes | Merriam | Peterson, R.W. | Spear |
| Brandl | Johnson, D.J. | Metzen | Piper | Vickerman |
| Cohen | Kroening | Moe, D.M. | Purfeerst | Waldorf |
| Dahl | Lantry | Moe, R.D. | Reichgott | |
| Davis | Lessard | Morse | Samuelson | |
| Diessner | Luther | Novak | Schmitz | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knaak | Mehrkens | Ramstad |
| Belanger | Frederick | Knutson | Olson | Renneke |
| Benson | Frederickson, D.R. | Laidig | Pariseau | Storm |
| Bernhagen | Johnson, D.E. | McQuaid | Pogemiller | Taylor |

The decision of the President was sustained.

## SPECIAL ORDER

H.F. No. 1150: A bill for an act relating to the collection, access to, and dissemination of data; proposing classifications of data as private, confidential, nonpublic, and protected nonpublic; regulating classification of and access to certain data and meetings; clarifying classification of data; establishing an internal audit function with access to state agency data; clarifying what data on juveniles may be made available to the public; amending Minnesota Statutes 1988, sections 13.02, subdivision 9; 13.10, subdivision 1; 13.32, subdivisions 3 and 5; 13.41, by adding a subdivision; 13.46, subdivision 8; 13.64; 13.82, subdivisions 8 and 10; 16A.055, subdivision 1; 144.581, by adding a subdivision; 245.94, subdivision 1; 260.161, subdivision 3; and 340A.503, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 13.

Mr. Peterson, R.W. moved to amend the first Peterson, R.W. amendment to H.F. No. 1150, adopted by the Senate May 17, 1989, as follows:

Page 1, line 25, delete "*1989*" and insert "*1990*"

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

Mr. Peterson, R.W. then moved to amend H.F. No. 1150, as amended pursuant to Rule 49, adopted by the Senate May 2, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 974.)

Page 4, line 7, after the period, insert "*Notwithstanding any statute or rule to the contrary, and*"

Page 4, line 8, before the comma, insert "*approved by the legislative audit commission in 1988*"

Page 4, line 11, delete "*section*"

Page 4, line 12, delete everything before the period and insert "*chapter 13 and may not disclose data that identify a patient or client by name or that contain any other personal identifier*"

The motion prevailed. So the amendment was adopted.

Mr. Peterson, R.W. then moved to amend H.F. No. 1150, as amended pursuant to Rule 49, adopted by the Senate May 2, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 974.)

Page 7, after line 4, insert:

"Sec. 14. Minnesota Statutes 1988, section 144.581, is amended by adding a subdivision to read:

*Subd. 5.* [CLOSED MEETINGS; RECORDING.] *(a) Notwithstanding subdivision 4 or section 471.705, a public hospital or an organization established under this section may hold a closed meeting to discuss specific marketing activity and contracts that might be entered into pursuant to the marketing activity in cases where the hospital or organization is in competition with health care providers that offer similar goods or services, and where disclosure of information pertaining to those matters would cause harm to the competitive position of the hospital or organization, provided that the goods or services do not require a tax levy. No contracts referred to in this paragraph may be entered into earlier than 15 days after the proposed contract has been described at a public meeting and the description entered in the minutes, except for contracts for consulting services or with individuals for personal services.*

*(b) A meeting may not be closed under paragraph (a) except by a majority vote of the board of directors in a public meeting. 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 available to the public after the closed meeting. The proceedings of a closed meeting must be tape-recorded and preserved by the board of directors for two years. The data on the tape are nonpublic data under section 13.02, subdivision 9. However, the data become public data under section 13.02, subdivision 14, two years after the meeting, or when the hospital or organization takes action on matters referred to in paragraph (a), except for contracts for consulting services. In the case of personal service contracts, the data become public when the contract is signed. For entities subject to section 471.345, a contract entered into by the board is subject to the requirements of section 471.345.*

*(c) The board of directors may not discuss a tax levy at a closed meeting."*

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Peterson, R.W. moved that H.F. No. 1150 be laid on the table. The motion prevailed.

Pursuant to the report from the Committee on Rules and Administration adopted May 22, 1989, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1445 a Special Order to be heard immediately.

Mr. Knaak raised a point of order as to whether H.F. No. 1445 could be taken up as a Special Order.

The President ruled that the point of order was not well taken.

Mr. Knaak appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 31 and nays 20, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Diessner | Lessard | Peterson, D.C. | Spear |
| Beckman | Frank | Luther | Peterson, R.W. | Vickerman |
| Berglin | Frederickson, D.J. | Marty | Piper | Waldorf |
| Brandl | Hughes | Moe, D.M. | Pogemiller | |
| Cohen | Johnson, D.J. | Moe, R.D. | Purfeerst | |
| Davis | Kroening | Morse | Reichgott | |
| Dicklich | Lantry | Pehler | Solon | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Brataas | Gustafson | McGowan | Ramstad |
| Belanger | Decker | Johnson, D.E. | Mehrkens | Renneke |
| Benson | Frederick | Knaak | Olson | Storm |
| Bernhagen | Frederickson, D.R. | Knutson | Pariseau | Taylor |

The decision of the President was sustained.

## SPECIAL ORDER

H.F. No. 1445: A bill for an act relating to agriculture; making technical changes in the seed and dairy inspection laws; amending Minnesota Statutes 1988, sections 21.89, subdivisions 2 and 4; and 32.103.

Mr. Morse moved that the amendment made to H.F. No. 1445 by the Committee on Rules and Administration in the report adopted April 27, 1989, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1445 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Hughes | Moe, D.M. | Ramstad |
| Anderson | Davis | Johnson, D.E. | Moe, R.D. | Reichgott |
| Beckman | Decker | Johnson, D.J. | Morse | Renneke |
| Belanger | Dicklich | Knaak | Olson | Solon |
| Benson | Diessner | Lantry | Pariseau | Spear |
| Berg | Frank | Lessard | Pehler | Storm |
| Bernhagen | Frederick | Luther | Peterson, D.C. | Taylor |
| Brandl | Frederickson, D.J. | Marty | Piper | Vickerman |
| Brataas | Frederickson, D.R. | McGowan | Pogemiller | Waldorf |
| Cohen | Gustafson | Mehrkens | Purfeerst | |

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Peterson, R.W. moved that H.F. No. 1150 be taken from the table. The motion prevailed.

H.F. No. 1150: A bill for an act relating to the collection, access to, and dissemination of data; proposing classifications of data as private, confidential, nonpublic, and protected nonpublic; regulating classification of and

access to certain data and meetings; clarifying classification of data; establishing an internal audit function with access to state agency data; clarifying what data on juveniles may be made available to the public; amending Minnesota Statutes 1988, sections 13.02, subdivision 9; 13.10, subdivision 1; 13.32, subdivisions 3 and 5; 13.41, by adding a subdivision; 13.46, subdivision 8; 13.64; 13.82, subdivisions 8 and 10; 16A.055, subdivision 1; 144.581, by adding a subdivision; 245.94, subdivision 1; 260.161, subdivision 3; and 340A.503, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 13.

Mr. Benson moved to amend H.F. No. 1150, as amended pursuant to Rule 49, adopted by the Senate May 2, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 974.)

Page 1, after line 16, insert:

"Section 1. [3.055] [OPEN MEETING LAW APPLIES TO LEGISLATURE.]

*The open meeting law, section 471.705, applies to the legislature including the senate sessions, house of representatives sessions, and meetings of standing committees, special committees, divisions, subcommittees, conference committees, and commissions.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 42 and nays 10, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Hughes | McQuaid | Reichgott |
| Anderson | Dahl | Johnson, D.E. | Mehrkens | Renneke |
| Beckman | Davis | Knaak | Merriam | Solon |
| Belanger | Decker | Knutson | Metzen | Spear |
| Benson | Diessner | Laidig | Morse | Storm |
| Berg | Frank | Lantry | Olson | Taylor |
| Berglin | Frederick | Lessard | Pariseau | |
| Bernhagen | Frederickson, D.R. | Marty | Peterson, R.W. | |
| Brataas | Gustafson | McGowan | Ramstad | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Dicklich | Johnson, D.J. | Luther | Moe, R.D. | Piper |
| Frederickson, D.J. | Kroening | Moe, D.M. | Peterson, D.C. | Waldorf |

The motion prevailed. So the amendment was adopted.

H.F. No. 1150 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Johnson, D.J. | Mehrkens | Piper |
| Anderson | Davis | Knaak | Merriam | Pogemiller |
| Beckman | Decker | Knutson | Metzen | Purfeerst |
| Belanger | Dicklich | Kroening | Moe, R.D. | Ramstad |
| Benson | Diessner | Laidig | Morse | Reichgott |
| Berg | Frank | Lantry | Novak | Renneke |
| Berglin | Frederick | Lessard | Olson | Samuelson |
| Bernhagen | Frederickson, D.J. | Luther | Pariseau | Solon |
| Brandl | Gustafson | Marty | Pehler | Spear |
| Brataas | Hughes | McGowan | Peterson, D.C. | Taylor |
| Cohen | Johnson, D.E. | McQuaid | Peterson, R.W. | Waldorf |

So the bill, as amended, was 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 revert to the Order of Business of Messages From the House. The motion prevailed.

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce 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. 895: A bill for an act relating to natural resources; amending provisions relating to the conservation reserve program; changing authority over the conservation reserve program from the commissioner of agriculture to the board of water and soil resources; defining certain terms; changing criteria for eligible land; prohibiting grazing of land under future agreements; providing conditions and payment for wetland restoration; providing for enforcement and liability for damages for violation of the terms of a conservation easement or agreement; authorizing the board to adopt rules; authorizing the commissioner of agriculture to allow town boards to suspend the duty of owners and occupants to control noxious weeds under certain conditions; withdrawing certain marginal land and wetlands from sale by the state unless restricted by a conservation easement under certain conditions; requiring certain acquisition procedures before the commissioner of natural resources accepts agricultural land or farm homesteads in fee from the federal government; authorizing aliens and non-Americans to own certain agricultural land to comply with pollution control laws or rules; amending Minnesota Statutes 1988, sections 40.42; 40.43; 40.44; 40.45; 84.95, subdivision 2; 282.018; 500.221, subdivision 2; Laws 1986, chapter 383, section 17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 18; 40; 84; and 92.

Senate File No. 895 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. Novak moved that the Senate do not concur in the amendments by the House to S.F. No. 895, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the

House. The motion prevailed.

Mr. President:

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

S.F. No. 542: A bill for an act relating to agriculture; changing the agricultural land preservation law; amending Minnesota Statutes 1988, sections 40A.02, subdivision 10; 40A.04, subdivision 1; 40A.10, subdivisions 1, 2, and by adding a subdivision; 40A.11, subdivision 4; 40A.122, subdivision 7; 40A.17; 473H.15, subdivision 10; and 473H.17, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 40A.

Senate File No. 542 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Davis moved that the Senate concur in the amendments by the House to S.F. No. 542 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 542: A bill for an act relating to agriculture; changing the agricultural land preservation law; amending Minnesota Statutes 1988, sections 40A.02, subdivision 10; 40A.04, subdivision 1; 40A.10; 40A.11, subdivision 4; 40A.17; 273.119; and 473H.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 40A; repealing Minnesota Statutes 1988, section 40A.123, subdivision 3.

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 57 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Davis | Knaak | Metzen | Ramstad |
| Anderson | Decker | Knutson | Moe, D.M. | Reichgott |
| Beckman | Dicklich | Kroening | Moe, R.D. | Renneke |
| Belanger | Diessner | Laidig | Morse | Samuelson |
| Benson | Frank | Lantry | Novak | Solon |
| Berg | Frederick | Larson | Olson | Spear |
| Berglin | Frederickson, D.J. | Lessard | Pariseau | Storm |
| Bernhagen | Frederickson, D.R. | Luther | Pehler | Taylor |
| Brandl | Gustafson | Marty | Peterson, D.C. | Waldorf |
| Brataas | Hughes | McGowan | Piper | |
| Cohen | Johnson, D.E. | McQuaid | Pogemiller | |
| Dahl | Johnson, D.J. | Mehrkens | Purfeerst | |

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

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. 1378: A bill for an act relating to animals; regulating use of certain prescription veterinary drugs; changing certain procedures for licensing veterinarians; amending Minnesota Statutes 1988, sections 151.19, subdivision 3; and 156.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 156.

Senate File No. 1378 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Berg moved that the Senate concur in the amendments by the House to S.F. No. 1378 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1378 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Knutson | Moe, D.M. | Ramstad |
| Anderson | Davis | Lantry | Moe, R.D. | Reichgott |
| Beckman | Diessner | Larson | Morse | Samuelson |
| Belanger | Frank | Lessard | Novak | Spear |
| Benson | Frederick | Luther | Olson | Storm |
| Berg | Frederickson, D.J. | Marty | Pariseau | Taylor |
| Berglin | Frederickson, D.R. | McGowan | Pehler | Vickerman |
| Bernhagen | Gustafson | McQuaid | Peterson, D.C. | Waldorf |
| Bertram | Hughes | Mehrkens | Piper | |
| Brandl | Johnson, D.E. | Merriam | Pogemiller | |
| Cohen | Knaak | Metzen | Purfeerst | |

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

## RECESS

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

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

## APPOINTMENTS

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

H.F. No. 624: Messrs. Freeman; Peterson, R.W. and Frederick.

H.F. No. 1421: Messrs. Freeman; Peterson, R.W. and Frederick.

H.F. No. 257: Messrs. Moe, D.M.; Waldorf; Taylor; Morse and Decker.

H.F. No. 661: Messrs. Dahl, Merriam and Taylor.

H.F. No. 1532: Messrs. Dicklich; Johnson, D.J.; Marty; Ms. Piper and Mr. Johnson, D.E.

H.F. No. 13: Messrs. Luther, Pogemiller and Knaak.

S.F. No. 895: Messrs. Novak, Davis and Frederickson, D.R.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 341, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 341 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 341

A bill for an act relating to public safety; proposing the emergency planning and community right-to-know act; requiring reports on hazardous substances and chemicals; creating an emergency response commission; providing penalties; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299F.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 341, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 341 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [299K.01] [DEFINITIONS.]

*Subdivision 1.* [APPLICATION.] *The definitions in this section apply to sections 1 to 10.*

*Subd. 2.* [COMMISSION.] *"Commission" means the emergency response*

*commission established in section 3.*

*Subd. 3.* [EMERGENCY RESPONSE ORGANIZATION.] *"Emergency response organization" means a firefighting, law enforcement, emergency management, emergency medical services, health, or local environmental organization, or a hospital.*

*Subd. 4.* [FACILITY.] *"Facility" means the buildings, equipment, structures, and other stationary items that:*

*(1) are located on a single site or on contiguous or adjacent sites; and*

*(2) are owned or operated by one person, or are under the sole or common control of one person.*

*Subd. 5.* [FEDERAL ACT.] *"Federal act" means the federal Emergency Planning and Community Right To Know Act, United States Code, title 42, sections 11001 to 11046.*

*Subd. 6.* [PERSON.] *"Person" means any individual, partnership, association, public or private corporation, or other entity including the United States government, any interstate body, the state and any agency, department, or political subdivision of the state.*

Sec. 2. [299K.02] [OFFICE OF EMERGENCY RESPONSE.]

*The office of emergency response is established in the department of public safety, consisting of the emergency response commission and its staff, to coordinate state compliance with the federal act.*

Sec. 3. [299K.03] [EMERGENCY RESPONSE COMMISSION.]

*Subdivision 1.* [ESTABLISHMENT.] *The emergency response commission is established to comply with and administer the federal act.*

*Subd. 2.* [AGENCY MEMBERS.] *The commission consists of the commissioners of the department of public safety, the pollution control agency, the department of health, and the department of agriculture.*

*Subd. 3.* [APPOINTED MEMBERS.] *(a) The governor shall appoint 17 additional members to the commission.*

*(b) The 17 appointed members must include one representative each of fire chiefs, professional firefighters, volunteer firefighters, fire marshals, law enforcement personnel, emergency medical personnel, health professionals, wastewater treatment operators, labor, and local elected officials, three representatives of community groups or the public, and four representatives from business and industry, at least one of whom must represent small business.*

*(c) At least four of the appointed members must reside outside the metropolitan area, as defined in section 473.121, subdivision 2.*

*(d) The appointed members must be appointed, serve, and be compensated in the manner provided in section 15.059.*

*Subd. 4.* [ADVISORY COMMITTEES.] *The commission may establish advisory committees to advise the commission on matters pertaining to the commission's duties.*

*Subd. 5.* [DUTIES OF COMMISSION.] *The commission shall carry out all requirements of a commission under the federal act and may adopt rules to do so. The commission shall encourage use of and shall utilize*

*existing emergency planning systems under section 5 whenever practical.*

*Subd. 6.* [AGREEMENTS.] *The commission may cooperate and enter into necessary agreements with other state departments and agencies, political subdivisions of the state, or the federal government to perform its duties.*

*Subd. 7.* [COOPERATION.] *State departments, agencies, and political subdivisions shall cooperate with the commission and its director and shall assist in the performance of the commission's duties.*

Sec. 4. [299K.04] [REGIONAL REVIEW COMMITTEES.]

*Subdivision 1.* [MEMBERSHIP.] *(a) The commission shall establish emergency planning districts and appoint and supervise a regional review committee for each district. The regional review committee shall serve as the local emergency planning committee under the federal act, except where a local emergency planning committee has been established by one or more political subdivisions.*

*(b) Each regional review committee must have nine members consisting of:*

*(1) three representatives of facilities regulated under the federal act;*

*(2) three representatives of emergency response organizations; and*

*(3) three representatives of the public including community groups, broadcast and print media, and elected officials.*

*Subd. 2.* [COMPENSATION.] *Regional review committee members shall be compensated in the manner provided in section 15.059.*

*Subd. 3.* [DUTIES OF REGIONAL REVIEW COMMITTEES.] *Regional review committees shall:*

*(1) review emergency operations plans prepared by political subdivisions within their emergency planning district to determine whether they meet the requirements of section 11003(c) of the federal act;*

*(2) consult and coordinate with the regional program coordinators of the division of emergency management of the department of public safety and with local and county organizations for civil defense designated under section 12.25;*

*(3) submit emergency plans to the commission for review and recommendations;*

*(4) establish procedures for receiving and processing requests from the public for information available under the federal act; and*

*(5) perform any other duties specified in the federal act.*

Sec. 5. [299K.05] [LOCAL EMERGENCY PLANS.]

*Subdivision 1.* [PREPARATION.] *Political subdivisions should prepare emergency plans that adequately address the requirements contained in section 11003 of the federal act. The emergency plan may be a part of a plan prepared by a political subdivision in accordance with chapter 12. County organizations, through the county director designated under section 12.25, shall receive the plans for review, shall coordinate the emergency planning required under the federal act for political subdivisions within the county, and shall submit the plans to the regional office of the*

*division of emergency management. The division of emergency management shall submit the plans to the regional review committee.*

*Subd. 2.* [LOCAL EMERGENCY PLANNING COMMITTEES.] *A political subdivision or two or more political subdivisions that are contiguous may request the commission to establish a local emergency planning committee for the political subdivision or subdivisions. A local emergency planning committee established by the commission shall carry out all requirements specified under sections 11001 to 11046 of the federal act.*

*Subd. 3.* [PLANNING ADVISORY COMMITTEE.] *A political subdivision or two or more political subdivisions that are contiguous may establish, in lieu of a local emergency planning committee, a planning advisory committee to prepare an emergency plan under section 11003 of the federal act.*

Sec. 6. [299K.06] [PUBLIC INFORMATION DEPOSITORY.]

*Subdivision 1.* [COUNTY DESIGNATION OF LIBRARY.] *Each county shall designate a library in the county for maintaining updated information on the facilities subject to the federal act that are located in the county and a copy of the emergency response plan for the county.*

*Subd. 2.* [INFORMATION TO BE PROVIDED.] *When the commission develops a computerized information system, the commission shall provide updated information on a regular basis to libraries designated under subdivision 1, listing the facilities subject to sections 1 to 10 and noting types of hazards, specific chemicals on site, and amounts of chemicals on site at each facility, and identifying the regional review committee that may be contacted for further information. The commission also shall provide to the libraries a copy of the most recently approved emergency response plan for the county and designate a contact person for public participation in emergency planning.*

Sec. 7. [299K.07] [NOTIFICATION TO EMERGENCY RESPONSE CENTER.]

*(a) The notification of the commission required under the federal act shall be made to the state emergency response center. The owner or operator of a facility shall immediately notify the state emergency response center of the release of a reportable quantity of the following materials:*

*(1) a hazardous substance on the list established under United States Code, title 42, section 9602; or*

*(2) an extremely hazardous substance on the list established under United States Code, title 42, section 11002.*

*(b) This section does not apply to a release that results in exposure to persons solely within the site or sites on which a facility is located or to a release specifically authorized by state law.*

Sec. 8. [299K.08] [FACILITIES REQUIRED TO COMPLY.]

*Subdivision 1.* [GENERAL.] *Facilities subject to the federal act must comply with the federal act and sections 1 to 10.*

*Subd. 2.* [HAZARDOUS CHEMICAL INVENTORY REPORTING.] *(a) In addition to facilities specified in the federal act, facilities that are operated by employers subject to the occupational health and safety provisions of sections 182.65 to 182.675 shall comply with the hazardous*

*chemical inventory reporting of the federal act.*

*(b) This section is a designation of additional facilities under sections 11021 and 11022 of the federal act, and the legislative process meets the requirements for public notice and opportunity to comment.*

Sec. 9. [299K.09] [RULES TO SET FEES.]

*Subdivision 1.* [FEES.] *The commission shall adopt rules setting the following fees:*

*(1) a material safety data sheet fee to be paid by a facility when it submits material safety data sheets in lieu of a hazardous chemical report form as required under section 11021 of the federal act;*

*(2) a fee to be paid by a facility when the owner or operator submits its emergency and hazardous chemical inventory form, required under section 11022 of the federal act, for calendar year 1990 and annually afterwards; and*

*(3) a late fee to be paid by a facility that fails to pay a fee under clause (1) or (2) in a timely manner, not to exceed 200 percent of the original fee.*

*Subd. 2.* [FEE STRUCTURE.] *The fee established under subdivision 1 may not exceed, in the aggregate, the amount necessary to cover the costs for all data management, including administration of fees, by the commission and regional review committees.*

Sec. 10. [299K.10] [ENFORCEMENT.]

*Subdivision 1.* [ENFORCEMENT POWERS OF THE COMMISSION.] *(a) To carry out its duties, the commission may:*

*(1) enforce the federal act;*

*(2) issue, enter into, or enforce orders, schedules of compliance, and stipulation agreements;*

*(3) conduct investigations, issue notices, and hold hearings that are necessary or useful to discharge its duties;*

*(4) examine and copy any books, papers, records, memoranda, or data of a person that is related to data required to be submitted to the commission;*

*(5) enter public or private property to take an action authorized by this section including obtaining information from a person who has a duty to provide information to the commission; and*

*(6) issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to matters involved in a hearing or investigation.*

*(b) An employee or agent of the commission may examine witnesses and administer oaths in connection with a subpoena. Witnesses must receive the same fees and mileage as in civil actions.*

*(c) The commission may delegate its authority under this subdivision to state or local governmental agencies or organizations to conduct investigations, examine and copy records, and enter property.*

*Subd. 2.* [CIVIL ACTION; COMMISSION.] *The commission may enforce the federal act through a civil action brought in federal district court under the federal act or in state district court by the attorney general on request*

*of the commission.*

*Subd. 3.* [CIVIL ACTION; CITIZENS.] *A person may commence a civil action against an owner or operator of a facility in state district court that may be brought in federal district court under the federal act.*

*Subd. 4.* [CIVIL ACTION; REGIONAL REVIEW AND LOCAL EMERGENCY PLANNING COMMITTEES.] *A regional review committee or a local emergency planning committee may commence an action against an owner or operator of a facility in state district court for a violation of the federal act that the local emergency planning committee is authorized to commence in federal district court under the federal act.*

*Subd. 5.* [INJUNCTIVE RELIEF.] *In addition to other relief granted, the court may grant injunctive relief to restrain violations of the federal act.*

*Subd. 6.* [CIVIL PENALTIES.] *(a) A violation of the federal act is a violation of state law.*

*(b) An owner or operator of a facility is liable to the state for civil penalties in the same manner and amount as the owner or operator is liable to the United States under section 11045, subpart (a) and subpart (b), paragraphs (1), (2), and (3), of the federal act.*

*(c) The commission may enforce the penalties in state district court in the same manner as the administrator of the United States Environmental Protection Agency may enforce the civil penalties in federal district court under the federal act.*

*(d) For purposes of this subdivision, each day of continued violation constitutes a separate violation.*

*Subd. 7.* [COSTS AND ATTORNEY FEES.] *On the motion of a party prevailing in an action under this section, the court may award costs, disbursements, and reasonable attorney and witness fees to the prevailing party.*

*Subd. 8.* [VENUE.] *A civil action authorized by this section may be brought in the district court in Ramsey county, in the district court where the alleged violation occurred, or in the district court where the defendant is located.*

Sec. 11. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

*Subd. 10.* [FAILURE TO REPORT A RELEASE OF A HAZARDOUS SUBSTANCE OR AN EXTREMELY HAZARDOUS SUBSTANCE.] *(a) A person is, upon conviction, subject to a fine of up to $25,000 or imprisonment for up to two years, or both, who:*

*(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous substance under United States Code, title 42, section 11004;*

*(2) knows or has reason to know that a hazardous substance or an extremely hazardous substance has been released; and*

*(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center, or a firefighting or law enforcement organization.*

*(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to $50,000 or imprisonment for not more than five years, or both.*

*(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.*

*(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.*

*(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002.*

Sec. 12. [INTERIM COMMISSION.]

*Until the 17 members can be appointed under section 3, subdivision 3, the emergency response commission established through the governor's executive order to administer the provisions of United States Code, title 42, sections 11001 to 11046, shall continue to perform the duties of the emergency response commission.*

Sec. 13. [INTERIM FEES.]

*Beginning on the effective date of this section and continuing until the effective date of rules adopted under section 9, the fee under section 9, subdivision 1, clause (1), is $10 per material safety data sheet but does not apply to material safety data sheets requested by the emergency response commission.*

Sec. 14. [TOXIC CHEMICAL RELEASE REPORTING STUDY.]

*The emergency response commission, in cooperation with the pollution control agency, shall conduct a study to determine the need for expanding the toxic chemical release form requirements of United States Code, title 42, section 11023, to other facilities covered under section 8, subdivision 2. The commission shall report the results of the study to the house of representatives and senate committees on environment and natural resources by December 31, 1990. The report must include a list of the types and sizes of facilities recommended to submit toxic chemical release forms and a recommended date for compliance.*

Sec. 15. [EMERGENCY PLANNING REPORT.]

*The emergency response commission shall report to the legislature on the effectiveness of emergency planning required under United State Code, title 42, sections 11001 to 11046, throughout the state. The report must address the numbers and composition of local emergency planning committees and planning advisory committees established in the state, and the involvement of citizens in the planning process. The emergency response commission shall submit the report to the house and senate governmental operations committees by December 31, 1990.*

Sec. 16. [APPROPRIATION.]

*Subdivision 1.* [COMMUNITY RIGHT-TO-KNOW PROGRAM.] *$585,000 is appropriated from the general fund to the commissioner of public safety for the community right-to-know program. $313,000 is for fiscal year 1990 and $272,000 is for fiscal year 1991.*

*The approved complement of the department of public safety is increased by three positions.*

*Subd. 2.* [RED RIVER VALLEY DISASTER RELIEF] *$645,000 is appropriated from the general fund to the commissioner of public safety for disaster relief due to flooding in the Red River valley, to be available until June 30, 1990.*

Sec. 17. [EFFECTIVE DATE.]

*Section 8, subdivision 2, is effective July 1, 1989, but facilities subject to section 8, subdivision 2, are not required to report under United States Code, title 42, section 11021, until October 17, 1989, or under United States Code, title 42, section 11022, until March 1, 1990.*

*Section 11 is effective August 1, 1989, and applies to crimes committed on or after that date.*

*Section 16, subdivision 2, is effective the day following final enactment.*"

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

House Conferees: (Signed) Steve Trimble, Teresa Lynch, Alice M. Johnson

Senate Conferees: (Signed) Gene Merriam, LeRoy A. Stumpf, Dennis R. Frederickson

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on H.F. No. 341 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 341 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Johnson, D.J. | Mehrkens | Piper |
| Anderson | Dahl | Knaak | Merriam | Pogemiller |
| Beckman | Davis | Knutson | Metzen | Ramstad |
| Belanger | Diessner | Laidig | Moe, R.D. | Reichgott |
| Benson | Frank | Lantry | Morse | Schmitz |
| Berg | Frederick | Larson | Novak | Solon |
| Berglin | Frederickson, D.J. | Lessard | Olson | Spear |
| Bernhagen | Frederickson, D.R. | Luther | Pariseau | Storm |
| Bertram | Gustafson | Marty | Pehler | Taylor |
| Brandl | Hughes | McGowan | Peterson, D.C. | Vickerman |
| Brataas | Johnson, D.E. | McQuaid | Peterson, R.W. | Waldorf |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 162, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 162 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 162

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.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 162, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 162 be further amended as follows:

Page 21, delete lines 13 to 16 and insert:

"*Subdivision 1.* [LIABILITY.] *Any insurer, insurance agent, or insurance-support organization that violates sections 2 to 17 is liable to the aggrieved person for that violation to the same extent as civil remedies are otherwise allowed in section 13.08, subdivision 1, for violations of chapter 13, by a political subdivision, responsible authority, statewide system, or statewide agency.*"

Page 21, delete lines 21 to 24

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

House Conferees: (Signed) Wesley J. Skoglund, John Burger, Howard Orenstein

Senate Conferees: (Signed) John J. Marty, Michael O. Freeman, Mel Frederick

Mr. Marty moved that the foregoing recommendations and Conference Committee Report on H.F. No. 162 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 162 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Knaak | Merriam | Ramstad |
| Anderson | Davis | Knutson | Metzen | Reichgott |
| Beckman | Diessner | Laidig | Moe, R.D. | Samuelson |
| Belanger | Frank | Lantry | Morse | Schmitz |
| Benson | Frederick | Larson | Novak | Solon |
| Berg | Frederickson, D.J. | Lessard | Olson | Spear |
| Berglin | Frederickson, D.R. | Luther | Pariseau | Storm |
| Bernhagen | Gustafson | Marty | Pehler | Taylor |
| Bertram | Hughes | McGowan | Peterson, D.C. | Vickerman |
| Brandl | Johnson, D.E. | McQuaid | Piper | Waldorf |
| Cohen | Johnson, D.J. | Mehrkens | Pogemiller | |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 65, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 65 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.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.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 65, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 65 be further amended as follows:

Page 1, line 14, delete "*by a public agency*"

Page 1, line 25, delete "*in writing*"

Page 2, line 5, after "*disapproved*" insert "*in writing*"

Page 2, line 13, delete ", *directly or indirectly,*"

Page 2, line 14, before the period insert "*from a tax increment financing district that includes property owned by the borrower*"

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

House Conferees: (Signed) Todd Otis, Roger Cooper, John Himle

Senate Conferees: (Signed) Gregory L. Dahl, John Bernhagen, Don Frank

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 65 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 65 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 2, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Laidig | Moe, R.D. | Schmitz |
| Anderson | Davis | Langseth | Morse | Solon |
| Beckman | Dicklich | Lantry | Novak | Spear |
| Belanger | Diessner | Larson | Olson | Storm |
| Benson | Frank | Lessard | Pariseau | Stumpf |
| Berg | Frederickson, D.J. | Luther | Pehler | Taylor |
| Berglin | Frederickson, D.R. | Marty | Peterson, D.C. | Vickerman |
| Bernhagen | Hughes | McGowan | Piper | Waldorf |
| Bertram | Johnson, D.E. | McQuaid | Pogemiller | |
| Brandl | Knaak | Mehrkens | Ramstad | |
| Cohen | Knutson | Metzen | Renneke | |

Messrs. Merriam and Peterson, R.W. voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 166, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 166 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 166

A bill for an act relating to state agencies; providing that certain information submitted to department of transportation is public data; providing for development of internal auditing standards; classifying certain internal auditing data as other than public; defining terms; providing for limousine registration; exempting certain special transportation service providers holding current certificate of compliance from motor carrier regulations; delineating requirements of carriers to display certain information; providing for permits of special passenger carriers and household goods carriers; providing for operation under motor carrier permit on death of holder; providing for amount of insurance, bond, or other security required of motor carriers; giving commissioner of transportation subpoena power for certain

enforcement purposes; providing for suspension of registration of interstate authority for failure to maintain insurance; amending Minnesota Statutes 1988, sections 13.72, by adding subdivisions; 16A.055, subdivision 1; 168.011, subdivision 35; 168.128, subdivision 2; 174.30, subdivision 6; 221.011, subdivisions 16, 20, and by adding a subdivision; 221.031, subdivision 6; 221.111; 221.121, subdivision 6a; 221.141, subdivision 1b, and by adding a subdivision; and 221.60, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13; 65B; and 221.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 166, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F. No. 166 be further amended as follows:

Page 2, after line 7, insert:

"Sec. 3. [65B.135] [LIMOUSINE INSURANCE.]

*An insurer who provides insurance for limousines, defined in section 168.011, subdivision 35, shall provide insurance in a minimum aggregate amount of $300,000 per accident for each limousine covered.*"

Page 2, line 24, after "drivers" insert "*and certification by the owner that an insurance policy in an aggregate amount of $300,000 per accident is in effect for the entire period of the registration under section 3*"

Renumber the sections in sequence

Correct internal references

Amend the title:

Page 1, line 5, after "registration" insert "and insurance"

Page 1, line 24, delete "chapter" and insert "chapters 65B and"

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

House Conferees: (Signed) Harold Lasley, Peter Rodosovich, Joyce Henry

Senate Conferees: (Signed) Steven G. Novak, Phyllis W. McQuaid, Marilyn M. Lantry

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on H.F. No. 166 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 166 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Laidig | Moe, R.D. | Schmitz |
| Anderson | Davis | Langseth | Morse | Solon |
| Beckman | Dicklich | Lantry | Novak | Spear |
| Belanger | Diessner | Larson | Olson | Storm |
| Benson | Frank | Lessard | Pariseau | Stumpf |
| Berg | Frederickson, D.J. | Luther | Pehler | Taylor |
| Berglin | Frederickson, D.R. | Marty | Peterson, D.C. | Vickerman |
| Bernhagen | Gustafson | McGowan | Piper | Waldorf |
| Bertram | Hughes | McQuaid | Pogemiller | |
| Brandl | Johnson, D.E. | Mehrkens | Ramstad | |
| Brataas | Knaak | Merriam | Reichgott | |
| Cohen | Knutson | Metzen | Samuelson | |

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

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Freeman moved that the following members be excused for a Conference Committee on H.F. No. 624 at 11:45 a.m.:

Messrs. Freeman, Frederick and Peterson, R.W. The motion prevailed.

## CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on H.F. No. 1408 from 12:00 noon to 12:45 p.m.:

Messrs. Novak, Metzen and Mrs. McQuaid. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to the report from the Committee on Rules and Administration adopted May 22, 1989, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 417 a Special Order to be heard immediately.

Mr. Knaak raised a point of order as to whether H.F. No. 417 could be taken up as a Special Order.

The President ruled that the point of order was not well taken.

## SPECIAL ORDER

H.F. No. 417: A bill for an act relating to solid waste; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, by adding a subdivision; 115A.03, by adding subdivisions; 115A.072; 115A.12, subdivision 1; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, subdivision 2, and by adding a subdivision; 115A.48, subdivision 3, and by adding subdivisions; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 275.50, subdivision 5; 325E.115, subdivision 1; 400.08, by adding a subdivision; 473.149, subdivision 1; and 473.803, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 18B; 115A; 116C; 116J; 121; 173; and 473.

Mr. Pehler moved to amend H.F. No. 417, as amended pursuant to Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Pages 41 and 42, delete article 7 and insert:

"ARTICLE 7

Section 1. [APPROPRIATIONS.]

*Subdivision 1. $37,539,000 is appropriated from the general fund to the agencies and for the purposes indicated, to be available for the fiscal year ending June 30 in the years indicated. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.*

| | *1990* | *1991* |
|---|---|---|
| | $ | $ |
| *Subd. 2. WASTE MANAGEMENT BOARD* | | |
| *(a) County block grant distribution* | *10,934,000* | *13,066,000* |
| *(b) Solid waste reduction programs* | *500,000* | *600,000* |
| *(c) Solid waste recycling programs* | *1,313,000* | *1,400,000* |
| *(d) Market development programs* | *2,000,000* | *2,000,000* |
| *(e) Litter prevention, control, and abatement grants* | *100,000* | *100,000* |
| *(f) Public education programs* | *600,000* | *750,000* |
| *(g) Problem materials collection and disposal* | *176,000* | *213,000* |
| *The approved complement of the waste management board is increased by 15 positions.* | | |
| *Subd. 3. POLLUTION CONTROL AGENCY* | | |
| *(a) Problem materials management* | *1,000,000* | *1,000,000* |
| *(b) Recycling programs* | *600,000* | *750,000* |
| *The approved complement of the pollution control agency is increased by seven positions.* | | |
| *Subd. 4. DEPARTMENT OF ADMINISTRATION* | | |
| *Waste reduction, procurement, and recycling* | *200,000* | *200,000* |
| *The approved complement of the department of administration is increased by four positions.* | | |
| *Subd. 5. DEPARTMENT OF REVENUE* | | |
| *Tax administration* | *37,000* | *-0-*" |

The motion prevailed. So the amendment was adopted.

Mr. Merriam moved to amend H.F. No. 417, as amended pursuant to

Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Page 5, line 32, delete "*four*" and insert "*three*"

Page 6, line 17, after the period, insert "*At least 50 percent of all funds appropriated under article 7 for market development efforts must be used to support county market development efforts. Grants to counties for market development must be made available to those counties that achieve significant land disposal abatement through use of source separation of recyclable materials.*"

Page 6, delete lines 25 to 31 and insert:

"*Subdivision 1.* [DEFINITION.] *(a) "Recycling" means, in addition to the meaning given in section 115A.03, subdivision 25b, yard waste composting and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.*

*(b) "Total solid waste generation" means the total by weight of:*

*(1) materials separated for recycling;*

*(2) materials separated for yard waste composting; and*

*(3) mixed municipal solid waste plus yard waste, used oil, tires, lead acid batteries, and major appliances.*"

Page 10, line 11, delete "*article 2;*"

Page 10, line 14, delete "*board*" and insert "*agency*"

Page 10, lines 22 and 23, delete "*waste management board*" and insert "*commissioner*"

Page 10, lines 29 and 30, delete "*waste management board*" and insert "*pollution control agency*"

Page 10, line 31, delete "*5*" and insert "*16*"

Page 11, line 27, delete "*department of revenue*" and insert "*board*"

Page 11, line 30, delete "*$50,000*" and insert "*$55,000*"

Page 11, line 32, after the period, insert "*A county that participates in a multicounty district that manages solid waste and that has responsibility for recycling programs as authorized in article 1, section 15, must pass through to the districts funds received by the county in excess of the $55,000 annual base under this section in proportion to the population of the county served by that district.*"

Page 12, line 28, delete "*and*"

Page 12, line 32, delete the period and insert "*; and*"

Page 12, after line 32, insert:

"*(3) provide evidence to the board that local revenue equal to 25 percent of the money sought for distribution under this section will be expended for the purposes in subdivision 2.*"

Pages 13 and 14, delete section 2

Page 14, line 31, after "spent" insert ", *in consultation with the legislative commission on waste management,*"

Page 14, after line 32, insert:

"Sec. 3. Minnesota Statutes 1988, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in ~~1988~~ *1989* payable in ~~1989~~ *1990* and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21, the aggregate amounts levied pursuant to this clause are subject to a maximum increase of 18 percent over the amount levied for these purposes in the previous year. Effective with taxes levied in 1989, the portion of this special levy for income maintenance programs identified in section 273.1398, subdivision 1, paragraph (i), is eliminated;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16; ~~and~~

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5; *and*

*(k) pay an amount of up to 25 percent of the money sought for distribution and approved under section 1, subdivision 3, paragraph (b), clause (3).*"

Pages 21 to 22, delete section 8 and insert:

"Sec. 8. [297A.45] [SOLID WASTE COLLECTION AND DISPOSAL SERVICES.]

*Subdivision 1.* [APPLICATION.] *The tax imposed by section 297A.02 applies to all public and private mixed municipal solid waste collection and disposal services. Notwithstanding section 297A.25, subdivision 11, a political subdivision that purchases collection or disposal services on behalf of its citizens shall pay the tax. If a political subdivision provides collection or disposal services to its residents at a cost in excess of the total direct charge to the residents for the service, the political subdivision shall pay the tax based on its cost of providing the service in excess of the direct charges. A person who transports mixed municipal solid waste generated by that person or by another person without compensation shall pay the tax at the disposal or resource recovery facility based on the disposal charge or tipping fee.*

*Subd. 2.* [EXEMPTIONS.] *(a) The cost of a service or the portion of a service to collect recyclable materials separated from mixed municipal solid waste by the waste generator is exempt from the tax imposed in section 297A.02.*

*(b) Waste from a recycling facility that separates or processes recyclable materials and that reduces the volume of the waste by at least 85 percent is exempt from the tax imposed in section 297A.02. To qualify for the exemption under this paragraph, the waste exempted must be collected and disposed of separately from other solid waste.*

Sec. 9. [EFFECTIVE DATE.]

*Sections 4 to 8 are effective for sales made after June 30, 1989.*"

Renumber the sections of article 2 in sequence

Page 28, after line 27, insert:

"Sec. 14. [115A.961] [HOUSEHOLD BATTERIES; COLLECTION, PROCESSING, AND DISPOSAL.]

*Subdivision 1.* [DEFINITION.] *For the purposes of this section, "household batteries" means disposable or rechargeable dry cells commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and carbon-zinc batteries, but excluding lead acid batteries.*

*Subd. 2.* [PROGRAM.] *(a) The board, in consultation with other state agencies, political subdivisions, and representatives of the household battery industry, may develop household battery programs. Before implementation, the board must coordinate its programs with results of the Minnesota future resources commission study on batteries.*

*(b) The board shall investigate options and develop guidelines for collection, processing, and disposal of household batteries. The options the board may investigate include:*

*(1) establishing a grant program for counties to plan and implement household battery collection, processing, and disposal projects;*

*(2) establishing collection and transportation systems;*

*(3) developing and disseminating educational materials regarding environmentally sound battery management; and*

*(4) developing markets for materials recovered from the batteries.*

*The board may also distribute funds to political subdivisions to develop battery management plans and implement those plans.*

*Subd. 3.* [PARTICIPATION.] *A political subdivision, on its own or in cooperation with others, may implement a program to collect, process, or dispose of household batteries. A political subdivision may provide financial incentives to any person, including public or private civic groups, to collect the batteries.*

*Subd. 4.* [REPORT.] *By November 1, 1991, the board shall report to the legislative commission on waste management on its activities under this section with recommendations for legislation necessary to address management of household batteries.*"

Page 30, line 22, after the period, insert:

"*The plan must include:*

*(1) participation in public education activities on household hazardous waste management in the facility's service area;*

*(2) a strategy for reduction of household hazardous waste entering the facility; and*

*(3) a plan for the storage and disposal of separated household hazardous waste.*"

Page 37, line 11, delete "*regular*" and insert "*at least quarterly*"

Renumber the sections of article 3 in sequence

Pages 40 and 41, delete article 6 and insert:

"ARTICLE 6

OFFICE OF WASTE MANAGEMENT

Section 1. [OFFICE OF WASTE MANAGEMENT; OPERATIONS.]

*$2,785,000 is appropriated from the general fund to the office of waste management created by 1989 H.F. No. 372, article 1, for its general operations and management. $565,000 is for fiscal year 1990 and $2,220,000 is for fiscal year 1991. The approved complement of the office of waste management is increased by 20 positions in fiscal year 1990 and 32 positions in fiscal year 1991. These appropriations must be added to the appropriations to the office of waste management in 1989 H.F. No. 372, article 1.*"

Correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Beckman moved to amend H.F. No. 417, as amended pursuant to Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Page 9, line 31, before the period, insert ", *which may include transportation equipment that provides processing at the curbside*"

Page 25, line 20, before the period, insert "*and for transportation equipment that provides processing at the curbside*"

The motion prevailed. So the amendment was adopted.

Ms. Berglin moved to amend H.F. No. 417, as amended pursuant to Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Pages 14 to 22, delete sections 3 to 8 and insert:

"Sec. 3. [115A.922] [SOLID WASTE DISPOSAL FEES.]

*Subdivision 1.* [STATE RECYCLING FEE.] *(a) A state recycling fee is imposed by the state on mixed municipal solid waste accepted by operators of mixed municipal solid waste disposal or resource recovery facilities. The recycling fee is:*

*(1) $9 per ton of solid waste or $4 per ton of processed waste from a resource recovery facility as described in section 115A.03, subdivision 28, accepted by the operator of a disposal facility other than a resource recovery facility; and*

*(2) $1 per ton of mixed municipal solid waste accepted by the operator of a resource recovery facility.*

*(b) Waste residue from recycling facilities that separate or process recyclables and that reduce the volume of their solid waste by at least 85 percent is exempt from the fee.*

*(c) The fee imposed by this section does not apply to recyclable materials as defined in section 115A.03, subdivision 25A.*

*Subd. 2.* [COLLECTION OF FEES.] *(a) The fee under subdivision 1 must be collected by an operator of a disposal or resource recovery facility*

*and is in addition to the city or town fee imposed under section 115A.921 and the county fee imposed under section 115A.919.*

*(b) The operator of a disposal or resource recovery facility shall collect the recycling fee imposed under subdivision 1. By the 15th day of each month the operator of the disposal or resource recovery facility shall remit the fee collected and report the amount of solid waste collected by the facility during the previous calendar month to the commissioner of revenue. The fee shall be deposited in the state treasury and credited as follows: 97 percent must be credited to the general fund and three percent credited to the Minnesota future resources account."*

Renumber the sections of article 2 in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 35, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Hughes | Luther | Peterson, D.C. | Spear |
| Belanger | Johnson, D.J. | McGowan | Pogemiller | Storm |
| Berglin | Knaak | McQuaid | Ramstad | |
| Brandl | Knutson | Olson | Reichgott | |
| Brataas | Kroening | Pariseau | Samuelson | |
| Frank | Laidig | Pehler | Schmitz | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Frederickson, D.J. | Lessard | Peterson, R.W. |
| Beckman | Dahl | Frederickson, D.R. | Marty | Piper |
| Benson | Davis | Gustafson | Mehrkens | Purfeerst |
| Berg | DeCramer | Johnson, D.E. | Merriam | Renneke |
| Bernhagen | Dicklich | Langseth | Metzen | Solon |
| Bertram | Diessner | Lantry | Moe, R.D. | Stumpf |
| Chmielewski | Frederick | Larson | Novak | Vickerman |

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

Mr. Berg moved to amend H.F. No. 417, as amended pursuant to Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Page 6, line 34, before "*25*" insert "*ten percent by weight of plastic food packaging and*"

Page 6, line 36, before "*35*" insert "*20 percent by weight of plastic food packaging and*"

Page 30, line 32, before the period, insert ", *except political subdivisions may adopt and enforce labeling and packaging requirements for plastic food packaging in a county where the waste management board has determined the county has not met the plastic food packaging recycling goal under article 1, section 12, subdivision 2*"

Page 37, delete section 29

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 40 and nays 22, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brataas | Frederickson, D.R. | Lessard | Ramstad |
| Anderson | Chmielewski | Gustafson | McGowan | Renneke |
| Beckman | Davis | Hughes | McQuaid | Samuelson |
| Belanger | DeCramer | Johnson, D.E. | Mehrkens | Schmitz |
| Benson | Diessner | Knutson | Metzen | Solon |
| Berg | Frank | Laidig | Olson | Storm |
| Bernhagen | Frederick | Langseth | Pariseau | Stumpf |
| Bertram | Frederickson, D.J. | Larson | Purfeerst | Vickerman |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Berglin | Freeman | Luther | Pehler | Reichgott |
| Brandl | Johnson, D.J. | Marty | Peterson, D.C. | Spear |
| Cohen | Knaak | Merriam | Peterson, R.W. | |
| Dahl | Kroening | Moe, R.D. | Piper | |
| Dicklich | Lantry | Novak | Pogemiller | |

The motion prevailed. So the amendment was adopted.

Mr. Dahl moved to amend H.F. No. 417, as amended pursuant to Rule 49, adopted by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 95.)

Page 32, line 19, delete "*in newspapers published in this state*" and insert "*, that appears only in newspapers published in this state as a run of press advertisement and not in a preprinted insert which has multistate distribution,*"

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend the Merriam amendment to H.F. No. 417, adopted by the Senate May 22, 1989, as follows:

Page 5, line 31, delete "*Before implementation,*"

Page 5, line 32, delete "*results of*"

Page 6, delete lines 9 to 11

Page 6, after line 17, insert:

"*The board may also distribute funds to political subdivisions to develop battery management plans and implement those plans.*"

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

Mr. Lessard moved to amend the Merriam amendment to H.F. No. 417, adopted by the Senate May 22, 1989, as follows:

Page 4, line 29, before the period, insert "*but does not apply to solid waste that is generated by a private business and placed in permitted disposal facilities owned and operated by the same private business*"

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

Ms. Olson moved to amend the Pehler amendment to H.F. No. 417, adopted by the Senate May 22, 1989, as follows:

Page 1, line 19, delete "*10,934,000*" and insert "*10,734,000*" and delete "*13,066,000*" and insert "*12,866,000*"

Page 2, after line 22, insert:

"*Subd. 6. UNIVERSITY OF MINNESOTA*

| | | |
|---|---|---|
| *To the University of Minnesota college of natural resources for research and education in paper and wood fiber recycling and more efficient design of paper and fiber products to enhance their recyclability* | *200,000* | *200,000*" |

Mr. Lessard moved to amend the Olson amendment to H.F. No. 417 as follows:

Page 1, line 13, after "*recyclability*" insert "*in consultation with the paper and wood products industry*"

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

The question recurred on the Olson amendment, as amended.

The motion prevailed. So the amendment, as amended, was adopted.

H.F. No. 417 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 53 and nays 12, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Decker | Johnson, D.J. | Merriam | Purfeerst |
| Anderson | DeCramer | Knaak | Metzen | Ramstad |
| Beckman | Dicklich | Knutson | Moe, D.M. | Renneke |
| Benson | Diessner | Laidig | Moe, R.D. | Schmitz |
| Berg | Frank | Langseth | Morse | Solon |
| Bernhagen | Frederickson, D.J. | Lantry | Novak | Storm |
| Bertram | Frederickson, D.R. | Larson | Olson | Stumpf |
| Chmielewski | Freeman | Lessard | Pariseau | Taylor |
| Cohen | Gustafson | Marty | Pehler | Vickerman |
| Dahl | Hughes | McGowan | Peterson, R.W. | |
| Davis | Johnson, D.E. | Mehrkens | Piper | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Belanger | Brataas | McQuaid | Pogemiller | Samuelson |
| Berglin | Kroening | Peterson, D.C. | Reichgott | Spear |
| Brandl | Luther | | | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Olson moved that S.F. No. 783 be recalled from the House of Representatives for further consideration.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Diessner | Kroening | Mehrkens | Renneke |
| Belanger | Frank | Laidig | Metzen | Samuelson |
| Benson | Frederickson, D.R. | Lantry | Novak | Schmitz |
| Bernhagen | Hughes | Larson | Olson | Solon |
| Brataas | Johnson, D.E. | Lessard | Pariseau | Storm |
| Chmielewski | Knaak | McGowan | Pehler | Taylor |
| Decker | Knutson | McQuaid | Ramstad | Vickerman |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Johnson, D.J. | Moe, R.D. | Reichgott |
| Beckman | Davis | Langseth | Morse | Spear |
| Berglin | DeCramer | Luther | Peterson, D.C. | Stumpf |
| Bertram | Dicklich | Marty | Peterson, R.W. | Waldorf |
| Brandl | Frederickson, D.J. | Merriam | Piper | |
| Cohen | Freeman | Moe, D.M. | Pogemiller | |

The motion prevailed.

Pursuant to the report from the Committee on Rules and Administration adopted May 22, 1989, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 557 a Special Order to be heard immediately.

Mr. Knaak raised a point of order as to whether H.F. No. 557 could be taken up as a Special Order.

The President ruled that the point of order was not well taken.

Mr. Knaak appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The role was called, and there were yeas 36 and nays 21, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Lantry | Pehler | Solon |
| Beckman | Dicklich | Luther | Peterson, D.C. | Spear |
| Berglin | Diessner | Marty | Peterson, R.W. | Stumpf |
| Bertram | Frank | Merriam | Piper | Vickerman |
| Brandl | Frederickson, D.J. | Metzen | Pogemiller | |
| Chmielewski | Freeman | Moe, R.D. | Reichgott | |
| Cohen | Johnson, D.J. | Morse | Samuelson | |
| Dahl | Langseth | Novak | Schmitz | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Laidig | Olson | Taylor |
| Belanger | Frederickson, D.R. | Larson | Pariseau | |
| Benson | Johnson, D.E. | McGowan | Ramstad | |
| Bernhagen | Knaak | McQuaid | Renneke | |
| Brataas | Knutson | Mehrkens | Storm | |

The decision of the President was sustained.

## SPECIAL ORDER

H.F. No. 557: A bill for an act relating to retirement; providing additional resources for the public employees insurance plan; amending Minnesota Statutes 1988, sections 43A.316, subdivision 9; 69.031, subdivision 5; and 353.65, subdivisions 1 and 6, and by adding a subdivision.

Mr. Pogemiller moved to amend H.F. No. 557, the unofficial engrossment as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MINNESOTA STATE RETIREMENT SYSTEM

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 this section* 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 the petition and the documentation that the petitioners submit with the petition; the executive director's answer to the petition and documentation submitted with it; and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.*

*Subd. 2.* [NOTICE OF TERMINATION OR DENIAL.] *If the executive director terminates 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 written notice containing:*

*(1) the reasons for the termination or denial;*

*(2) notice 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 subdivision 2 and whose benefit has been terminated or whose 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, 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 all relevant documentation.*

*Subd. 5.* [HEARING.] *The board shall hold a timely hearing on a petition for review. The board shall 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 sections 352.01, subdivision 17; 352B.10; or 490.121, subdivision 13, 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 of 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.*

*Subd. 11.* [PETITIONS WITHOUT NOTICE.] *A person who is not entitled to a review under this section may nevertheless receive review of the decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.*

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. 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:

$$\text{Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee} \times \frac{\text{Years and complete months of regular service between ages 58 and 65}}{7}$$

Sec. 10. 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. 11. 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. 12. 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. 13. Minnesota Statutes 1988, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. (a) An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, the guaranteed return account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) Twice in any calendar year, a participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the guaranteed return account. ~~If a partial transfer is made, a minimum of $1,000 must be transferred and a minimum balance of $1,000 must remain in the previously selected investment options.~~ Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the guaranteed return account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) Twice in any calendar year a participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the guaranteed return account. ~~However, if a partial transfer is made a minimum~~

~~of $1,000 must be transferred and a minimum balance of $1,000 must remain in the previously selected investment option.~~ Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

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 DATES.]

*Sections 1 to 15 and 17 are effective July 1, 1989. Section 16 is effective the day following final enactment.*

ARTICLE 2

TEACHERS' RETIREMENT ASSOCIATIONS

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

Subdivision 1. 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 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 federal Internal Revenue Code of 1986, as amended through December 31, 1988, 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 the petition and the documentation that the petitioners submit with the petition, the executive director's answer to the petition and documentation submitted with it, and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.*

*Subd. 2.* [NOTICE OF TERMINATION OR DENIAL.] *If the executive director terminates 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 or denial;*

*(2) notice 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 subdivision 2 and whose benefit has been terminated or whose 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 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 all relevant documentation.*

*Subd. 5.* [HEARING.] *The board shall hold a timely hearing on a petition for review. The board shall 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 of 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.*

*Subd. 11.* [PETITION WITHOUT NOTICE.] *A person who is not entitled to notice of a right of review under this section may nevertheless receive review of a decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.*

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 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 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~~ *approval* of the commission-retained actuary. The ~~recommendations shall~~ *written approval 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~~ *is 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 the provisions of~~ *under* 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 the age of 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, is amended by adding a subdivision to read:

*Subd. 5a.* [EXEMPTION FOR INTERIM SUPERINTENDENT.] *A person who performs services as an interim superintendent because of the death, disability, termination, or resignation of the previous superintendent is exempt from the earnings limitations and reductions in annuity payments in subdivision 5 for up to 90 working days of service as an interim superintendent. During this period of up to 90 working days, the school board may pay the interim superintendent at any rate, up to the rate paid to the previous superintendent. This exemption applies only if the school board hiring the interim superintendent submits an application for the exemption to the executive director, and the executive director approves the application before the services as interim superintendent begin. The application must certify that the school board has unanimously approved the exemption from the earnings limitations and reductions. The executive director may prescribe a form for the application. A school board may not apply for more than one exemption in a fiscal year. No more than three exemptions may be approved for any person. Only one exemption may be approved for any person in a fiscal year.*

Sec. 16. 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. 17. 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. 18. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] ~~Any~~ *A* member who ~~became~~ *is* totally and permanently disabled ~~after~~ *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. 19. 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~~ *18-month period* following *the* termination of teaching service ~~but not thereafter~~. 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. 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 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 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 the age of 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 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 the fund to which the refund is repaid, whichever is earlier.*

Sec. 24. 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 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. 25. 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. 26. 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. 27. [356.81] [REPAYMENT OF REFUNDS.]

*Repayment of a refund and interest on that refund permitted under laws governing any public pension plan in Minnesota may be made with funds distributed from a plan qualified under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a) or an annuity qualified under the federal Internal Revenue Code of 1986, 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 member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive director must require the member to provide written documentation to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the federal Internal Revenue Code of 1986.*

Sec. 28. [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. 29. [EFFECTIVE DATE.]

*Sections 2 to 13 and 15 to 28 are effective the day following final enactment. Section 1 is effective July 1, 1989. Section 14 is effective January 1, 1989.*

## ARTICLE 3

## PERA

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*; and*

*(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 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;

*(18) except as provided in section 353.86, 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; and*

*(19) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that 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. 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. *Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, 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 353.01, is amended by adding a subdivision to read:

*Subd. 36.* [VOLUNTEER FIREFIGHTER.] *For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A.*

Sec. 7. 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 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 or not omitted deductions occurred.*

Sec. 8. Minnesota Statutes 1988, section 353.28, subdivision 5, is amended to read:

Subd. 5. Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4, shall bear compound interest at the rate of six percent per year from the date due for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date 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. 9. Minnesota Statutes 1988, section 353.28, subdivision 6, is amended to read:

Subd. 6. 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. 10. 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. 11. 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. 12. 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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 any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions 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. 18. 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. 19. 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. 20. Minnesota Statutes 1988, section 353.64, subdivision 2, is amended to read:

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed ~~shall~~ *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. 21. Minnesota Statutes 1988, section 353.64, subdivision 3, is amended to read:

Subd. 3. 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. 22. Minnesota Statutes 1988, section 353.656, subdivision 4, is amended to read:

Subd. 4. 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. 23. [353.86] [VOLUNTEER AMBULANCE SERVICE PERSONNEL; PARTICIPATION; ELECTION; LIMITATION; AND COMPENSATION.]

*Subdivision 1.* [PARTICIPATION.] *Volunteer ambulance service personnel, as defined in section 353.01, subdivision 35, who are or become members of and participants in the public employees retirement fund or the public employees police and fire fund and make contributions to either of those funds based on compensation for service other than volunteer ambulance service may elect to participate in that same fund with respect to compensation received for volunteer ambulance service, provided that the volunteer ambulance service is not credited to another public or private pension plan including the public employees retirement plan established by chapter 353D and provided further that the volunteer ambulance service is rendered for the same governmental unit for which the nonvolunteer ambulance service is rendered.*

*Subd. 2.* [ELECTION.] *Volunteer ambulance service personnel to whom subdivision 1 applies may exercise the election authorized under subdivision 1 within the earlier of the one-year period beginning on July 1, 1989, and extending through June 30, 1990, or the one-year period commencing on the first day of the first month following the start of employment*

*in a position covered by the public employees retirement fund or the public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.*

*Subd. 3.* [LIMITATION.] *Volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 and their governmental employers are not required to pay omitted deductions and contributions under section 353.27, subdivision 12, for volunteer ambulance service rendered before July 1, 1989.*

*Subd. 4.* [COMPENSATION.] *Notwithstanding section 353.01, subdivision 10, compensation received for service rendered by volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 shall be considered salary.*

Sec. 24. [353.87] [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 36, who, on June 30, 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 has 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 is required to make back contributions to the public employees retirement association for 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 must 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 36, 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. 25. Laws 1985, chapter 11, section 12, subdivision 3, is amended to read:

Subdivision 3. [ELECTION PROCEDURES.] The board shall accept filings for one elected position on the board in November 1985 and shall conduct an election for that position in January 1986. The board shall accept filings for two elected positions on the board in November 1986 and shall conduct an election for those positions in January 1987. *Notwithstanding the four-year term of office specified in Minnesota Statutes, section 353.03, subdivision 1, the term of office for the January 1986 elected position extends through January 1991, so that all three elected positions are four-year terms which begin and end at the same time.* Thereafter, the board shall follow the election procedures described in Minnesota Statutes, section 353.03, subdivision 1, as necessary to fill the positions of elected trustees.

Sec. 26. [REPEALER.]

*Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662, are repealed.*

Sec. 27. [EFFECTIVE DATE.]

*(a) Sections 1 to 26 are effective July 1, 1989.*

*(b) The past due excess police state aid interest charge provided for in section 8 is retroactive to July 1, 1989.*

ARTICLE 4

PURCHASE OF PRIOR SERVICE CREDIT

Section 1. [PURCHASE OF CREDIT FOR CERTAIN PRIOR SERVICE.]

*Subdivision 1.* [HIGHLAND GOLF COURSE EMPLOYEE.] *A person who was born on October 1, 1925, who was a member of the public employees retirement 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, is entitled to purchase allowable service credit from the public employees retirement association for that period of service if not otherwise credited as allowable service by the public employees retirement association.*

*Subd. 2.* [RAMSEY COUNTY COURT COMMISSIONER.] *A member of the public employees retirement association with prior service as an elected court commissioner in Ramsey county between January 1, 1963, and December 31, 1974, may purchase allowable service credit in the association for that period of service.*

*Subd. 3.* [HENNEPIN COUNTY EMPLOYEE.] *Notwithstanding the limitations in Minnesota Statutes, section 353.36, subdivision 2, a person whose employment with Hennepin county began in July 1973, but for whom no salary deductions were taken out for the public employees retirement association between October 1973 and July 1976, may purchase credit for the prior public service for which salary deductions were omitted.*

*Subd. 4.* [DAKOTA COUNTY RECORDER.] *A member of the public employees retirement association with prior service as an elected county*

*recorder in Dakota county between January 1, 1983, and December 31, 1987, may purchase allowable service credit in the association for that period of service.*

*Subd. 5.* [BLOOMINGTON CITY EMPLOYEE.] *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 taken for the public employees retirement association may purchase credit for that service from the public employees retirement association.*

*Subd. 6.* [PURCHASE PAYMENT AMOUNT.] *For a person eligible to purchase credit for prior service under subdivisions 1 to 8, there must be paid to the applicable fund 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 preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund and assuming continuous future service in the fund or 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 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 fund or 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 fund or association.*

*Subd. 7.* [PAYMENT; CREDITING SERVICE.] *Payment must be made in one lump sum, unless the executive director of the fund or 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. 8.* [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 subdivisions 1 to 5, 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 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 Minnesota Statutes, section 352.116, if an employee who purchases service under Laws 1988, chapter 709, article 3, section 1, subdivision 1, 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 to 3 are effective the day following final enactment. Section 2 applies retroactively to May 4, 1988.*

ARTICLE 5

OTHER RETIREMENT ISSUES

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 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, 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 356.30, 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. 5. 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. 6. 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. 7. 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. 8. Laws 1980, chapter 595, section 2, subdivision 4, is amended to read:

Subd. 4. 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. 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) 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) The employee may become a member of the public employees retirement association.

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. 9. [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 fund.*

Sec. 10. [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 1 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 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 1.*

Sec. 11. [EFFECTIVE DATE.]

*Sections 1 and 8 are effective upon approval by the city council of the city of Minneapolis and upon compliance with Minnesota Statutes, section 645.021, subdivision 3, and apply retroactively to July 13, 1980. Sections 2 to 7 are effective the day following final enactment. Sections 4, 5, and 6 apply retroactively to August 1, 1987. Sections 9 and 10 are effective July 1, 1989.*

ARTICLE 6

PUBLIC EMPOLYEES INSURANCE

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), 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) 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.*

ARTICLE 7

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 356A.02.*

*Subd. 13.* [FIDUCIARY ACTIVITY.] *"Fiduciary activity" means an activity described in section 356A.02, 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 356A.04 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 356A.02.*

*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 fiduciary identified in section 356A.02 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, 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 356A.02 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, 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 Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21 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, or licensed as an investment advisor in accordance with sections 80A.04, subdivision 4, 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 356A.04 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 356A.06, 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 8

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 7.*

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 7, 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 7 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 7*.

(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 7*, 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 7.*

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 7.*

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 7, 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 7,* 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 7,* 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 7, 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 7*.

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 7.*

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 7.* 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 7.*

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 7.*

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 7.*

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 7.*

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 7.*

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 7.* ~~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 7.*

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 7*, 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 7* 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 7* 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 7.*

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 7.*

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 7.* 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 7* 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 7.*

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 7.* 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 7.*

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 7.*

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 7.*

Sec. 30. [EFFECTIVE DATE.]

*Sections 1 to 29 are effective the day following final enactment.*

ARTICLE 9

OTHER TEACHERS' RETIREMENT ASSOCIATIONS PROVISIONS

Section 1. Minnesota Statutes 1988, section 11A.19, is amended by adding a subdivision to read:

*Subd. 9. Effective June 30, 1989, all assets of the variable annuity investment fund must be transferred to the Minnesota combined investment funds to the credit of the teachers retirement fund established under chapter 354.*

Sec. 2. Minnesota Statutes 1988, section 354.50, is amended by adding a subdivision to read:

*Subd. 5. Notwithstanding section 354.62, subdivision 5, clause (4), a member who received a refund of variable account accumulations may repay this refund to the member's formula account under this section.*

Sec. 3. Minnesota Statutes 1988, section 354.62, subdivision 2, is amended to read:

Subd. 2. [INDIVIDUAL ELECTION.] Each member of the teachers retirement association may elect to participate in the variable annuity division by filing a written notice with the board of trustees on forms provided by the board.

(1) Employee variable annuity contributions to the variable annuity division shall be pursuant to the option available in section 354.44, subdivision 7, the employee variable annuity contributions shall be an amount equal to one-half of the employee rates specified in section 354.42, subdivision 2.

(2) Employer variable annuity contributions shall be an amount equal to the employee variable annuity contributions provided in clause (1). The deficiency in equal employer variable annuity contributions which shall exist prior to July 1, 1975 shall be recovered from the additional employer contributions made prior to July 1, 1975 pursuant to section 354.42, subdivision 5.

(3) There shall be provided for members participating in the variable annuity division a separate account for each member which will show the member's variable account accumulations as defined in section 354.05, subdivision 23. The board shall establish such other accounts in the variable annuity division as it deems necessary for the operation of this provision.

(4) After June 30, 1974 there shall be no new participants in this program.

(5) Any active member currently participating in the variable annuity division may elect to cease participation in the variable annuity division effective the July 1 following the filing of a written notice with the board of trustees on forms provided by the board. If this election is made, all future contributions will go to the formula program.

*(6) Effective May 16, 1989, all active and inactive members with variable account accumulations must have their formula service credit covered by the full formula program percentages specified in section 354.44, subdivision 6. Each active and inactive member's variable account accumulations must be transferred to the member's formula account and this amount must become part of the member's accumulated deductions. An equal employer contribution amount must be transferred to the regular fund of the association. These transfers must include any employee and employer contributions made after June 30, 1988.*

Sec. 4. Minnesota Statutes 1988, section 354.62, is amended by adding a subdivision to read:

*Subd. 7.* [TRANSFER.] *Effective June 30, 1989, all persons receiving*

*benefits from the variable annuity reserve account must have the full amount of their required reserves transferred to the Minnesota postretirement investment fund. Benefit payments from the Minnesota postretirement investment fund must be in the same amount as benefit payments from the variable annuity reserve account but any future increases on these amounts must be based on the increases applicable to the Minnesota postretirement investment fund as determined under section 11A.18. The first increase must be paid January 1, 1990. The additional required reserves, including the required reserves for the first increase, that must be transferred from the variable annuity fund to the Minnesota postretirement investment fund must be transferred from the turnover account of the variable annuity fund. After this transfer of additional required reserves, any remaining balance in the turnover account of the variable annuity fund must be transferred to the regular fund of the association.*

Sec. 5. [ENTITLEMENT TO ANNUITY.]

*Notwithstanding any requirement of prior law that a member or former member have 20 years of service credit in order for a surviving spouse to receive a joint and survivor annuity under the teachers' retirement association formula program established in Minnesota Statutes, section 354.46, a surviving spouse of a person who met the following qualifications is entitled to receive the second portion of a 100 percent joint and survivor annuity under the formula program:*

*(1) the person was age 55 or older at the time of death;*

*(2) the person had at least 19 years of service credit in the teachers' retirement association; and*

*(3) the sum of the person's service credit in the teachers' retirement association plus the person's employment at the University of Minnesota exceeds 20 years.*

*The payments due under this section do not include postretirement adjustments that would have been granted between the time of the member's or former member's death and the effective date of this section.*

*The teachers' retirement association shall transfer to the state board of investment, for deposit in the postretirement investment fund, money equal to the reserves required to fund the benefits payable under this section.*

Sec. 6. [EFFECTIVE DATE.]

*Sections 1 to 5 are effective the day following final enactment. Section 5 applies retroactively to the surviving spouses of persons who died after January 1, 1977. Annuity payments due under section 5 must begin after the date of final enactment. No payments are due for the period of time before the effective date of section 5.*

ARTICLE 10

VOLUNTEER FIREFIGHTERS

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.] The following provisions shall govern the operation of a local relief association upon the modification

of retirement coverage for newly hired police officers or firefighters:

(1) 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 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216, except that the normal cost calculation for the relief association shall 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 subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) The contribution rate of members of the local relief association shall be governed by section 69.77, unless a special law establishing 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 subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate 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 entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall 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 members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215 and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds which are projected 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 calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference

between those two figures is a positive number.

(5) 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 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, 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) If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) 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) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65, subdivision 3; or (c) 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.

Sec. 2. 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. 3. 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. 4. 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. 5. 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. 6. 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. 7. 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. 8. [REPEALER.]

*Minnesota Statutes 1988, section 424A.01, subdivision 3a, is repealed.*

ARTICLE 11

LOCAL POLICE AND FIREFIGHTERS

Section 1. Minnesota Statutes 1988, section 353.64, is amended by adding a subdivision to read:

*Subd. 9.* [PENSION COVERAGE FOR CERTAIN SHERIFFS' ASSOCIATION EMPLOYEES.] *A former member of the association who is an employee of the Minnesota sheriffs' association may elect to be a police and fire fund member with respect to service with the sheriffs' association, if written election to be covered is delivered to the board within 60 days after the effective date of this section or within 60 days after commencement of employment, whichever is later.*

*Employee and employer contributions for past service are the obligation of the employee, except that the Minnesota sheriffs' association may pay the employer contributions. The employer shall, in any event, deduct necessary future contributions from the employee's salary and remit all contributions to the association as required by this chapter.*

*Persons who become association members under this section shall not be eligible for election to the board of trustees.*

Sec. 2. 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. 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 22-1/2* units *nor more than 27-1/2 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. [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. 4. 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, 1965, 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. 5. [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. 6. [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. 7. [BLOOMINGTON VOLUNTEER 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. 8. [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. 9. Laws 1965, chapter 446, section 2, is amended to read:

Sec. 2. [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 remarry, 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. 10. Laws 1965, chapter 446, section 3, is amended to read:

Sec. 3. [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 the* children of *a* deceased ~~members~~ *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 the* 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 the* 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. 11. [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 the provisions of Minnesota Statutes, section 424A.02, subdivision 9.*

Sec. 12. [BYLAW AMENDMENT.]

*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 St. Paul police relief association and the board of trustees of the St. Paul fire department relief association in the same proportion that the number of retired members in each relief association bears to the total membership of each relief association. However, retired members of the St. Paul police relief association and the St. Paul fire department relief association are never entitled under the articles of incorporation or bylaws to more seats on the board of directors than the active members of the respective associations.*

Sec. 13. [REPEALER.]

*Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, sections 2 and 5, are repealed.*

Sec. 14. [EFFECTIVE DATES.]

*Subdivision 1. Section 2 is effective upon approval by the St. Paul city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 2. Section 3 is effective upon approval by the Mankato city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 3. Section 4 is effective upon approval by the Virginia city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 4. Section 5 is effective upon approval by the governing body of the city of Minnetonka and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 5. Section 6 is effective upon approval by the Eveleth city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 6. Sections 7 to 11 are effective upon approval by the governing body of the city of Bloomington and compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Subd. 7. Sections 12 and 13 are effective the day following final enactment.*

*Subd. 8. Section 1 is effective July 1, 1989.*

## ARTICLE 12

## HIGHER EDUCATION SUPPLEMENTAL PLAN

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

Subdivision 1. ~~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 $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. *If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above $15,000 as specified in this subdivision.* 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.

ARTICLE 13

BENEFIT CHANGES

Section 1. Minnesota Statutes 1988, section 352.01, subdivision 19, is amended to read:

Subd. 19. [RETIREMENT.] "Retirement" means the time after a state employee is entitled to an accrued annuity, as defined in subdivision 21, payable under an application for annuity filed in the office of the system as provided in section 352.115, subdivision 8 or, in the case of an employee who has received a disability benefit, when that employee reaches *normal retirement* age ~~65~~.

Sec. 2. Minnesota Statutes 1988, section 352.01, is amended by adding a subdivision to read:

*Subd. 25.* [NORMAL RETIREMENT AGE.] *"Normal retirement age" means age 65 for a person who first became a covered employee before July 1, 1989. For a person who first becomes a covered employee after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.*

Sec. 3. Minnesota Statutes 1988, section 352.04, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE CONTRIBUTIONS.] The employee contribution to the fund must be equal to ~~3.73~~ *4.28* percent of salary, beginning with the first full pay period after June 30, ~~1984~~ *1989*. These contributions must be made by deduction from salary as provided in subdivision 4.

Sec. 4. Minnesota Statutes 1988, section 352.04, subdivision 3, is amended to read:

Subd. 3. [EMPLOYER CONTRIBUTIONS.] The employer contribution to the fund must be equal to ~~3.90~~ *4.45* percent of salary beginning with the first full pay period after June 30, ~~1984~~ *1989*.

Sec. 5. Minnesota Statutes 1988, section 352.113, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] Any employee covered by the system who is less than ~~65 years old~~ *normal retirement age* who becomes totally and permanently disabled after ~~five~~ *three* or more years of allowable service is entitled to a disability benefit in an amount provided in subdivision 3. If the disabled employee's state service has terminated at any time, the employee must have at least ~~three~~ *two* years of allowable service after last becoming a state employee covered by the system.

Sec. 6. Minnesota Statutes 1988, section 352.113, subdivision 12, is amended to read:

Subd. 12. [RETIREMENT STATUS AT *NORMAL RETIREMENT* AGE ~~65~~.] The disability benefit paid to a disabled employee under this section ends when the employee reaches *normal retirement* age ~~65~~. If the disabled employee is still totally and permanently disabled when the employee reaches *normal retirement* age ~~65~~, the employee shall be considered to be a retired employee. If the employee had chosen an optional annuity under subdivision 3, the employee shall receive an annuity in accordance with the terms of the optional annuity previously chosen. If the employee had not chosen an optional annuity pursuant to subdivision 3, the employee may then choose to receive either a normal retirement annuity equal in amount to the disability benefit paid before the employee reached *normal retirement* age ~~65~~ or an optional annuity as provided in section 352.116, subdivision 3. The choice of an optional annuity must be made before reaching *normal retirement* age ~~65~~. If an optional annuity is chosen, the choice is effective on the date the employee ~~becomes 65 years old~~ *attains normal retirement age* and the optional annuity shall begin to accrue the first of the month following the month in which the employee attains ~~65~~ *this age*.

Sec. 7. Minnesota Statutes 1988, section 352.115, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] After separation from state service, any employee (1) who has attained the age of at least 55 years and who is entitled to credit for at least ~~five~~ *three* years allowable service, or (2) who has received credit for at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

Sec. 8. Minnesota Statutes 1988, section 352.115, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY.] The retirement annuity hereunder payable at *normal retirement* age ~~65~~ or thereafter must be computed in accordance with the applicable provisions of the formula stated in subdivision 3, on the basis of the employee's average salary for the period of allowable service. This retirement annuity is known as the "normal" retirement annuity.

For each year of allowable service, "average salary" of an employee in determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. *Average salary must be based upon all allowable service if this service is less than five years.*

"Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary disability.

Sec. 9. Minnesota Statutes 1988, section 352.115, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] *(a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply.* The employee's average salary, as defined in subdivision 2, multiplied by one percent per year of allowable service for the first ten years and 1.5 percent for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

*(b) This paragraph applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in subdivision 2, multiplied by 1.5 percent for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.*

Sec. 10. Minnesota Statutes 1988, section 352.116, is amended to read:

352.116 [ANNUITIES UPON RETIREMENT.]

Subdivision 1. [REDUCED ANNUITY BEFORE *NORMAL RETIREMENT* AGE ~~65~~.] *This subdivision applies only to a person who first became a covered employee before July 1, 1989, and whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with subdivision 1a.*

*(a)* Any employee *who is eligible for a retirement annuity under section 352.115, subdivision 1, and* who retires before *normal retirement* age ~~65~~ with credit for ~~less than~~ *at least three but less than* 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, *paragraph (a)*, reduced ~~so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to~~

*by one-quarter of one percent for each month that* the employee ~~if the employee deferred receipt of the annuity from the day the annuity begins to accrue to~~ *is under normal retirement* age ~~65~~ *at the time of retirement. ~~Any~~ An* employee *who is eligible for a retirement annuity under section 352.115, subdivision 1, and* who retires prior to age 62 with credit for at least 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, *paragraph (a),* reduced ~~so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to~~ *by one-quarter of one percent for each month that the employee is under* age 62 *at the time of retirement.*

*Subd. 1a.* [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] *This subdivision applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with subdivision 1. An employee who retires before the normal retirement age shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity until the normal retirement age.*

Subd. 2. [NORMAL ANNUITY AT *NORMAL RETIREMENT* AGE ~~65~~.] Any employee who retires after *reaching normal retirement* age ~~65~~ shall be paid the annuity provided in section 352.115.

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. *Except as provided in subdivision 3a,* the optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

*Subd. 3a.* [BOUNCE-BACK ANNUITY.] *(a) If a retired employee or disabilitant selects a joint and survivor annuity option under subdivision*

*3, the retired employee or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the retired employee or disabilitant. Under this option, no reduction may be made in the annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.*

*(b) A retired employee or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the retired employee or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A retired employee or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.*

*(c) A retired employee or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the retired employee or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.*

Subd. 4. [DETERMINING ACTUARIAL EQUIVALENCY.] In establishing the procedure for determining the actuarial equivalency of early retirement annuities as required under subdivision ~~1~~ *1a* or in establishing actuarial equivalent optional retirement annuity forms as required under subdivision 3, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board.

Sec. 11. Minnesota Statutes 1988, section 352.12, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE TERMINATION OF SERVICE.] If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest thereon to the date of death at the rate of ~~five~~ *six* percent per annum compounded annually. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability

benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

Sec. 12. Minnesota Statutes 1988, section 352.12, subdivision 2, is amended to read:

Subd. 2. [SURVIVING SPOUSE BENEFIT.] If an employee or former employee is at least 50 years old and has credit for at least ~~five~~ *three* years allowable service or who has credit for at least 30 years of allowable service, regardless of age, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, *1a*, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of the deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

Sec. 13. Minnesota Statutes 1988, section 352.12, subdivision 6, is amended to read:

Subd. 6. [DEATH AFTER SERVICE TERMINATION.] Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance, or a disability benefit, a refund must be made to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions. The refund must include interest at the rate of ~~five~~ *six* percent per year compounded annually. The interest must be computed to the first day of the month in which the refund is processed and be based on fiscal year balances.

Sec. 14. Minnesota Statutes 1988, section 352.22, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF REFUND.] Except as provided in subdivision 3, any person who ceased to be a state employee after June 30, 1973, by reason of termination of state service shall receive a refund in an amount equal to employee accumulated contributions plus interest at the rate of ~~five~~ *six* percent per year compounded annually. 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.

Sec. 15. Minnesota Statutes 1988, section 352.22, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY.] (a) Any employee with at least ~~five~~ *three* years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity must be computed as provided by the law in effect when state service terminated, on the basis of allowable service before termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, who does not return to state service shall have any annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the last working day.

(c) No application for a deferred annuity shall be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position not covered by the retirement system nor (3) before the day following the termination of employment in a position that requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of termination of service.

Sec. 16. Minnesota Statutes 1988, section 352.72, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT TO ANNUITY.] (a) Any person who has been an employee covered by a retirement system listed in paragraph (b) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~five~~ *three* or more years.

(b) This section applies to the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and firefighters fund, the teachers retirement association, the state patrol retirement association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph (c).

(c) This section does not apply to other funds providing benefits for police officers or firefighters.

(d) No portion of the allowable service upon which the retirement annuity from one fund is based shall be again used in the computation for benefits from another fund. No refund may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~five~~ *three* years allowable service in the respective system or association does

not apply for the purposes of this section if the combined service in two or more of these funds equals ~~five~~ *three* or more years.

Sec. 17. Minnesota Statutes 1988, section 352.72, subdivision 5, is amended to read:

Subd. 5. [EARLY RETIREMENT.] The requirements and provisions for retirement before *normal retirement* age ~~65~~ in sections 352.115, subdivision 1, and 352.116 also apply to an employee fulfilling the requirements with a combination of service as provided in subdivision 1.

Sec. 18. Minnesota Statutes 1988, section 352.85, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; RETIREMENT ANNUITY.] Any person who is employed by the department of military affairs other than as a full-time firefighter, who is covered by the general employee retirement plan of the system as provided in section 352.01, subdivision 23, who is ordered to active duty under section 190.08, subdivision 3, who elects this special retirement coverage under subdivision 4, who is required to retire from federal military status at an age earlier than *normal retirement* age ~~65~~ by applicable federal laws or regulations and who terminates employment as a state employee upon attaining that mandatory retirement age is entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1 *or 1a*.

Sec. 19. Minnesota Statutes 1988, section 352.93, subdivision 1, is amended to read:

Subdivision 1. [BASIS OF ANNUITY; WHEN TO APPLY.] After separation from state service an employee covered under section 352.91 who has reached age 55 years and has credit for at least ~~five~~ *three* years of covered correctional service and regular Minnesota state retirement system service is entitled upon application to a retirement annuity under this section based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

In this section, "average salary" means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system. *Average salary must be based upon all allowable service if this service is less than five years.*

Sec. 20. 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~~ *attains normal retirement* 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 between the ~~ages~~ *age* of 58 and ~~65~~ *normal retirement age* shall receive a partial return of correctional contributions at retirement with ~~five~~ *six* percent interest based on the following formula:

| | | |
|---|---|---|
| Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee | X | Years and complete months of regular service between ~~ages~~ *age* 58 and ~~65~~ *the normal retirement age* . . . . . ~~7~~ *number of years between age 58 and normal retirement age* |

Sec. 21. Minnesota Statutes 1988, section 352.95, subdivision 2, is amended to read:

Subd. 2. [NON-JOB-RELATED DISABILITY.] Any covered correctional employee who, after at least ~~five~~ *three* years of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ten years of covered correctional service.

Sec. 22. Minnesota Statutes 1988, section 352.95, subdivision 5, is amended to read:

Subd. 5. [RETIREMENT STATUS AT *NORMAL RETIREMENT* AGE ~~65~~.] The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may then either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made before reaching age 62. The reduction for retirement before *normal retirement* age ~~65~~ as provided in section 352.116, subdivision 1 *or 1a*, does not apply. The savings clause provision of section 352.93, subdivision 3, applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age 62.

Sec. 23. Minnesota Statutes 1988, section 352B.01, subdivision 11, is amended to read:

Subd. 11. [AVERAGE SALARY.] "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member. *Average monthly salary must be based upon all allowable service if this service is less than five years.* It does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

Sec. 24. Minnesota Statutes 1988, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. [WHO IS ELIGIBLE; WHEN TO APPLY; ACCRUAL.] Every member who is credited with ~~five~~ *three* or more years of allowable service is entitled to separate from state service and upon becoming 55 years old, is entitled to receive a life annuity, upon separation from state service. Members shall apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than 60 days before the date the member is eligible to retire by reason of both age and service requirements. An annuity begins to accrue no earlier than 90 days before the date the application is filed with the executive director.

Sec. 25. Minnesota Statutes 1988, section 352B.11, subdivision 1, is amended to read:

Subdivision 1. [REFUND OF PAYMENTS.] A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from state service that entitled the member to membership. In the event of the member's death, the member's estate is entitled to the refund. Interest must be computed at the rate of ~~five~~ *six* percent a year, compounded annually. To receive a refund, the member must apply on a form prescribed by the executive director.

Sec. 26. 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~~ *three* 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~~ *three* 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~~ *three* 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~~ *three* 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~~ *three* or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3, 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~~ *six* percent per year compounded annually.

Sec. 27. Minnesota Statutes 1988, section 352B.30, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT TO ANNUITY.] Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund, or the teachers retirement association, or the state patrol retirement fund, or any other public employee retirement system in Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~five~~ *three* or more years. No part of the allowable service upon which the retirement annuity from one fund is based may again be used in the computation for benefits from another fund. The member must not have taken a refund from any

one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate law except that the requirement that a person must have at least ~~five~~ *three* years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals ~~five~~ *three* or more years.

Sec. 28. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

*Subd. 35.* [NORMAL RETIREMENT AGE.] *"Normal retirement age" means age 65 for a person who first became a public employee before July 1, 1989. For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.*

Sec. 29. Minnesota Statutes 1988, section 353.27, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE CONTRIBUTION.] The employee contribution shall be an amount (a) for a "basic member" equal to ~~eight~~ *8.19* percent of total salary; and (b) for a "coordinated member" equal to ~~four~~ *4.19* percent of total salary. These contributions shall be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Sec. 30. Minnesota Statutes 1988, section 353.29, subdivision 1, is amended to read:

Subdivision 1. [AGE AND ALLOWABLE SERVICE REQUIREMENTS.] Upon separation from public service any person who has attained ~~the~~ *normal retirement* age ~~of at least 65 years~~ and who received credit for not less than ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 31. Minnesota Statutes 1988, section 353.29, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of a member's highest salary upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports. *Average salary must be based upon all allowable service if this service is less than five years.* The ~~five successive years~~ average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher, including this period.

Sec. 32. Minnesota Statutes 1988, section 353.29, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] *(a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5,*

*produces a higher annuity amount, in which case paragraph (b) will apply.* The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

*(b) This paragraph applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in subdivision 2, multiplied by 2.5 percent for each year of allowable service and completed months less than a full year for a basic member and 1.5 percent per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.*

Sec. 33. Minnesota Statutes 1988, section 353.30, is amended to read:

353.30 [ANNUITIES UPON RETIREMENT.]

Subdivision 1. Upon separation from public service any person *who first became a public employee before July 1, 1989, and* who has attained the age of at least 58 years but not more than ~~65 years~~ *normal retirement age* and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, *paragraph (a),* reduced by one-quarter of one percent for each month that the member is under *normal retirement* age ~~65~~ at the time of retirement.

Subd. 1a. Any person *who first became a public employee before July 1, 1989, and* whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, *paragraph (a),* without any reduction in annuity by reason of such early retirement.

Subd. 1b. Any person *who first became a public employee before July 1, 1989,* with 30 years or more of allowable service credit, who elects early retirement under subdivision 1, shall receive an annuity *in an amount equal to the normal annuity provided under section 353.29, subdivisions 2 and 3, paragraph (a),* reduced by one-quarter of one percent for each month that the member is under age 62 at the time of retirement.

Subd. 1c. Any person *who first became a public employee before July 1, 1989, and* who has received credit for at least 30 years of allowable service or ~~any person~~ who has attained the age of at least 55 years but not ~~more than 65 years~~ *normal retirement age*, and ~~who~~ *has* received credit for at least ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, *paragraph (a),* reduced by one-quarter of one percent for each month that the member is under *normal retirement* age ~~65~~ at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied

only for each month that the member is under age 62 at the time of retirement.

Subd. 3. [OPTIONAL RETIREMENT ANNUITY FORMS.] The board of trustees shall establish optional annuities which shall take the form of a joint and survivor annuity. *Except as provided in subdivision 3a,* the optional annuity forms shall be actuarially equivalent to the forms provided in section 353.29 and subdivisions 1, 1a, 1b, ~~and~~ 1c ~~of this section~~, *and 5*. In establishing those optional forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of board. A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

*Subd. 3a.* [BOUNCE-BACK ANNUITY.] *(a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 3, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.*

*(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.*

*(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.*

Subd. 4. Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the association, provided that ~~such~~ *the* person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which that person would be otherwise entitled to receive and the monthly payment which that person will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to ~~such~~ *the* person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which ~~such~~ *the* person would otherwise have received.

Upon application of the person who is entitled to such monthly payment, it may be increased prospectively to not more than the amount to which ~~such~~ *the* person would have been entitled had no portion thereof been waived.

*Subd. 5.* [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] *This subdivision applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity is higher when calculated under section 353.29, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 353.29, subdivision 3, paragraph (a), in conjunction with subdivision 1, 1a, 1b, or 1c. An employee who retires before normal retirement age shall be paid the retirement annuity provided in section 353.29, subdivision 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity until the normal retirement age.*

Sec. 34. Minnesota Statutes 1988, section 353.32, subdivision 1, is amended to read:

Subdivision 1. [BEFORE RETIREMENT.] If a member or former member who terminated public service dies before retirement or before receiving any retirement annuity and no other payment of any kind is or may become payable to any person, a refund shall be paid to the designated beneficiary or, if there be none, to the surviving spouse, or, if none, to the legal representative of the decedent's estate. Such refund shall be in an amount equal to accumulated deductions plus interest thereon at the rate of ~~five~~ *six* percent per annum compounded annually less the sum of any disability or survivor benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits pursuant to section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 18 years may only be waived pursuant to an order of the district court.

Sec. 35. Minnesota Statutes 1988, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. [SURVIVING SPOUSE OPTIONAL ANNUITY.] If a member or former member who has attained at least age 50 and has credit for not less than ~~five~~ *three* years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit begins to accrue in accordance with section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b, ~~and~~ 1c, *and 5*. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the

deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

Sec. 36. 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 *normal retirement* age ~~65~~ and after ~~five~~ *three* years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least ~~three~~ *two* of the required ~~five~~ *three* years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than $75 per month shall not be entitled to a disability benefit. No repayment of a refund otherwise authorized pursuant to section 353.34 and no purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Sec. 37. Minnesota Statutes 1988, section 353.33, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] This disability benefit is an amount equal to the normal annuity payable to a member who has reached ~~65~~ *normal retirement age* with the same number of years of allowable service and the same average salary, as provided in section 353.29, subdivisions 2 and 3. A "basic member" shall receive in addition a supplementary monthly benefit computed in accordance with the following table:

| Age when Disabled | Supplementary benefit |
|---|---|
| Under 56 | $50 |
| 56 | 45 |
| 57 | 40 |
| 58 | 35 |
| 59 | 30 |
| 60 | 25 |
| 61 | 20 |
| 62 | 15 |
| 63 | 10 |
| 64 | 5 |

If the disability benefits provided in this subdivision exceed the average salary as defined in section 353.29, subdivision 2, the disability benefits shall be reduced to an amount equal to said average salary.

Sec. 38. Minnesota Statutes 1988, section 353.33, subdivision 11, is amended to read:

Subd. 11. [RETIREMENT STATUS AT *NORMAL RETIREMENT* AGE ~~65~~.] No person shall be entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a person

hereunder shall terminate when the person reaches *normal retirement* age ~~65~~. If the person is still totally and permanently disabled when the person attains the *normal retirement* age ~~of 65 years~~, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person either elect to receive either a normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid before the person reached *normal retirement* age ~~65~~, whichever amount is greater, or elect to receive an optional annuity as provided in section 353.30, subdivision 3. Any disabled person who ~~becomes age 65~~ *attains normal retirement age* shall have the annuity computed in accordance with the law in effect upon attainment of *that* age ~~65~~. Election of an optional annuity shall be made prior to the person attaining the *normal retirement* age ~~of 65 years~~. If an optional annuity is elected, the election shall be effective on the date on which the person attains ~~the age of 65 years~~ *normal retirement age* and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~the~~ *that* age ~~of 65 years~~.

Sec. 39. Minnesota Statutes 1988, section 353.34, subdivision 2, is amended to read:

Subd. 2. [REFUND WITH INTEREST.] Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refund in an amount equal to accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of ~~five~~ *six* percent per annum compounded annually based on fiscal year balances.

Sec. 40. Minnesota Statutes 1988, section 353.34, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY; ELIGIBILITY; COMPUTATION.] A member with at least ~~five~~ *three* years of allowable service when termination of public service occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at *normal retirement* age ~~65~~ or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, ~~or~~ 1c, *or 5*. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Sec. 41. Minnesota Statutes 1988, section 353.34, subdivision 3a, is amended to read:

Subd. 3a. [DEFERRED ANNUITY; CERTAIN HOSPITAL EMPLOYEES.] Any member employed by a public hospital, as defined in section 355.71, subdivision 3, who has at least ~~five~~ *three* years of allowable service credit on the date the public hospital is taken over by a private corporation or organization, may elect to receive a deferred annuity pursuant to subdivision 3 notwithstanding the length of service requirement contained therein.

Sec. 42. Minnesota Statutes 1988, section 353.651, subdivision 1, is amended to read:

Subdivision 1. [AGE AND ALLOWABLE SERVICE REQUIREMENTS.] Upon separation from public service, any police officer or firefighter member who has attained the age of at least 55 years and who received credit for not less than ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 43. Minnesota Statutes 1988, section 353.651, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a police officer or firefighter upon which employee contributions were paid for any five successive years of allowable service. *Average salary must be based upon all allowable service if this service is less than five years.*

The ~~five successive years~~ average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability unless the average salary is higher, including this period.

Sec. 44. Minnesota Statutes 1988, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. [DEATH WHILE ELIGIBLE SURVIVOR BENEFIT.] If a member or former member who has attained the age of at least 50 years and has credit for not less than ~~five~~ *three* years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit. The benefit shall be in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter. For a member who is employed as a full-time firefighter by the department of military affairs of the state

of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 45. Minnesota Statutes 1988, section 353.71, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] Any person who has been a member of the public employees retirement association, or the Minnesota state retirement system, or the teachers retirement association, or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for police officers or firefighters governed by sections 69.77 or 69.771 to 69.776, shall be entitled when qualified to an annuity from each fund if the total allowable service in all funds or in any two of these funds totals ~~five~~ *three* or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the person has not taken a refund from any one of these funds since the person's membership in that association or system last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~five~~ *three* years of allowable service in the respective association or system shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~five~~ *three* or more years.

Sec. 46. Minnesota Statutes 1988, section 353.71, subdivision 5, is amended to read:

Subd. 5. [EARLY RETIREMENT.] The requirements and provisions for retirement prior to *normal retirement* age ~~65~~ contained in section 353.30, shall also apply to a person fulfilling such requirements with a combination of service as provided in subdivision 1.

Sec. 47. Minnesota Statutes 1988, section 353C.06, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY REQUIREMENTS.] After separation from public employment, an employee covered under section 353C.02 who has attained the age of at least 55 years and has credit for not less than ~~five~~ *three* years of coverage in the local government correctional service plan is entitled, upon application, to a normal retirement annuity. Instead of a normal retirement annuity, a retiring employee may elect to receive the optional annuity provided in section 353.30, subdivision 3.

Sec. 48. Minnesota Statutes 1988, section 353C.06, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY BASE.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a local government correctional employee upon which employee contributions were paid for any five successive years of allowable service. *Average salary must be based on all allowable service if this service is less than five years.*

Sec. 49. Minnesota Statutes 1988, section 353C.06, subdivision 4, is amended to read:

Subd. 4. [ACCRUAL AND DURATION.] The annuity under this section

begins to accrue as provided in section 353.29, subdivision 7. The annuity is payable for the life of the recipient, or in accordance with the terms of any optional annuity form selected, and is payable for 84 full calendar months or to the first of the month following the month in which the employee ~~becomes~~ *attains the normal retirement* age ~~65~~, whichever occurs first. After a recipient has received the annuity calculated under this formula for 84 full calendar months or to the first of the month following the month in which the employee ~~becomes~~ *attains the normal retirement* age ~~65~~, whichever occurs first, the benefit must be recomputed in accordance with the coordinated formula in sections 353.29 and 353.30, except that if this amount, when added to the social security benefit based on public service the employee is eligible to receive at that time, is less than the benefit payable under subdivision 3, the retired employee is entitled to receive an amount payable under subdivision 3, less any amount payable from social security based on public service used in the benefit calculation. When an annuity is reduced under this subdivision, any percentage of adjustments that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity.

Sec. 50. Minnesota Statutes 1988, section 353C.08, subdivision 5, is amended to read:

Subd. 5. [DISABILITY BENEFIT TERMINATION.] The disability benefit paid to a disabled local government correctional employee terminates at the end of the month in which the employee reaches age 62. If the disabled local government correctional employee is still disabled when the employee reaches age 62, the employee is deemed to be a retired employee and, if the employee had elected an optional annuity under subdivision 3, must receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 3, the employee may elect either to receive a normal retirement annuity computed on the coordinated formula in the manner provided in section 353.29 or to receive an optional annuity as provided in section 353.30, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made before attaining the age of 62 years. The reduction for retirement prior to *normal retirement* age ~~65~~ as provided in section 353.30, subdivisions 1 ~~and~~, 1c, *and 5*, is not applicable. The savings clause provision of section 353C.06, subdivision 4, is applicable.

Sec. 51. Minnesota Statutes 1988, section 354.05, is amended by adding a subdivision to read:

*Subd. 38.* [NORMAL RETIREMENT AGE.] *"Normal retirement age" means age 65 for a person who first became a member of the fund before July 1, 1989. For a person who first becomes a member of the fund after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.*

Sec. 52. Minnesota Statutes 1988, section 354.35, is amended to read:

354.35 [RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY.]

Any coordinated member who retires before becoming eligible for social security retirement benefits, may elect to receive an optional retirement annuity from the association which provides for different annuity amounts

over different periods of retirement. The election of this optional retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional annuity shall take the form of an annuity payable for the period before the member attains the *normal retirement* 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 annuity shall be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount shall be paid until the member reaches the *normal retirement* age ~~of 65~~ at which time the payment from the association shall be reduced. The method of computing the optional retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional retirement annuity, the board of trustees shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board of trustees.

Sec. 53. Minnesota Statutes 1988, section 354.41, subdivision 3, is amended to read:

Subd. 3. (1) Each annuitant, age 60 or over, who is drawing an annuity pursuant to Minnesota Statutes 1953, section 135.10 and Minnesota Statutes 1965, sections 354.44 and 354.33 shall have the right to have membership in the fund restored upon resumption of teaching service, for the purpose of having deductions made in accordance with sections 354.42 and 355.48. Upon completion of ~~five~~ *three* years of allowable service, under this subdivision the member shall be entitled to a coordinated annuity provided in section 354.44, subdivision 6. This annuity is in addition to any annuity previously granted under this chapter.

(2) Any annuitant qualifying for membership in the fund under clause (1) may file a written notice with the executive director of the teachers retirement association requesting that deductions provided for in section 354.42 be made from compensation paid for subsequent teaching services. Such notice shall remain in effect until the annuitant requests in writing that this membership be revoked. After July 1, 1967, deductions pursuant to section 355.48 are required for any annuitant eligible for membership in the fund under clause (1). Teaching service rendered by an annuitant for which no deductions were made pursuant to section 354.42, shall not be included in any additional annuity granted pursuant to clause (1) ~~of this subdivision~~.

(3) Teachers retirement deductions made prior to July 1, 1973 from the salary of any annuitant who was qualified for membership in the fund under clause (1) ~~of this subdivision~~ at the time such deductions were made, shall be applicable to the computation of an annuity as provided under clause (1) ~~of this subdivision~~ even if the written notice required in clause (2) ~~of this subdivision~~ has not been filed. The teaching service related to such retirement deductions shall be deemed to be allowable service credit which is applicable to the completion of the ~~five~~ *three* years of allowable service

required in clause (2) ~~of this subdivision~~.

Sec. 54. Minnesota Statutes 1988, section 354.42, subdivision 2, is amended to read:

Subd. 2. The employee contribution to the fund shall be an amount equal to ~~4-1/2~~ *4.9* percent of the salary of every coordinated member and ~~8-1/2~~ *8.9* percent of the salary of every basic member. This contribution shall be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received. For purposes of financing the various options related to the variable annuity division, employee variable annuity contributions will be credited in accordance with section 354.62, subdivision 2.

Sec. 55. Minnesota Statutes 1988, section 354.42, subdivision 3, is amended to read:

Subd. 3. The employer contribution to the fund shall be an amount equal to ~~4-1/2~~ *4.9* percent of the salary of each coordinated member and ~~8-1/2~~ *8.9* percent of the salary of each basic member. This contribution shall be made in the manner provided in section 354.43. For purposes of financing the various options related to the variable annuity division, employer contributions equal to the employee variable annuity contributions prescribed in section 354.62, subdivision 2, shall be allocated at the same time to the employer variable annuity contribution account in section 354.62, subdivision 3.

Sec. 56. Minnesota Statutes 1988, section 354.44, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS AS TO AGE AND SERVICE.] Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than ~~five~~ *three* years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Sec. 57. Minnesota Statutes 1988, section 354.44, subdivision 1a, is amended to read:

Subd. 1a. [MANDATORY RETIREMENT.] Notwithstanding the provisions of sections 43A.11 or 197.455 to 197.48, a member who is serving as a faculty member or administrator under a contract of unlimited tenure or similar arrangement providing for unlimited tenure at an institution of higher education, as defined in section 1201(a) of the federal Higher Education Act of 1965, as amended through January 1, 1987, shall terminate employment at the end of the academic year in which the member reaches the age of 70. For purposes of this subdivision, an academic year shall be deemed to end August 31. No other member shall be subject to a mandatory retirement age provision. A member who terminates employment at any time during the academic year at the end of which the person is *at the normal retirement* age ~~65~~ or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at *normal retirement* age ~~65~~ or older pursuant to section 356.32. Nothing contained in this subdivision shall preclude an employing unit covered by this chapter from employing a retired teacher as a substitute or part time teacher. Any person who has

attained ~~the~~ *normal retirement* age ~~of at least 65 years~~, who is employed as a substitute or part-time teacher and who earns an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute or part-time teacher, shall terminate employment for the remainder of that academic year. No person who has attained ~~the~~ *normal retirement* age ~~of at least 65 years~~ and who has retired under this chapter may resume membership in the retirement association as a result of subsequent employment as a substitute or part-time teacher.

Sec. 58. Minnesota Statutes 1988, section 354.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.] (1) The formula retirement annuity hereunder shall be computed in accordance with the applicable provisions of the ~~formula~~ *formulas* stated in clause (2) ~~hereof~~ *or (4)* on the basis of each member's average salary for the period of the member's formula service credit. For the purposes of computing the formula benefits under the formula and variable program, if a combination of these formulas is used, the formula percentages used will be those percentages in each formula as continued for the respective years of service from one formula to the next.

For all years of formula service credit "average salary" for the purpose of determining the member's retirement annuity means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511 for the highest five successive years of formula service credit provided however that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. *Average salary must be based upon all years of formula service credit if this service credit is less than five years.*

(2) *This clause, in conjunction with clause (3), applies to a person who first became a member of the fund before July 1, 1989, unless clause (4), in conjunction with clause (5), produces a higher annuity amount, in which case clause (4) applies.* The average salary as defined in clause (1), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

| | Coordinated Member | Basic Member |
|---|---|---|
| Each year of service during first ten | 1.0 percent per year | 2.0 percent per year |
| Each year of service thereafter | 1.5 percent per year | 2.5 percent per year |

(3) *(i) This clause applies only to a person who first became a member of the fund before July 1, 1989, and whose annuity is higher when calculated under clause (2), in conjunction with this clause than when calculated under clause (4), in conjunction with clause (5).*

*(ii)* Where any member retires prior to *normal retirement* age ~~65~~ under a formula annuity, the member shall be paid a retirement annuity in an

amount equal to the normal annuity provided in ~~this subdivision~~ *clause (2)* and subdivision 7, *paragraph (a)*, reduced by ~~one-half~~ *one-quarter* of one percent for each month that the member is under *normal retirement* age ~~65 to and including age 60 and reduced by one-fourth of one percent for each month under age 60~~ at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month ~~which~~ *that* the member is under age 62.

*(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in clause (2), without any reduction by reason of early retirement.*

*(4) This clause applies to a member who first became a member of the fund after June 30, 1989, and to any other member whose annuity amount when calculated under this clause and in conjunction with clause (5), is higher than it is when calculated under clause (2), in conjunction with clause (3). The average salary, as defined in clause (1) multiplied by 2.5 percent for each year of service for a basic member and by 1.5 percent for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.*

*(5) This clause applies to a person who first becomes a member of the fund after June 30, 1989, and to any other member whose annuity is higher when calculated under clause (4) in conjunction with this clause than when calculated under clause (2), in conjunction with clause (3). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in clause (4) and subdivision 7, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity until the normal retirement age.*

Sec. 59. Minnesota Statutes 1988, section 354.44, subdivision 7, is amended to read:

Subd. 7. [COMPUTATION OF FORMULA AND VARIABLE PROGRAM RETIREMENT ANNUITY.] *(a) This paragraph applies to a person who first became a member of the fund before July 1, 1989, unless paragraph (b) produces a higher annuity amount, in which case paragraph (b) applies.* The benefits provided in this ~~subdivision~~ *paragraph* are the sum of the benefits provided by the following:

(1) The benefits provided in subdivision 6, clause (2) for formula service credit prior to the effective date of the original election of this subdivision and subsequent to June 30, 1978 unless the member elects continued participation in the variable program pursuant to *Minnesota Statutes 1984*, section 354.621, and

(2) The benefits for service credit subsequent to the effective date of the formula and variable program but prior to July 1, 1978 and the benefits for service credit subsequent to June 30, 1978 if the member elects continued participation in the variable program pursuant to *Minnesota Statutes 1984*, section 354.621, shall be the average salary as defined in subdivision 6, clause (1) of any member multiplied by the following percentages per year of formula service credit,

| | Coordinated Member | Basic Member |
|---|---|---|
| Each year of service during first ten | .5 percent per year | 1.0 percent per year |
| Each year of service thereafter | .75 percent per year | 1.25 percent per year, and |

(3) The benefits provided in section 354.62, subdivision 5.

*(b) This paragraph applies to a person who first became a member of the fund before July 1, 1989, but whose annuity amount, when calculated under this paragraph, is higher than it is when calculated under paragraph (a). The benefits provided in this paragraph are the sum of the benefits provided by the following:*

*(1) the benefits provided in subdivision 6, clause (4), for formula service credit before the effective date of the original election of this subdivision and subsequent to June 30, 1978, unless the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621;*

*(2) the benefits for service credit subsequent to the effective date of the formula and variable program but before July 1, 1978, and the benefits for service credit subsequent to June 30, 1978, if the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, shall be the average salary as defined in subdivision 6, clause (1), of any member multiplied by 1.25 percent for each year of service for a basic member and by 0.75 percent for each year of service for a coordinated member; and*

*(3) the benefits provided in section 354.62, subdivision 5.*

Sec. 60. Minnesota Statutes 1988, section 354.45, subdivision 1, is amended to read:

Subdivision 1. [OPTIONAL ANNUITY FORMS.] The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter or the form of a joint and survivor annuity. The board shall also establish an optional annuity which shall take the form of a guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the accumulated deductions and interest accrued to the date of retirement will be paid to the designated beneficiary. *Except as provided in subdivision 1a,* any optional annuity forms shall be actuarially equivalent to the normal forms provided in section 354.44. In establishing these optional annuity forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board.

Sec. 61. Minnesota Statutes 1988, section 354.45, is amended by adding a subdivision to read:

*Subd. 1a.* [BOUNCE-BACK ANNUITY.] *(a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.*

*(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.*

Sec. 62. Minnesota Statutes 1988, section 354.46, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.] The surviving spouse of any member or former member who has attained the age of at least 50 years and has credit for at least ~~five~~ *three* years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, or 354.62, subdivision 5, clause (3), whichever is applicable, the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6 or 7, whichever is applicable. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 354.44, subdivisions 6 and 7, and 354.60 apply to a deferred annuity payable under this section. If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1). The benefit shall be payable for life.

Sec. 63. Minnesota Statutes 1988, section 354.47, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE RETIREMENT.] (1) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit pursuant to section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death.

(2) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivisions 6 and 7, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30,

1957 and from July 1, 1957 to the date of death the member's accumulated deductions plus interest at the rate of ~~five~~ *six* percent per annum compounded annually.

(3) The amounts payable in clause (1) or (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.

Sec. 64. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] Any member who became totally and permanently disabled after at least ~~five~~ *three* years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's teaching service has terminated at any time, at least ~~three~~ *two* of the required ~~five~~ *three* years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than $75 per month shall not be entitled to disability benefits.

Sec. 65. Minnesota Statutes 1988, section 354.48, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were *at normal retirement* age ~~65~~ at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

(a) the amount of the accumulated deductions;

(b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;

(c) interest for the years from the date the benefit begins to accrue to the date the member attains *normal retirement* age ~~65~~ at the rate of three percent;

(d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

| Age When Benefit Begins to Accrue | Supplementary Benefit |
|---|---|
| Under Age 56 | $50 |
| 56 | 45 |
| 57 | 40 |
| 58 | 35 |
| 59 | 30 |

| | |
|---|---|
| 60 | 25 |
| 61 | 20 |
| 62 | 15 |
| 63 | 10 |
| 64 | 5 |

(2) The disability benefit granted to members covered under section 354.44, subdivision 6 or 7 shall be computed in the same manner as the annuity provided in *section 354.44*, subdivision 6 or 7 ~~of that section~~, whichever is applicable. The disability benefit shall be the formula annuity without the reduction for each month the member is under *normal retirement* age ~~65~~ when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Sec. 66. Minnesota Statutes 1988, section 354.48, subdivision 10, is amended to read:

Subd. 10. [RETIREMENT STATUS AT *NORMAL RETIREMENT* AGE ~~65~~.] No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains ~~the~~ *normal retirement* age ~~of 65 years~~. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the *normal retirement* age ~~of 65 years~~, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person elect to receive either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years, whichever amount is greater, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. Election of an optional annuity shall be made prior to the person attaining the *normal retirement* age ~~of 65 years~~. If an optional annuity is elected, the election shall be effective on the date on which the person attains the *normal retirement* age ~~of 65 years~~ and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~the~~ *that* age ~~of 65 years~~.

Sec. 67. Minnesota Statutes 1988, section 354.49, subdivision 2, is amended to read:

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of ~~five~~ *six* percent per annum compounded annually plus any variable annuity account accumulations payable pursuant to section 354.62, subdivision 5, clause (4). For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Sec. 68. Minnesota Statutes 1988, section 354.49, subdivision 3, is amended to read:

Subd. 3. Any person who has attained ~~the~~ *normal retirement* age ~~of at least 65~~ with less than ~~five~~ *three* years of credited allowable service shall be entitled to receive a refund in an amount equal to the person's accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivision 6 or 7 in which case the refund shall be an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957, and after July 1, 1957, the accumulated deductions plus interest at the rate of ~~five~~ *six* percent compounded annually.

Sec. 69. Minnesota Statutes 1988, section 354.55, subdivision 11, is amended to read:

Subd. 11. [DEFERRED ANNUITY; AUGMENTATION.] Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to section 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided in this subdivision. The required reserves related to that portion of the annuity which had accrued when the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose shall be five percent commencing July 1, 1971, until January 1, 1981, and three percent thereafter. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the basis for purchasing the deferred annuity. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund. If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service shall be those applicable to new members. The mortality table and interest assumption used to compute the annuity shall be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable under this subdivision be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6

and 7.

The requirements and provisions for retirement before *normal retirement* age ~~65~~ contained in section 354.44, subdivision 6, clause ~~(2)~~ *(3) or (5)*, shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

Sec. 70. Minnesota Statutes 1988, section 354.60, is amended to read:

354.60 [SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.]

Any person who has been a member of the Minnesota state retirement system or the public employees retirement association including the public employees retirement association police and fire fund or the teachers retirement association or the Minnesota state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three funds or in any two of these funds totals ~~five~~ *three* or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the person has not taken a refund from any one of these three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least ~~five~~ *three* years' membership service or ~~five~~ *three* years of allowable service in the respective association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~five~~ *three* or more years.

Sec. 71. Minnesota Statutes 1988, section 354A.011, is amended by adding a subdivision to read:

*Subd. 15a.* [NORMAL RETIREMENT AGE.] *"Normal retirement age" means age 65 for a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association before July 1, 1989. For a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association after June 30, 1989, normal retirement age means the higher of age 65 or retirement age, as defined in United States Code, title 42, section 416(l), as amended. For a person who is a member of the basic program of the Minneapolis or St. Paul teachers retirement fund association or the old law coordinated program of the Duluth teachers retirement fund association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.*

Sec. 72. Minnesota Statutes 1988, section 354A.011, subdivision 20, is amended to read:

Subd. 20. [REDUCED RETIREMENT ANNUITY.] "Reduced retirement annuity" means for a coordinated member the retirement annuity computed pursuant to section 354A.31, subdivision 4, reduced pursuant to section 354A.31, subdivision 6 *or 7*, and paid or payable to a member upon meeting the minimum age and service requirements specified in section 354A.31, subdivision 1, but prior to meeting the age and service requirements specified in section 354A.31, subdivision 5, and for a basic member the retirement annuity computed pursuant to and paid or payable to a member upon meeting the minimum age and service requirements specified in but prior to meeting the age and service requirements for a normal retirement annuity specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

Sec. 73. Minnesota Statutes 1988, section 354A.12, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYEE CONTRIBUTIONS.] The contribution required to be paid by each member of a teachers retirement fund association shall not be less than the percentage of total salary specified below for the applicable association and program:

| Association and Program | Percentage of Total Salary |
|---|---|
| Duluth teachers retirement association | |
| old law and new law coordinated programs | ~~4.5~~ *4.9* percent |
| Minneapolis teachers retirement association | |
| basic program | ~~8.5~~ *8.9* percent |
| coordinated program | ~~4.5~~ *4.9* percent |
| St. Paul teachers retirement association | |
| basic program | 8 *8.4* percent |
| coordinated program | ~~4.5~~ *4.9* percent |

Sec. 74. Minnesota Statutes 1988, section 354A.12, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] Notwithstanding any law to the contrary, levies for teachers retirement fund associations in cities of the first class, including levies for any employer social security taxes for teachers covered by the Duluth teachers retirement fund association or the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association, are disallowed.

The employing units shall make the following employer contributions to teachers retirement fund associations:

(a) For any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer social security taxes in accordance with section 355.46, subdivision 3, clause (b);

(b) For any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

| | |
|---|---|
| Duluth teachers retirement fund association | ~~5.79~~ *6.19* percent |
| Minneapolis teachers retirement fund association | ~~4.50~~ *4.9* percent |
| St. Paul teachers retirement fund association | ~~4.50~~ *4.9* percent |

(c) For any basic member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a contribution to the respective retirement fund in an amount equal to the designated percentage of the salary of the basic member as provided below:

| | |
|---|---|
| Minneapolis teachers retirement fund association | ~~13.35~~ *13.75* percent |
| St. Paul teachers retirement fund association | ~~12.63~~ *13.03* percent |

The employer contributions shall be remitted directly to each teachers retirement fund association each month.

Payments for school district or technical institute employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or technical institute.

Sec. 75. Minnesota Statutes 1988, section 354A.21, is amended to read:

354A.21 [PROPORTIONATE ANNUITY.]

A teacher who terminates employment at any time during the academic year at the end of which the teacher is required to terminate employment pursuant to this section shall be entitled upon application to a proportionate retirement annuity pursuant to section 356.32. Nothing contained in this section shall preclude a district from employing a retired teacher as a substitute teacher but upon having earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute teacher, any person over the age of 70 years shall terminate employment for the remainder of that academic year. No person employed as a substitute teacher after reaching the *normal retirement* age ~~of at least 65 years~~ and who has retired under this chapter shall resume membership in the teachers retirement fund association by virtue of the employment as a substitute teacher.

Sec. 76. Minnesota Statutes 1988, section 354A.31, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] Any coordinated member or former coordinated member who has ceased to render teaching service for the school district in which the teachers retirement fund association exists and who has either attained the age of at least 55

years with not less than ~~five~~ *three* years of allowable service credit or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.

Sec. 77. Minnesota Statutes 1988, section 354A.31, subdivision 4, is amended to read:

Subd. 4. [COMPUTATION OF THE NORMAL COORDINATED RETIREMENT ANNUITY.] *(a)* The normal coordinated retirement annuity shall be an amount equal to a retiring coordinated member's average salary multiplied by the retirement annuity formula percentage. Average salary for purposes of this section shall mean an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but which shall not in any event include any more than the equivalent of 60 monthly salary payments. *Average salary must be based upon all years of service credit if this service credit is less than five years.*

*(b) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member before July 1, 1989, unless paragraph (c), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (c) will apply.* The retirement annuity formula percentage for purposes of this ~~section shall mean~~ *paragraph is* one percent per year for each year of coordinated service for the first ten years and 1-1/2 percent for each year of coordinated service thereafter.

*(c) This paragraph applies to a person who first becomes a member after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (b), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is 1-1/2 percent for each year of coordinated service.*

Sec. 78. Minnesota Statutes 1988, section 354A.31, subdivision 5, is amended to read:

Subd. 5. [UNREDUCED NORMAL RETIREMENT ANNUITY.] Upon retirement at *normal retirement* age ~~65~~ with at least ~~five~~ *three* years of service credit ~~or at age 62 with at least 30 years of service credit~~, a coordinated member shall be entitled to a normal retirement annuity calculated pursuant to subdivision 4.

Sec. 79. Minnesota Statutes 1988, section 354A.31, subdivision 6, is amended to read:

Subd. 6. [REDUCED RETIREMENT ANNUITY.] *This subdivision applies only to a person who first became a coordinated member before July 1, 1989, and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), in conjunction with subdivision 7.*

*(a)* Upon retirement at an age prior to *normal retirement* age ~~65~~ with ~~five~~ *three* years of service credit or prior to age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity *calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b),* reduced by ~~one-half~~ *one-quarter* of one percent for each month

that the coordinated member is under ~~the~~ *normal retirement* age ~~of 65~~ if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit ~~but is over the age of 59, and reduced by one-fourth of one percent for each month that the coordinated member is under the age of 60~~.

*(b) Any coordinated member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), without any reduction by reason of early retirement.*

Sec. 80. Minnesota Statutes 1988, section 354A.31, is amended by adding a subdivision to read:

*Subd. 7.* [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] *This subdivision applies to a person who first becomes a coordinated member after June 30, 1989, and to any other coordinated member whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (b), in conjunction with subdivision 6. A coordinated member who retires before the full benefit age shall be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity until the normal retirement age.*

Sec. 81. Minnesota Statutes 1988, section 354A.32, subdivision 1, is amended to read:

Subdivision 1. [OPTIONAL FORMS GENERALLY.] The boards of the Minneapolis and the St. Paul teachers retirement fund associations shall each establish for the coordinated program and the board of the Duluth teachers retirement fund association shall establish for the new law coordinated program an optional retirement annuity which shall take the form of a joint and survivor annuity. Each board may also in its discretion establish an optional annuity which shall take the form of an annuity payable for a period certain and for life thereafter. ~~Each board shall also establish an optional retirement annuity which shall take the form of a guarantee that in the event of death the balance of the accumulated deductions shall be paid to a designated beneficiary.~~ *Except as provided in subdivision 1a,* optional annuity forms shall be the actuarial equivalent of the normal forms provided in section 354A.31. In establishing these optional annuity forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendation shall be a part of the permanent records of the board.

Sec. 82. Minnesota Statutes 1988, section 354A.32, is amended by adding a subdivision to read:

*Subd. 1a.* [BOUNCE-BACK ANNUITY.] *(a) If a former coordinated member or disabilitant has selected a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional*

*annuity beneficiary.*

*(b) A former coordinated member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.*

*(c) A former coordinated member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.*

Sec. 83. Minnesota Statutes 1988, section 354A.35, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE RETIREMENT; REFUND.] If a coordinated member or former coordinated member dies prior to retirement or prior to the receipt of any retirement annuity or other benefit payment which is or may be payable and a surviving spouse optional annuity is not payable pursuant to subdivision 2, a refund shall be paid to the person's surviving spouse, or if there is none, to the person's designated beneficiary, or if there is none, to the legal representative of the person's estate. The refund shall be in an amount equal to the person's accumulated contributions plus interest at the rate of ~~five~~ *six* percent per annum compounded annually.

Sec. 84. Minnesota Statutes 1988, section 354A.35, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE TO RETIRE; SURVIVING SPOUSE OPTIONAL ANNUITY.] The surviving spouse of any coordinated member who has attained the age of at least 50 years and has credit for at least ~~five~~ *three* years of service or has credit for at least 30 years of service regardless of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The member's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31. Sections 354A.37, subdivision 2, and 354A.39 apply to a deferred annuity payable under this section. The benefits shall be payable for life.

Sec. 85. Minnesota Statutes 1988, section 354A.36, subdivision 1, is amended to read:

Subdivision 1. [MINIMUM AGE, SERVICE AND SALARY REQUIREMENTS.] Any coordinated member who has at least ~~five~~ *three* years of allowable service credit, has an average salary of at least $75 per month and has become totally and permanently disabled shall be entitled to a disability benefit. If the disabled coordinated member's allowable service credit has not been continuous, at least ~~three~~ *two* years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

Sec. 86. Minnesota Statutes 1988, section 354A.36, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF DISABILITY BENEFIT.] The coordinated permanent disability benefit shall be an amount equal to the normal coordinated retirement annuity computed pursuant to section 354A.31, subdivision 4, based on allowable service credited to the date of disability but without any reduction for the commencement of the benefit prior to the attainment of *normal retirement* age ~~65~~ or age 62 with at least 30 years of service credit as specified in section 354A.31, subdivision 6. The disabled coordinated member shall not be entitled to elect an optional annuity form pursuant to section 354A.32 prior to attaining *normal retirement* age ~~65~~ as provided in subdivision 10.

Sec. 87. Minnesota Statutes 1988, section 354A.36, subdivision 10, is amended to read:

Subd. 10. [RETIREMENT STATUS UPON ATTAINING *NORMAL RETIREMENT* AGE ~~65~~.] No person shall be entitled to receive both a disability benefit under this section and a retirement annuity under section 354A.31. If a disability benefit recipient remains totally and permanently disabled upon attaining *normal retirement* age ~~65~~, the disability benefit shall terminate and the former disability benefit recipient shall be deemed to be on retirement status. If the former disability benefit recipient had elected an optional annuity pursuant to subdivision 3a, the recipient shall receive an annuity in accordance with the terms of the optional annuity previously elected, or if the recipient had not elected an optional annuity pursuant to subdivision 3a, the recipient shall be entitled either to receive a retirement annuity in an amount equal to the greater of either a single life retirement annuity calculated pursuant to section 354A.31 or the disability benefit paid to the recipient immediately prior to the recipient's attaining *normal retirement* age ~~65~~ or elect either a single life retirement annuity as provided in this section or an actuarial equivalent optional form retirement annuity as provided in section 354A.32. Election of an optional annuity shall be made prior to the person attaining ~~the~~ *normal retirement* age ~~of 65 years~~. If an optional annuity is elected, the election shall be effective on the date on which the person attains the *normal retirement* age ~~of 65 years~~ and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~the~~ *normal retirement* age ~~of 65 years~~.

Sec. 88. Minnesota Statutes 1988, section 354A.37, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF REFUND AMOUNT.] A former coordinated member who qualifies for a refund pursuant to subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated contributions with interest at the rate of ~~five~~ *six* percent per annum compounded annually.

Sec. 89. Minnesota Statutes 1988, section 354A.37, subdivision 4, is amended to read:

Subd. 4. [CERTAIN REFUNDS AT *NORMAL RETIREMENT* AGE ~~65~~.] Any coordinated member who has attained the *normal retirement* age ~~of at least 65~~ with less than ten years of allowable service credit and has terminated active teaching service shall be entitled to a refund in lieu of a proportionate annuity pursuant to section 356.32. The refund shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of ~~five~~ *six* percent compounded annually.

Sec. 90. Minnesota Statutes 1988, section 354A.39, is amended to read:

354A.39 [SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.]

Any person who has been a member of the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and fire fund, the teachers retirement association, the Minnesota state patrol retirement association, the legislators retirement plan, the constitutional officers retirement plan, the Minneapolis employees retirement fund, the Duluth teachers retirement fund association new law coordinated program, the Minneapolis teachers retirement fund association coordinated program, the St. Paul teachers retirement fund association coordinated program, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing retirement benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all of the funds or in any two or more of the funds totals ~~five~~ *three* or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is used again in the computation for a retirement annuity from another fund and provided further that the person has not taken a refund from any of funds or associations since the person's membership in the fund or association has terminated. The annuity from each fund or association shall be determined by the appropriate provisions of the law governing each fund or association, except that the requirement that a person must have at least ~~five~~ *three* years of allowable service in the respective fund or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ~~five~~ *three* or more years.

Sec. 91. Minnesota Statutes 1988, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. [INTEREST AND SALARY ASSUMPTIONS.] For funds governed by chapters 3A, 352, 352B, 352C, 353, *353C*, 354 other than the variable annuity fund governed by section 354.62, and 490, the actuarial valuation shall use a preretirement interest assumption of ~~eight~~ *8.3* percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year. For funds governed by chapter 354A, the actuarial valuation shall use preretirement and postretirement assumptions of ~~eight~~ *8.3* percent and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year, but the actuarial valuation shall reflect the payment of postretirement adjustments to retirees shall be based on the methods specified in the bylaws of the

fund as approved by the legislature. For all other funds, the actuarial valuation shall use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year.

For funds governed by chapters 3A, 352C, and 490, the actuarial valuation shall use a preretirement interest assumption of ~~eight~~ *8.3* percent, a postretirement interest assumption of five percent, and an assumption that in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever is applicable, or from applicable compensation council recommendations under section 15A.082, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable.

Sec. 92. Minnesota Statutes 1988, section 356.215, subdivision 4g, is amended to read:

Subd. 4g. [AMORTIZATION CONTRIBUTIONS.] In addition to the exhibit indicating the level normal cost, the actuarial valuation shall contain an exhibit indicating the additional annual contribution which would be required to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, *353C*, 354, 354A, and 490, the additional contribution shall be calculated on a level percentage of covered payroll basis by the established date for full funding which is in effect when the valuation is prepared. The level percent additional contribution shall be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution shall be calculated on a level annual dollar amount basis.

If, for any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, ~~1979~~ *1989*, there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, ~~1979~~ *1989*, and each successive actuarial valuation shall be the first actuarial valuation date which occurs after June 1, ~~2009~~ *2020*.

If, for any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, ~~1979~~ *1989*, there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding shall be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund shall be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the unfunded actuarial accrued liability amount determined pursuant to subclause (i) by the established date for full funding in effect prior to the change shall be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund shall be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the difference between the unfunded actuarial accrued liability amount calculated pursuant to subclause (i) and the unfunded actuarial accrued liability amount calculated pursuant to subclause (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective shall be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution pursuant to subclause (iv) shall be added to the level annual dollar amortization contribution or level percentage calculated pursuant to subclause (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in subclause (iii) will be amortized by the total level annual dollar or level percentage amortization contribution computed pursuant to subclause (v) shall be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but which shall not exceed a period of 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and which shall not be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined pursuant to subclause (vi) shall be added to the date as of which the actuarial valuation was prepared and the date obtained shall be the new established date for full funding.

For the Minneapolis employees retirement fund, the established date for full funding shall be June 30, 2017.

Sec. 93. Minnesota Statutes 1988, section 356.30, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; COMPUTATION OF ANNUITY.] (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause (2) may elect to receive a retirement annuity from each fund in

which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement, in lieu of any augmentation of deferred annuities provided by laws governing the funds enumerated in subdivision 3, a retirement annuity from each fund in which the person has at least six months allowable service if

(a) the person has allowable service totaling ~~five or more years~~ *an amount that allows the person to receive an annuity* in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within a six-month period.

(3) The retirement annuity from each fund shall be based upon the allowable service in each fund, except that:

(a) The laws governing annuities shall be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund shall be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds shall be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

(e) The benefit amount payable for any allowable service under a nonformula plan of a covered fund shall not be affected but such service and covered salary shall be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund shall in no event exceed 2-1/2 percent per year of service for any year of service or fraction thereof.

(h) Any period of time for which a person has credit in more than one of the covered funds shall be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit shall be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

Sec. 94. Minnesota Statutes 1988, section 356.32, subdivision 1, is amended to read:

Subdivision 1. [PROPORTIONATE RETIREMENT ANNUITY.] Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is an active member of any applicable fund, who has credit for at least one year but less than ten years of allowable service in one or more of the applicable funds, and who terminates active service pursuant to a mandatory retirement law or policy or at age 65 or older, *or the normal retirement age if this age is not age 65*, for any reason shall be entitled upon making written application on the form prescribed by executive director or executive secretary of the fund to a proportionate retirement annuity from each applicable fund in which the person has allowable service credit. The proportionate annuity shall be calculated under the applicable laws governing annuities based upon allowable service credit at the time of retirement and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years. Nothing in this section shall prevent the imposition of the appropriate early retirement reduction of an annuity which commences prior to normal retirement age.

Sec. 95. [FIRST CLASS CITY TEACHER FUNDS.]

*In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the teachers retirement fund associations in each of the cities of the first class to amend their articles of incorporation or bylaws in the manner specified in this section. The amendments apply only to basic members in the Minneapolis teachers retirement fund association and the St. Paul teachers retirement fund association, and to old law coordinated program members in the Duluth teachers retirement fund association.*

*(a) For purposes of this paragraph, the retirement formula percentages are:*

*(1) for Minneapolis teachers retirement fund: 2.25 percent for each year of service;*

*(2) for St. Paul teachers retirement fund: 2.0 percent for each year of service; and*

*(3) for Duluth teachers retirement fund old coordinated plan: 1.25 percent for each year of service.*

*A member whose age plus credited allowable service totals 90 years, is entitled upon termination of active service and application, to a normal retirement annuity provided in the articles and bylaws without any reduction in the amount of the annuity by reason of early retirement unless the benefit in paragraph (b) in conjunction with paragraph (c) produces a higher annuity in which case, paragraph (b) applies. A member who retires before the normal retirement age shall be provided a normal retirement annuity provided in the articles and bylaws, reduced by one-fourth of one percent for each month that the employee is under normal retirement age*

*at the time of retirement unless the benefit in paragraph (b) in conjunction with paragraph (c) produces a higher annuity, in which case paragraph (b) applies. For the Minneapolis teachers retirement association, this paragraph applies only to basic members with less than 30 years of service who have attained age 55. For Minneapolis teachers retirement fund basic members who were first hired after July 1, 1977, and who have 30 or more years of service, the early retirement penalty contained in the articles and bylaws is repealed.*

*(b) This paragraph applies only to a member whose annuity, when calculated under this paragraph in conjunction with paragraph (c), is higher than when calculated under paragraph (a). The average salary, as specified in the bylaws of St. Paul teachers retirement fund association, the bylaws of Duluth teachers retirement fund association, and the bylaws of Minneapolis teachers retirement fund association, multiplied by 2.5 percent for each year of service for basic members and 1.5 percent for each year of service for old coordinated members of Duluth teachers retirement fund association, shall determine the amount of the retirement annuity to which a member is entitled.*

*(c) This paragraph applies only to a member whose annuity under paragraph (b) in conjunction with this paragraph is higher than when calculated under paragraph (a). A member who retires under the formula annuity specified in paragraph (b) before the normal retirement age defined in section 354A.011, shall be paid the normal annuity provided in paragraph (b) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity until the normal retirement age.*

*(d) The interest rate to be paid on refunds is six percent per annum compounded annually.*

*(e) Any joint and survivor annuity option is subject to an automatic bounce-back annuity as provided in section 354A.32, subdivision 1a.*

*(f) A member who is eligible for a deferred retirement annuity shall have the annuity augmented as provided in section 354A.37, subdivision 2.*

*(g) The first class city teachers retirement funds, may provide optional annuity forms to its retirement program which are the actuarial equivalent of its normal retirement annuity. For all optional forms, the board shall obtain the written recommendation of an approved actuary and the recommendation shall be a part of the permanent records of the board.*

Sec. 96. [356.81] [SAVINGS CLAUSE.]

*The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 35; 354.05, subdivision 38; and 354A.011, subdivision 15a is to create a normal retirement age for persons first covered by those sections after the effective date of those sections that is the same as the retirement age in the federal Social Security law, including future amendments to that law. If a court determines that the legislature may not incorporate by reference the future changes in federal Social Security law, the legislature reserves the right to amend the appropriate sections to make the normal retirement conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after the effective date of those sections has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.*

Sec. 97. [356.705] [EARLY RETIREMENT OPTION.]

*Notwithstanding any provision in chapters 352, 354, or 354A, or section 95, an active member of the Minnesota state retirement system, the teachers retirement association, or a first-class city teachers retirement association governed by chapter 354A must choose between the level benefit formula and the new early retirement incentives provided in section 352.115, subdivision 3; 352.116; 354.44, subdivisions 6 and 7; 354A.31, subdivisions 4, 6, and 7; and section 94. The election must be made before July 1, 1994, on a form provided by the executive director of the member's retirement fund.*

Sec. 98. [APPROPRIATION.]

*Subdivision 1.* [GENERAL FUND.] *There is appropriated from the general fund to the commissioner of finance $3,618,000 in fiscal year 1990 and $3,809,000 in fiscal year 1991 for allocation among state agencies and the University of Minnesota to offset the costs of increases in the employer contribution rate for the general plan of the Minnesota state retirement system. Of these amounts, $739,000 in fiscal year 1990 and $785,000 in fiscal year 1991 is for allocation among state supported accounts at the University of Minnesota in proportion to estimated salaries paid to members of the general plan of the Minnesota state retirement system; $2,773,000 in fiscal year 1990 and $2,912,000 in fiscal year 1991 is for allocation among state agencies in proportion to estimated salaries paid from the state general fund to members of the general plan of the Minnesota state retirement system; and $106,000 in fiscal year 1990 and $112,000 in fiscal year 1991 is for allocation to state agencies in proportion to the estimated fiscal year 1989 salary part of the cost of services purchased by the agencies with state general fund monies from the following internal service funds: computer services, plant management, printing, motor pool, central stores, micrographics, telecommunications, general services, and office equipment.*

*Subd. 2.* [OTHER FUNDS.] *Except as limited by the direct appropriations from the state general fund made in this section, the amounts necessary to pay the cost of increases in the employer contribution rate for the general plan of the Minnesota state retirement system, are appropriated from the various funds in the state treasury from which salaries are paid, to the commissioner of finance, for the fiscal years ending June 30, 1990 and June 30, 1991.*

Sec. 99. [REPEALER.]

*Minnesota Statutes 1988, section 354A.32, subdivision 2, is repealed.*

Sec. 100. [EFFECTIVE DATE.]

*Sections 1 to 99 are effective May 16, 1989. The increased employee or member and employer contribution rates are effective on the first day of the first pay period occurring after July 1, 1989.*

ARTICLE 14

PARTIAL POSTRETIREMENT ADJUSTMENTS

Section 1. Minnesota Statutes 1988, section 11A.18, subdivision 9, is amended to read:

Subd. 9. [CALCULATION OF POSTRETIREMENT ADJUSTMENT.] Annually, following June 30, the state board shall determine whether a

postretirement adjustment ~~shall be~~ *is* payable and shall determine the amount of any postretirement adjustment ~~which shall be~~ *that is* payable.

(1) The state board shall determine whether a postretirement adjustment ~~shall be~~ *is* payable using the following procedure:

(a) The state board shall determine the amount of dividends, interest, accruals and realized capital gains or losses applicable to the most recent fiscal year ending June 30;

(b) The amount of reserves required for the annuity or benefit payable to an annuitant and benefit recipient of the participating public pension plans or funds shall be determined by the commission-retained actuary as of the current June 30. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least ~~one year~~ *12 full months* as of the current June 30 ~~shall be~~ *is* eligible to receive a *full* postretirement adjustment. *An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment.* Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a *full* postretirement benefit adjustment ~~and~~. *This amount is known as "eligible reserves." Each fund shall also report separately the amount of the reserves for* those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment ~~shall be reported separately~~. *This amount is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, each fund shall report separately as additional "eligible reserves" an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves shall be separately reported as additional "noneligible reserves."* The amount of ~~the~~ *"eligible" and "noneligible"* required reserves shall be certified to the board by the commission-retained actuary as soon as is practical following the current June 30;

(c) The state board shall determine the amount of investment income required to equal five percent of the total amount of the required reserves as of the preceding June 30 adjusted by five percent of each transfer in or transfer out multiplied by the fraction of a year from the date of transfer to the current June 30. This amount of required investment income shall be subtracted from the actual amount of investment income determined according to clause (1)(a), to determine the amount of excess investment income. If this amount is positive, then a postretirement adjustment may be paid.

(2) The state board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(a) The state board shall determine the amount of excess investment income by the method indicated in clause (1);

(b) The total *"eligible"* required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive ~~the~~ *a full or partial* postretirement adjustment as determined by clause (1)(b) shall be certified to the state board by the commission-retained actuary. The *total "eligible"* required reserves shall be determined by the commission-retained actuary on the assumption that all

annuitants and benefit recipients eligible to receive ~~the~~ *a full or partial* postretirement adjustment will be alive on the January 1 in question;

(c) If the state board determines that the book value of the assets of the fund is less than an amount equal to the total amount of the current June 30 required reserves, with the book value and required reserves to be determined after the adjustments provided for in subdivision 11, then the state board shall allocate five percent of the excess investment income as an asset of the fund. The excess investment income allocated as an asset of the fund shall not exceed the difference between book value and required reserves. The remaining amount shall be termed available for distribution. The book value of assets on any given date shall be the net assets at cost less the excess investment income determined pursuant to clause (1)(c);

(d) The resulting total amount available for distribution shall be increased by 2-1/2 percent, and the result shall be stated as a percentage of the total amount of the required reserves pursuant to clause (2)(b), and if the percentage is equal to or greater than one percent, the amount shall be certified to each participating public pension fund or plan as the ~~amount of the~~ *full* postretirement adjustment *amount*. If the percentage is less than one percent, no postretirement adjustment shall be payable in that year and the amount otherwise available for distribution shall be credited to a separate reserve established for this purpose. The reserve shall be invested in the same manner as all other assets of the fund and shall be credited with any investment income as specified in clause (1)(a). Amounts credited to the reserve shall be utilized in determining a postretirement adjustment in the subsequent year. The amount of any *full* postretirement adjustment certified by the state board as payable to the participating public pension plans or funds shall be carried to five decimal places and stated as a percentage.

(e) A retirement annuity payable in the event of retirement before becoming eligible for social security benefits as provided in section 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity shall be the annuity amount payable until age 62 or 65, whichever applies. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Sec. 2. Minnesota Statutes 1988, section 11A.18, subdivision 10, is amended to read:

Subd. 10. [PAYMENT OF POSTRETIREMENT ADJUSTMENT.] Upon receiving the certification of the amount of the *full* postretirement adjustment from the state board, each participating public pension fund or plan shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment ~~payable to each annuitant or benefit recipient~~ shall be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient *eligible for a full adjustment*.

*The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment shall be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June*

*30 bears to 12 full months. The partial percentage amount determined shall then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment.* The postretirement ~~adjustment~~ *adjustments* shall commence to be paid on January 1 following the calculations required pursuant to this section and shall thereafter be included in the monthly annuity or benefit paid to the recipient. Notwithstanding section 356.18, any ~~adjustment~~ *adjustments* pursuant to this section shall be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

Sec. 3. [EFFECTIVE DATES.]

*Sections 1 and 2 are effective the day following final enactment.*

ARTICLE 15

PRE-1973 RETIREES

Section 1. [356.85] [POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.]

*Subdivision 1.* [ENTITLEMENT.] *A person who is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from a retirement fund specified in subdivision 3, clauses (1) to (8), is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2, if the annuity or benefit was computed under:*

*(1) the laws in effect before June 1, 1973, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (4); or*

*(2) the laws in effect before July 1, 1973, if the person is receiving an annuity or benefit from a retirement fund specified in subdivision 3, clause (1), (2), (3), or (5); or*

*(3) the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on or before December 31, 1977, if the person is receiving a retirement annuity, a disability benefit, or a surviving spouse's annuity or benefit from the retirement fund specified in subdivision 3, clause (5); or*

*(4) the laws in effect before May 1, 1974, and before any adjustment under Laws 1987, chapter 372, article 3, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (6); or*

*(5) the laws in effect before January 1, 1970, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (7); or*

*(6) the laws in effect before June 30, 1971, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (8).*

*Subd. 2.* [AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT.] *(a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated*

*under paragraph (b) or (c).*

*(b) For coordinated plan members the postretirement adjustment in 1989 is $25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.*

*(c) For basic plan members the postretirement adjustment in 1989 is the greater of:*

*(1) $25 for each full year of allowable service credited to the person by the respective retirement fund; or*

*(2) the difference between:*

*(i) the product of $400 times the number of full years of allowable service credited to the person by the respective retirement fund; and*

*(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the Social Security Administration.*

*In 1990 and each following year each basic plan member shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.*

*(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years the adjustment must be paid on December 1, unless the beneficiary is entitled to participate in an optional benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid.*

*Subd. 3.* [COVERED RETIREMENT FUNDS.] *The postretirement adjustment provided in this section applies to the following retirement funds:*

*(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;*

*(6) Minneapolis teachers retirement fund association established under chapter 354A;*

*(7) St. Paul teachers retirement fund association, established under chapter 354A; and*

*(8) Duluth teachers retirement fund association established under chapter 354A.*

*Subd. 4.* [OPTIONAL BENEFIT PAYMENT SCHEDULE.] *Basic plan benefit recipients receiving adjustments under subdivision 2, paragraph (c), clause (2), and whose adjustment exceeds 20 percent of their Minnesota plan benefit may elect to have the amount of the benefit adjustment paid in equal monthly amounts instead of receiving a benefit adjustment on December 1 of each year. Selection of this option must be made by the recipient in writing on forms prepared by the retirement association.*

*Subd. 5.* [SOCIAL SECURITY INFORMATION.] *To be eligible for a benefit adjustment calculated under subdivision 2, paragraph (c), clause (2), a person must authorize the Social Security Administration to release to the retirement association information on the person's social security cash benefits.*

*Subd. 6.* [REPORT.] *By September 30, 1990, the retirement funds listed in subdivision 3 shall report to the legislature and the commissioner of finance on the number of benefit recipients eligible for each type of adjustment established in subdivision 2, the annual cost of each type of adjustment, and the estimated actuarial liability associated with each.*

Sec. 2. [POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS; MINNEAPOLIS EMPLOYEES RETIREMENT FUND.]

*Subdivision 1.* [ENTITLEMENT.] *Any person who is receiving either an annuity that was computed under the laws in effect before March 5, 1974, or a "$2 bill and annuity" annuity from the Minneapolis employees retirement fund is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2.*

*Subd. 2.* [AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT.] *For any person receiving an annuity or benefit on November 30, 1989, or on November 30, 1990, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment in an amount equal to $25 during 1989 and $25 during 1990 for each full year of allowable service credited to the person by the respective retirement fund.*

*The postretirement adjustment provided in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989, and for those persons receiving an annuity or benefit on November 30, 1990, on December 1, 1990. This section does not authorize the payment of a postretirement adjustment to an estate. Notwithstanding Minnesota Statutes, section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid.*

*Subd. 3.* [APPROPRIATION AND TERMINAL AUDIT.] *To fund the postretirement benefits provided in this section for eligible persons in the Minneapolis employees retirement fund, there is appropriated from the general fund the amount of $916,745 for fiscal year 1990 and $916,745 for fiscal year 1991. The Minneapolis employees retirement fund shall, as soon as practical following the payment of the postretirement adjustment,*

*calculate the amount of any appropriation apportioned to it that is in excess of the amounts required to pay the postretirement adjustments provided in this section. The calculations required by this subdivision must be reported to and verified by the commissioner of finance. Amounts equal to reported excess appropriations must be returned to the general fund.*

## ARTICLE 16

## POLICE AND FIRE

Section 1. Minnesota Statutes 1988, section 352.116, is amended by adding a subdivision to read:

*Subd. 3a.* [BOUNCE BACK ANNUITY.] *(a) The board of trustees must provide a joint and survivor annuity option to members of the correctional employees and state patrol retirement funds. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.*

*(b) A former member or disabilitant of the correctional or state patrol fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.*

*(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.*

Sec. 2. Minnesota Statutes 1988, section 352.93, subdivision 2, is amended to read:

Subd. 2. [CALCULATING MONTHLY ANNUITY.] The monthly annuity under this section must be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by 2.5 percent ~~for the first 25 years of correctional service and two percent for each year after that~~. However, the monthly annuity must not exceed 75 percent of the average monthly salary.

Sec. 3. Minnesota Statutes 1988, section 352.93, is amended by adding a subdivision to read:

*Subd. 2a.* [EARLY RETIREMENT.] *Any covered correctional employee who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.*

Sec. 4. Minnesota Statutes 1988, section 352.95, subdivision 1, is amended to read:

Subdivision 1. [JOB-RELATED DISABILITY.] A covered correctional employee less than 55 years old who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years ~~but not in excess of 25 years, and two percent for each year of covered correctional service in excess of 25 years~~, prorated for completed months~~, to a maximum monthly benefit of 75 percent of the average monthly salary~~.

Sec. 5. Minnesota Statutes 1988, section 352.95, subdivision 2, is amended to read:

Subd. 2. [NON-JOB-RELATED DISABILITY.] Any covered correctional employee who, after at least ~~five years~~ *one year* of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ~~ten~~ *15* years of covered correctional service.

Sec. 6. Minnesota Statutes 1988, section 352B.08, subdivision 2, is amended to read:

Subd. 2. [NORMAL RETIREMENT ANNUITY.] The annuity must be paid in monthly installments. The annuity shall be equal to the amount determined by multiplying the average monthly salary of the member by 2-1/2 percent for each year and pro rata for completed months of service ~~not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years~~.

Sec. 7. Minnesota Statutes 1988, section 352B.08, is amended by adding a subdivision to read:

*Subd. 2a.* [EARLY RETIREMENT.] *Any member who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the member deferred receipt of the annuity from the day the annuity begins to accrue to age 55.*

Sec. 8. Minnesota Statutes 1988, section 352B.10, subdivision 1, is

amended to read:

Subdivision 1. [INJURIES, PAYMENT AMOUNTS.] Any member less than 55 years old, who becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, shall receive disability benefits while disabled. The benefits must be paid in monthly installments equal to the member's average monthly salary multiplied ~~(1)~~ by 50 percent ~~and~~, ~~(2) by~~ *plus* an additional 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, ~~but not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years~~ *if any*.

Sec. 9. Minnesota Statutes 1988, section 352B.10, subdivision 2, is amended to read:

Subd. 2. [UNDER 55; DISABLED WHILE NOT ON DUTY.] If a member terminates employment after at least ~~five years~~ *one year* of service, before reaching the age of 55, because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the termination is necessary because the member cannot perform duties, the member is entitled to receive a disability benefit. The benefit must be in the same amount and computed in the same way as if the member were 55 years old at the date of disability and the annuity were paid under section 352B.08. If disability under this clause occurs after ~~five~~ *one* but before ~~ten~~ *15* years service, the disability benefit must be computed as though the member had ~~ten~~ *15* years service.

Sec. 10. 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, 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~~ *50* 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~~ *50* 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~~ *23* 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 *be less than 50 nor* exceed ~~40~~ *70* 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, 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. 11. Minnesota Statutes 1988, section 353.30, is amended by adding a subdivision to read:

*Subd. 3a.* [BOUNCE BACK ANNUITY.] *(a) The board of trustees must provide a joint and survivor annuity option to members of the police and fire fund. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.*

*(b) A former member or disabilitant of the police and fire fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or*

*disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.*

*(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.*

Sec. 12. Minnesota Statutes 1988, section 353.651, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] The average salary as defined in subdivision 2, multiplied by 2-1/2 percent per year of allowable service ~~for the first 25 years and two percent per year of allowable service thereafter,~~ shall determine the amount of the normal retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or firefighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30.

Sec. 13. Minnesota Statutes 1988, section 353.651, is amended by adding a subdivision to read:

*Subd. 4.* [EARLY RETIREMENT.] *Any police officer or firefighter member who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity from the day the annuity begins to accrue until the member attains age 55.*

Sec. 14. Minnesota Statutes 1988, section 353.656, subdivision 1, is amended to read:

Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF BENEFITS.] Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render the member physically or mentally unable to perform duties as a police officer or firefighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years ~~but not exceeding 25 years and two percent for each year thereafter~~. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary"

from which deductions were made for contribution to the police and fire fund.

Sec. 15. Minnesota Statutes 1988, section 353.656, subdivision 3, is amended to read:

Subd. 3. [NONDUTY DISABILITY BENEFIT.] Any member who becomes disabled after not less than ~~five years~~ *one year* of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason of that sickness or injury the member is unable to perform duties as a police officer or firefighter, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of disability and the benefit were paid pursuant to section 353.651. If a disability under this subdivision occurs after ~~five~~ *one* but in less than ~~ten~~ *15* years of allowable service, the disability benefit shall be the same as though the member had at least ~~ten~~ *15* years service. For any member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 16. Minnesota Statutes 1988, section 353.657, subdivision 2, is amended to read:

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to ~~30~~ *50* percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Sec. 17. Minnesota Statutes 1988, section 353.657, subdivision 3, is amended to read:

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred. *A dependent child shall receive this benefit until age 23, so long as the child submits evidence of full-time enrollment in an accredited post-secondary educational institution for at least five of the 12 months immediately preceding the month for which benefits are sought.* Payments for the benefit of any qualified dependent child ~~under the age of 18 years~~ shall be made to the surviving parent, or if there be none, to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall not exceed an amount equal to ~~50~~ *70* percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than ~~30~~ *50* percent of the member's specified average monthly salary.

Sec. 18. [EFFECTIVE DATE.]

*Sections 1 to 17 are effective July 1, 1989.*

ARTICLE 17

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~~ *remains* 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 or 3, 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. [354B.015] [SOCIAL SECURITY COVERAGE.]

*Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2 or 3, 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. 5. 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 *less than three years of* prior *allowable* 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 *elect to* participate in the plan. *This election must be made within 60 days of the start of covered employment.*

*Subd. 3.* [OPTIONAL PARTICIPATION.] *A person with less than three years of allowable service 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 transfer retirement coverage to the plan under section 6. The election must be made on a form provided by the executive director. 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.*

Sec. 6. [354B.03] [COVERAGE TRANSFER.]

*Subdivision 1.* [PROCEDURE.] *If a person with less than three years of allowable service elects a transfer to the plan under section 5, subdivision 2 or 3, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions plus interest compounded annually at five percent a year. The transfer must be made within 90 days from the date the executive director receives notification of the election. The transfer may not include any amount representing an employer contribution nor any 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.*

*Subd. 3.* [ELECTION.] *A person with more than three years of allowable service credit who was first employed in covered employment before July 1, 1989, or after June 30, 1989, as provided in section 354B.02, subdivision 2, may elect coverage by the plan. If coverage is elected, accumulated employer and employee contributions and allowable service credit shall remain with the teachers retirement fund and that person shall remain eligible for a deferred annuity from that fund augmented with interest at the rate of five percent computed as specified in section 354.55, subdivision 11. Future contributions only shall be made to the plan.*

Sec. 7. 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.

Sec. 8. 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. 9. 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. 10. [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 or 3, 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. 11. [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 6.*

Sec. 12. [REPEALER.]

*Section 6 is repealed October 1, 1992.*

Sec. 13. [EFFECTIVE DATE.]

*Sections 1 to 12 are effective July 1, 1989.*

ARTICLE 18

Section 1. [CITATION.]

*Sections 1 to 7 may be cited as the "pension refinancing and incentive to retirement investment earnings act of 1989."*

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; or

(c) For a municipality *other than a city of the first class with a population of more than 300,000* 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), 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) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

*For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association.*

(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.

Sec. 3. Minnesota Statutes 1988, section 69.77, subdivision 2b, is amended to read:

Subd. 2b. [RELIEF ASSOCIATION FINANCIAL REQUIREMENTS; MINIMUM MUNICIPAL OBLIGATION.] The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality shall be determined on or before the submission date established by the municipality pursuant to subdivision 2c.

The financial requirements of the relief association for the following calendar year shall be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 4k and 356.216, as required pursuant to subdivision 2h. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate shall be used in calculating the financial requirements of the relief association.

If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated pursuant to clauses (a), (b), and (c) shall constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey the amount calculated pursuant to clauses (a) and (b) shall constitute the financial requirements of the relief association for the following year.

(a) The normal level cost requirement for the following year, expressed as a dollar amount, which shall be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected increase in the active membership, for the following year.

(b) To the dollar amount of normal cost thus determined shall be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. *For a relief association in a municipality, the administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause shall be included in the financial requirements of a relief association in a city of the first class with a population of more than 300,000.*

(c) To the dollar amount of normal cost and expenses determined under clauses (a) and (b) shall be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by December 31, 2010, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the rate specified in section 356.215, subdivision 4d. The amortization date specified in this

clause shall apply to all local police or salaried firefighters' relief associations and shall supersede any amortization date specified in any applicable special law.

The minimum obligation of the municipality shall be an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established pursuant to sections 69.011 to 69.051 receivable by the relief association after any allocation made pursuant to section 69.031, subdivision 5, clause (2), subclause (c) or 423A.01, subdivision 2, clause (6), from the local police and salaried firefighters' relief association amortization aid program established pursuant to section 423A.02 and from the supplementary amortization state-aid program established under Laws 1984, chapter 564, section 48, and Laws 1985, chapter 261, section 17.

Sec. 4. Minnesota Statutes 1988, section 356.216, is amended to read:

356.216 [CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.]

*(a)* The provisions of section 356.215 governing the contents of actuarial valuations shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4g, the appropriate amortization target date specified in section 69.77, subdivision 2b, or 69.773, subdivision 4, clause (b), shall be used in calculating any required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4i, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported;

(4) actuarial valuations required pursuant to section 69.773, subdivision 2, shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually; and

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause ~~(5)~~ *(6), or paragraph (b), whichever applies*, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability shall include the following required reserves:

(a) For active members

1. Retirement benefits

2. Disability benefits

3. Refund liability due to death or withdrawal

4. Survivors' benefits

(b) For deferred annuitants' benefits

(c) For former members without vested rights

(d) For annuitants

1. Retirement annuities

2. Disability annuities

3. Surviving spouses' annuities

4. Surviving children's annuities

In addition to those required reserves, separate items shall be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above.

(6) actuarial valuations shall be due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

*(b) For a relief association in a city of the first class with a population of more than 300,000, the following provisions additionally apply:*

*(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and*

*(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual post-retirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.*

Sec. 5. 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.] The following provisions shall govern the operation of a local relief association upon the modification of retirement coverage for newly hired police officers or firefighters:

(1) 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 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216, except that the normal cost calculation for the relief association shall 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 subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) The contribution rate of members of the local relief association shall

be governed by section 69.77, unless a special law establishing 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 subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate 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 entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall 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 members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215 and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds which are projected 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 calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) 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 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, 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.

(6) If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality *other than a city of the first class with a population of more than 300,000* shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) 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) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65, subdivision 3; or (c) 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.

*For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total fire state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of firefighters covered by the fund each payroll period and to transmit the balance to the firefighters relief association.*

Sec. 6. [DISPOSITION OF ASSETS UPON CONCLUSION OF BENEFIT PAYMENTS.]

*Upon the death of the last benefit recipient and the certification by the chief administrative officer of a city of the first class with a population of more than 300,000 to the state auditor of the absence of any remaining person with a benefit entitlement, the assets of the relief association or trust fund, whichever applies, must revert to the city and may be used by the city only for law enforcement or firefighting expenditure purposes, whichever applies.*

Sec. 7. [INVESTMENT RELATED POSTRETIREMENT ADJUSTMENTS.]

*Subdivision 1.* [DEFINITIONS.] *For the purposes of this section, the terms in this subdivision have the meanings given them in paragraphs (a) to (h).*

*(a) "Annual postretirement payment" means the payment of a lump sum postretirement benefit to an eligible member on June 1 following the determination date in any year.*

*(b) "City" means a city of the first class with a population of more than 300,000.*

*(c) "Determination date" means December 31 of each year.*

*(d) "Eligible member" means a person, including a service pensioner, a disability pensioner, a survivor, or dependent of a deceased active member, service pensioner, or disability pensioner, who received a pension or benefit during the 12 months before the determination date. A person who*

*received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.*

*(e) "Excess investment income" means the amount by which the time weighted total rate of return earned by the fund in the most recent fiscal year has exceeded the actual percentage increase in the current monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, in the most recent fiscal year plus two percent. The excess investment income must be expressed as a dollar amount and may not exceed one percent of the total assets of the fund and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, during the previous five calendar years.*

*(f) "Fund" means a police relief association or firefighters relief association, whichever applies, located in the city and governed by Minnesota Statutes, section 69.77.*

*(g) "Relief association" means the police relief association or the firefighters relief association, whichever applies, located in the city.*

*(h) "Time weighted total rate of return" means the percentage amount determined by using the formula or formulas established by the state board of investment under Minnesota Statutes, section 11A.04, clause (11), and in effect on January 1, 1987.*

*Subd. 2.* [ANNUAL POSTRETIREMENT PAYMENT AUTHORIZED.] *Notwithstanding the provisions of Minnesota Statutes, chapter 69, or any other law to the contrary, the relief association may provide annual postretirement payments to eligible members under this section.*

*Subd. 3.* [DETERMINATION OF EXCESS INVESTMENT INCOME.] *The board of trustees of the relief association shall determine by May 1 of each year whether or not the relief association has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the chief administrative officer of the relief association to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the legislative commission on pensions and retirement. The dollar amount of excess investment income up to one percent of the assets of the fund must be applied for the purpose specified in subdivision 4. Excess investment income must not be considered as income to or assets of the fund for actuarial valuations of the fund for that year under sections 69.77, 356.215, and 356.216, and the provisions of this section except to offset the annual postretirement payment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under sections 69.77, 356.215, and 356.216, and the provisions of this section.*

*Subd. 4.* [AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.] *The amount determined under subdivision 3 must be applied in accordance with this subdivision. The relief association shall apply the first one-half of one percent of excess investment income to the payment of an annual*

*postretirement payment as specified in this subdivision. The second one-half of one percent of excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. The relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the time weighted total rate of return exceeds by two percent the actual percentage increase in the current monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, in the most recent fiscal year, and the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, of the previous five years. The total amount of all payments to members may not exceed the amount determined under subdivision 3. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. Payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less.*

*Subd. 5.* [ANNUAL POSTRETIREMENT PAYMENT IN THE EVENT OF DEATH.] *In the event an eligible member dies after the determination date and before the payment of the annual postretirement payment, the chief administrative officer of the relief association shall pay that eligible member's estate the amount to which the eligible member was entitled.*

*Subd. 6.* [REPORT ON ANNUAL POSTRETIREMENT PAYMENT.] *The chief administrative officer of the relief association shall submit a report on the amount of all postretirement payments made under this section and the manner in which those payments were determined to the state auditor, the executive director of the legislative commission on pensions and retirement, and the city clerk of the city.*

*Subd. 7.* [NO GUARANTEE OF ANNUAL POSTRETIREMENT PAYMENT.] *No provision of or payment made under this section may be interpreted or relied upon by any member of the relief association to guarantee or entitle a member to annual postretirement payments for a period when no excess investment income is earned by the fund.*

Sec. 8. [EFFECTIVE DATE.]

*Sections 1 to 7 are effective on the day following final enactment and apply to 1988 investment performance, actuarial valuations covering the calendar year ending December 31, 1988, and the annual financial requirements and minimum municipal obligation based on the 1988 actuarial valuations."*

Correct the internal references

Delete the title and insert:

"A bill for an act relating to retirement; making a variety of changes in the laws governing benefits, contributions, and administrators of various statewide and local public pension plans; amending Minnesota Statutes 1988, sections 11A.01; 11A.04; 11A.07, subdivision 4; 11A.09; 11A.13, subdivision 1; 11A.18, subdivisions 9 and 10; 11A.19, by adding a subdivision; 43A.316, subdivision 9; 43A.44, subdivision 2; 69.031, subdivision 5; 69.77, subdivisions 2b and 2g; 69.775; 136.80, subdivision 1; 136.81, subdivision 1; 136.82, subdivisions 1 and 2; 136.84; 352.01, subdivisions 11, 19, and by adding a subdivision; 352.021, subdivision 5; 352.03, subdivisions 7 and 11; 352.04, subdivisions 2 and 3; 352.113, subdivisions 1 and 12; 352.115, subdivisions 1, 2, and 3; 352.116; 352.12, subdivisions 1, 2, and 6; 352.22, subdivisions 1, 2, 2a, and 3; 352.72, subdivisions 1 and 5; 352.85, subdivision 1; 352.92, by adding a subdivision; 352.93, subdivisions 1, 2, 3, and by adding a subdivision; 352.95, subdivisions 1, 2, and 5; 352.96, subdivision 3; 352B.01, subdivision 11; 352B.03, subdivision 1; 352B.08, subdivisions 1, 2, 3, and by adding a subdivision; 352B.10, subdivisions 1, 2, and 5; 352B.11, subdivisions 1 and 2; 352B.30, subdivision 1; 352C.091, subdivision 1; 352D.04, 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, subdivisions 2 and 12; 353.28, subdivisions 5 and 6; 353.29, subdivisions 1, 2, 3, 4, and 7; 353.30; 353.32, subdivisions 1 and 1a; 353.33, subdivisions 1, 2, 3, 5, 6, 7, and 11; 353.34, subdivisions 1, 2, 3, and 3a; 353.35; 353.64, subdivisions 1, 2, 3, and by adding a subdivision; 353.65, subdivisions 1, 6, and by adding a subdivision; 353.651, subdivisions 1, 2, 3, and by adding a subdivision; 353.656, subdivisions 1, 3, and 4; 353.657, subdivisions 2, 2a, and 3; 353.71, subdivisions 1 and 5; 353C.06, subdivisions 1, 2, and 4; 353C.08, subdivision 5; 354.05, subdivisions 2a, 5, 35, 37, and by adding a subdivision; 354.06, subdivision 1; 354.07, subdivision 3; 354.091; 354.092; 354.10, subdivision 2; 354.35; 354.41, subdivision 3; 354.42, subdivisions 2, 3, and 7; 354.44, subdivisions 1, 1a, 3, 5, 6, 7, 8, and by adding a subdivision; 354.45, subdivision 1, and by adding a subdivision; 354.46, subdivision 2; 354.47, subdivisions 1 and 2; 354.48, subdivisions 1, 2, 3, and 10; 354.49, subdivisions 2 and 3; 354.50, by adding a subdivision; 354.55, subdivision 11; 354.60; 354.62, subdivision 2, and by adding a subdivision; 354.65; 354.66, subdivision 2; 354A.011, subdivision 20, and by adding a subdivision; 354A.021, subdivision 6; 354A.12, subdivisions 1 and 2; 354A.21; 354A.31, subdivisions 1, 3, 4, 5, 6, and by adding a subdivision; 354A.32, subdivision 1, and by adding a subdivision; 354A.35, subdivisions 1 and 2; 354A.36, subdivisions 1, 3, and 10; 354A.37, subdivisions 3 and 4; 354A.39; 354B.02; 354B.04, subdivision 2; 354B.05, subdivisions 3 and 4; 355.90, subdivisions 3 and 4; 356.215, subdivisions 4d and 4g; 356.216; 356.24; 356.30, subdivisions 1, 2, and 3; 356.302, subdivision 7; 356.303, subdivision 4; 356.32, subdivision 1; 356.371, subdivision 3; 356.80, subdivisions 1 and 3; 422A.05, subdivisions 2a and 2d; 423.374; 423.45; 423.805; 423A.01, subdivision 2; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.01, subdivision 2; 424A.02, subdivisions 1, 2, 7, and 13; 424A.04, subdivision 2; 424A.10; 490.122; 490.124, subdivision 12; Laws 1955, chapter 151, section 13, as amended; Laws 1965, chapter 446, sections 2 and 3; Laws 1980, chapter 595, section 2, subdivision 4; Laws 1982, chapter 574, section 5, as amended; Laws 1985, chapter 11, section 12, subdivision 3; and Laws 1988, chapter 709, article

3, section 1, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 354; 354A; 354B; 355; 356; and 490; proposing coding for new law as Minnesota Statutes, chapter 356A; 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; 354.56; 354A.32, subdivision 2; and 424A.01, subdivision 3a; Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, sections 2 and 5."

Mr. Pogemiller then moved to amend the Pogemiller amendment to H.F. No. 557 as follows:

Page 165, delete section 54

Pages 180 and 181, delete section 74

Renumber the sections of article 13 in sequence and correct the internal references

Amend the title accordingly

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

Mr. Pogemiller then moved to amend the Pogemiller amendment to H.F. No. 557 as follows:

Page 135, line 36, after "*annuity*" insert "*and the annuity amount were augumented at an annual rate of three percent compounded annually from the day the annuity begins to accrue*"

Page 154, line 1, after "*annuity*" insert "*and the annuity amount were augumented at an annual rate of three percent compounded annually from the day the annuity begins to accrue*"

Page 169, line 10, after "*annuity*" insert "*and the annuity amount were augumented at an annual rate of three percent compounded annually from the day the annuity begins to accrue*"

Page 185, line 4, after "*annuity*" insert "*and the annuity amount were augumented at an annual rate of three percent compounded annually from the day the annuity begins to accrue*"

Page 198, line 6, after "*annuity*" insert "*and the annuity amount were augumented at an annual rate of three percent compounded annually from the day the annuity begins to accrue*"

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

The question recurred on the Pogemiller amendment, as amended.

The roll was called, and there were yeas 26 and nays 38, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Johnson, D.J. | Morse | Stumpf |
| Berg | Dicklich | Langseth | Pehler | Taylor |
| Berglin | Diessner | Luther | Peterson, D.C. | |
| Brataas | Freeman | Marty | Pogemiller | |
| Cohen | Gustafson | Merriam | Reichgott | |
| Dahl | Johnson, D.E. | Moe, R.D. | Renneke | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Lantry | Novak | Schmitz |
| Beckman | Frank | Larson | Olson | Solon |
| Belanger | Frederick | Lessard | Pariseau | Spear |
| Benson | Frederickson, D.R. | McGowan | Peterson, R.W. | Storm |
| Bernhagen | Knaak | McQuaid | Piper | Vickerman |
| Bertram | Knutson | Mehrkens | Purfeerst | Waldorf |
| Brandl | Kroening | Metzen | Ramstad | |
| Chmielewski | Laidig | Moe, D.M. | Samuelson | |

The motion did not prevail. So the Pogemiller amendment, as amended, was not adopted.

Mr. Morse moved that H.F. No. 557 be laid on the table. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House accedes to the request of the Senate for the return of Senate File No. 783 for further consideration.

S.F. No. 783: A bill for an act relating to education; proposing a fifth year incentive plan for teachers in the Duluth school district.

Senate File No. 783 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## RECONSIDERATION

Having voted on the prevailing side, Ms. Olson moved that the vote whereby the Senate did not concur in the House amendments to S.F. No. 783 and appointed a conference committee, be now reconsidered. The motion prevailed.

## CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 783 and that the bill be placed on its repassage as amended.

Mr. Cohen moved that S.F. No. 783 be laid on the table.

The question was taken on the adoption of the motion of Mr. Cohen.

The roll was called, and there were yeas 23 and nays 37, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Beckman | Dahl | Gustafson | Morse | Renneke |
| Berg | Davis | Laidig | Novak | Spear |
| Berglin | DeCramer | Langseth | Pehler | Waldorf |
| Brandl | Diessner | Luther | Peterson, D.C. | |
| Cohen | Freeman | Moe, D.M. | Reichgott | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Kroening | Metzen | Schmitz |
| Anderson | Frank | Lantry | Moe, R.D. | Solon |
| Belanger | Frederick | Larson | Olson | Storm |
| Benson | Frederickson, D.R. | Lessard | Pariseau | Stumpf |
| Bernhagen | Johnson, D.E. | McGowan | Peterson, R.W. | Vickerman |
| Bertram | Johnson, D.J. | McQuaid | Purfeerst | |
| Chmielewski | Knaak | Mehrkens | Ramstad | |
| Decker | Knutson | Merriam | Samuelson | |

The motion did not prevail.

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

The roll was called, and there were yeas 37 and nays 28, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Dicklich | Kroening | Mehrkens | Schmitz |
| Beckman | Frank | Laidig | Metzen | Solon |
| Belanger | Frederick | Lantry | Morse | Storm |
| Benson | Frederickson, D.R. | Larson | Novak | Taylor |
| Bernhagen | Johnson, D.E. | Lessard | Olson | Vickerman |
| Bertram | Johnson, D.J. | Marty | Pariseau | |
| Chmielewski | Knaak | McGowan | Purfeerst | |
| Decker | Knutson | McQuaid | Ramstad | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Langseth | Peterson, D.C. | Samuelson |
| Berg | Davis | Luther | Peterson, R.W. | Spear |
| Berglin | DeCramer | Merriam | Piper | Stumpf |
| Brandl | Diessner | Moe, D.M. | Pogemiller | Waldorf |
| Brataas | Freeman | Moe, R.D. | Reichgott | |
| Cohen | Gustafson | Pehler | Renneke | |

The motion prevailed.

S.F. No. 783 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 40 and nays 26, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knutson | McQuaid | Purfeerst |
| Beckman | Dicklich | Kroening | Mehrkens | Ramstad |
| Belanger | Frank | Laidig | Metzen | Samuelson |
| Benson | Frederick | Lantry | Morse | Schmitz |
| Bernhagen | Frederickson, D.R. | Larson | Novak | Solon |
| Bertram | Johnson, D.E. | Lessard | Olson | Storm |
| Brataas | Johnson, D.J. | Marty | Pariseau | Taylor |
| Chmielewski | Knaak | McGowan | Piper | Vickerman |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Davis | Langseth | Peterson, D.C. | Stumpf |
| Berg | DeCramer | Luther | Peterson, R.W. | Waldorf |
| Berglin | Diessner | Merriam | Pogemiller | |
| Brandl | Freeman | Moe, D.M. | Reichgott | |
| Cohen | Gustafson | Moe, R.D. | Renneke | |
| Dahl | Hughes | Pehler | Spear | |

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 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. 895: A bill for an act relating to natural resources; amending provisions relating to the conservation reserve program; changing authority over the conservation reserve program from the commissioner of agriculture to the board of water and soil resources; defining certain terms; changing criteria for eligible land; prohibiting grazing of land under future agreements; providing conditions and payment for wetland restoration; providing for enforcement and liability for damages for violation of the terms of a conservation easement or agreement; authorizing the board to adopt rules; authorizing the commissioner of agriculture to allow town boards to suspend the duty of owners and occupants to control noxious weeds under certain conditions; withdrawing certain marginal land and wetlands from sale by the state unless restricted by a conservation easement under certain conditions; requiring certain acquisition procedures before the commissioner of natural resources accepts agricultural land or farm homesteads in fee from the federal government; authorizing aliens and non-Americans to own certain agricultural land to comply with pollution control laws or rules; amending Minnesota Statutes 1988, sections 40.42; 40.43; 40.44; 40.45; 84.95, subdivision 2; 282.018; 500.221, subdivision 2; Laws 1986, chapter 383, section 17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 18; 40; 84; and 92.

There has been appointed as such committee on the part of the House:

Munger; Johnson, R. and Redalen.

Senate File No. 895 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 659: A bill for an act relating to motor vehicles; increasing and allocating fees and motor vehicle excise tax for dealer plates; restricting use of dealer plates; amending Minnesota Statutes 1988, section 168.27, subdivision 16.

Senate File No. 659 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Purfeerst moved that the Senate concur in the amendments by the House to S.F. No. 659 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 659: A bill for an act relating to motor vehicles; increasing and allocating fees and motor vehicle excise tax for dealer plates and in transit plates; restricting use of dealer plates; amending Minnesota Statutes 1988, sections 168.053, subdivision 1; and 168.27, subdivisions 16, 17, and 22.

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 58 and nays 1, as follows:

Those who voted in the affirmative were:

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

Mr. Renneke voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

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; requiring releases of liens issued in error to state that the lien was erroneous; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 270.69, 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; 278.03; 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.

Senate File No. 462 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Stumpf moved that the Senate concur in the amendments by the House to S.F. No. 462 and that the bill be placed on its repassage as amended. The motion prevailed.

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; requiring releases of liens issued in error to state that the lien was erroneous; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 270.69, 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; 278.03; 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.

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

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 258: A bill for an act relating to state government; regulating state employment practices; regulating the setting of certain salaries; extending inclusion of veterans in the category of protected groups for the purpose of state employment; authorizing an alternative procedure for discharges of state troopers; ratifying certain salaries; amending Minnesota Statutes 1988, sections 15A.083, subdivisions 5 and 7; 43A.02, subdivision 33;

43A.04, subdivisions 1 and 3, and by adding a subdivision; 43A.10, subdivisions 7 and 8; 43A.12, subdivision 5; 43A.13, subdivisions 4, 5, 6, and 7; 43A.15, subdivision 10; 43A.17, subdivision 1; 43A.18, subdivisions 4 and 5; 43A.191, subdivisions 2 and 3; 43A.27, subdivision 4; 43A.316, subdivision 5; 43A.37, subdivision 1; 176.421, by adding a subdivision; and 299D.03, subdivision 7; repealing Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5.

Senate File No. 258 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. Moe, D.M. moved that the Senate do not concur in the amendments by the House to S.F. No. 258, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

## REPORTS OF COMMITTEES

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

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

S.F. No. 1516: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1988, section 124.43, subdivision 1, as amended.

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

Page 3, after line 34, insert:

"Sec. 2. [CORRECTION NO. 1] Laws 1989, chapter 135, section 2, is amended to read:

Sec. 2. [PRIVATE SALES OF TAX-FORFEITED LANDS; ST. LOUIS COUNTY.]

Subdivision 1. (a) Notwithstanding Minnesota Statutes, section 282.018, or the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell the tax-forfeited lands bordering public waters and described in subdivision 2, to the persons indicated, by private sale for not less than appraised value.

(b) The conveyances must be in a form approved by the attorney general.

Subd. 2. (a) The following lands located in St. Louis county may be sold

to the persons indicated.

(b) St. Louis county may sell to Charlotte Ekroot, Windigo Lodge, Grand Marais: that part of the Southeast Quarter of the Northwest Quarter of Section 9, Township 55 North, Range 12 West, lying west of the township road. A cabin and a tool shed were built on what they thought was their property. Later surveys indicated that they had built on tax-forfeited property.

(c) St. Louis county may sell to Manson Berg, 2930 Miller Trunk Highway, Duluth: the easterly 164.1 feet of the South Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter, Section 12, Township 50 North, Range 15 West. The adjacent property has belonged to Mr. Berg since 1978. Due to incorrect survey lines, part of Mr. Berg's trailer park along with water and sewage system was located on 1.24 acres of tax-forfeited land. This land is surrounded by private property and has no road access.

(d) St. Louis county may sell to Mablo Enrico, 202 First Street N.W., Chisholm: part of Outlot B, beginning at a point 83.96 feet South and 212.77 feet West of the Northwest corner, go South 47 degrees 9 minutes East 393 feet to a point on the West line of a platted road, thence South 42 degrees 51 minutes West along the west side of said road 100 feet, thence North 47 degrees 9 minutes West 396 feet to a point on the shore of Long Lake, thence in a northerly and easterly direction 100 feet to the point of beginning. Plat of Long Lake Beach, Lot 1, Sec. 17, Lot 7, Section 18, all in Township 59 North, Range 20 West. Mr. Enrico, who has been diagnosed as having Alzheimer's Disease, forgot to pay taxes on his lakeshore lot and it was forfeited. The family would like to redeem the property.

(e) St. Louis county may sell to William Moffat, P. O. Box 434, Tower: an undivided three-eighths interest in the easterly 175 feet of Government Lot 8, Section 19, Township 62 North, Range 14 West. Mr. Moffat requested use of tax-forfeited lands adjoining his property. New surveys indicated that his garage and part of his house are already on that property.

(f) St. Louis county may sell to Rodney and Mary Lou Halunen, 1009 1st Street South, Virginia: the North Half of Lot 8 of Ruth Ann's Acres, Little Fourteen Lake, Government Lot 1, Section 13, Township 60 North, Range 19 West. Lot 8 is a small undevelopable lake lot between two private landowners. The department of natural resources has stated that there is no need for a public access. The county recommends that it be split and sold to the two landowners in paragraphs (f) and (g).

(g) St. Louis county may sell to Steve Prelesnik, Route 1, Box 790, Britt: the South Half of Lot 8 of Ruth Ann's Acres, Little Fourteen Lake, Government Lot 1, Section 13, Township 60 North, Range 19 West. Lot 8 is a small undevelopable lake lot between two private landowners. The department of natural resources has stated that there is no need for a public access. The county recommends that it be split and sold to the two landowners in paragraphs (f) and (g).

(h) Lands in this section are not needed for state purposes and the public's interest would be better served if the lands were ~~publicly~~ *privately* owned.

Sec. 3. [CORRECTION NO. 2] Laws 1989, chapter 144, section 35, is amended to read:

Sec. 35. [308A.641] [VOTE OF COOPERATIVE CONSTITUTED OF OTHER COOPERATIVES.]

A cooperative that is constituted entirely or partially of other cooperatives or associations may authorize by the articles or the bylaws for affiliated cooperative members to have an additional vote for:

*(1)* a stipulated amount of business transacted between the member cooperative and the cooperative central organization ~~or~~;

*(2)* a stipulated number of members in the member cooperative;

*(3) a certain stipulated amount of equity allocated to or held by the member cooperative in the cooperative's central organization; or*

*(4) a combination of methods in clauses (1) to (3).* [308.07 s. 4]

Sec. 4. [CORRECTION 3.] Minnesota Statutes 1988, section 40A.122, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter ~~308~~ *308A*, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:

(1) acquiring land or an easement in land with a total area over ten acres within an exclusive agricultural use zone; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in an exclusive agricultural zone.

Sec. 5. [CORRECTION 3.] Minnesota Statutes 1988, section 65A.375, is amended to read:

65A.375 [RATES FOR COOPERATIVE HOUSING AND NEIGHBORHOOD REAL ESTATE TRUST INSURANCE.]

The commissioner shall set the insurance rates for cooperative housing, organized under chapter ~~308~~ *308A*, and for neighborhood real estate trusts, characterized as nonprofit ownership of real estate with resident control. The rates must be actuarially sound.

Sec. 6. [CORRECTION 3.] Minnesota Statutes 1988, section 80A.15, subdivision 2, is amended to read:

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

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

means of mail or telephone.

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

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

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

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

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

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

(h) Any sales by an issuer to the number of persons that shall not exceed 25 persons in this state, or 35 persons if the sales are made in compliance with Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.506, (other than those designated in paragraph (a) or (g)), whether or not any of the purchasers is then present in this state, if (1) the issuer reasonably believes that all of the buyers in this state (other than those designated in clause (g)) are purchasing for investment, and (2) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in clause (g)), except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter, and (3) the issuer has, ten days prior to any sale pursuant to this paragraph, supplied the commissioner with a statement of issuer on forms prescribed by the commissioner, containing the following information: (i) the name and address of the issuer, and the date and state of its organization; (ii) the number of units, price per unit, and a description of the securities to be sold; (iii) the amount of commissions to be paid and the persons to whom they will be paid; (iv) the names of all officers, directors and persons owning five percent or more of the

equity of the issuer; (v) a brief description of the intended use of proceeds; (vi) a description of all sales of securities made by the issuer within the six-month period next preceding the date of filing; and (vii) a copy of the investment letter, if any, intended to be used in connection with any sale. Sales that are made more than six months before the start of an offering made pursuant to this exemption or are made more than six months after completion of an offering made pursuant to this exemption will not be considered part of the offering, so long as during those six-month periods there are no sales of unregistered securities (other than those made pursuant to paragraph (a) or (g)) by or for the issuer that are of the same or similar class as those sold under this exemption. The commissioner may by rule or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase the number of offers and sales permitted, or waive the conditions in clause (1), (2), or (3) with or without the substitution of a limitation or remuneration.

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

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

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

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

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

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

(p) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if: (1) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this

state; and (2) the commissioner has been furnished with a general description of the transaction and with other information as the commissioner may by rule prescribe no less than ten days prior to the transaction.

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

Sec. 7. [CORRECTION 3.] Minnesota Statutes 1988, section 115B.02, subdivision 14, is amended to read:

Subd. 14. [PUBLIC UTILITY EASEMENT.] "Public utility easement" means an easement used for the purposes of transmission, distribution, or furnishing, at wholesale or retail, natural or manufactured gas, or electric or telephone service, by a public utility as defined in section 216B.02, subdivision 4, a cooperative electric association organized under the provisions of chapter ~~308~~ *308A*, a telephone company as defined in section 237.01, subdivisions 2 and 3, or a municipality producing or furnishing gas, electric, or telephone service.

Sec. 8. [CORRECTION 3.] Minnesota Statutes 1988, section 216B.01, is amended to read:

216B.01 [LEGISLATIVE FINDING.]

It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers. Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, and cooperative electric associations are presently effectively regulated and controlled by the membership under the provisions of chapter ~~308~~ *308A*, it is deemed unnecessary to subject such utilities to regulation under this chapter except as specifically provided herein.

Sec. 9. [CORRECTION 3.] Minnesota Statutes 1988, section 216B.02, subdivision 4, is amended to read:

Subd. 4. "Public utility" means persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof but does not include (1) a municipality or a cooperative electric association, organized under the provisions of chapter ~~308~~ *308A* producing or furnishing natural, manufactured or mixed gas or electric service or (2) a retail seller of compressed natural gas used as a vehicular fuel which purchases the gas from a public utility. Except as otherwise provided, the provisions of this chapter shall not be applicable to any sale of natural, manufactured or mixed gas or electricity by a public utility to another public utility for resale. In addition, the provisions of this chapter shall not apply to a public utility whose total natural gas business consists of supplying natural, manufactured or mixed gas to not more than 650 customers within a city

pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from regulation is filed with the commission. The city council may rescind the resolution requesting exemption at any time, and, upon the filing of the rescinding resolution with the commission, the provisions of this chapter shall apply to the public utility. No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased or operated by such person. No person shall be deemed to be a public utility if it furnishes service to occupants of a manufactured home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it produces or furnishes service to less than 25 persons.

Sec. 10. [CORRECTION 3.] Minnesota Statutes 1988, section 216B.027, subdivision 2, is amended to read:

Subd. 2. [SCOPE.] Cooperative associations organized under chapter ~~308~~ *308A* for the purpose of providing rural electrification at retail to ultimate consumers shall comply with the provisions of this section in addition to other applicable provisions of chapter ~~308~~ *308A* and other applicable state and federal laws.

Sec. 11. [CORRECTION 3.] Minnesota Statutes 1988, section 221.031, subdivision 2, is amended to read:

Subd. 2. [PRIVATE CARRIERS.] This subdivision applies to private carriers engaged in intrastate commerce.

(a) Private carriers operating vehicles licensed and registered for a gross weight of more than 12,000 pounds, shall comply with rules adopted under this section applying to maximum hours of service of drivers, safe operation of vehicles, equipment, parts and accessories, leasing of vehicles or vehicles and drivers, and inspection, repair, and maintenance.

(b) In addition to the requirements in paragraph (a), private carriers operating vehicles licensed and registered for a gross weight in excess of 26,000 pounds shall comply with rules adopted under this section relating to driver qualifications.

(c) The requirements as to driver qualifications and maximum hours of service for drivers do not apply to private carriers who are (1) public utilities as defined in section 216B.02, subdivision 4; (2) cooperative electric associations organized under chapter ~~308~~ *308A*; (3) telephone companies as defined in section 237.01, subdivision 2; or (4) who are engaged in the transportation of construction materials, tools and equipment from shop to job site or job site to job site, for use by the private carrier in the new construction, remodeling, or repair of buildings, structures or their appurtenances.

(d) The driver qualification rule and the hours of service rules do not apply to vehicles controlled by a farmer and operated by a farmer or farm employee to transport agricultural products or farm machinery or supplies to or from a farm if the vehicle is not used in the operations of a motor carrier and not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with section 221.033.

Sec. 12. [CORRECTION 3.] Minnesota Statutes 1988, section 237.075, subdivision 9, is amended to read:

Subd. 9. [ELECTION ON REGULATION.] For the purposes of this section, "telephone company" shall not include a cooperative telephone association organized under the provisions of chapter ~~308~~ *308A*, an independent telephone company, or a municipal, unless the cooperative telephone association, independent telephone company, or municipal makes the election provided in this subdivision.

A cooperative telephone association may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308.15, subdivision 1, excluding the filing requirements; or (b) approved by a majority of members or stockholders voting by mail ballot initiated by petition of no fewer than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the association's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the association shall count the ballots. If a majority of the association's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "member or stockholder" shall mean either the member or stockholder of record or the spouse of the member or stockholder unless the association has been notified otherwise in writing.

A municipal may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by resolution of the governing body of the municipality; or (b) approved by a majority of the customers of the municipal voting by mail ballot initiated by petition of no fewer than 20 percent of the customers of the municipal. The ballot to be used for the election shall be approved by the governing body of the municipality and the department of public service. The department shall mail the ballots to the municipal's customers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the governing body of the municipality. On this date, representatives of the department and the municipal shall count the ballots. If a majority of the customers of the municipal who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "customer" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the municipal utility has been notified otherwise in writing.

An independent telephone company may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the company in accordance with the procedures for amending the articles of incorporation contained in sections 302A.133 to 302A.139, excluding the filing requirements; or (b) approved by a majority of subscribers voting by mail ballot initiated by petition of no fewer than five percent of the subscribers of the company. The ballot to be used for the election shall be approved by the board of directors and the department of public service. The department shall mail the ballots to the company's subscribers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed

upon by the department and the board of directors. On this date, representatives of the department and the company shall count the ballots. If a majority of the company's subscribers who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section the term "subscriber" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the independent telephone company has been notified otherwise in writing.

Sec. 13. [CORRECTION 3.] Minnesota Statutes 1988, section 273.11, subdivision 8, is amended to read:

Subd. 8. [LIMITED EQUITY COOPERATIVE APARTMENTS.] For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter ~~308~~ *308A*, which has as its primary purpose the provision of housing and related services to its members which meets one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development. It must also meet the following requirements:

(a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:

(1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;

(2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;

(3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed $500 for each year or fraction of a year the membership or share was owned; plus

(4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted

to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned by a limited equity cooperative.

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

Sec. 14. [CORRECTION 3.] Minnesota Statutes 1988, section 290.092, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] Corporations subject to tax under sections 290.05, subdivision 3; or 60A.15, subdivision 1 and 290.35; real estate investment trusts; regulated investment companies; cooperatives taxable under subchapter T of the Internal Revenue Code of 1986 or organized under chapter ~~308~~ *308A* or a similar law of another state; and entities having a valid election in effect under section 1362 or 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1987, are not subject to the tax imposed in subdivision 1 or subdivision 5.

Sec. 15. [CORRECTION 3.] Minnesota Statutes 1988, section 325E.025, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, "utility" means persons, corporations, or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in

this state equipment or facilities for furnishing at retail natural, manufactured, or mixed gas or electric service to or for the public or engaged in its production and retail sale. The term "utility" includes municipalities and cooperative electric associations, organized under the provisions of chapter ~~308~~ *308A*, producing or furnishing natural, manufactured, or mixed gas or electric service. This section is not applicable to the sale of natural, manufactured, or mixed gas or electricity by a public utility to another public utility for resale.

"Customer" means any person, firm, association, or corporation, or any agency of the federal, state, or local government being supplied with service by a utility.

Sec. 16. [CORRECTION 3.] Minnesota Statutes 1988, section 325E.026, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] When used in this section, the terms defined in section 216B.02 have the same meanings. Other terms used in this section have the following meanings:

(a) "Bypassing" means the act of attaching, connecting, or otherwise affixing a wire, cord, socket, pipe, hose, motor, or other instrument or device to utility or customer-owned facilities or equipment so that service provided by the utility is transmitted, supplied, or used without passing through a meter authorized by the utility for measuring or registering the amount of service provided.

(b) "Tampering" means damaging, altering, adjusting, or obstructing the operation of a meter or submeter provided by a utility for measuring or registering the amount of electricity, natural gas, or other utility service passing through the meter.

(c) "Unauthorized connection" means the physical connection or physical reconnection of utility service by a person without the authorization or consent of the utility.

(d) "Unauthorized metering" means removing, installing, connecting, reconnecting, or disconnecting a meter, submeter, or metering device for service by a utility, by a person other than an authorized employee or agent of the utility.

(e) "Utility" means a public utility defined in section 216B.02, subdivision 4; a municipal utility; or a cooperative electric association organized under chapter ~~308~~ *308A*.

Sec. 17. [CORRECTION 3.] Minnesota Statutes 1988, section 326.20, subdivision 2, is amended to read:

Subd. 2. [LICENSURE OF PARTNERSHIPS AND CORPORATIONS.] Every partnership or corporation in which one or more certified public accountants or licensed public accountants of this state is a partner or shareholder, if it is engaged, or intends to be engaged, in public practice within this state at any time shall be licensed by the state board of accountancy for that period. Upon application made upon the affidavit of a general partner of the partnership or secretary of the corporation who is a certified public accountant or a licensed public accountant of this state in good standing, the board shall issue a license which shall be good for a period prescribed by the board, unless the license shall sooner be revoked. Interim licenses shall be issued to partnerships or corporations which have satisfied the provisions of this subdivision. The application shall confer upon the

board the consent of the partnership or corporation, and of the general partner or secretary making the application, to the board's jurisdiction over the acts of the partnership and its partners or agents or of the corporation and its shareholders or agents within the state.

No partnership or corporation shall style itself as a firm of certified public accountants unless (a) all partners or shareholders resident in this state are certified public accountants of this state, (b) all managers in charge of offices maintained in this state are certified public accountants of this state, (c) all partners or shareholders, wherever situated, are certified public accountants of one of the states or territories or of the District of Columbia and (d) the partnership or corporation is duly licensed under this section.

No partnership or corporation shall style itself as a firm of licensed public accountants unless (a) all partners or shareholders resident in this state are licensed public accountants or certified public accountants of this state, (b) all managers in charge of offices maintained in this state are licensed public accountants or certified public accountants of this state, (c) all partners or shareholders, wherever situated, are licensed public accountants of this state or certified public accountants of one of the states or territories or the District of Columbia and (d) the partnership or corporation is duly licensed under this section.

Any cooperative auditing organization organized under chapter ~~308~~ *308A* (a) which for a minimum of one year prior to July 1, 1979, has been rendering auditing, accounting of business analysis services to its members only, and (b) whose managers in charge of offices maintained in this state are certified public accountants or licensed public accountants of this state, shall be deemed to be qualified for a cooperative auditing service license and may style itself as a licensed cooperative auditing service.

Sec. 33. [CORRECTION 3.] Minnesota Statutes 1988, section 363.01, subdivision 32, is amended to read:

Subd. 32. [COOPERATIVE APARTMENT CORPORATION.] "Cooperative apartment corporation" means a corporation or association organized under ~~sections 308.05 to 308.18 or~~ chapter *308A or* 317, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.

Sec. 19. [CORRECTION 3.] Minnesota Statutes 1988, section 469.153, subdivision 7, is amended to read:

Subd. 7. [TELEPHONE COMPANY.] "Telephone company" means any person, firm, association, including a cooperative association formed pursuant to chapter ~~308~~ *308A*, or corporation, excluding municipal telephone companies, operating for hire any telephone line, exchange, or system, wholly or partly within this state.

Sec. 20. [CORRECTION 5] Minnesota Statutes 1988, section 65B.49, subdivision 4a, as amended by 1989 H.F. No. 956, is amended to read:

Subd. 4a. [LIABILITY ON UNDERINSURED MOTOR VEHICLES.] With respect to underinsured ~~motor~~ *motorist* coverage, the maximum liability of an insurer is the amount of damages sustained but not recovered from the insurance policy of the driver or owner of any underinsured at fault vehicle. If a person is injured by two or more vehicles, underinsured

motorist coverage is payable whenever any one of those vehicles meets the definition of underinsured ~~motorist~~ *motor* vehicle in Minnesota Statutes, section 65B.43, subdivision 17. However, in no event shall the underinsured motorist carrier have to pay more than the amount of its underinsured motorist limits.

Sec. 21. [CORRECTION NO. 6.] 1989 H.F. No. 579, article 2, section 1, is repealed.

Sec. 22. Minnesota Statutes 1988, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section 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.

(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 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.

*(f) Notwithstanding any other provision in this subdivision to the contrary, if the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes 1988."*

Amend the title as follows:

Page 1, line 6, delete "section" and insert "sections 40A.122, subdivision 1; 65A.375; 65B.49, subdivision 4a, as amended; 80A.15, subdivision 2; 115B.02, subdivision 14;"

Page 1, line 7, before the period, insert "; 176.132, subdivision 2; 216B.01; 216B.02, subdivision 4; 216B.027, subdivision 2; 221.031, subdivision 2; 237.075, subdivision 9; 273.11, subdivision 8; 290.092, subdivision 2; 325E.025, subdivision 1; 325E.026, subdivision 1; 326.20, subdivision 2; 363.01, subdivision 32; 469.153, subdivision 7; Laws 1989, chapters 135, section 2; and 144, section 35; repealing 1989 H.F. No. 579, article 2, section 1"

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

## SECOND READING OF SENATE BILLS

S.F. No. 1516 was read the second time.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 1582: A bill for an act relating to public finance; providing conditions and requirements for the issuance and use of public debt; making technical corrections to provisions relating to hazardous substance sites and subdistricts; enabling Chisago, Kanabec, Isanti, Pine, and Mille Lacs counties to sell certain bonds at public or private sale; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 469.015, subdivision 4; 469.174, subdivisions 7 and 16; 469.175, subdivision 7; 471.56, subdivision 5; 473.541, subdivision 3, and by adding a subdivision; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; 475.66, subdivision 1; and 475.79; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, section 474A.081, subdivision 3.

Senate File No. 1582 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Pogemiller moved that the Senate concur in the amendments by the House to S.F. No. 1582 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1582: A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 400.101; 430.06, by adding a subdivision; 469.015, subdivision 4; 469.152; 469.153, subdivision 2; 469.154, subdivisions 3 and 5; 469.155, subdivisions 2, 3, and 5; 471.56, subdivision 5; 473.541, by adding a subdivision; 473.811, subdivision 2; 475.51, by adding a subdivision; 475.54, subdivision 4; and 475.60, subdivisions 1, 2, and 3; proposing coding for new law in Minnesota Statutes, chapter 473.

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 30 and nays 34, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Berglin | Diessner | Johnson, D.J. | Luther | Peterson, D.C. |
| Bertram | Frank | Knaak | Marty | Peterson, R.W. |
| Brataas | Frederickson, D.R. | Kroening | Metzen | Piper |
| Chmielewski | Freeman | Langseth | Moe, R.D. | Pogemiller |
| Davis | Hughes | Lantry | Novak | Solon |
| Dicklich | Johnson, D.E. | Lessard | Pehler | Stumpf |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Brandl | Knutson | Moe, D.M. | Samuelson |
| Anderson | Cohen | Laidig | Morse | Spear |
| Beckman | Dahl | Larson | Olson | Storm |
| Belanger | Decker | McGowan | Pariseau | Taylor |
| Benson | DeCramer | McQuaid | Ramstad | Vickerman |
| Berg | Frederick | Mehrkens | Reichgott | Waldorf |
| Bernhagen | Gustafson | Merriam | Renneke | |

So the bill, as amended, failed to pass.

## RECONSIDERATION

Mr. Spear moved that the vote whereby S.F. No. 1582 failed to pass the Senate on May 22, 1989, be now reconsidered. The motion prevailed.

Ms. Reichgott moved that the vote whereby the Senate concurred in the amendments by the House to S.F. No. 1582 be now reconsidered. The motion prevailed.

Mr. Pogemiller moved that the Senate do not concur in the amendments by the House to S.F. No. 1582, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 530 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 530

A bill for an act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills;

clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivisions 1a and 4; 473.823, subdivisions 3 and 6; 473.831, subdivision 2; 473.833, subdivision 2a; 473.840, subdivision 2; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1988, sections 115A.98; 115B.29, subdivision 2; 473.149, subdivision 2b; 473.803, subdivision 1a; and 473.806.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 530, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 530 be further amended as follows:

Page 3, line 32, delete "*the Minnesota future resources commission,*"

Pages 7 to 9, delete section 8

Page 11, line 24, delete "*in*" and insert "*inside and outside*"

Page 11, line 28, before the period, insert "*including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13*"

Page 11, after line 28, insert:

*"(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period."*

Page 17, line 24, delete "*21 to 26*" and insert "*20 to 25*"

Page 20, line 8, delete "*22*" and insert "*21*"

Page 21, line 7, delete "*22*" and insert "*21*"

Page 21, line 32, delete "*21 to 26*" and insert "*20 to 25*"

Page 22, line 4, delete "*21 to 26*" and insert "*20 to 25*"

Page 23, line 4, delete "*24*" and insert "*23*"

Page 25, line 34, after "*acquire*" insert ", *by purchase or donation,*" and after "*property*" insert ", *including easements and leases,*"

Page 25, line 36, delete "*interest*" and insert "*easement*"

Page 26, line 2, after the period, insert "*The provisions of chapter 117 govern condemnation proceedings by the agency under this subdivision.*"

Page 27, line 32, delete "*31*" and insert "*30*"

Page 28, line 4, delete "*30*" and insert "*29*"

Page 29, delete section 40, and insert:

"Sec. 39. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

*Subd. 9.* [RELEASE.] *"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.*

*"Release" does not include:*

*(a) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;*

*(b) Release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under United States Code, title 42, section 2014, if the release is subject to requirements with respect to financial protection established by the federal nuclear regulatory commission under United States Code, title 42, section 2210;*

*(c) Release of source, by-product or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under United States Code, title 42, section 7912(a)(1) or 7942(a);*

*(d) Discharges or designed venting of petroleum from a tank allowed under the rules of the pollution control agency; or*

*(e) The use of a pesticide, fertilizer, plant amendment or soil amendment in accordance with its labeling."*

Page 30, line 8, delete "*48*" and insert "*47*"

Page 33, line 26, delete "*41*" and insert "*40*"; delete "*48*" and insert

"*47*"

Page 33, line 32, delete "*41*" and insert "*40*"

Page 34, line 13, delete "*shall*" and insert "*must*"

Page 34, line 22, delete "*shall*" and insert "*must*"

Page 37, line 5, strike "By January 1, 1985,"

Page 37, line 9, strike "each" and insert "*the*" and strike "county" and insert "*area*"

Page 37, line 12, strike "through the year 2000" and insert "*within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions*"

Page 37, line 20, strike "and class of"

Page 37, line 21, strike "city in that county"

Page 37, line 22, strike "shall" and insert "*may*"

Page 37, line 23, strike "shall"

Pages 39 and 40, delete sections 56 and 57

Pages 42 and 43, delete section 60

Page 43, line 24, reinstate the stricken "the"

Page 43, lines 25 and 26, reinstate the stricken language

Page 43, line 27, reinstate everything before the stricken "(3)"

Page 44, after line 20, insert:

"Sec. 58. Minnesota Statutes 1988, section 473.833, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENT.] Each metropolitan county shall select and acquire sites and buffer areas for solid waste disposal facilities in accordance with this section and the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e. *Each county in which a site is selected and acquired must ensure development of the site in accordance with the landfill development schedule in the council's policy plan if the site is permittable by the agency and if its development is prudent as determined by the council.*"

Page 45, delete section 63

Page 50, line 18, before the period, insert ", *but nothing in this section relieves the operator of its contractual obligations to process mixed municipal solid waste*"

Page 51, line 31, after "*of*" insert "*and standards and criteria for a*"

Page 53, line 17, delete "*50*" and insert "*25*"

Page 54, line 15, delete "*November*" and insert "*May*"

Page 54, delete lines 19 to 36 and insert:

"*Subd. 3.* [INDEMNIFICATION.] *The state, through the general fund, assumes any and all liability related to the projects authorized in this section that is imposed on the metropolitan waste control commission, the*

*commissioner of transportation, the county of Hennepin, and their employees, agents, and contractors, if the liability is based on classification of the ash as hazardous waste or a pollutant or contaminant under state or federal law. The state assumes the liability only if:*

*(1) the project is conducted in compliance with a permit issued by the pollution control agency; and*

*(2) if the entity held liable used due care in implementing the project.*

*The commissioner of transportation and the commissioner's agents and contractors are not responsible parties under chapters 115 and 115B for a release that occurs as a result of a project authorized by this section.*"

Page 55, delete lines 1 to 3 and insert:

"Sec. 73. [COLLECTOR COMPENSATION REPORT.]

*The legislative commission on waste management with the participation of representatives of local government and of the solid waste collection industry shall prepare a report which examines whether and under what circumstances a local unit of government shall ensure just and reasonable compensation to solid waste collectors who are displaced when a local unit of government organizes solid waste collection under Minnesota Statutes, section 115A.94. The commission shall complete its report and recommend for legislative action any compensation mechanism found necessary by January 31, 1990.*"

Page 55, line 13, delete "JANUARY" and insert "JULY"

Page 55, line 14, delete "*22*" and insert "*21*"

Page 55, line 15, delete "*23*" and insert "*22*"

Page 55, line 16, delete "*22*" and insert "*21*"

Page 55, line 16, delete "*January*" and insert "*July*"

Page 55, after line 19, insert:

"Sec. 76. [APPROPRIATION.]

*$10,000 is appropriated for fiscal year 1990 from the general fund for the purposes of section 73.*"

Page 55, line 21, delete the semicolon and insert "*and*"

Page 55, line 22, delete everything after "*subdivision 2*"

Page 55, line 23, delete everything before the comma

Page 55, line 32, delete "*21 to 26*" and insert "*20 and 22 to 25*"

Page 55, after line 32, insert "*Section 21 is effective January 1, 1990.*"

Page 55, line 33, delete "*9*" and insert "*8*"

Page 55, line 34, delete "*29*" and insert "*28*"

Page 55, line 35, delete "*30 and 51*" and insert "*29 and 50*"

Page 56, line 2, delete "*32*" and insert "*31*"

Page 56, line 3, delete "*32*" and insert "*31*"

Page 56, line 5, delete "*52 to 70*" and insert "*51 to 66*"

Page 56, line 7, delete everything after "*except*"

Page 56, line 8, delete everything before "*sections*"

Page 56, line 8, delete "*64, 65, 66, and 67*" and insert "*60 to 63*"

Page 56, line 9, delete "*62*" and insert "*59*"

Page 56, line 11, delete "*73*" and insert "*69*"

Renumber the sections in sequence

Amend the title accordingly

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

Senate Conferees: (Signed) Gene Merriam, Gregory L. Dahl, LeRoy A. Stumpf, John J. Marty, Phyllis W. McQuaid

House Conferees: (Signed) Dee Long, Robert Anderson, Willard Munger, Dennis D. Ozment, Jean D. Wagenius

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 530 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 530 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 522 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 522

A bill for an act relating to housing; authorizing the establishment of affordable housing programs under the administration of the Minnesota housing finance agency; establishing a neighborhood preservation program; revising certain tenant damage provisions in landlord-tenant actions; regulating tenant screening services; establishing a rent escrow system; providing mandatory building repair fines; authorizing a housing calendar consolidation pilot project in Hennepin and Ramsey counties; requiring

housing impact statements; revising certain housing receivership provisions; providing a limited right of entry to secure vacant or unoccupied buildings; providing for city housing rehabilitation loan programs; establishing the community and neighborhood development organization program; establishing a child development program; authorizing a neighborhood revitalization program; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 4.071; 282.01, subdivision 1; 462A.03, by adding a subdivision; 462A.05, subdivision 27, and by adding subdivisions; 462A.21, subdivisions 4k, 12, and by adding subdivisions; 462C.02, by adding subdivisions; 462C.05, by adding a subdivision; 463.15, subdivisions 3 and 4; 463.16; 463.161; 463.17; 463.20; 463.21; 463.22; 469.012, subdivision 1; 504.255; 504.26; 566.17; 566.175, subdivision 1; 566.29, subdivisions 1, 4, and by adding subdivisions; 582.03; Laws 1971, chapter 333, as amended, by adding a section; Laws 1974, chapters 285, sections 2, 3, 4, and by adding a section; and 475, by adding a section; proposing coding for new law in Minnesota Statutes, chapters 16B; 116J; 129A; 145; 268; 363; 412; 462A; 469; 471; 504; 566; and 582; repealing Laws 1974, chapter 351, sections 1 to 4, as amended; Laws 1975, chapter 260, sections 1 to 5; and Laws 1987, chapters 384, article 3, section 22; and 386, article 6, sections 4 to 11.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 522, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 522 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

AFFORDABLE HOUSING PROGRAMS

Section 1. [16B.89] [ACQUISITION OF SURPLUS FEDERAL PROPERTY.]

*The commissioner of administration, after consultation with one or more nonprofit organizations with an interest in providing housing for homeless veterans and their families, may acquire property from the United States government that is designated by the General Services Administration as surplus property. The commissioner of administration may lease the property to a qualified nonprofit organization that agrees to develop or rehabilitate the property for the purpose of providing suitable housing for veterans and their families. The lease agreement with the nonprofit organization may require that the property be developed for use as housing for homeless and displaced veterans and their families and for veterans and their families who lose their housing.*

Sec. 2. [129A.11] [ACCESSIBLE HOUSING INFORMATION.]

*The commissioner of jobs and training may make accessible housing information grants to eligible organizations to develop, maintain, and publicize a list of accessible housing units within their area of operation,*

*based on recommendations of the disability council. For purposes of this section, accessible housing unit means an accessible housing unit that meets the handicapped facility requirements of the state building code, Minnesota Rules, chapter 1340. The list may also include housing units that do not meet handicapped facility code requirements, but that are accessible to disabled persons. The list must be made available at no cost to persons seeking accessible housing and must be updated at least every two months. An eligible organization must have the capability to develop, maintain, and publicize a list of accessible housing units within the organization's area of operation.*

Sec. 3. Minnesota Statutes 1988, section 462A.03, is amended by adding a subdivision to read:

*Subd. 21.* [CITY.] *"City" has the meaning given in section 462C.02, subdivision 6.*

Sec. 4. Minnesota Statutes 1988, section 462A.05, is amended by adding a subdivision to read:

*Subd. 14c.* [NEIGHBORHOOD PRESERVATION.] *It may agree or enter commitments to purchase, make, or participate in making loans described in subdivision 14 for programs approved by the agency for the preservation of designated neighborhoods. To achieve the policy of economic integration stated in section 462A.02, subdivision 6, the programs may authorize loans to borrowers having ownership interests in properties in the neighborhood who are not eligible mortgagors as defined in section 462A.03, subdivision 13. The aggregate original principal balances of noneligible mortgagor loans in a neighborhood benefiting from financing under this subdivision must not exceed 25 percent of the total amount of neighborhood preservation loan funds allocated to the neighborhood under the program.*

Sec. 5. Minnesota Statutes 1988, section 462A.05, subdivision 24, is amended to read:

Subd. 24. It may engage in housing programs for low and moderate income elderly, *handicapped, or developmentally disabled* persons, as defined by the agency, to provide grants or loans, with or without interest, for

(1) accessibility improvements to residences occupied by elderly persons;

(2) housing sponsors, as defined by the agency, of home sharing programs to match existing ~~elderly~~ homeowners with prospective tenants who will contribute either rent or services to the homeowner, *where either the homeowner or the prospective tenant is elderly, handicapped, or developmentally disabled*;

(3) the construction of or conversion of existing buildings into structures for occupancy by the elderly that contain from three to 12 private sleeping rooms with shared cooking facilities and common space; and

(4) housing sponsors, as defined by the agency, to demonstrate the potential for home equity conversion in Minnesota for the elderly, in both rural and urban areas, and to determine the need in those equity conversions for consumer safeguards.

In making the grants or loans, the agency shall determine the terms and conditions of repayment and the appropriate security, if any, should repayment be required. *The agency may provide technical assistance to sponsors of home sharing programs or may contract or delegate the provision of*

*the technical assistance in accordance with section 462A.07, subdivision 12.*

*Housing sponsors who receive funding through these programs shall provide homeowners and tenants participating in a home sharing program with information regarding their rights and obligations as they relate to federal and state tax law including, but not limited to, taxable rental income, homestead credit under chapter 273, and the property tax refund act under chapter 290A.*

Sec. 6. Minnesota Statutes 1988, section 462A.05, subdivision 27, is amended to read:

Subd. 27. The agency, or the corporations referred to in subdivision 26, may acquire property or property interests under subdivisions 25 and 26 and section 462A.06, subdivision 7, for the following purposes: (1) to protect a loan or grant in which the agency or corporation has an interest; or (2) to preserve for the use of low- and moderate-income persons or families multifamily housing~~, previously financed by the agency,~~ which *was (i) previously financed by the agency, or (ii) not financed by the agency but* is benefited by federal housing assistance payments or other rental subsidy or interest reduction contracts. Property or property interests acquired for the purpose specified in clause (1) may be acquired by foreclosure, deed in lieu of foreclosure, or otherwise.

Multifamily property acquired as provided in clause (2) must be managed on a fee basis by an entity other than the agency or corporation. The agency or corporation may manage the property on a temporary basis until an agreement is entered into with another entity to manage the property. The agency or corporation shall make the property available for sale at a purchase price and on terms that are mutually agreeable to the parties. *In the sale of property benefited by federal housing assistance, priority must be given to a buyer who agrees to maintain the federal housing assistance.*

Sec. 7. Minnesota Statutes 1988, section 462A.05, is amended by adding a subdivision to read:

*Subd. 30.* [HOME EQUITY CONVERSION LOANS.] *(a) The agency may make or purchase home equity conversion loans for low- or moderate-income elderly homeowners. Loan recipients must be at least 62 years of age, have substantial equity in their home, and have an income at or below 50 percent of the greater of statewide or area median income. The agency must inform a program participant of available home equity conversion loan counseling services before making a loan.*

*(b) Repayment of a home equity conversion loan may not be required until at least one of the following conditions occurs:*

*(1) the sale or conveyance of the mortgaged property;*

*(2) the mortgaged property is no longer the mortgagor's principal residence;*

*(3) the death of the mortgagor; or*

*(4) a violation of an obligation of the mortgagor under the mortgage.*

*For purposes of this section, an obligation of the mortgagor under the mortgage does not include immediate repayment upon completion of loan disbursements at the end of a specified term.*

Sec. 8. [462A.057] [MINNESOTA RURAL AND URBAN HOMESTEADING PROGRAM.]

*Subdivision 1.* [ESTABLISHMENT; PURPOSE.] *There is established the Minnesota rural and urban homesteading program to be administered by the agency for grants to eligible applicants to acquire, rehabilitate, and sell eligible property. The program is directed at single family residential properties in need of rehabilitation that are sold to "at risk" homebuyers committed to strengthening the neighborhood and following a good neighbor policy.*

*Subd. 2.* [DEFINITIONS.] *For the purposes of this section, the following terms have the meanings given them.*

*(1) "Contract for deed" is the agreement between the homebuyer and eligible applicant as established by the agency.*

*(2) "Eligible organization" or "organization" means a political subdivision, nonprofit or cooperative organization, as defined by the agency, housing and redevelopment authority, or other organization designated by the agency, which demonstrates the capacity to perform the duties outlined in subdivision 5.*

*(3) "Eligible property" or "property" means a single family residential dwelling and surrounding property that is vacant, condemned, abandoned, or otherwise defined as eligible by the agency, which, if rehabilitated, may prevent or arrest the spread of blight.*

*(4) "Homebuyer" means an individual or family who has not owned a residential dwelling in the past three years and meets the definition of "at risk" established by the agency under subdivision 4.*

*(5) "Designated home ownership area" or "designated area" means a specific area where the acquisition, rehabilitation, and sale of eligible properties may take place under this section. In the metropolitan area, as defined in section 473.121, subdivision 2, a designated area must be a specific four square block area.*

*(6) "Neighborhood volunteer resident advisory board" or "advisory board" means the board established by an organization under subdivision 6.*

*(7) "Program" means the Minnesota rural and urban homesteading program established in subdivision 1.*

*Subd. 3.* [GRANTS.] *The agency may award grants of up to $300,000 to eligible organizations. The grants must be used by the organization to buy eligible properties and pay for the costs of rehabilitating those properties. Up to $30,000 of the grant award may be used for the administrative costs of the organization and for other costs associated with the acquisition and sale of properties under this program including the payment of taxes on the property during the period between the purchase and sale of the property.*

*Subd. 4.* [AGENCY POWERS; DUTIES.] *The agency shall:*

*(1) establish criteria for selecting which eligible organizations that apply for grants under this section receive the grants;*

*(2) establish criteria for targeting the program to homebuyers who are*

*at risk which is defined to include families and individuals who are homeless, receiving public assistance, or otherwise cannot afford home ownership; and*

*(3) establish the terms and provisions of the contract for deed and other program standards as necessary.*

*Subd. 5.* [ELIGIBLE ORGANIZATION; CAPACITY.] *The eligible organization must demonstrate to the agency that it has the capacity to:*

*(1) organize and continue an ongoing relationship with the neighborhood volunteer resident advisory boards required under subdivision 6;*

*(2) provide the necessary staff to administer the program on the local level for an extended period; and*

*(3) select and acquire property that meets the requirements established for this program and contract with businesses or organizations for the rehabilitation of the property.*

*Subd. 6.* [NEIGHBORHOOD VOLUNTEER RESIDENT ADVISORY BOARD.] *Each organization must establish a neighborhood volunteer resident advisory board for each designated area. The advisory board must consist of residents of the designated area that reflects the racial composition of the area. In the metropolitan area, as defined in section 473.121, subdivision 2, at least 20 percent of the advisory board must be minority residents. The advisory board must:*

*(1) recommend to the organization properties that may be acquired for the program in the designated area; and*

*(2) recommend to the organization the selection of homebuyers.*

*Subd. 7.* [PURCHASE AND REHABILITATION.] *An eligible organization may acquire up to five properties in a designated area with the consent of the advisory board for that area. The organization must rehabilitate these properties to the standards established by the agency. The total maximum cost of the acquisition, rehabilitation, closing costs, and back taxes must be no greater than $50,000 per individual property. The $50,000 maximum may be exceeded if the excess costs over $50,000 are attributed to rehabilitation or improvements to make the property handicapped accessible.*

*Subd. 8.* [SALE OF PROPERTY TO HOMEBUYER.] *The eligible organization may sell rehabilitated property to homebuyers. The terms and other provisions of the contract for deed must be established by the agency. The following requirements must be included in the contract: (1) the purchase price paid by the home buyer must be equal to the total costs of acquiring and rehabilitating the property; (2) no down payment or interest payment is required of the home buyer; and (3) the monthly payment must equal 25 percent of the home buyer's gross monthly income.*

*Subd. 9.* [RIGHT TO REPURCHASE.] *The eligible organization may repurchase the property if the home buyer rents, assigns, vacates, transfers, or offers to sell the property within 20 years of the purchase of the property from the organization. This option to repurchase does not apply to a transfer of the property to a surviving joint tenant or heir of the home buyer. If the organization chooses not to exercise its option to repurchase the property, the agency may repurchase the property.*

*The repurchase price paid by the organization or the agency may not*

*exceed the lesser of the (1) appraised value of the property at the time of repurchase, or (2) the sum of:*

*(i) the total amount paid by the home owner to the organization for debt payment on the contract for deed;*

*(ii) the value of any major improvements to the property that are paid directly by the home buyer and were not part of the required monthly payment; and*

*(iii) the product of the sum of (i) and (ii), and the increase in inflation based on the housing component of the federal Consumer Price Index.*

*Subd. 10.* [REPORTS.] *Each organization that receives a grant under this section shall submit an annual report to the agency by December 1 of each year that describes the use of grant funds received under this section.*

*The agency shall prepare and submit an annual report to the legislature and the governor by January 15 of each year, beginning in 1991, that summarizes the reports of the organizations. The agency's report may also include recommendations to improve the program.*

Sec. 9. [462A.203] [HOUSING PRESERVATION PROGRAM.]

*Subdivision 1.* [ESTABLISHMENT.] *The agency may establish a housing preservation program for the purpose of making housing preservation grants to cities. Cities may use the grants to establish revolving loan funds for the acquisition, improvement, or rehabilitation of residential buildings for the purpose of preserving eligible housing. To achieve the policy of economic integration stated in section 462A.02, subdivision 6, the aggregate original principal balances of noneligible mortgagor loans must not exceed 25 percent of the total amount of housing preservation loan funds allocated to a city provided that the mortgagor's income must not exceed 110 percent of the area median income. Housing preservation loans may not be made for housing located within a targeted neighborhood designated under a neighborhood revitalization program.*

*Subd. 2.* [ELIGIBILITY REQUIREMENTS.] *A city's application for a housing preservation grant must include a geographic description of the area for which the grant will be used. A city may designate only one area for each grant application submitted, but may submit more than one application. The application must include a city council resolution certifying that the designated area meets the following requirements:*

*(1) at least 70 percent of the single-family housing is at least 35 years old;*

*(2) at least 60 percent of the single-family housing is owner-occupied;*

*(3) the average market value of the area's owner-occupied housing is not more than 100 percent of the purchase price limit for existing homes eligible for purchase in the area under the agency's home mortgage loan program; and*

*(4) the geographic area consists of contiguous parcels of land.*

*Subd. 3.* [LOCAL MATCH.] *In order to qualify for a program grant, a city must match every dollar of state money with one dollar of city matching funds. City matching funds may consist of:*

*(1) money from the general fund or a special fund of the city;*

*(2) money paid or repaid to a city from the proceeds of a grant that the city has received from the federal government, a profit or nonprofit corporation, or another entity or individual;*

*(3) the greater of the fair market value or the cost to the city of acquiring land, buildings, equipment, or other real or personal property that a city contributes, grants, or loans to a profit or nonprofit corporation, or other entity or individual in connection with the implementation of the housing preservation program;*

*(4) money to be used to install, reinstall, repair, or improve the infrastructure facilities of an eligible area;*

*(5) money contributed by a city to pay issuance costs or to otherwise provide financial support for revenue bonds or obligations issued for a project or program related to the implementation of a housing preservation program; and*

*(6) money derived from fees received by a city in connection with its community development activities that are to be used in implementing a housing preservation program.*

*Subd. 4.* [ADVISORY COMMITTEE.] *Before a city may make any loans under the housing preservation program, the city must establish an advisory committee to advise and assist the city in implementing the housing preservation program.*

Sec. 10. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 3a.* [CAPACITY BUILDING REVOLVING LOAN FUND.] *It may establish a revolving loan fund for predevelopment costs for nonprofit organizations and local government units engaged in the construction or rehabilitation of low- and moderate-income housing, and for the purposes specified in sections 462A.05, subdivision 5; and 462A.07, subdivisions 2, 3, 3a, 5, 5a, 6, 7, 11, and 16. The agency may delegate the authority to administer the revolving loan fund for designated areas in the state to existing nonprofit organizations. Nonprofit entities selected to exercise such delegated powers must have sufficient professional housing development expertise, as determined by the agency, to evaluate the economic feasibility of an applicant's proposed project. Loans to nonprofit organizations or local government units under this subdivision may be made with or without interest as determined by the agency.*

Sec. 11. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 3b.* [CAPACITY BUILDING GRANTS.] *It may make capacity building grants to nonprofit organizations, local government units, Indian tribes, and Indian tribal organizations to expand their capacity to provide affordable housing and housing-related services. The grants may be used to assess housing needs and to develop and implement strategies to meet those needs, including the creation or preservation of affordable housing and the linking of supportive services to the housing. The agency shall adopt rules specifying the eligible uses of grant money. Funding priority must be given to those applicants that include low-income persons in their membership, have provided housing-related services to low-income people, and demonstrate a local commitment of local resources, which may include in-kind contributions. Grants under this subdivision may be made only*

*with specific appropriations by the legislature.*

Sec. 12. Minnesota Statutes 1988, section 462A.21, subdivision 4k, is amended to read:

Subd. 4k. [HOUSING DEVELOPMENT FUND.] The agency may make grants for residential housing for low-income persons under section 462A.05, subdivision 28, ~~from funds specifically appropriated by the legislature for that purpose~~ and may pay the costs and expenses for the development and operation of the program.

Sec. 13. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 8b.* [FAMILY RENTAL HOUSING.] *It may establish a family rental housing assistance program to provide loans or direct rental subsidies for housing for families with incomes of up to 60 percent of area median income. Priority must be given to those developments with resident families with the lowest income. The development may be financed by the agency or other public or private lenders. Direct rental subsidies must be administered by the agency for the benefit of eligible families. Financial assistance provided under this subdivision to recipients of aid to families with dependent children must be in the form of vendor payments whenever possible. Loans and direct rental subsidies under this subdivision may be made only with specific appropriations by the legislature.*

Sec. 14. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 8c.* [RENTAL HOUSING FOR INDIVIDUALS.] *It may establish a rental housing assistance program for persons of low income or with a mental illness to provide loans or direct rental subsidies for housing for individuals with incomes of up to 30 percent of area median income. Priority must be given to developments with the lowest income residents. Housing for the mentally ill must be operated in coordination with social service providers who provide services to tenants. The developments may be financed by the agency or other public or private entities. Direct rental subsidies must be administered by the agency for the benefit of eligible tenants. Financial assistance provided under this subdivision must be in the form of vendor payments whenever possible. Loans and direct rental subsidies under this subdivision may be made only with specific appropriations by the legislature.*

Sec. 15. Minnesota Statutes 1988, section 462A.21, subdivision 12, is amended to read:

Subd. 12. [TEMPORARY HOUSING.] It may make *loans or* grants for the purpose of section 462A.05, subdivision 20, and may pay the costs and expenses necessary and incidental to the *loan or* grant program authorized therein. ~~Grants pursuant to section 462A.05, subdivision 20 may be made only with specific appropriations by the legislature.~~

Sec. 16. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 12a.* [PROGRAM MONEY TRANSFER.] *Grants authorized under section 462A.05, subdivisions 20, 28, and 29, may be made only with specific appropriations by the legislature, but unencumbered balances of money appropriated for the purpose of loans or grants for agency programs under these subdivisions may be transferred between programs created by*

*these subdivisions or in accordance with section 462A.20, subdivision 3.*

Sec. 17. Minnesota Statutes 1988, section 462A.21, is amended by adding a subdivision to read:

*Subd. 15.* [RURAL AND URBAN HOMESTEADING PROGRAM.] *It may make grants to eligible organizations for the Minnesota rural and urban homesteading program under section 7 and may pay the costs and expenses necessary and incidental to the grant program.*

Sec. 18. [462A.28] [HOME EQUITY CONVERSION LOAN COUNSELING PROGRAM.]

*Subdivision 1.* [PROGRAM ADMINISTRATION.] *The agency shall select and contract with a nonprofit corporation to administer a home equity conversion loan counseling program for senior homeowners. The organization selected must meet the following requirements:*

*(1) its primary purpose is to assist elderly persons in obtaining and maintaining affordable housing;*

*(2) it is knowledgeable about reverse mortgage programs;*

*(3) it has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and*

*(4) it has knowledge of existing public support programs for older persons.*

*Subd. 2.* [PROGRAM RESPONSIBILITIES.] *The organization selected to administer the counseling program in subdivision 1 must perform the following program responsibilities with program clients:*

*(1) conduct a review of reverse mortgage programs, including the advantages, disadvantages, and alternatives;*

*(2) explain the effects of the mortgage on the client's estate and public benefits;*

*(3) explain the lending process; and*

*(4) discuss the client's supplemental income needs.*

Sec. 19. [STATEWIDE FUNDING ALLOCATION.]

*The Minnesota housing finance agency shall ensure that money appropriated for rental housing is distributed statewide and that within the seven-county metropolitan area, the area outside of the cities of Minneapolis and St. Paul receive an equitable distribution of the allocation.*

Sec. 20. [MINNESOTA RURAL AND URBAN HOMESTEADING PROGRAM PILOT PROJECT.]

*The Minnesota housing finance agency may award up to two pilot project grants under the rural and urban homesteading program. The agency may not award more than one pilot project grant in a county.*

Sec. 21. [REPEALER.]

*Minnesota Statutes 1988, section 474A.081, subdivision 3, is repealed.*

Sec. 22. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment.*

ARTICLE 2

LANDLORD-TENANT PROVISIONS

Section 1. Minnesota Statutes 1988, section 504.255, is amended to read:

504.255 [UNLAWFUL OUSTER OR EXCLUSION; DAMAGES.]

If a landlord, an agent, or other person acting under the landlord's direction or control, unlawfully and in bad faith removes ~~or~~, excludes, *or forcibly keeps out* a tenant from a residential premises, the tenant may recover from the landlord ~~up to~~ treble damages *or $500, whichever is greater,* and reasonable attorney's fees.

Sec. 2. Minnesota Statutes 1988, section 504.26, is amended to read:

504.26 [UNLAWFUL TERMINATION OF UTILITIES.]

Except as otherwise provided in this ~~subdivision~~ *section*, if a landlord, an agent or other person acting under the landlord's direction or control, interrupts or causes the interruption of electricity, heat, gas, or water services to the tenant, the tenant may recover from the landlord treble damages *or $500, whichever is greater,* and reasonable attorney's fees. It is a defense to any action brought under this ~~subdivision~~ *section* that the interruption was the result of the deliberate or negligent act or omission of a tenant or anyone acting under the direction or control of the tenant. The tenant may recover only actual damages under this ~~subdivision~~ *section* if:

(a) the tenant has not given the landlord, an agent or other person acting under the landlord's direction or control, notice of the interruption; or

(b) the landlord, an agent or other person acting under the landlord's direction or control, after receiving notice of the interruption from the tenant and within a reasonable period of time after the interruption, taking into account the nature of the service interrupted and the effect of the interrupted service on the health, welfare and safety of the tenants, has reinstated or made a good faith effort to reinstate the service or has taken other remedial action; or

(c) the interruption was for the purpose of repairing or correcting faulty or defective equipment or protecting the health and safety of the occupants of the premises involved and the service was reinstated or a good faith effort was made to reinstate the service or other remedial action was taken by the landlord, an agent, or other person acting under the landlord's direction or control within a reasonable period of time, taking into account the nature of the defect, the nature of the service interrupted and the effect of the interrupted service on the health, welfare and safety of the tenants.

Sec. 3. [504.29] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 3 to 5.*

*Subd. 2.* [OWNER.] *"Owner" has the meaning given it in section 566.18, subdivision 3.*

*Subd. 3.* [TENANT.] *"Tenant" has the meaning given it in section 566.18, subdivision 2.*

*Subd. 4.* [TENANT REPORT.] *"Tenant report" means a written, oral,*

*or other communication by a tenant screening service that includes information concerning an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, and that is collected, used, or expected to be used for the purpose of making decisions relating to residential tenancies or residential tenancy applications.*

*Subd. 5.* [TENANT SCREENING SERVICE.] *"Tenant screening service" means a person or business regularly engaged in the practice of gathering, storing, or disseminating information about tenants or assembling tenant reports for monetary fees, dues, or on a cooperative nonprofit basis.*

Sec. 4. [504.30] [TENANT REPORTS; DISCLOSURE AND CORRECTIONS.]

*Subdivision 1.* [DISCLOSURES REQUIRED.] *Upon request and proper identification, a tenant screening service must disclose the following information to an individual:*

*(1) the nature and substance of all information in its files on the individual at the time of the request; and*

*(2) the sources of the information.*

*A tenant screening service must make the disclosures to an individual without charge if information in a tenant report has been used within the past 30 days to deny the rental or increase the security deposit or rent of a residential housing unit to the individual. If the tenant report has not been used to deny the rental or increase the rent or security deposit of a residential housing unit within the past 30 days, the tenant screening service may impose a reasonable charge for making the disclosure required under this section. The tenant screening service must notify the tenant of the amount of the charge before furnishing the information. The charge may not exceed the amount that the tenant screening service would impose on each designated recipient of a tenant report, except that no charge may be made for notifying persons of the deletion of information which is found to be inaccurate or which can no longer be verified.*

*Subd. 2.* [CORRECTIONS.] *If the completeness or accuracy of an item of information contained in an individual's file is disputed by the individual, the tenant screening service must reinvestigate and record the current status of the information. If the information is found to be inaccurate or can no longer be verified, the tenant screening service must delete the information from the individual's file and tenant report. At the request of the individual, the tenant screening service must give notification of the deletions to persons who have received the tenant report within the past six months.*

*Subd. 3.* [EXPLANATIONS.] *The tenant screening service must permit an individual to explain any disputed item not resolved by reinvestigation in a tenant report. The explanation must be included in the tenant report. The tenant screening service may limit the explanation to no more than 100 words.*

*Subd. 4.* [COURT FILE INFORMATION.] *If a tenant screening service includes information from a court file on an individual in a tenant report, the outcome of the court proceeding must be accurately recorded in the tenant report, unless the outcome is not provided by the court. Whenever*

*the court supplies information from a court file on an individual, in whatever form, the court shall include information on the outcome of the court proceeding when it is available. The tenant screening service is not liable under section 5 if the tenant screening service reports complete and accurate information as provided by the court.*

*Subd. 5.* [INFORMATION TO TENANT.] *If the owner uses information in a tenant report to deny the rental or increase the security deposit or rent of a residential housing unit, the owner must inform the prospective tenant of the name and address of the tenant screening service that provided the tenant report.*

Sec. 5. [504.31] [TENANT REPORT; REMEDIES.]

*The remedies provided in section 8.31 apply to a violation of section 4. A tenant screening service or owner in compliance with the provisions of the Fair Credit Reporting Act, United States Code, title 15, section 1681, et seq., is considered to be in compliance with section 4.*

Sec. 6. [504.32] [NOTICE REQUIREMENT.]

*Subdivision 1.* [DEFINITIONS.] *The definitions of "owner" and "tenant" in section 566.18 apply to this section.*

*Subd. 2.* [NOTICE.] *The owner of federally subsidized rental housing must give tenants a one-year written notice under the following conditions:*

*(1) a federal section 8 contract will expire;*

*(2) the owner will exercise the option to terminate or not renew a federal section 8 contract and mortgage;*

*(3) the owner will prepay a mortgage and the prepayment will result in the termination of any federal use restrictions that apply to the housing; or*

*(4) the owner will terminate a housing subsidy program.*

*The notice shall be provided at the commencement of the lease if the lease commences less than one year before any of the above conditions apply.*

Sec. 7. Minnesota Statutes 1988, section 566.17, is amended to read:

566.17 [EXECUTION OF THE WRIT OF RESTITUTION.]

*Subdivision 1.* [GENERAL.] The officer holding the writ of restitution shall execute the same by making a demand upon defendant if found in the county or any adult member of the defendant's family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant leave, taking family and all personal property from such premises within 24 hours after such demand. If defendant fails to comply with the demand, then the officer shall bring, if necessary, the force of the county and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, family and all personal property from said premises detained, immediately and place the plaintiff in the possession thereof. In case defendant cannot be found in the county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of the premises, breaking in if necessary, and *the property of the defendant shall be removed and stored at a place designated by the plaintiff as provided under subdivision 2.*

*Subd. 2.* [REMOVAL AND STORAGE OF PROPERTY.] *(a) In cases where the defendant's personal property is to be stored in a place other than the premises, the officer shall* remove all property of the defendant at the expense of the plaintiff.

The plaintiff shall have a lien upon all of the goods upon the premises for the reasonable costs and expenses incurred for removing the personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from the premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and, in case of nonpayment for 60 days after the execution of the writ, shall have the right to enforce the lien and foreclose the same by public sale as provided for in case of sales under sections 514.18 to 514.22.

*(b) In cases where the defendant's property is to be stored on the premises, the officer shall enter the premises, breaking in if necessary, and the plaintiff may remove the defendant's personal property. The provisions of section 504.24 apply to property removed under this paragraph. The plaintiff must prepare an inventory and mail a copy of the inventory to the defendant's last known address or, if the defendant has provided a different address, to the address provided by the defendant. The inventory must be prepared, signed, and dated in the presence of the peace officer. The inventory must include the following:*

*(1) a listing of the items of personal property and a description of the condition of the property;*

*(2) the date, the signature of the plaintiff or the plaintiff's agent, and the name and telephone number of a person authorized to release the personal property; and*

*(3) the name and badge number of the peace officer.*

*The peace officer shall retain a copy of the inventory. The plaintiff is responsible for the proper removal, storage, and care of the defendant's personal property and is liable for damages for loss of or injury to the defendant's personal property caused by the plaintiff's failure to exercise care in regard to it as a reasonably careful person would exercise under like circumstances.*

*The plaintiff shall notify the defendant of the date and approximate time the officer is scheduled to remove the defendant, family, and the defendant's personal property from the premises. The notice must be sent by first-class mail. In addition, the plaintiff must make a good faith effort to notify the defendant by telephone. The notice must be mailed as soon as the information regarding the date and approximate time the officer is scheduled to enforce the writ is known to the plaintiff, except that the scheduling of the peace officer to enforce the writ need not be delayed because of the notice requirement. The notice must inform the defendant that the defendant and the defendant's property will be removed from the premises if the defendant has not vacated the premises by the time specified in the notice.*

*Subd. 3.* [PENALTY; WAIVER PROHIBITED.] *Unless the premises have been abandoned, a plaintiff, agent, or other person acting under the plaintiff's direction or control who enters the premises and removes the defendant's property in violation of this section is guilty of wrongful ouster under section 504.255 and is subject to penalty under section 504.25. The*

*provisions of this section may not be waived or modified by any oral or written lease or other agreement.*

Sec. 8. Minnesota Statutes 1988, section 566.175, subdivision 1, is amended to read:

Subdivision 1. [UNLAWFUL EXCLUSION OR REMOVAL.] *For purposes of this section, "unlawfully removed or excluded" means actual or constructive removal or exclusion. Actual or constructive removal or exclusion may include the termination of utilities, or the removal of doors, windows, or locks.* Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to the tenant may recover possession of the premises in the following manner:

(a) The tenant shall present a verified petition to the county or municipal court of the county in which the premises are located, which petition shall:

(1) describe the premises of which possession is claimed and the owner, as defined in section 566.18, subdivision 3, of the premises;

(2) specifically state the facts and grounds that demonstrate that the removal or exclusion was unlawful including a statement that no judgment and writ of restitution have been issued under section 566.09 in favor of the owner and against petitioner as to the premises and executed in accordance with section 566.17; and

(3) ask for possession thereof.

(b) If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or the petitioner's counsel or agent that the removal or exclusion was unlawful, the court shall immediately order that petitioner have possession of the premises.

(c) The petitioner shall furnish monetary or other security if any as the court deems appropriate under the circumstances for payment of all costs and damages the defendant may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of any security the court shall consider petitioner's ability to afford monetary security.

(d) The court shall direct the order to the sheriff or any constable of the county in which the premises is located and the sheriff or constable shall execute the order immediately by making a demand upon the defendant, if found, or the defendant's agent or other person in charge of the premises, for possession of the premises. If the defendant fails to comply with the demand, the officer shall take whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or the defendant's agent or other person in control of the premises cannot be found and if there is no person in charge of the premises detained so that no demand can be made, the officer shall immediately enter into possession of the premises and place the petitioner in possession of the premises. The officer shall also serve the order and verified petition or affidavit without delay upon the defendant or agent, in the same manner as a summons is required to be served in a civil action in district court.

Sec. 9. Minnesota Statutes 1988, section 566.29, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATOR.] The administrator may be ~~any~~ *a*

person, *local government unit or agency,* 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~~,~~ *or* court~~,~~ ~~or local~~ agency is authorized by statute, ordinance or regulation to provide persons to act as administrators under this section, the court may appoint such persons as administrators to the extent they are available.

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

Subd. 4. [POWERS.] The administrator ~~shall be empowered~~ *is authorized* to:

(a) Collect rents from tenants and commercial tenants, evict tenants and commercial tenants for nonpayment of rent or other cause, rent 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 for the rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property*, 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 necessary to remedy the violation or violations found by the court to exist *and for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property*, 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 for rehabilitation of the property in order to maintain safe and habitable conditions over the useful life of the property*, 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.

Sec. 11. Minnesota Statutes 1988, section 566.29, is amended by adding a subdivision to read:

*Subd. 6.* [BUILDING REPAIRS AND SERVICES.] *The administrator must first contract and pay for building repairs and services necessary to keep the building habitable before other expenses may be paid. If sufficient funds are not available for paying other expenses, such as tax and mortgage payments, after paying for necessary repairs and services, the owner is*

*responsible for the other expenses.*

Sec. 12. Minnesota Statutes 1988, section 566.29, is amended by adding a subdivision to read:

*Subd. 7.* [ADMINISTRATOR'S LIABILITY.] *The administrator may not be held personally liable in the performance of duties under this section except for misfeasance, malfeasance, or nonfeasance of office.*

Sec. 13. Minnesota Statutes 1988, section 566.29, is amended by adding a subdivision to read:

*Subd. 8.* [DWELLING'S ECONOMIC VIABILITY.] *In considering whether to grant the administrator funds under subdivision 4, the court must consider factors relating to the long-term economic viability of the dwelling. The court's analysis must consider factors including the causes leading to the appointment of an administrator, the repairs necessary to bring the property into code compliance, the market value of the property, and whether present and future rents will be sufficient to cover the cost of repairs or rehabilitation.*

Sec. 14. [566.291] [RECEIVERSHIP REVOLVING LOAN FUND.]

*The Minnesota housing finance agency may establish a revolving loan fund to pay the administrative expenses of receivership administrators under section 566.29 for properties for occupancy by low- and moderate-income persons or families. Property owners are responsible for repaying administrative expense payments made from the fund.*

Sec. 15. [566.34] [ESCROW OF RENT TO REMEDY VIOLATIONS.]

*Subdivision 1.* [DEFINITIONS.] *The definitions in section 566.18 apply to this section.*

*Subd. 2.* [ESCROW OF RENT.] *If a violation exists in a building, a tenant may deposit the amount of rent due to the owner with the court administrator using the following procedure:*

*(a) For a violation of section 566.18, subdivision 6, clause (a), the tenant may deposit with the court administrator the rent due the owner along with a copy of the written notice of the code violation as provided in section 566.19, subdivision 2. The tenant may not deposit the rent or file the written notice of the code violation until the time granted to make repairs has expired without satisfactory repairs being made, unless the tenant alleges that the time granted is excessive.*

*(b) For a violation of section 566.18, subdivision 6, clause (b) or (c), the tenant must give written notice to the owner specifying the violation. The notice must be delivered personally or sent to the person or place where rent is normally paid. If the violation is not corrected within 14 days, the tenant may deposit the amount of rent due to the owner with the court administrator along with an affidavit specifying the violation. The court must provide a simplified form affidavit for use under this clause.*

*As long as proceedings are pending under this section, the tenant must pay rent to the owner or as directed by the court and may not withhold rent to remedy a violation.*

*Subd. 3.* [COUNTERCLAIM FOR POSSESSION.] *The owner may file a counterclaim for possession of the premises in cases where the owner alleges that the tenant did not deposit the full amount of rent with the court*

*administrator. The court must set the date for a hearing on the counterclaim not less than seven nor more than 14 days from the day of filing the counterclaim. If the rent escrow hearing and the hearing on the counterclaim for possession cannot be heard on the same day, the matters must be consolidated and heard on the date scheduled for the hearing on the counterclaim. The contents of the counterclaim for possession must meet the requirements for a complaint in unlawful detainer under section 566.05. The owner must serve the counterclaim as provided in section 566.06, except that the affidavits of service or mailing may be brought to the hearing rather than filed with the court before the hearing. The court must provide a simplified form for use under this section.*

*Subd. 4.* [DEFENSES.] *The defenses provided in section 566.23 are defenses to an action brought under this section.*

*Subd. 5.* [FILING FEE.] *The court administrator may charge a filing fee in the amount set for complaints and counterclaims in conciliation court, subject to the filing of an inability to pay affidavit.*

*Subd. 6.* [NOTICE OF HEARING.] *A hearing must be held within ten to 14 days of the day a tenant deposits rent with the court administrator. If the cost of remedying the violation, as estimated by the tenant, is within the jurisdictional limit for conciliation court, the court administrator shall notify the owner and the tenant of the time and place of the hearing by first class mail. The tenant must provide the court administrator with the owner's name and address. If the owner has disclosed a post office box as the owner's address under section 504.22, notice of the hearing may be mailed to the post office box. If the cost of remedying the violation, as estimated by the tenant, is above the jurisdictional limit for conciliation court, the tenant must serve the notice of hearing according to the rules of civil procedure. The notice of hearing must specify the amount the tenant has deposited with the court administrator, and must inform the owner that possession of the premises will not be in issue at the hearing unless the owner files a counterclaim for possession or an action under sections 566.01 to 566.17.*

*Subd. 7.* [HEARING.] *The hearing shall be conducted by a court without a jury. A certified copy of an inspection report meets the requirements of rule 803(8) of the Rules of Evidence as an exception to the rule against hearsay, and meets the requirements of rules 901 and 902 of the Rules of Evidence as to authentication.*

*Subd. 8.* [RELEASE OF RENT PRIOR TO HEARING.] *If the tenant gives written notice to the court administrator that the violation has been remedied, the court administrator must release the rent to the owner and, unless the hearing has been consolidated with another action, must cancel the hearing. If the tenant and the owner enter into a written agreement signed by both parties apportioning the rent between them, the court administrator must release the rent in accordance with the written agreement and cancel the hearing.*

*Subd. 9.* [CONSOLIDATION WITH UNLAWFUL DETAINER.] *Actions under this section and actions in unlawful detainer brought under sections 566.01 to 566.17 which involve the same parties must be consolidated and heard on the date scheduled for the unlawful detainer.*

*Subd. 10.* [JUDGMENT.] *(a) Upon finding that a violation exists, the court may, in its discretion, do any or all of the following:*

*(1) order relief as provided in section 566.25, including retroactive rent abatement;*

*(2) order that all or a portion of the rent in escrow be released for the purpose of remedying the violation;*

*(3) order that rent be deposited with the court as it becomes due to the owner or abate future rent until the owner remedies the violation; or*

*(4) impose fines as required in section 16.*

*(b) When a proceeding under this section has been consolidated with a counterclaim for possession or an action in unlawful detainer under sections 566.01 to 566.17, and the owner prevails, the tenant may redeem the tenancy as provided in section 504.02.*

*(c) When a proceeding under this section has been consolidated with a counterclaim for possession or an action under an unlawful detainer under sections 566.01 to 566.17 on the grounds of nonpayment, the court may not require the tenant to pay the owner's filing fee as a condition of retaining possession of the premises when the tenant has deposited with the court the full amount of money found by the court to be owed to the owner.*

*Subd. 11.* [RELEASE OF RENT AFTER HEARING.] *Upon finding, after a hearing on the matter has been held, that no violation exists in the building or that the tenant did not deposit the full amount of rent due with the court administrator, the court shall order the immediate release of the rent to the owner. Upon finding that a violation existed, but was remedied between the commencement of the action and the hearing, the court may order rent abatement and must release the rent to the parties accordingly. Any rent found to be owed to the tenant must be released to the tenant.*

*Subd. 12.* [RETALIATION; WAIVER; RIGHTS AS ADDITIONAL.] *The provisions of section 566.28 apply to proceedings under this section. The tenant rights under this section may not be waived or modified and are in addition to and do not limit other rights or remedies which may be available to the tenant and owner, except as provided in subdivision 2.*

Sec. 16. [566.35] [VIOLATIONS OF BUILDING REPAIR ORDERS.]

*Subdivision 1.* [NONCOMPLIANCE; FINES.] *Upon finding an owner has willfully failed to comply with a court order to remedy a violation, the court shall fine the owner according to the following schedule:*

*(1) $250 for the first failure to comply;*

*(2) $500 for the second failure to comply with an order regarding the same violation; and*

*(3) $750 for the third and each subsequent failure to comply with an order regarding the same violation.*

*Subd. 2.* [CRIMINAL PENALTY.] *An owner who willfully fails to comply with a court order to remedy a violation is guilty of a gross misdemeanor if it is the third or subsequent time that the owner has willfully failed to comply with an order to remedy a violation within a three-year period.*

*Subd. 3.* [FINES COLLECTED.] *Fines collected under subdivision 1 in Hennepin county must be used for expenses of the fourth judicial district, housing calendar consolidation project. Fines collected under subdivision 1 in Ramsey county must be used for expenses of the second judicial district, housing calendar consolidation project.*

Sec. 17. [HOUSING CALENDAR CONSOLIDATION PILOT PROJECT.]

*Subdivision 1.* [ESTABLISHMENT.] *A three-year pilot project may be established in the second and fourth judicial districts to consolidate the hearing and determination of matters related to residential rental housing and to ensure continuity and consistency in the disposition of cases.*

*Subd. 2.* [JURISDICTION.] *The housing calendar project may consolidate the hearing and determination of all proceedings under Minnesota Statutes, chapters 504 and 566; criminal and civil proceedings related to violations of any state, county or city health, safety, housing, building, fire prevention or housing maintenance code; escrow of rent proceedings; landlord-tenant damage actions; and actions for rent and rent abatement. A proceeding under sections 566.01 to 566.17 may not be delayed because of the consolidation of matters under the housing calendar project.*

*Subd. 3.* [REFEREE.] *The chief judge of district court may appoint a referee for the housing calendar project. The referee must be learned in the law. The referee must be compensated according to the same scale used for other referees in the district court. Minnesota Statutes, section 484.70, subdivision 6, applies to the housing calendar project.*

*Subd. 4.* [REFEREE DUTIES.] *The duties and powers of the referee in the housing calendar project are as follows:*

*(1) to hear and report all matters within the jurisdiction of the housing calendar project and as may be directed to the referee by the chief judge; and*

*(2) to recommend findings of fact, conclusions of law, temporary and interim orders, and final orders for judgment.*

*All recommended orders and findings of the referee are subject to confirmation by a judge.*

*Subd. 5.* [TRANSMITTAL OF COURT FILE.] *Upon the conclusion of the hearing in each case, the referee must transmit to the district court judge, the court file together with the referee's recommended findings and orders in writing. The recommended findings and orders of the referee become the findings and orders of the court when confirmed by the district court judge. The order of the court is proof of the confirmation.*

*Subd. 6.* [CONFIRMATION OF REFEREE ORDERS.] *Review of any recommended order or finding of the referee by a district court judge may be had by notice served and filed within ten days of effective notice of the recommended order or finding. The notice of review must specify the grounds for the review and the specific provisions of the recommended findings or orders disputed, and the district court judge, upon receipt of the notice of review, must set a time and place for the review hearing.*

*Subd. 7.* [PROCEDURES.] *The chief judge of the district must establish procedures for the implementation of the pilot project, including designation of a location for the hearings. The chief judge may also appoint other staff as necessary for the project.*

*Subd. 8.* [EVALUATION.] *The state court administrator may establish a procedure in consultation with the chief judge of each district, each district administrator, and an advisory group for evaluating the efficiency and the effectiveness of consolidating the hearing of residential rental housing matters, and must report to the legislature by January 1, 1992.*

*An advisory group, appointed by the state court administrator, may be established to provide ongoing oversight and evaluation of the housing calendar consolidation project. The advisory group must include representatives of the second and fourth judicial districts and must be composed of at least one representative from each of the following groups: the state court administrator's office; the district court administrator's office; the district judges; owners of rental property; and tenants.*

Sec. 18. [DEMONSTRATION PROJECTS.]

*The establishment of a housing calendar project under section 17 is a demonstration project to evaluate the effectiveness of coordinating the adjudication of all housing-related cases in one court.*

Sec. 19. [REPEALER.]

*Sections 16, subdivision 3; 17; and 18 are repealed July 1, 1992.*

ARTICLE 3

MISCELLANEOUS

Section 1. [363.032] [AFFIRMATIVE MARKETING REGULATIONS.]

*To promote and encourage open housing policies, the commissioner must establish affirmative marketing regulations for housing developers that receive more than $50,000 in state or local funds. The regulations must require the management or marketing agency for the housing development to adopt an information distribution or marketing plan for actively informing minorities and other protected groups of available housing opportunities. For purposes of this subdivision, "protected groups" has the meaning given it in section 43A.02, subdivision 33. The commissioner may adopt rules to carry out the purposes of this section.*

Sec. 2. [363.033] [RENTAL HOUSING PRIORITY; ACCESSIBLE UNITS.]

*Subdivision 1.* [DEFINITIONS.] *The definitions in this subdivision apply to this section.*

*(a) "Accessible unit" means an accessible rental housing unit that meets the handicapped facility requirements of the state building code, Minnesota Rules, chapter 1340.*

*(b) "Owner" has the meaning given it in section 566.18, subdivision 3.*

*Subd. 2.* [PRIORITY REQUIREMENT.] *(a) An owner of rental housing that contains accessible units must give priority for the rental of an accessible unit to a disabled person or a family with a disabled family member who will reside in the unit. The owner must inform nondisabled persons and families that do not include a disabled family member of the possibility of being offered a non-handicapped-equipped unit as provided under this section before a rental agreement to rent an accessible unit is entered.*

*(b) If a nondisabled person or a family that does not include a disabled person is living in an accessible unit, the person or family must be offered a non-handicapped-equipped unit if the following conditions occur:*

*(1) a disabled person or a family with a disabled family member who will reside in the unit has signed a rental agreement to rent the accessible unit; and*

*(2) a similar non-handicapped-equipped unit in the same rental housing*

*complex is available at the same rent.*

Sec. 3. Minnesota Statutes 1988, section 463.21, is amended to read:

463.21 [ENFORCEMENT OF JUDGMENT.]

If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed or the hazardous condition to be removed or corrected as set forth in the judgment, or acquire the building, *if any,* and real estate on which the building or hazardous condition is located by eminent domain as provided in section 463.152. The cost of ~~such~~ *the* repairs, razing, *correction,* or removal ~~shall~~ *may* be*:* a lien against the real estate on which the building is located or the hazardous condition exists ~~and~~*, or recovered by obtaining a judgment against the owner of the real estate on which the building is located or the hazardous condition exists. A lien* may be levied and collected only as a special assessment in the manner provided by Minnesota Statutes 1961, sections 429.061 to 429.081, but the assessment ~~shall be~~ *is* payable in a single installment. When the building is razed or removed by the municipality, the governing body may sell the salvage and valuable materials at public auction upon three days' posted notice.

Sec. 4. Minnesota Statutes 1988, section 469.007, is amended to read:

469.007 [POWERS OF COUNTY AND MULTICOUNTY AUTHORITIES.]

*Subdivision 1.* [POWERS.] A county or multicounty authority and its commissioners shall, within the area of operation of the authority, have the same functions, rights, powers, duties, privileges, immunities, and limitations as are provided for housing and redevelopment authorities created for cities, and for the commissioners of those authorities. The provisions of law applicable to housing and redevelopment authorities created for cities and their commissioners shall be applicable to county and multicounty authorities and their commissioners, except as clearly indicated otherwise.

*Subd. 2.* [POWERS AS TO HOUSING DEVELOPMENT PROJECTS.] *When a county or multicounty authority undertakes any housing project or housing development project involving the acquisition of multifamily housing rental properties that (1) were financed under the federal section 8 or section 236 programs, or (2) are designed to be affordable to persons or families with incomes not greater than 80 percent of median income for the metropolitan statistical area or nonmetropolitan county, and are located within any city or town, the authority shall notify the governing body of the city or town in writing of the location of the housing project or housing development project. If the governing body fails to take action on a housing project or housing development project in a writing which sets forth its reasons for the action within 30 days, the governing body is considered to have approved the location of the housing project or housing development project for purposes of any special or general law requiring local approval of the location of housing projects and housing development projects undertaken by county or multicounty authorities.*

Sec. 5. Minnesota Statutes 1988, section 469.012, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE OF POWERS.] An authority shall be a public body corporate and politic and shall have all the powers necessary or convenient to carry out the purposes of sections 469.001 to 469.047,

except that the power to levy and collect taxes or special assessments is limited to the power provided in sections 469.027 to 469.033. Its powers include the following powers in addition to others granted in sections 469.001 to 469.047:

(1) to sue and be sued; to have a seal, which shall be judicially noticed, and to alter it; to have perpetual succession; and to make, amend, and repeal rules consistent with sections 469.001 to 469.047;

(2) to employ an executive director, technical experts, and officers, agents, and employees, permanent and temporary, that it requires, and determine their qualifications, duties, and compensation; for legal services it requires, to call upon the chief law officer of the city or to employ its own counsel and legal staff; so far as practicable, to use the services of local public bodies in its area of operation, provided that those local public bodies, if requested, shall make the services available;

(3) to delegate to one or more of its agents or employees the powers or duties it deems proper;

(4) within its area of operation, to undertake, prepare, carry out, and operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof;

(5) subject to the provisions of section 469.026, to give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and to execute leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments, and take action that is necessary or convenient to carry out the purposes of these sections;

(6) within its area of operation, to acquire real or personal property or any interest therein by gifts, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by chapter 117, to acquire real property which it may deem necessary for its purposes, after the adoption by it of a resolution declaring that the acquisition of the real property is necessary to eliminate one or more of the conditions found to exist in the resolution adopted pursuant to section 469.003 or to provide decent, safe, and sanitary housing for persons of low and moderate income, or is necessary to carry out a redevelopment project. Real property needed or convenient for a project may be acquired by the authority for the project by condemnation pursuant to this section. This includes any property devoted to a public use, whether or not held in trust, notwithstanding that the property may have been previously acquired by condemnation or is owned by a public utility corporation, because the public use in conformity with the provisions of sections 469.001 to 469.047 shall be deemed a superior public use. Property devoted to a public use may be so acquired only if the governing body of the municipality has approved its acquisition by the authority. An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 469.001 to 469.047 of the real property in an area;

(7) within its area of operation, and without the adoption of an urban renewal plan, to acquire, by all means as set forth in clause (6) but without the adoption of a resolution provided for in clause (6), real property, and

to demolish, remove, rehabilitate, or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or to so provide through other means as set forth in Laws 1974, chapter 228, or to grade, fill, and construct foundations or otherwise prepare the site for improvements. The authority may dispose of the property pursuant to section 469.029, provided that the provisions of section 469.029 requiring conformance to an urban renewal plan shall not apply. The authority may finance these activities by means of the redevelopment project fund or by means of tax increments or tax increment bonds or by the methods of financing provided for in section 469.033 or by means of contributions from the municipality provided for in section 469.041, clause (9), or by any combination of those means. Real property with buildings or improvements thereon shall only be acquired under this clause when the buildings or improvements are substandard. The exercise of the power of eminent domain under this clause shall be limited to real property which contains buildings and improvements which are vacated and substandard. For the purpose of this clause, substandard buildings or improvements mean hazardous buildings as defined in section 463.15, subdivision 3, or buildings or improvements that are dilapidated or obsolescent, faultily designed, lack adequate ventilation, light, or sanitary facilities, or any combination of these or other factors that are detrimental to the safety or health of the community;

(8) within its area of operation, to determine the level of income constituting low or moderate family income. The authority may establish various income levels for various family sizes. In making its determination, the authority may consider income levels that may be established by the federal housing administration or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use that determination as a basis for the maximum amount of income for admissions to housing development projects or housing projects owned or operated by it;

(9) to provide in federally assisted projects any relocation payments and assistance necessary to comply with the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any amendments or supplements thereto;

(10) to make, or agree to make, payments in lieu of taxes to the city or the county, the state or any political subdivision thereof, that it finds consistent with the purposes of sections 469.001 to 469.047;

(11) to cooperate with or act as agent for the federal government, the state or any state public body, or any agency or instrumentality of the foregoing, in carrying out any of the provisions of sections 469.001 to 469.047 or of any other related federal, state, or local legislation; and upon the consent of the governing body of the city to purchase, lease, manage, or otherwise take over any housing project already owned and operated by the federal government;

(12) to make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority may develop, test, and report methods and techniques, and carry out demonstrations and other activities for the prevention and elimination

of slums and blight;

(13) to borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, the state government, state public bodies, or from any other public or private sources;

(14) to include in any contract for financial assistance with the federal government any conditions that the federal government may attach to its financial aid of a project, not inconsistent with purposes of sections 469.001 to 469.047, including obligating itself (which obligation shall be specifically enforceable and not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; to provide in the contract that, in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project until the defaults are cured if the federal government agrees in the contract to reconvey to the authority the project as then constituted when the defaults have been cured;

(15) to issue bonds for any of its corporate purposes and to secure the bonds by mortgages upon property held or to be held by it or by pledge of its revenues, including grants or contributions;

(16) to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control or in the manner and subject to the conditions provided in section 475.66 for the deposit and investment of debt service funds;

(17) within its area of operation, to determine where blight exists or where there is unsafe, unsanitary, or overcrowded housing;

(18) to carry out studies of the housing and redevelopment needs within its area of operation and of the meeting of those needs. This includes study of data on population and family groups and their distribution according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, desirable patterns for land use and community growth, and other factors affecting the local housing and redevelopment needs and the meeting of those needs; to make the results of those studies and analyses available to the public and to building, housing, and supply industries;

(19) if a local public body does not have a planning agency or the planning agency has not produced a comprehensive or general community development plan, to make or cause to be made a plan to be used as a guide in the more detailed planning of housing and redevelopment areas;

(20) to lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities included in any project and, subject to the limitations contained in sections 469.001 to 469.047 with respect to the rental of dwellings in housing projects, to establish and revise the rents or charges therefor;

(21) to own, hold, and improve real or personal property and to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein;

(22) to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards;

(23) to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by an authority and to pay premiums on the insurance;

(24) to make expenditures necessary to carry out the purposes of sections 469.001 to 469.047;

(25) to enter into an agreement or agreements with any state public body to provide informational service and relocation assistance to families, individuals, business concerns, and nonprofit organizations displaced or to be displaced by the activities of any state public body;

(26) to compile and maintain a catalog of all vacant, open and undeveloped land, or land which contains substandard buildings and improvements as that term is defined in clause (7), that is owned or controlled by the authority or by the governing body within its area of operation and to compile and maintain a catalog of all authority owned real property that is in excess of the foreseeable needs of the authority, in order to determine and recommend if the real property compiled in either catalog is appropriate for disposal pursuant to the provisions of section 469.029, subdivisions 9 and 10;

(27) to recommend to the city concerning the enforcement of the applicable health, housing, building, fire prevention, and housing maintenance code requirements as they relate to residential dwelling structures that are being rehabilitated by low or moderate income persons pursuant to section 469.029, subdivision 9, for the period of time necessary to complete the rehabilitation, as determined by the authority;

(28) to recommend to the city the initiation of municipal powers, against certain real properties, relating to repair, closing, condemnation, or demolition of unsafe, unsanitary, hazardous, and unfit buildings, as provided in section 469.041, clause (5); ~~and~~

(29) to sell, at private or public sale, at the price or prices determined by the authority, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization by a public agency to a business, for-profit or nonprofit organization, or an individual~~.~~*; and*

*(30) within its area of operation, to acquire and sell real property that is benefited by federal housing assistance payments, other rental subsidies, interest reduction payments, or interest reduction contracts for the purpose of preserving the affordability of low- and moderate-income multifamily housing.*

Sec. 6. Minnesota Statutes 1988, section 580.04, is amended to read:

580.04 [REQUISITES OF NOTICE.]

Each notice shall specify:

(1) The name of the mortgagor and of the mortgagee, and of the assignee of the mortgage, if any, and the original principal amount secured by said mortgage;

(2) The date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

(3) The amount claimed to be due thereon, and taxes, if any, paid by the mortgagee at the date of the notice;

(4) A description of the mortgaged premises, conforming substantially to that contained in the mortgage;

(5) The time and place of sale; ~~and~~

(6) The time allowed by law for redemption by the mortgagor, the mortgagor's personal representatives or assigns~~.~~*; and*

*(7) If the party foreclosing the mortgage desires to preserve the right to reduce the redemption period under section 13 after the first publication of the notice, the notice must also state in capital letters: "THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 580.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."*

Sec. 7. Minnesota Statutes 1988, section 580.12, is amended to read:

580.12 [CERTIFICATE OF SALE; RECORD; EFFECT.]

When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

(1) A description of the mortgage;

(2) A description of the property sold;

(3) The price paid for each parcel sold;

(4) The time and place of the sale, and the name of the purchaser; *and*

(5) The time allowed by law for redemption~~.~~ ~~The~~, *provided that if the redemption period stated in the certificate is five weeks and a longer redemption period was stated in the published notice of foreclosure sale, a certified copy of the court order entered under section 13, authorizing reduction of the redemption period to five weeks, must be attached to the certificate.*

*A certificate which states a five-week redemption period must be recorded within ten days after the sale; any other* certificate ~~shall~~ *must* be recorded within 20 days after ~~such~~ *the* sale~~,~~ ~~and~~. When so recorded, upon expiration of the time for redemption, *the certificate* shall operate as a conveyance to the purchaser or the purchaser's assignee of all the right, title, and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance.

Sec. 8. Minnesota Statutes 1988, section 580.23, subdivision 1, is amended to read:

Subdivision 1. When lands have been sold in conformity with the preceding sections of this chapter the mortgagor, the mortgagor's personal representatives or assigns, within six months after such sale, except as otherwise provided in subdivision 2 *or section 13*, may redeem such lands, as hereinafter provided, by paying the sum of money for which the same

were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt and, if no rate be provided in the mortgage note, at the rate of six percent per annum, together with any further sums which may be payable ~~pursuant to section~~ *as provided in sections* 582.03 *and section 12*.

Sec. 9. Minnesota Statutes 1988, section 580.24, is amended to read:

580.24 [REDEMPTION BY CREDITOR.]

If no such redemption be made by the mortgagor, the mortgagor's personal representatives or assigns, the senior creditor having a lien, legal or equitable, upon the mortgaged premises, or some part thereof, subsequent to the mortgage, may redeem within five days after the expiration of the redemption period ~~specified in~~ *determined under* section 580.23 *or section 13, whichever is applicable*; and each subsequent creditor having a lien in succession, according to priority of liens, within five days after the time allowed the prior lienholder, respectively, may redeem by paying the amount aforesaid and all liens prior to the lienholder's own held by the person from whom redemption is made; provided that no creditor shall be entitled to redeem unless within the period allowed for redemption the creditor file for record notice of intention to redeem with the county recorder or registrar of titles of each county where the mortgage is recorded.

Sec. 10. Minnesota Statutes 1988, section 581.10, is amended to read:

581.10 [REDEMPTION BY MORTGAGOR, CREDITOR.]

The mortgagor, or those claiming under the mortgagor, within the time specified in section 580.23 *or section 13, whichever applies,* after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefor, with interest thereon from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed eight percent per annum, and, if no rate to be provided in the mortgage, at the rate of six percent, together with any further sum which may be payable pursuant to section 582.03 *and section 12*. Creditors having a lien may redeem in the order and manner specified in section 580.24, but no creditor shall be entitled to redeem unless within ~~such specified~~ *the applicable* redemption period the creditor files with the court administrator notice of intention to redeem.

Sec. 11. Minnesota Statutes 1988, section 582.03, is amended to read:

582.03 [PURCHASER AT FORECLOSURE, EXECUTION, OR JUDICIAL SALE MAY PAY TAXES, ASSESSMENTS, INSURANCE PREMIUMS, OR INTEREST.]

The purchaser at any sale, upon foreclosure of mortgage or execution or at any judicial sale during the ~~year~~ *period* of redemption, may pay any taxes or assessments on which any penalty would otherwise accrue, and may pay the premium upon any policy of insurance procured in renewal of any expiring policy upon mortgaged premises, *may pay any costs incurred under section 12,* and may, in case any interest or installment of principal upon any prior or superior mortgage, *lien, or contract for deed* is in default or shall become due during ~~such year~~ *the period* of redemption, pay the same, and, in all such cases, the sum so paid, with interest, shall be a part of the sum required to be paid to redeem from such sale. Such payments shall be proved by the affidavit of the purchaser or the purchaser's agent or attorney, stating the items and describing the premises, which must be

filed for record with the county recorder or registrar of titles, and a copy thereof shall be furnished to the sheriff at least ten days before the expiration of the ~~year~~ *period* of redemption.

Sec. 12. [582.031] [LIMITED RIGHT OF ENTRY BY MORTGAGEE OR PURCHASER AT FORECLOSURE SALE.]

*Subdivision 1.* [RIGHT OF ENTRY.] *If premises described in a mortgage or sheriff's certificate are vacant or unoccupied, the holder of the mortgage or sheriff's certificate or the holder's agents and contractors may, but is under no obligation to, enter upon the premises to protect the premises from waste, until the holder of the mortgage or sheriff's certificate receives notice that the premises are occupied. The holder of the mortgage or sheriff's certificate does not become a mortgagee in possession by taking actions authorized under this section. An affidavit of the sheriff, the holder of the mortgage or sheriff's certificate, or a person acting on behalf of the holder, describing the premises and stating that the same are vacant or unoccupied, is prima facie evidence of the facts stated in the affidavit and is entitled to be recorded in the office of the county recorder or the registrar of titles in the county where the premises are located, if it contains a legal description of the premises.*

*Subd. 2.* [AUTHORIZED ACTIONS.] *The holder of the mortgage or sheriff's certificate may take the following actions to protect the premises from waste: install or change locks on doors and windows, board windows, and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities. If the holder of the mortgage or sheriff's certificate installs or changes locks under this section, a key to the premises must be promptly delivered to the mortgagor or any person lawfully claiming through the mortgagor, upon request.*

*Subd. 3.* [COSTS.] *All costs incurred by the holder of the mortgage to protect the premises from waste may be added to the principal balance of the mortgage. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. If the costs are incurred after a foreclosure sale, the purchaser at the foreclosure sale must comply with the provisions of section 582.03. The provisions of this section are in addition to, and do not limit or replace, any other rights or remedies available to holders of mortgages and sheriff's certificates, at law or under the applicable mortgage agreements.*

Sec. 13. [582.032] [FIVE-WEEK REDEMPTION PERIOD FOR CERTAIN ABANDONED PROPERTIES.]

*Subdivision 1.* [APPLICATION.] *This section applies to mortgages executed after December 31, 1989, under which there has been a default in the payment of money existing for at least 60 days as of the date of the filing of the complaint or motion provided for in this section. This section applies only when the mortgaged premises are:*

*(1) ten acres or less in size;*

*(2) improved with a residential dwelling consisting of less than five units which is neither a model home nor a dwelling under construction; and*

*(3) not property used in agricultural production within the meaning of Laws 1986, chapter 398, section 5.*

*This section applies to foreclosures by action under chapter 581 and to*

*foreclosures by advertisement under chapter 580.*

*Subd. 2.* [BEFORE FORECLOSURE SALE.] *Notwithstanding section 580.23 or 581.10, if at any time before the foreclosure sale but not more than 30 days before the first publication of the notice of sale, a court order is entered reducing the mortgagor's redemption period to five weeks under subdivision 7, after the mortgaged premises have been sold as provided in chapter 580 or 581, the mortgagor, and the mortgagor's personal representatives or assigns, within five weeks after the sale under chapter 580, or within five weeks after the date of the order confirming the sale under chapter 581, may redeem the mortgaged premises as provided in section 580.23, subdivision 1, or section 581.10, as applicable. If an order is obtained after the first publication of the notice of sale, the five-week redemption period applies only if the notice of sale contained the statement required by section 580.04, clause (7).*

*Subd. 3.* [AFTER FORECLOSURE SALE.] *Notwithstanding section 580.23 or 581.10, if at any time after the foreclosure sale, a court order is entered reducing the mortgagor's redemption period under subdivision 7, the period during which the mortgagor, the mortgagor's personal representatives and assigns, may redeem the mortgaged premises in accordance with the provisions of section 580.23, subdivision 1, or section 581.10, as applicable, is reduced so as to expire five weeks from the date the order is entered. Within ten days after the order is entered, a certified copy of the order must be filed with the office of the county recorder or registrar of titles for the county in which the mortgaged premises are located, and a copy of the order must be posted in a conspicuous place on the mortgaged premises. Within ten days of the order's entry, a copy of the order must be sent by certified mail to any party holding a lien or interest of record junior to the foreclosed mortgage who has filed with the county recorder or registrar of titles a certificate identifying the lienholder and the lien claimed, stating the lienholder's address and the legal description of the property covered by the lien, and requesting notice of any post-foreclosure sale reduction of the mortgagor's redemption period for any superior lien. Affidavits of posting and mailing to evidence the same are prima facie evidence of the facts stated therein and are entitled to recordation along with the certified copy of the order.*

*Subd. 4.* [SUMMONS AND COMPLAINT.] *In a foreclosure by advertisement, the party foreclosing a mortgage or holding the sheriff's certificate of sale may initiate a proceeding in district court to reduce the mortgagor's redemption period under this section. The proceeding must be initiated by the filing of a complaint, naming the mortgagor, or the mortgagor's personal representatives or assigns of record, as defendant, in district court for the county in which the mortgaged premises are located. If the proceeding is commenced after the foreclosure sale, the holders of junior liens and interests entitled to notice under subdivision 3 must also be named as defendants. The complaint must identify the mortgaged premises by legal description and must identify the mortgage by the names of the mortgagor and mortgagee, and any assignee of the mortgagee; the date of its making; and pertinent recording information. The complaint must allege that the mortgaged premises are:*

*(1) ten acres or less in size;*

*(2) improved with a residential dwelling consisting of less than five units, which is not a model home or a dwelling under construction;*

*(3) not property used in agricultural production within the meaning of Laws 1986, chapter 398, section 5; and*

*(4) abandoned.*

*The complaint must request an order reducing the mortgagor's redemption period to five weeks. When the complaint has been filed, the court shall issue a summons commanding the person or persons named in the complaint to appear before the court on a day and at a place stated in the summons. The appearance date shall be not less than 15 nor more than 25 days from the date of the issuing of the summons. A copy of the filed complaint must be attached to the summons.*

*Subd. 5.* [ORDER TO SHOW CAUSE.] *In a foreclosure by action, the plaintiff or the holder of the sheriff's certificate may make a motion to reduce the mortgagor's redemption period under this section. The motion must conform generally to the pleading requirements provided in subdivision 4. For purposes of the motion, the court has continuing jurisdiction over the parties and the mortgaged premises through the expiration of the redemption period. When the motion has been filed, the court shall issue an order to show cause commanding the parties it considers appropriate to appear before the court on a day and at a place stated in the order. The appearance date may not be less than 15 nor more than 25 days after the date of the order to show cause. A copy of the motion must be attached to the order to show cause.*

*Subd. 6.* [SERVICE.] *The summons or order to show cause may be served by any person not named a party to the action. The summons or order to show cause must be served at least seven days before the appearance date, in the manner provided for service of a summons in a civil action in the district court. If the defendant cannot be found in the county, the summons or order to show cause may be served by sending a copy by certified mail to the defendant's last known address, if any, at least ten days before the appearance date. The summons or order to show cause must be posted in a conspicuous place on the mortgaged premises not less than seven days before the appearance date. If personal or certified mail service cannot be made on a defendant, then the plaintiff or plaintiff's attorney may file an affidavit to that effect with the court and service by posting the summons or order to show cause on the mortgaged premises is sufficient as to that defendant.*

*Subd. 7.* [HEARING; EVIDENCE; ORDER.] *At the hearing on the summons and complaint or order to show cause, the court shall enter an order reducing the mortgagor's redemption period as provided in subdivision 2 or 3, as applicable, if evidence is presented supporting the allegations in the complaint or motion and no appearance is made to oppose the relief sought. An affidavit by the sheriff or a deputy sheriff of the county in which the mortgaged premises are located, or of a building inspector, zoning administrator, housing official, or other municipal or county official having jurisdiction over the mortgaged premises, stating that the mortgaged premises are not actually occupied and further setting forth any of the following supporting facts, is prima facie evidence of abandonment:*

*(1) windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired;*

*(2) doors to the premises are smashed through, broken off, unhinged,*

*or continuously unlocked;*

*(3) gas, electric, or water service to the premises has been terminated;*

*(4) rubbish, trash, or debris has accumulated on the mortgaged premises;*

*(5) the police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises; or*

*(6) the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.*

*An affidavit of the party foreclosing the mortgage or holding the sheriff's certificate, or one of their agents or contractors, stating any of the above supporting facts, and that the affiant has changed locks on the mortgaged premises under section 12 and that for a period of ten days no party having a legal possessory right has requested entrance to the premises, is also prima facie evidence of abandonment. Either affidavit described above, or an affidavit from any other person having knowledge, may state facts supporting any other allegations in the complaint or motion and is prima facie evidence of the same. Written statements of the mortgagor, the mortgagor's personal representatives or assigns, including documents of conveyance, which indicate a clear intent to abandon the premises, are conclusive evidence of abandonment. In the absence of affidavits or written statements, or if rebuttal evidence is offered by the defendant or a party lawfully claiming through the defendant, the court may consider any competent evidence, including oral testimony, concerning any allegation in the complaint or motion. An order entered under this section must contain a legal description of the mortgaged premises.*

*Subd. 8.* [RECORDING.] *A certified copy of an order reducing a mortgagor's redemption period entered under this section may be recorded in the office of the county recorder or registrar of titles for the county in which the mortgaged premises are located.*

Sec. 14. Minnesota Statutes 1988, section 582.30, subdivision 2, is amended to read:

Subd. 2. [GENERAL PROHIBITION FOR PROPERTY WITH A SIX-MONTH *OR FIVE-WEEK* REDEMPTION PERIOD.] A deficiency judgment is not allowed if a mortgage is foreclosed by advertisement under chapter 580, and has a redemption period of six months under section 580.23, subdivision 1, *or five weeks under section 13.*

ARTICLE 4

SPECIAL LAWS

Section 1. [DEFINITION.]

*"City" means the city of Saint Paul and the city of Minneapolis for purposes of sections 2 to 6.*

Sec. 2. Laws 1974, chapter 285, section 1, is amended to read:

Section 1. [~~MINNEAPOLIS, CITY OF;~~ HOUSING *ACQUISITION* AND REHABILITATION LOAN AND GRANT PROGRAM; PURPOSE.] The legislature of the state of Minnesota finds that preservation of the quality of life in a major metropolitan city is dependent upon the preservation of adequate housing, that many houses in the ~~city~~ *cities* of Minneapolis *and*

*Saint Paul* do not meet the applicable housing code *or otherwise need rehabilitation or modernizing*, that there is a need for a comprehensive housing rehabilitation program in the ~~city~~ *cities* of Minneapolis *and Saint Paul* which will complement any statewide housing rehabilitation program, that some home owners are unable to afford any rehabilitation expenses, that many home owners are unable to afford housing rehabilitation loans at market rate of interest, ~~and~~ that because the availability of mortgage credit for housing rehabilitation is limited some home owners cannot obtain such credit, *and that reinvestment in the housing stock by rehabilitating and updating homes is necessary to maintain the stability of neighborhoods in the city. The legislature further finds that the construction of housing to replace individual dilapidated and obsolete buildings, for which rehabilitation is not economically feasible, is necessary to increase the stability and maintain the value of housing in established neighborhoods.*

Sec. 3. Laws 1974, chapter 285, section 2, is amended to read:

Sec. 2. [~~CITY OF MINNEAPOLIS;~~ HOUSING REHABILITATION LOAN PROGRAM.] The city ~~of Minneapolis~~ is authorized to develop and administer a housing rehabilitation loan program with respect to property located anywhere within its boundaries on such terms and conditions as it determines; provided that in approving applications for ~~this~~ *such a* program, the following factors shall be considered:

(1) The availability of other governmental programs affordable by the applicant;

(2) The availability and affordability of private market financing;

(3) Whether the housing is required, pursuant to an urban renewal program or a code enforcement program, to be repaired, improved, or rehabilitated;

(4) Whether the housing is required, pursuant to a court order issued under Minnesota Statutes, 1973 Supplement, Section 566.25, Clauses (b), (c), and (e), to be repaired, improved, or rehabilitated;

(5) Whether the housing has been determined to be uninsurable because of physical hazards after inspection pursuant to a statewide property insurance plan approved by the United States Department of Housing and Urban Development under Title XII of the National Housing Act; and ~~further provided that all loans and grants shall be issued primarily for rehabilitating housing so that it meets applicable housing codes.~~

*(6) Whether rehabilitation of the housing will maintain or improve the value of the housing and will help to stabilize the neighborhood in which the housing is located.*

Sec. 4. Laws 1974, chapter 285, is amended by adding a section to read:

Sec. 2a. [NEW SINGLE FAMILY RESIDENCES.]

*Any housing rehabilitation loan program undertaken under section 3 may also provide for the city to make or purchase loans made to finance the acquisition of single family residences that have been newly constructed in established neighborhoods on land owned by the city or any agency of the city. For purposes of this section, land shall be considered to be owned by the city if the city or one of its agencies previously owned the land and conveyed it to an individual under a development agreement in which the individual has agreed to construct single family housing on such land. In*

*approving applications for a loan to be made under this section, the following factors shall be considered:*

*(1) the availability and affordability of other governmental programs or private market financing; and*

*(2) whether the construction of such housing enhances the stability of the neighborhood in which it is located.*

Sec. 5. Laws 1974, chapter 285, section 3, is amended to read:

Sec. 3. [~~CITY OF MINNEAPOLIS;~~ HOUSING REHABILITATION GRANT PROGRAM.] The city ~~of Minneapolis~~ is authorized to develop and administer a housing rehabilitation grant program with respect to property within its boundaries, on such terms and conditions as it determines; provided that in approving applications for *grants under* this program, all of the considerations and limitations enumerated in section 2 for loans must be considered ~~in making grants under this program~~, and the following factors must also be considered:

(1) Whether the housing unit is a single family dwelling or homesteaded unit and

(2) Whether the applicant is a person of low income; and further provided that the city council ~~of the city of Minneapolis~~ shall by ordinance set forth the regulations for ~~this~~ *its* grant program; and further provided that the dollar value of grants made shall not exceed five percent of the total value of the bonds issued for the loan and grant program together, *and that all grants shall be made primarily to rehabilitate housing so that it meets applicable housing codes.*

Sec. 6. Laws 1974, chapter 285, section 4, is amended to read:

Sec. 4. [ISSUANCE OF BONDS.] To finance the programs authorized in sections 2, *2a*, and 3 of this act, the governing body of the city ~~of Minneapolis~~ may by resolution authorize, issue, and sell general obligation bonds of the city ~~of Minneapolis~~ in accordance with the provisions of Minnesota Statutes, Chapter 475. The total amount of all bonds outstanding for the programs shall not exceed ~~$10,000,000~~ *$25,000,000*. The amount of all bonds issued shall be included in the net indebtedness of the city for the purpose of any charter or statutory debt limitation.

Sec. 7. [462C.13] [CITY INDIAN HOUSING AUTHORITY.]

*A city may establish an Indian housing authority as provided in the Code of Federal Regulations, title 24, part 905, with all necessary legal powers to carry out housing projects for low- and moderate-income American Indians.*

Sec. 8. [REPEALER.]

*Laws 1974, chapter 351, sections 1, 2, 3, and 4, as amended by Laws 1975, chapter 260, section 5; and Laws 1975, chapter 260, sections 1, 2, 3, 4, and 5, are repealed.*

Sec. 9. [EFFECTIVE DATE.]

*Sections 1 to 6 and 8 are effective the day after enactment without local approval in accordance with Minnesota Statutes, section 645.023, subdivision 1, clause (a).*

ARTICLE 5

CAN-DO AND WAY TO GROW/SCHOOL READINESS PROGRAMS

Section 1. [116J.983] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *For the purposes of section 2, the following terms have the meanings given them.*

*Subd. 2.* [COMMUNITY AND NEIGHBORHOOD DEVELOPMENT ORGANIZATION GRANT.] *"Community and neighborhood development organization grant" or "grant" means a grant awarded under section 2, subdivision 1.*

*Subd. 3.* [COMMUNITY AND NEIGHBORHOOD DEPARTMENT ORGANIZATION PLAN.] *"Community and neighborhood department organization plan" or "plan" means the plan required under section 2, subdivision 2.*

*Subd. 4.* [ELIGIBLE ORGANIZATION.] *"Eligible organization" means a nonprofit organization or group of persons that is recognized as a viable community or neighborhood organization by a home rule charter or statutory city, town, or an Indian tribe, and that has defined neighborhood or community boundaries. An eligible organization must have a board that is representative of the neighborhood's or community's interests and whose members reflect the cultural, racial, and ethnic diversity of the neighborhood or community. An eligible organization or group of persons must complete training and be certified as required under section 2, subdivision 3.*

Sec. 2. [116J.984] [COMMUNITY AND NEIGHBORHOOD DEVELOPMENT ORGANIZATION PILOT PROJECT.]

*Subdivision 1.* [COMMUNITY AND NEIGHBORHOOD DEVELOPMENT GRANTS.] *The commissioner may award matching grants to eligible organizations. Grants to any one eligible organization may not exceed $25,000 in any fiscal year and a grant may not be used for any purpose that replaces an existing community program identified by the commissioner. Each grant must be matched with at least two dollars of nonstate money or in-kind contributions to each dollar of grant money. The grants may be used for community or neighborhood public safety and human service activities, street and public property lighting, recycling efforts, repair or removal of dilapidated buildings, community or neighborhood beautification and cleanup, historic preservation of buildings, small scale park and open space development, increasing or preserving the availability of housing primarily serving low- or moderate-income persons, and other projects, programs, or activities that the commissioner determines will improve or revitalize the community or neighborhood.*

*Subd. 2.* [GRANT APPLICATIONS.] *Eligible organizations may apply to the commissioner for grants awarded under subdivision 1. The application must include a community and neighborhood development organization plan that addresses the following:*

*(1) a geographic, social, and economic description of the area served by the eligible organization;*

*(2) a description of why the projects or activities are required in the neighborhood or community;*

*(3) a detailed description of the objectives for which the grant money*

*will be used;*

*(4) a description of the process used to encourage citizen involvement in determining the needs, objectives, and the design of the project or activity;*

*(5) an assessment of the strength and weaknesses of the neighborhood or community;*

*(6) a detailed description of the projects or activities that will be used to implement the objectives;*

*(7) a description of the expected outcomes of the projects or activities financed by the grant;*

*(8) identification of the source of the required matching funds; and*

*(9) any other information the commissioner determines necessary to award the grants.*

*Subd. 3.* [TRAINING; CERTIFICATION.] *Before an eligible organization may apply for a grant under subdivision 1, the commissioner must certify that the eligible organization meets administrative, fiscal accountability, and planning requirements. The commissioner shall establish a set of criteria for the certification of eligible organizations. The commissioner may provide leadership and other training to eligible organizations to assist them in meeting the requirements for certification and developing the community and neighborhood development organization plan. The commissioner may use other department resources and staff to carry out the training.*

*Subd. 4.* [RECERTIFICATION.] *An eligible organization must be recertified annually to maintain its eligibility for grants under subdivision 1. As part of recertification, the commissioner shall review the plan to determine whether the organization continues to address its objectives and the organization demonstrates that the community or neighborhood's level of volunteer citizen participation is maintained or expanded.*

*Subd. 5.* [APPLICATIONS; PRIORITY.] *The commissioner may establish criteria to establish the priority of the applications received for grants awarded under subdivision 1. The criteria may include:*

*(1) the degree of community support measured by the amount of participation in the project or activities by volunteers;*

*(2) the extent that the eligible organizations have participated with or solicited input from other organizations that provide community and regional assistance;*

*(3) the amount of nonstate matching funds identified as available for the project or activities; and*

*(4) any other criteria the commissioner determines necessary to carry out the purposes of this section.*

*Subd. 6.* [ENTITLEMENT.] *The commissioner may set aside up to 40 percent of the money available under this section for grants awarded to eligible organizations located in cities of the first class as defined in section 410.01.*

*Subd. 7.* [LOCAL GOVERNMENT SUPPORT.] *Before an application*

*for a grant awarded under subdivision 1 may be considered by the commissioner, the eligible organization must have received a formal resolution of support for the application of the governing body of the home rule charter or statutory city, town, or Indian tribe within whose jurisdiction the eligible organization is located.*

*Subd. 8.* [COMMUNITY ASSISTANCE PROGRAM INVENTORY.] *The commissioner may develop and maintain an inventory of public and private community assistance programs. The inventory must be made available to eligible organizations, other community assistance providers, and other persons that request assistance from the commissioner. In developing the inventory the commissioner shall coordinate with other similar activities.*

*Subd. 9.* [RULES.] *The commissioner may adopt rules under chapter 14 as necessary for the administration of the grants under this section.*

*Subd. 10.* [STATE AGENCY COOPERATION.] *State agencies must cooperate and assist when requested by the commissioner to carry out the purposes of this section.*

*Subd. 11.* [ADVISORY COMMITTEE.] *The commissioner may establish advisory committees to assist in carrying out the purposes of this section.*

Sec. 3. [145.926] [WAY TO GROW/SCHOOL READINESS PROGRAM.]

*Subdivision 1.* [ADMINISTRATION.] *The commissioner of state planning shall administer the way to grow/school readiness program, in consultation with the commissioners of human services and education, to promote intellectual, social, emotional, and physical development and school readiness of children prebirth to age five by coordinating and improving access to community based and neighborhood based services that support and assist all parents in meeting the health and developmental needs of their children at the earliest possible age.*

*Subd. 2.* [PROGRAM COMPONENTS.] *A way to grow/school readiness program may include:*

*(1) a program of home visitors to contact pregnant women early in their pregnancies, encourage them to obtain prenatal care, and provide social support, information, and referrals regarding prenatal care and well-baby care to reduce infant mortality, low birth weight, and childhood injury, disease, and disability;*

*(2) a program of home visitors to provide social support, information, and referrals regarding parenting skills and to encourage families to participate in parenting skills programs and other family supportive services;*

*(3) support of neighborhood based or community based parent-child and family resource centers or interdisciplinary resource teams to offer supportive services to families with preschool children;*

*(4) staff training, technical assistance, and incentives for collaboration designed to raise the quality of community services relating to prenatal care, child development, health, and school readiness;*

*(5) programs to raise general public awareness about practices that promote healthy child development and school readiness;*

*(6) support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources,*

*and parenting skills needed to nurture and care for their children;*

*(7) programs to expand public and private collaboration to promote the development of a coordinated and culturally specific system of services available to all families;*

*(8) support of periodic screening and evaluation services for preschool children to assure adequate developmental progress;*

*(9) support of health, educational, and other developmental services needed by families with preschool children;*

*(10) support of family prevention and intervention programs needed to address risks of child abuse or neglect;*

*(11) development or support of a jurisdiction-wide coordinating agency to develop and oversee programs to enhance child health, development, and school readiness with special emphasis on neighborhoods with a high proportion of children in need; and*

*(12) other programs or services to improve the health, development, and school readiness of children in target neighborhoods and communities.*

*Subd. 3.* [ELIGIBLE GRANTEES.] *An application for a grant may be submitted by any of the following entities:*

*(1) a city, town, county, school district, or other local unit of government;*

*(2) two or more governmental units organized under a joint powers agreement;*

*(3) a community action agency that satisfies the requirements of section 268.53, subdivision 1; or*

*(4) a nonprofit organization, or consortium of nonprofit organizations, that demonstrates collaborative effort with at least one unit of local government.*

*Subd. 4.* [PILOT PROJECTS.] *The commissioner of state planning shall award grants for one pilot project in each of the following areas of the state:*

*(1) a first class city located within the metropolitan area as defined in section 473.121, subdivision 2;*

*(2) a second class city located within the metropolitan area as defined in section 473.121, subdivision 2;*

*(3) a city with a population of 50,000 or more that is located outside of the metropolitan area as defined in section 473.121, subdivision 2; and*

*(4) the area of the state located outside of the metropolitan area as defined in section 473.121, subdivision 2.*

*To the extent possible, the commissioner of state planning shall award grants to applicants with experience or demonstrated ability in providing comprehensive, multidisciplinary, community based programs with objectives similar to those listed in subdivision 2, or in providing other human services or social services programs using a multidisciplinary, community based approach.*

*Subd. 5.* [APPLICATIONS.] *Each grant application must propose a five-year program designed to accomplish the purposes of this section. The application must be submitted on forms provided by the commissioner of*

*state planning. The grant application must include:*

*(1) a description of the specific neighborhoods that will be served under the program and the name, address, and a description of each community agency or agencies with which the applicant intends to contract to provide services using grant money;*

*(2) a letter of intent from each community agency identified in clause (1) that indicates the agency's willingness to participate in the program and approval of the proposed program structure and components;*

*(3) a detailed description of the structure and components of the proposed program and an explanation of how each component will contribute to accomplishing the purposes of this section;*

*(4) a description of how public and private resources, including schools, health care facilities, government agencies, neighborhood organizations, and other resources, will be coordinated and made accessible to families in target neighborhoods, including letters of intent from public and private agencies indicating their willingness to cooperate with the program;*

*(5) a detailed, proposed budget that demonstrates the ability of the program to accomplish the purposes of this section using grant money and other available resources, including funding sources other than a grant; and*

*(6) a comprehensive evaluation plan for measuring the success of the program in meeting the objectives of the overall grant program and the individual grant project, including an assessment of the impact of the program in terms of at least three of the following criteria:*

*(i) utilization rates of community services;*

*(ii) availability of support systems for families;*

*(iii) birth weights of newborn babies;*

*(iv) child accident rates;*

*(v) utilization rates of prenatal care;*

*(vi) reported rates of child abuse; and*

*(vii) rates of health screening and evaluation.*

*Subd. 6.* [MATCH.] *Each dollar of state money must be matched with 50 cents of nonstate money. The pilot project selected under subdivision 4, clause (4), may match state money with in-kind contributions, including volunteer assistance.*

*Subd. 7.* [ADVISORY COMMITTEES.] *The commissioner of state planning shall establish a program advisory committee consisting of persons knowledgeable in child development, child and family services, and the needs of people of color and high risk populations; and representatives of the commissioners of state planning and education. Each grantee must establish a program advisory board of 12 or more members to advise the grantee on program design, operation, and evaluation. The board must include representatives of local units of government and representatives of the project area who reflect the geographic, cultural, racial, and ethnic diversity of that community.*

*Subd. 8.* [REPORT.] *The commissioner of state planning shall provide a biennial report to the legislature on the program administration and the*

*activities of projects funded under this section.*

ARTICLE 6

NEIGHBORHOOD REVITALIZATION PROGRAM

Section 1. Minnesota Statutes 1988, section 282.01, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATION; USE; EXCHANGE.] It is the general policy of this state to encourage the best use of tax-forfeited lands, recognizing that some lands in public ownership should be retained and managed for public benefits while other lands should be returned to private ownership. All parcels of land becoming the property of the state in trust under the provisions of any law now existing or hereafter enacted declaring the forfeiture of lands to the state for taxes, shall be classified by the county board of the county wherein such parcels lie as conservation or nonconservation. Such classification shall be made with consideration, among other things, to the present use of adjacent lands, the productivity of the soil, the character of forest or other growth, accessibility of lands to established roads, schools, and other public services, their peculiar suitability or desirability for particular uses and the suitability of the forest resources on the land for multiple use, sustained yield management. Such classification, furthermore, shall aid: to encourage and foster a mode of land utilization that will facilitate the economical and adequate provision of transportation, roads, water supply, drainage, sanitation, education, and recreation; to facilitate reduction of governmental expenditures; to conserve and develop the natural resources; and to foster and develop agriculture and other industries in the districts and places best suited thereto.

In making such classification the county board may make use of such data and information as may be made available by any office or department of the federal, state, or local governments, or by any other person or agency possessing information pertinent thereto at the time such classification is made. Such lands may be reclassified from time to time as the county board may deem necessary or desirable, except as to conservation lands held by the state free from any trust in favor of any taxing district.

If any such lands are located within the boundaries of any organized town, with taxable valuation in excess of $20,000, or incorporated municipality, the classification or reclassification and sale shall first be approved by the town board of such town or the governing body of such municipality insofar as the lands located therein are concerned. The town board of the town or the governing body of the municipality will be deemed to have approved the classification or reclassification and sale if the county board is not notified of the disapproval of the classification or reclassification and sale within 90 days of the date the request for approval was transmitted to the town board of the town or governing body of the municipality. If the town board or governing body desires to acquire any parcel lying in the town or municipality by procedures authorized in this subdivision, it shall, within 90 days of the request for classification or reclassification and sale, file a written application with the county board to withhold the parcel from public sale. The county board shall then withhold the parcel from public sale for one year.

Any tax-forfeited lands may be sold by the county board to any organized or incorporated governmental subdivision of the state for any public purpose for which such subdivision is authorized to acquire property or may be

released from the trust in favor of the taxing districts upon application of any state agency for any authorized use at not less than their value as determined by the county board. The commissioner of revenue ~~shall have power to~~ *may* convey by deed in the name of the state any tract of tax-forfeited land held in trust in favor of the taxing districts, to any governmental subdivision for any authorized public use, provided that an application ~~therefor shall be~~ *is* submitted to the commissioner with a statement of facts as to the use to be made of ~~such~~ *the* tract and the need therefor and the recommendation of the county board. *The commissioner of revenue shall convey by deed in the name of the state any tract of tax-forfeited land held in trust in favor of the taxing districts, to a political subdivision that submits an application to the commissioner of revenue and the county board. The application must include a resolution, adopted by the governing body of the political subdivision, finding that the conveyance of a tract of tax-forfeited land to the political subdivision is necessary to provide for the redevelopment of land as productive taxable property.* The deed of conveyance shall be upon a form approved by the attorney general and shall be conditioned upon continued use for the purpose stated in the application, provided, however, that if the governing body of such governmental subdivision by resolution determines that some other public use shall be made of such lands, and such change of use is approved by the county board and an application for such change of use is made to, and approved by, the commissioner, such changed use may be made of such lands without the necessity of the governing body conveying the lands back to the state and securing a new conveyance from the state to the governmental subdivision for such new public use.

Whenever any governmental subdivision to which any tax-forfeited land has been conveyed for a specified public use as provided in this section shall fail to put such land to such use, or to some other authorized public use as provided herein, or shall abandon such use, the governing body of the subdivision shall authorize the proper officers to convey the same, or such portion thereof not required for an authorized public use, to the state of Minnesota, and such officers shall execute a deed of such conveyance forthwith, which conveyance shall be subject to the approval of the commissioner and in form approved by the attorney general, provided, however, that a sale, lease, transfer or other conveyance of such lands by a housing and redevelopment authority, *a port authority, an economic development authority, or a city* as authorized by ~~sections 469.001 to 469.047~~ *chapter 469* shall not be an abandonment of such use and such lands shall not be reconveyed to the state nor shall they revert to the state. A certificate made by a housing and redevelopment authority, *a port authority, an economic development authority, or a city* referring to a conveyance by it and stating that the conveyance has been made as authorized by ~~sections 469.001 to 469.047~~ *chapter 469* may be filed with the county recorder or registrar of titles, and the rights of reverter in favor of the state provided by this subdivision will then terminate. No vote of the people shall be required for such conveyance. In case any such land shall not be so conveyed to the state, the commissioner of revenue shall by written instrument, in form approved by the attorney general, declare the same to have reverted to the state, and shall serve a notice thereof, with a copy of the declaration, by certified mail upon the clerk or recorder of the governmental subdivision concerned, provided, that no declaration of reversion shall be made earlier than five years from the date of conveyance for failure to put such land to such use or from the date of abandonment of such use if such lands have

been put to such use. The commissioner shall file the original declaration in the commissioner's office, with verified proof of service as herein required. The governmental subdivision may appeal to the district court of the county in which the land lies by filing with the court administrator a notice of appeal, specifying the grounds of appeal and the description of the land involved, mailing a copy thereof by certified mail to the commissioner of revenue, and filing a copy thereof for record with the county recorder or registrar of titles, all within 30 days after the mailing of the notice of reversion. The appeal shall be tried by the court in like manner as a civil action. If no appeal is taken as herein provided, the declaration of reversion shall be final. The commissioner of revenue shall file for record with the county recorder or registrar of titles, of the county within which the land lies, a certified copy of the declaration of reversion and proof of service.

Any city of the first class now or hereafter having a population of 450,000, or over, or its board of park commissioners, which has acquired tax-forfeited land for a specified public use pursuant to the terms of this section, may convey said land in exchange for other land of substantially equal worth located in said city of the first class, provided that the land conveyed to said city of the first class now or hereafter having a population of 450,000, or over, or its board of park commissioners, in exchange shall be subject to the public use and reversionary provisions of this section; the tax-forfeited land so conveyed shall thereafter be free and discharged from the public use and reversionary provisions of this section, provided that said exchange shall in no way affect the mineral or mineral rights of the state of Minnesota, if any, in the lands so exchanged.

Sec. 2. Minnesota Statutes 1988, section 462C.02, is amended by adding a subdivision to read:

*Subd. 12.* [LOAN.] *"Loan" means (1) for single family housing, any loan, mortgage, or other form of owner financing; and (2) for multifamily housing developments which are rental property, any loan, mortgage, financing lease, or revenue agreement.*

Sec. 3. Minnesota Statutes 1988, section 462C.02, is amended by adding a subdivision to read:

*Subd. 13.* [REVENUE AGREEMENT] *"Revenue agreement" has the meaning given that term in section 469.153, subdivision 10.*

Sec. 4. Minnesota Statutes 1988, section 462C.05, is amended by adding a subdivision to read:

*Subd. 8.* [REVENUE AGREEMENT AND FINANCING LEASE.] *Any revenue agreement or financing lease which includes a provision for a conveyance of real estate to the lessee or contracting party may be terminated in accordance with the revenue agreement or financing lease, notwithstanding that the revenue agreement or financing lease may constitute an equitable mortgage. No financing lease of any development is subject to section 504.02, unless expressly so provided in the financing lease. Leases of specific dwelling units in the development to tenants are not affected by this subdivision.*

Sec. 5. Minnesota Statutes 1988, section 463.15, subdivision 3, is amended to read:

Subd. 3. [HAZARDOUS BUILDING *OR HAZARDOUS PROPERTY*.]

"Hazardous building *or hazardous property*" means any building *or property*, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

Sec. 6. Minnesota Statutes 1988, section 463.15, subdivision 4, is amended to read:

Subd. 4. [OWNER, OWNER OF RECORD, AND LIEN HOLDER OF RECORD.] "Owner," "owner of record," and "lien holder of record" means a person having a right or interest in property ~~to which Laws 1967, chapter 324, applies~~ *described in subdivision 3* and evidence of which is filed and recorded in the office of the county recorder or registrar of titles in the county in which the property is situated.

Sec. 7. Minnesota Statutes 1988, section 463.16, is amended to read:

463.16 [REPAIR OR REMOVAL OF HAZARDOUS BUILDING; *HAZARDOUS PROPERTY CONDITIONS.*]

The governing body of any city or town may order the owner of any hazardous building *or property* within the municipality to correct *or remove* the hazardous condition of ~~such~~ *the* building *or property* or to raze or remove the ~~same~~ *building*.

Sec. 8. Minnesota Statutes 1988, section 463.161, is amended to read:

463.161 [ABATEMENT.]

In the manner prescribed in section 463.21 the governing body of any city or town may correct *or remove* the hazardous condition of any hazardous building or ~~parcel of real estate~~ *property*; the cost of which shall be charged against the real estate as provided in section 463.21 except the governing body may provide that the cost so assessed may be paid in not to exceed five equal annual installments with interest therein, at eight percent per annum.

Sec. 9. Minnesota Statutes 1988, section 463.17, is amended to read:

463.17 [THE ORDER.]

Subdivision 1. [CONTENTS.] The order shall be in writing; recite the grounds therefor; specify the necessary repairs, if any, and provide a reasonable time for compliance; and shall state that a motion for summary enforcement of the order will be made to the district court of the county in which the hazardous building *or property* is situated unless corrective action is taken, or unless an answer is filed within the time specified in section 463.18.

Subd. 2. [SERVICE.] The order shall be served upon the owner of record, or the owner's agent if an agent is in charge of the building *or property*, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon the owner by posting it at the main entrance to the building *or, if there is no building, in a conspicuous place on the property*, and by four weeks' publication in the official newspaper of the municipality if it has one, otherwise in a legal newspaper in the county.

Subd. 3. [FILING.] A copy of the order with proof of service shall be filed with the court administrator of district court of the county in which

the hazardous building *or property* is located not less than five days prior to the filing of a motion pursuant to section 463.19 to enforce the order. At the time of filing such order the municipality shall file for record with the county recorder or registrar of titles a notice of the pendency of the proceeding, describing with reasonable certainty the lands affected and the nature of the order. If the proceeding be abandoned the municipality shall within ten days thereafter file with the county recorder a notice to that effect.

Sec. 10. Minnesota Statutes 1988, section 463.20, is amended to read:

463.20 [CONTESTED CASES.]

If an answer is filed and served as provided in section 463.18, further proceedings in the action shall be governed by the rules of civil procedure for the district courts, except that the action has priority over all pending civil actions and shall be tried forthwith. If the order is sustained following the trial, the court shall enter judgment and shall fix a time after which the building ~~shall~~ *must* be destroyed or repaired *or the hazardous condition removed or corrected*, as the case may be, in compliance with the order as originally filed or modified by the court. If the order is not sustained, it shall be annulled and set aside. The court administrator of the court shall cause a copy of the judgment to be mailed forthwith to the persons upon whom the original order was served.

Sec. 11. Minnesota Statutes 1988, section 463.22, is amended to read:

463.22 [STATEMENT OF MONEYS RECEIVED.]

The municipality shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses theretofore incurred in connection with its enforcement, including specifically, but not exclusively, filing fees, service fees, publication fees, attorney's fees, appraisers' fees, witness fees, including expert witness fees, and traveling expenses incurred by the municipality from the time the order was originally made, and shall credit thereon the amount, if any, received from the sale of the salvage, or building or structure, and shall report its action under the order, with a statement of moneys received and expenses incurred to the court for approval and allowance. Thereupon the court shall examine, correct, if necessary, and allow the expense account, and, if the amount received from the sale of the salvage, or of the building or structure, does not equal or exceed the amount of expenses as allowed, the court shall by its judgment certify the deficiency in the amount so allowed to the municipal clerk for collection. The owner or other party in interest shall pay the same, without penalty added thereon, and in default of payment by October 1, the clerk shall certify the amount of the expense to the county auditor for entry on the tax lists of the county as a special charge against the real estate on which the building *or hazardous condition* is or was situated and the same shall be collected in the same manner as other taxes and the amount so collected shall be paid into the municipal treasury. If the amount received for the sale of the salvage or of the building or structure exceeds the expense incurred by the municipality as allowed by the court, and if there are no delinquent taxes, the court shall direct the payment of the surplus to the owner or the payment of the same into court, as provided in sections 463.15 to 463.26. If there are delinquent taxes against the property, the court shall direct the payment of the surplus to the county treasurer to be applied on such taxes.

Sec. 12. [469.201] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 12 to 18.*

*Subd. 2.* [CITY.] *"City" means a city of the first class as defined in section 410.01. For each city, a port authority, housing and redevelopment authority, or other agency or instrumentality, the jurisdiction of which is the territory of the city, is included within the meaning of city.*

*Subd. 3.* [CITY COUNCIL.] *"City council" means the city council of a city as defined in subdivision 2.*

*Subd. 4.* [CITY MATCHING MONEY.] *(a) "City matching money" means the money of a city specified in a revitalization program. The sources of city matching money may include:*

*(1) money from the general fund or a special fund of a city used to implement a revitalization program;*

*(2) money paid or repaid to a city from the proceeds of a grant that a city has received from the federal government, a profit or nonprofit corporation, or another entity or individual, that is to be used to implement a revitalization program;*

*(3) tax increments received by a city under sections 469.174 to 469.179 or other law, if eligible, to be spent in the targeted neighborhood;*

*(4) the greater of the fair market value or the cost to the city of acquiring land, buildings, equipment, or other real or personal property that a city contributes, grants, leases, or loans to a profit or nonprofit corporation or other entity or individual, in connection with the implementation of a revitalization program;*

*(5) city money to be used to acquire, install, reinstall, repair, or improve the infrastructure facilities of a targeted neighborhood;*

*(6) money contributed by a city to pay issuance costs, fund bond reserves, or to otherwise provide financial support for revenue bonds or obligations issued by a city for a project or program related to the implementation of a revitalization program;*

*(7) money derived from fees received by a city in connection with its community development activities that are to be used in implementing a revitalization program;*

*(8) money derived from the apportionment to the city under section 162.14 or by special law, and expended in a targeted neighborhood for an activity related to the revitalization program;*

*(9) administrative expenses of the city that are incurred in connection with the planning, implementation, or reporting requirements of sections 12 to 18.*

*(b) City matching money does not include:*

*(1) city money used to provide a service or to exercise a function that is ordinarily provided throughout the city, unless an increased level of the service or function is to be provided in a targeted neighborhood in accordance with a revitalization program;*

*(2) the proceeds of bonds issued by the city under chapter 462C or 469 and payable solely from repayments made by one or more nongovernmental*

*persons in consideration for the financing provided by the bonds; or*

*(3) money given by the state to fund any part of the revitalization program.*

*Subd. 5.* [COMMISSIONER.] *"Commissioner" means the commissioner of trade and economic development.*

*Subd. 6.* [HOUSING ACTIVITIES.] *"Housing activities" include any work or undertaking to provide housing and related services and amenities primarily for persons and families of low or moderate income. This work or undertaking may include the planning of buildings and improvements; the acquisition of real property which may be needed immediately or in the future for housing purposes and the demolition of any existing improvements; and the construction, reconstruction, alteration, and repair of new and existing buildings. Housing activities also include the provision of a housing rehabilitation and energy improvement loan and grant program with respect to any residential property located within the targeted neighborhood, the cost of relocation relating to acquiring property for housing activities, and programs authorized by chapter 462C.*

*Subd. 7.* [LOST UNIT.] *"Lost unit" means a rental housing unit that is lost as a result of revitalization activities because it is demolished, converted to an owner-occupied unit that is not a cooperative, or converted to a nonresidential use, or because the gross rent to be charged exceeds 125 percent of the gross rent charged for the unit six months before the start of rehabilitation.*

*Subd. 8.* [PERSONS AND FAMILIES OF LOW INCOME.] *"Persons and families of low income" means persons and families of low income as defined in section 469.002, subdivision 17.*

*Subd. 9.* [PERSONS AND FAMILIES OF MODERATE INCOME.] *"Persons and families of moderate income" means persons and families of moderate income as defined in section 469.002, subdivision 18.*

*Subd. 10.* [TARGETED NEIGHBORHOOD.] *"Targeted neighborhood" means an area including one or more census tracts, as determined and measured by the Bureau of Census of the United States Department of Commerce, that a city council determines in a resolution adopted under section 13, subdivision 1, meets the criteria of section 13, subdivision 2, and any additional area designated under section 13, subdivision 3.*

*Subd. 11.* [TARGETED NEIGHBORHOOD MONEY.] *"Targeted neighborhood money" means the money designated in the revitalization program to be used to implement the revitalization program.*

*Subd. 12.* [TARGETED NEIGHBORHOOD REVITALIZATION AND FINANCING PROGRAM.] *"Targeted neighborhood revitalization and financing program," "revitalization program," or "program" means the targeted neighborhood revitalization and financing program adopted in accordance with section 14.*

Sec. 13. [469.202] [DESIGNATION OF TARGETED NEIGHBORHOODS.]

*Subdivision 1.* [CITY AUTHORITY.] *A city may by resolution designate targeted neighborhoods within its borders after adopting detailed findings that the designated neighborhoods meet the eligibility requirements in subdivision 2 or 3.*

*Subd. 2.* [ELIGIBILITY REQUIREMENTS FOR TARGETED NEIGHBORHOODS.] *An area within a city is eligible for designation as a targeted neighborhood if the area meets two of the following three criteria:*

*(a) The area had an unemployment rate that was twice the unemployment rate for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 1980 federal decennial census.*

*(b) The median household income in the area was no more than half the median household income for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 1980 federal decennial census.*

*(c) The area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this paragraph if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city, or if 70 percent or more of the residential dwelling units in the area were built before 1940 as determined by the 1980 federal decennial census.*

*Subd. 3.* [ADDITIONAL AREA ELIGIBLE FOR INCLUSION IN TARGETED NEIGHBORHOOD.] *(a) A city may add to the area designated as a targeted neighborhood under subdivision 2 additional area extending up to four contiguous city blocks in all directions from the designated targeted neighborhood. For the purpose of this subdivision, "city block" has the meaning determined by the city; or*

*(b) The city may enlarge the targeted neighborhood to include portions of a census tract that is contiguous to a targeted neighborhood, provided that the city council first determines the additional area satisfies two of the three criteria in subdivision 2.*

Sec. 14. [469.203] [TARGETED NEIGHBORHOOD REVITALIZATION AND FINANCING PROGRAM REQUIREMENTS.]

*Subdivision 1.* [COMPREHENSIVE REVITALIZATION AND FINANCING PROGRAM.] *For each targeted neighborhood for which a city requests state financial assistance under section 15, the city must prepare a comprehensive revitalization and financing program that includes the following:*

*(1) the revitalization objectives of the city for the targeted neighborhood;*

*(2) the specific activities or means by which the city intends to pursue and implement the revitalization objectives;*

*(3) the extent to which the activities identified in clause (2) will benefit low- and moderate-income families, will alleviate the blighted condition of the targeted neighborhood, or will otherwise assist in the revitalization of the targeted neighborhood;*

*(4) a statement of the intended outcomes to be achieved by implementation of the revitalization program, how the outcomes will be measured both qualitatively and quantitatively, and the estimated time over which they will occur; and*

*(5) a financing program and budget that identifies the financial resources necessary to implement the revitalization program, including:*

*(i) the estimated total cost to implement the revitalization program;*

*(ii) the estimated cost to implement each activity in the revitalization*

*program identified in clause (2);*

*(iii) the estimated amount of financial resources that will be available from all sources other than from the appropriation available under section 15 to implement the revitalization program, including the amount of private investment expected to result from the use of public money in the targeted neighborhood;*

*(iv) the estimated amount of the appropriation available under section 15 that will be necessary to implement the revitalization program;*

*(v) a description of the activities identified in the revitalization program for which the state appropriation will be committed or spent; and*

*(vi) a statement of how the city intends to meet the requirement for a financial contribution from city matching money in accordance with section 15, subdivision 3.*

*Subd. 2.* [TARGETED NEIGHBORHOOD PARTICIPATION IN PREPARING REVITALIZATION PROGRAM.] *A city requesting state financial assistance under section 15 shall adopt a process to involve the residents of targeted neighborhoods in the development, drafting, and implementation of the revitalization program. The process shall include the use of a citizen participation process established by the city. A description of the process must be included in the program. The process to involve residents of the targeted neighborhood must include at least one public hearing. The city of Minneapolis shall establish the community-based process as outlined in subdivision 3. The city of St. Paul shall use the same community-based process the city used in planning, developing, drafting, and implementing the revitalization program required under Laws 1987, chapter 386, article 6, section 6. The city of Duluth shall use the same citizen participation process the city used in planning, developing, and implementing the federal funded community development program.*

*Subd. 3.* [COMMUNITY PARTICIPATION; MINNEAPOLIS.] *(a) For the purposes of this subdivision, "city" means the city of Minneapolis.*

*(b) The city shall adopt a process to involve the residents in targeted neighborhoods and assisted housing in planning, developing, and implementing the program. As part of this process, the city shall ensure that the community-based process has sufficient resources to assist in the development of the program and that the advisory board is established.*

*(c) Beginning with the program for 1991, each targeted neighborhood or group of targeted neighborhoods in the city must have a strategic planning group whose members include residents of the targeted neighborhood and representatives of institutions in the neighborhood. The group shall, as part of its responsibilities, develop a strategic plan for the neighborhood. This strategic plan must include the elements that the planning group recommends as part of the program. The strategic plan must also address how the targeted neighborhood portions of the revitalization program will be integrated with the elements that are recommended to be included as part of the community resources program if such a program is developed in the city. If possible, the city shall integrate the community participation process required under this subdivision with the community participation process required for the development of the community resources program if such a program is developed in the city.*

*(d) The city shall ensure that the strategic planning group required under*

*paragraph (c) is established. An existing group or organization that reflects the required membership under paragraph (c) may be designated as the strategic planning group. The city may provide financial and staff resources to ensure the establishment of the strategic planning groups, and may use part of the money received from the state under section 15 to assist in the establishment of the targeted neighborhood strategic planning groups.*

*(e) As part of the process for the development of the program, each targeted neighborhood strategic planning group shall submit assigned priority recommendations for the revitalization program to the city and the advisory board established under paragraph (f).*

*(f) The city shall establish an urban revitalization action program advisory committee to assist the city in developing and implementing the preliminary revitalization program. The advisory committee shall consist of at least two representatives of the city council appointed by the city council, one or more for-profit or nonprofit housing developers, one or more representatives of the business community appointed by the city's chamber of commerce, and resident representatives of the targeted neighborhoods. The representatives of the targeted neighborhoods shall represent a majority of the membership of the advisory committee and reflect the geographic, cultural, racial, and ethnic diversity of the targeted neighborhoods. The city may determine the size of the advisory committee and may designate an existing entity as the advisory committee if the entity meets the membership requirements outlined in this subdivision.*

*(g) The advisory committee shall work closely with city staff in developing and drafting the preliminary revitalization program. The advisory committee shall be involved in assessing needs, prioritizing funds, and developing criteria for evaluating program proposals. In developing the preliminary program, the advisory committee shall give consideration to the recommendations made by the targeted neighborhood strategic planning groups.*

*(h) The advisory committee shall conduct a public hearing and secure input from residents of targeted neighborhoods, business persons, governmental units affected by the program, and other organizations and persons.*

*(i) The advisory committee and city staff may make any changes to the preliminary program resulting from testimony given at the public hearing. The advisory committee must formally recommend to the city council a preliminary revitalization program.*

*Subd. 4.* [CITY APPROVAL OF PROGRAM.] *(a) For the purposes of this subdivision, "city" means the cities of Minneapolis and Duluth.*

*(b) Before adoption of a revitalization program under paragraph (c), the city must submit a preliminary program to the commissioner, the state planning agency, and the Minnesota housing finance agency for their comments. The city may not adopt the revitalization program until comments have been received from the state agencies or 30 days have elapsed without response after the program was sent to them. Comments received by the city from the state agencies within the 30-day period must be responded to in writing by the city before adoption of the program by the city.*

*(c) The city may adopt a revitalization program only after holding a public hearing after the program has been prepared. Notice of the hearing must be provided in a newspaper of general circulation in the city and in*

*the most widely circulated community newspaper in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing.*

*(d) A certification by the city that a revitalization program has been approved by the city council for the targeted neighborhood must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the Minnesota housing finance agency and the state planning agency.*

*(e) A revitalization program for the city may be modified at any time by the city council after a public hearing, notice of which is published in a newspaper of general circulation in the city and in the targeted neighborhood at least ten days nor more than 30 days before the date of the hearing. If the city council determines that the proposed modification is a significant modification to the program originally certified under paragraph (d), the city council shall implement the revitalization program approval and certification process of this subdivision for the proposed modification.*

*Subd. 5.* [CITY OF SAINT PAUL APPROVAL.] *(a) Notwithstanding any other law, including laws passed by the 1989 legislature, the city of St. Paul must use the process under this subdivision for developing and certifying an urban revitalization action program.*

*(b) For the purposes of this subdivision, "city" means the city of Saint Paul.*

*(c) A city may approve a preliminary revitalization program developed through a process that includes the citizen participation required under subdivision 2 only after holding a public hearing. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing. After the public hearing and after the city has incorporated any changes into the preliminary program as a result of the public hearing, the city may approve the preliminary program and shall submit the approved preliminary program for final approval to the review board.*

*(d) After approval, the city shall submit the preliminary program to the commissioner, the state planning agency, and the Minnesota housing finance agency for their comments. The state agencies have 30 days to provide comments to the preliminary program. State agency comments must be submitted in writing to the review board established under paragraph (e).*

*(e) The city shall establish a city urban revitalization action program review board whose purpose is to review the preliminary program submitted by the city, and approve all or portions of the program. The review board consists of two city council members who represent targeted neighborhoods, two members representing the city's business community appointed by the chamber of commerce representing businesses in the city, and three residents of targeted neighborhoods appointed by the city council. Two members of the house of representatives and one member of the state senate appointed by the city's legislative delegation shall be nonvoting members of the review board. Nonvoting legislative members of the review board shall represent targeted neighborhoods. A member of the review board may not be an elected public official, or in any way be involved in preparing or implementing the program or any portion of the program. The review*

*board may require the city to contract for staff assistance in reviewing and approving the program. Persons who provide staff assistance to the review board may not be city employees or in any way involved in a formal or informal organization representing residents of a targeted neighborhood. The city may use state money available under section 15 to pay for the costs of staffing the review board.*

*(f) The review board shall review the city's preliminary program and approve all or portions of the program. In reviewing the program, the review board shall take into account any comments submitted by state agencies under paragraph (d). The review board may only reject the revitalization program or portions of the program for the following reasons:*

*(1) the revitalization program does not include the information required under subdivision 1;*

*(2) the city did not follow the community-based process required under subdivision 2 for developing the revitalization program; or*

*(3) the revitalization program results in undue concentration of targeted neighborhood money in a single proposed activity or project.*

*The review board may approve all of the preliminary program and submit it to the city council for certification under paragraph (g) or submit for certification only those specific portions of the program approved by the review board. If the review board does not approve a portion of the program, it shall specify in writing to the city the reasons for not approving that portion of the program and any recommendations for changes. If the review board determines that a portion of the program needs significant changes, it may require the city to implement the community participation process under subdivision 2 and state review under this subdivision for making changes to that portion of the program.*

*(g) The city council may, by formal resolution, certify only those portions of a program approved by the review board under paragraph (f). A certification by the city council that all or portions of a revitalization program has been approved by the review board must be provided to the commissioner together with a copy of the approved portions of the program. A copy of the approved portions of the program must be submitted to the state planning agency and Minnesota housing finance agency.*

*(h) A revitalization program may be modified at any time by the city after a public hearing and approval by the review board. Notice of the public hearing must be published in a newspaper of general circulation in the city and in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing. If the review board determines that the proposed modification is a significant modification to the program originally certified under paragraph (g), it must require the implementation of the revitalization program approval and certification process under this subdivision for the proposed modification.*

Sec. 15. [469.204] [PAYMENT; CITY MATCHING MONEY; DRAWDOWN; USES OF STATE MONEY.]

*Subdivision 1.* [PAYMENT OF STATE MONEY.] *Upon receipt from a city of a certification that a revitalization program has been adopted or modified, the commissioner shall, within 30 days, pay to the city the amount of state money identified as necessary to implement the revitalization*

*program or program modification. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded. Once the state money has been paid to the city, it becomes targeted neighborhood money for use by the city in accordance with an adopted revitalization program and subject only to the restrictions on its use in sections 12 to 18.*

*Subd. 2.* [ALLOCATION.] *Each city of the first class, as defined in section 410.01, may receive a part of the appropriations made available that is the proportion that the population of such city bears to the combined population of such cities of the first class. One city may agree to reduce its entitlement amount and to make it available to another city. For the purposes of this subdivision the population of each city is determined according to the most recent estimates available to the commissioner. Interest earned by a city from money paid to the city must be repaid to the commissioner annually unless the revitalization program identifies the interest as necessary to implement the revitalization program and the requirement for city matching money is satisfied with respect to the interest.*

*Subd. 3.* [CITY MATCHING MONEY; DRAWDOWN AND RESTRICTION ON USE OF STATE MONEY.] *A city may spend state money only if the revitalization program identifies city matching money to be used to implement the program in an amount equal to the state appropriation paid to the city. A city must keep the state money in a segregated fund for accounting purposes.*

Sec. 16. [469.205] [CITY POWERS AND ELIGIBLE USES OF TARGETED NEIGHBORHOOD MONEY.]

*Subdivision 1.* [CONSOLIDATION OF EXISTING POWERS IN TARGETED NEIGHBORHOODS.] *A city may exercise any of its corporate powers within a targeted neighborhood. Those powers shall include, but not be limited to, all of the powers enumerated and granted to any city by chapters 462C, 469, and 474A. For the purposes of sections 469.048 to 469.068, a targeted neighborhood is considered an industrial development district. A city may exercise the powers of chapters 469.048 to 469.068 in conjunction with, and in addition to, exercising the powers granted by sections 469.001 to 469.047 and chapter 462C, in order to promote and assist housing construction and rehabilitation within a targeted neighborhood. For the purposes of section 462C.02, subdivision 9, a targeted neighborhood is considered a "targeted area."*

*Subd. 2.* [GRANTS AND LOANS.] *In addition to the authority granted by other law, a city may make grants, loans, and other forms of public assistance to individuals, for-profit and nonprofit corporations, and other organizations to implement a revitalization program. The public assistance must contain the terms the city considers proper to implement a revitalization program.*

*Subd. 3.* [ELIGIBLE USES OF TARGETED NEIGHBORHOOD MONEY.] *The city may spend targeted neighborhood money for any purpose authorized by subdivision 1 or 2, except that an amount equal to at least 50 percent of the state payment under section 15 made to the city must be used for housing activities. Use of target neighborhood money must be authorized in a revitalization program.*

Sec. 17. [469.206] [HAZARDOUS PROPERTY PENALTY.]

*A city may assess a penalty up to one percent of the market value of*

*real property, including any building located within the city that the city determines to be hazardous as defined in section 463.15, subdivision 3. The city shall send a written notice to the address to which the property tax statement is sent at least 90 days before it may assess the penalty. If the owner of the property has not paid the penalty or fixed the property within 90 days after receiving notice of the penalty, the penalty is considered delinquent and is increased by 25 percent each 60 days the penalty is not paid and the property remains hazardous. For the purposes of this section, a penalty that is delinquent is considered a delinquent property tax and subject to Minnesota Statutes, chapters 279, 280, and 281, in the same manner as delinquent property taxes.*

Sec. 18. [469.207] [ANNUAL AUDIT AND REPORT.]

*Subdivision 1.* [ANNUAL FINANCIAL AUDIT.] *In 1989 and subsequent years, at the end of each calendar year, the legislative auditor shall conduct a financial audit to review the spending of state money under sections 12 to 18. Before spending state money to implement a revitalization program, the city must consult with the legislative auditor to determine appropriate accounting methods and principles that will assist the legislative auditor in conducting its financial audit. The results of the financial audit must be submitted to the legislative audit commission, the commissioner, the state planning agency, and the Minnesota housing finance agency.*

*Subd. 2.* [ANNUAL REPORT.] *A city that begins to implement a revitalization program in a calendar year must, by March 1 of the succeeding calendar year, provide a detailed report on the revitalization program or programs being implemented in the city. The report must describe the status of the program implementation and analyze whether the intended outcomes identified in section 14, subdivision 1, clause (4), are being achieved. The report must include at least the following:*

*(1) the number of housing units, including lost units, removed, created, lost, replaced, relocated, and assisted as a result of the program. The level of rent of the units and the income of the households affected must be included in the report;*

*(2) the number and type of commercial establishments removed, created, and assisted as a result of a revitalization program. The report must include information regarding the number of new jobs created by category, whether the jobs are full-time or part-time, and the salary or wage levels of both new and expanded jobs in the affected commercial establishments;*

*(3) a description of a statement of the cost of the public improvement projects that are part of the program and the number of jobs created for each $20,000 of money spent on commercial projects and applicable public improvement projects;*

*(4) the increase in the tax capacity for the city as a result of the assistance to commercial and housing assistance; and*

*(5) the amount of private investment that is a result of the use of public money in a targeted neighborhood.*

*The report must be submitted to the commissioner, the Minnesota housing finance agency, the state planning agency, and the legislative audit commission, and must be available to the public.*

Sec. 19. [REVITALIZATION PROGRAM MONITORING.]

*The commissioner of the state planning agency, in consultation with other appropriate state agencies, shall monitor the planning, development and implementation of the urban revitalization action program. The commissioner shall determine if:*

*(1) the process used for developing the programs is providing adequate neighborhood participation in the planning, drafting and implementation of the programs;*

*(2) the programs are effectively achieving the statutory objectives and the objectives outlined in the programs themselves; and*

*(3) private funding is being used to partially fund the activities established under the programs.*

*The state planning agency shall provide an interim report to the legislature by January 1, 1990, with a final report of its findings due by January 1, 1991.*

Sec. 20. [COMMUNITY SOCIAL AND ECONOMIC NEEDS.]

*The commissioner of the state planning agency, in consultation with representatives of cities, counties, and school districts, shall identify significant social and economic needs in the communities throughout the state, including the future needs of the cities of the first class. The identification of the needs must be done on a county by county basis using demographic characteristics that will allow social and economic needs to be thoroughly demonstrated. When possible, the commissioner shall also identify the needs of all cities with populations of 2,500 or more people.*

*The demographic, economic, and other data utilized in identifying the social and economic needs shall be maintained in a data base that is accessible to legislators, researchers, and representatives of local governments. The commissioner shall provide an interim report on its findings to the legislature by January 1, 1990, with a final report by January 1, 1991.*

Sec. 21. [REPEALER.]

*Laws 1987, chapter 386, article 6, sections 4, 5, 6, 7, 8, 9, 10 and 11, and Laws 1987, chapter 384, article 3, section 22, are repealed, provided that actions taken under those provisions prior to the effective date of this chapter with respect to any program or to a targeted neighborhood are ratified and affirmed and must be treated as if validly taken under the provisions of sections 12 to 18.*

Sec. 22. [EFFECTIVE DATE.]

*Sections 12 to 18 and 21 are effective the day after final enactment, provided that the provisions of sections 12 to 15 and 16, subdivisions 2 and 3, shall not apply to any program funded by the state in fiscal year 1988.*

ARTICLE 7

YOUTH EMPLOYMENT AND HOUSING PROGRAM

Section 1. Minnesota Statutes 1988, section 268.361, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE ORGANIZATION.] "Eligible organization" means a public agency or a nonprofit organization that can demonstrate an ability

to ~~design~~ *implement* a program for education and training services provided to targeted youth. Eligible organizations may include local jurisdictions, public school districts, private nonsectarian schools, post-secondary educational institutes, alternative schools, community groups, and labor organizations.

Sec. 2. Minnesota Statutes 1988, section 268.361, is amended by adding a subdivision to read:

*Subd. 4a.* [PROGRAM.] *"Program" means the services and activities performed or contracted for by an eligible organization for which a grant has been received or for which a grant application has been submitted to the commissioner.*

Sec. 3. Minnesota Statutes 1988, section 268.362, is amended to read:

268.362 [~~PLANNING~~ GRANTS.]

The commissioner shall make grants ~~of up to $20,000~~ to eligible organizations for ~~the design of~~ programs to provide education and training services to targeted youth. The purpose of these programs is to provide specialized training and work experience to at-risk targeted youth who have not been served effectively by the current educational system. The programs are ~~to be designed~~ to include a work experience component with work projects that result in the rehabilitation or construction of residential units for the homeless. Two or more eligible organizations may jointly apply for a ~~planning~~ grant. The commissioner shall administer the grant program.

Interested eligible organizations must apply to the commissioner for the grants. The advisory committee must review the applications and provide to the commissioner a list of recommended eligible organizations that the advisory committee determines meet the requirements for receiving a ~~planning~~ grant. ~~The commissioner shall select from the committee's list at least four organizations to receive the planning grants with at least one organization located in each of the cities of Minneapolis and St. Paul and two organizations located outside the metropolitan area defined in section 473.121, subdivision 2.~~

Sec. 4. Minnesota Statutes 1988, section 268.364, is amended to read:

268.364 [PROGRAM PURPOSE AND DESIGN.]

Subdivision 1. [PROGRAM PURPOSE.] The grants awarded under section 268.362 are for ~~the design of~~ a youth employment and training program directed at targeted youth who are likely to be at risk of not completing their high school education. Each program ~~design~~ must include education, work experience, and job skills components.

Subd. 2. [EDUCATION COMPONENT.] A program ~~design~~ must contain an education component that requires program participants ~~who have not completed~~ *to complete* their secondary education ~~to be enrolled~~ in a traditional public or private secondary school, a suitable alternative school setting, or a GED program. Program participants must be working toward the completion of their secondary education or literacy advancement.

Subd. 3. [WORK EXPERIENCE COMPONENT.] A work experience component must be included in each program ~~design~~. The work experience component must provide vocational skills training in an industry where there is a viable expectation of job opportunities and a training subsidy or stipend may be provided to program participants. The wage or stipend must

be provided to participants who are recipients of public assistance in a manner or amount which will not reduce public assistance benefits. The work experience component must be designed so that work projects result in the expansion *or improvement* of residential units for homeless persons and very low income families, and must include direct supervision by individuals skilled in each specific vocation. ~~The program design must include an examination of how~~ Program participants may earn credits toward the completion of their secondary education from their participation in the work experience component.

Subd. 4. [JOB READINESS SKILLS COMPONENT.] A job readiness skills component must be included in each program ~~design~~. The component must provide program participants with job search skills, placement assistance, and other job readiness skills to ensure that participants will be able to compete in the employment market.

~~Subd. 5. [ELIGIBLE PROGRAM PROVIDERS.] A program design must include the examination of the types of organizations that would administer and operate the program. The types of organizations examined must include public school districts, private nonsectarian schools, alternative schools, local jurisdictions, housing related groups, community groups, and labor organizations, or a joint effort among two or more of these organizations.~~

Sec. 5. Minnesota Statutes 1988, section 268.365, is amended to read:

268.365 [HOUSING FOR HOMELESS.]

Subdivision 1. [*WORK PROJECT* REQUIREMENT.] The work experience component of the youth employment and training program described in section 268.364 must include work projects that provide residential units through construction ~~or~~, rehabilitation, *or improvement* for the homeless and families with very low incomes.

Subd. 2. [PRIORITY FOR HOUSING.] Any residential units that become available through the ~~employment and training~~ program must be allocated in the following order:

(1) homeless families with at least one dependent;

(2) other homeless individuals;

(3) other very low income families and individuals; and

(4) families or individuals that receive public assistance and that do not qualify in any other priority group.

Subd. 3. [ACQUISITION OF HOUSING UNITS.] The ~~program design must include an examination of the means of acquiring~~ *eligible organization receiving a grant under section 268.362 shall acquire* property or buildings for the construction or rehabilitation of residential units at the lowest possible cost. ~~The examination must include the review of~~ Possible sources of property and funding ~~through federal, state, or local agencies, including~~ *include* the federal Department of Housing and Urban Development, Farmers Home Administration, *Minnesota* housing finance agency, and the local housing authority.

Subd. 4. [MANAGEMENT OF RESIDENTIAL UNITS.] The program ~~design~~ must address how to manage these residential units, including the source of financing for the maintenance costs of the buildings. Any management plan must include the participation of the residents and local

established neighborhood groups.

Sec. 6. Minnesota Statutes 1988, section 268.366, is amended to read:

268.366 [REQUIREMENTS OF ORGANIZATIONS RECEIVING GRANTS.]

An organization that is awarded a ~~planning~~ grant ~~under section 268.362~~ shall prepare and submit ~~a~~ *an annual* report to the commissioner by ~~January 15, 1989~~ *September 1 of each year*. The report must ~~address each~~ *include a discussion* of the following:

(1) the ~~method~~ *process used* for encouraging the participation of the targeted youth in the geographic area surrounding the organization receiving the grant;

(2) the support services and social services that targeted youth ~~require and the means of providing those services to program participants~~ *received under the program*. Services may include client needs assessment, preemployment skills such as basic job skills and behavior, and intermediate needs such as education and chemical dependency treatment;

(3) the type and degree of work experience that program participants ~~must participate in~~ *received*, including real work experience in both vocational and nonvocational settings;

(4) the amount of training subsidy or stipend that each participant ~~should receive~~ *received* while participating in the work experience component. The subsidy or stipend must reflect prevailing wage and benefits standards appropriate for preapprenticeship training unless a participant's receipt of public assistance is affected. The subsidy or stipend should be structured to include incentives for progress toward increasing job skills and completing secondary education;

(5) the ~~identification and~~ means of providing the necessary job readiness skills ~~so that~~ *to* program participants who have completed the work experience and educational components of the program ~~may have~~ *so they have* the ability to compete in the job market. These job search skills may include skills assessment, job search and selection, application preparation and assistance in preparing for job interviews;

(6) the methods ~~that may be~~ used to assist in placing program participants in suitable employment. The methods should include means of involving state government, businesses, labor organizations, community groups, and local jurisdictions in assisting in the placement;

(7) ~~a plan~~ *the process used* for evaluating the program, including the necessary data elements ~~that must be~~ collected from program participants after they have completed the program ~~to monitor~~ *for monitoring* the success of the program;

(8) the method used to maximize parental involvement in the program;

(9) the ~~identification of~~ existing public and private programs that ~~may be~~ *were* utilized by the program to avoid duplication of services;

(10) the ~~identification of~~ regional characteristics that ~~may affect~~ *affected* the operation of the program in the specific region where the organization is located;

(11) the ~~identification and~~ *means of addressing the* special needs of priority groups of targeted youth, ~~which groups may include~~ *including*:

(i) persons who are responsible for at least one dependent;

(ii) persons who are pregnant;

(iii) persons who are or have been subject to any stage of the criminal justice system and who may benefit from receiving employment and training services in overcoming barriers to employment resulting from a record of arrest or conviction;

(iv) persons receiving income maintenance services and social services, including chemical dependency treatment, vocational rehabilitation services, and protection services;

(v) persons who reside on a farm who personally derive or whose family derives a substantial portion of their income from farming, lack nonfarm work skills, or have limited access to vocational education or work experience opportunities;

(vi) homeless youth; and

(vii) minors who that are not financially dependent on a parent or a guardian;

(12) ~~cost estimates~~ *costs* for each of the components of the program; and

(13) the identification of *the* funding sources other than state appropriations that ~~may be~~ *were* used to support the program.

Sec. 7. Minnesota Statutes 1988, section 268.367, is amended to read:

268.367 [REPORT.]

The commissioner shall prepare and submit ~~a~~ *an annual* report to the legislature and the governor by ~~February~~ *January* 15, ~~1989~~ *of each year*, that ~~outlines the various program designs~~ *summarizes the annual reports* submitted by the organizations that received ~~planning~~ grants. The report ~~must~~ *may* also include recommendations on ~~which components of the~~ *improving the* program ~~designs are most suitable to meeting~~ *to better meet* the needs of targeted youth. The advisory committee must participate in the preparation of this report and in the formulation of ~~the~~ *any* recommendations.

Sec. 8. [1990 REPORT.]

*The annual report for 1990 required under Minnesota Statutes, section 268.367, must include specific recommendations on whether the program should be continued on a permanent basis and, if continued, the state agency that should administer the program. In preparing this report and the recommendations, the commissioner of the state planning agency must consult with the eligible organization receiving a grant under section 9 and the advisory committee.*

Sec. 9. [DEMONSTRATION GRANTS.]

*Notwithstanding Minnesota Statutes, section 268.362, the commissioner of the state planning agency shall award two demonstration grants to eligible organizations, as defined in Minnesota Statutes, section 268.361, subdivision 4, based on criteria established in the report required under Laws 1988, chapter 686, article 3, section 7. To achieve a demonstration grant under this section, the eligible organization must match the grant money with at least an equal amount of nonstate money. The commissioner of finance must verify that the eligible organization has matched the grant*

*money.*

ARTICLE 8

HOUSING IMPACT REPORT

Section 1. [504.33] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *The definitions in this section apply to sections 1 to 3.*

*Subd. 2.* [CITY.] *"City" means a city of the first class as defined in section 410.01. The term "city" also includes, where applicable, a port authority, economic development authority, a housing and redevelopment authority, or any development agency established under chapter 469 which share common boundaries with the city.*

*Subd. 3.* [DISPLACE.] *"Displace" means to demolish, acquire for or convert to a use other than low-income housing, or to provide or spend money that directly results in the demolition, acquisition, or conversion of housing to a use other than low-income housing.*

*"Displace" does not include providing or spending money that directly results in: (i) housing improvements made to comply with health, housing, building, fire prevention, housing maintenance, or energy codes or standards of the applicable government unit; (ii) housing improvements to make housing more accessible to a handicapped person; or (iii) the demolition, acquisition, or conversion of housing for the purpose of creating owner-occupied housing that consists of no more than four units per structure.*

*Subd. 4.* [GOVERNMENT UNIT.] *"Government unit" means a state agency; a public or private agency, corporation, or entity receiving a direct appropriation from the state for the purpose of a project that would displace low-income housing in a city; or a general or special purpose unit of government in the state, including a city, county, and county housing and redevelopment authority.*

*Subd. 5.* [LOW-INCOME HOUSING.] *"Low-income housing" means rental housing with a rent less than or equal to 30 percent of 50 percent of the median income for the county in which the rental housing is located, adjusted by size. "Low-income housing" also includes rental housing that has been vacant for less than two years, that was low-income housing when it was last occupied, and that is not condemned as being unfit for human habitation by the applicable government unit.*

*Subd. 6.* [RENTAL HOUSING.] *"Rental housing" includes rental apartments, rooms, and housing; board and lodging units; rooms in single-occupancy buildings and hotels that offer to be used as the sole residence of the occupant; transitional housing; and shelters. Rental housing does not include transitional housing located within a floodplain or community based residential facilities.*

*Subd. 7.* [REPLACEMENT HOUSING.] *"Replacement housing" means rental housing that is:*

*(1) the lesser of (i) the number and corresponding size of low-income housing units displaced, or (ii) sufficient in number and corresponding size of those low-income housing units displaced to meet the demand for those units;*

*(2) low-income housing for the greater of 15 years or the compliance*

*period of the federal low-income housing tax credit under United States Code, title 26, section 42(i)(1), as amended. This section does not prohibit increases in rent to cover operating expenses;*

*(3) in at least standard condition; and*

*(4) located in the city where the displaced low-income housing units were located.*

*Replacement housing may be provided as newly constructed housing, or rehabilitated or rent subsidized existing housing that does not already qualify as low-income housing.*

Subd. 8. [SIZE.] *"Size" means the number of bedrooms in a housing unit.*

Sec. 2. [504.31] [ANNUAL HOUSING IMPACT REPORT.]

*Subdivision 1.* [ANNUAL REPORT REQUIRED.] *A government unit shall prepare an annual housing impact report for each year in which the government unit displaces ten or more units of low-income housing in a city of the first class as defined in section 410.01.*

*Subd. 2.* [DRAFT ANNUAL HOUSING IMPACT REPORT.] *A government unit subject to this section must prepare a draft annual housing impact report for review and comment by interested persons. The draft report must be completed by January 31 of the year immediately following a year in which the government unit has displaced ten or more units of low-income housing in a city.*

*Subd. 3.* [CONTENTS.] *The draft and final annual housing impact reports must include:*

*(1) identification of each low-income housing unit that was displaced in the previous year in the city where housing was displaced by the government unit, including the unit's address, size, and rent; the number of persons who could have occupied the unit; the condition the unit was in, and whether it was habitable at the time of displacement; the owner of the unit; whether it was owner occupied; and how and when it was displaced;*

*(2) identification of each unit of replacement housing provided in the previous year in the city, including the unit's address, size, and rent; the number of persons who could occupy the unit; the owner of the unit; whether it is owner occupied; and an identification of the displaced low-income housing unit that was replaced by the unit of replacement housing;*

*(3) analysis of the supply of and demand for all sizes of low-income housing units, by size and rent, in the city;*

*(4) determination of whether there is an adequate supply of available and unoccupied low-income housing units to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit;*

*(5) estimation of the cost of providing replacement housing for low-income housing not in adequate supply to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit; and*

*(6) analysis of the government unit's compliance with the replacement plans of previous housing annual impact reports and project housing impact statements.*

*Subd. 4.* [REPLACEMENT PLAN.] *If there is an inadequate supply of available and unoccupied low-income housing units to meet the demand for the replacement housing in the city where housing has been displaced by the government unit, the draft and final annual housing impact reports must include a plan for providing the replacement housing within 36 months following the date of the final annual housing impact report.*

*Subd. 5.* [NOTICE; REQUEST FOR COMMENTS.] *A government unit subject to this section must provide for public input in preparing the annual housing impact report, including a public comment period and a public hearing. The government unit must publish notice of its draft annual housing impact report in a newspaper of general circulation in the city by the deadline for completion of the draft annual housing impact report. The notice must include a request for comments on the draft annual housing impact report within the 30 days following the notice, and the date, time, and location of the public hearing on the draft annual housing impact report, to be held within 15 to 30 days following the date of notice. Copies of the notice must be sent to the neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, and legal aid offices in the city where the displaced low-income housing was located. Copies of the notice and the draft annual housing impact report must be submitted to the state planning agency and the Minnesota housing finance agency.*

*Subd. 6.* [FINAL ANNUAL HOUSING IMPACT REPORT.] *In preparing and approving a final annual housing impact report, a government unit subject to this section must consider comments received during the comment period and at the public hearing on the draft report. The final report shall be prepared within 30 days following the deadline for receipt of comments on the draft annual housing impact report. The government unit shall publish notice of the final annual housing impact report in a newspaper of general circulation in the city. Copies of the notice must be sent to neighborhood and citizen participation organizations, district planning councils, housing referral and information services, shelters, homeless and tenants advocacy groups, and legal aid offices in the city where the displaced low-income housing was located. Copies of the notice and the draft annual housing impact report must be submitted to the state planning agency and the Minnesota housing finance agency.*

Sec. 3. [504.32] [REPLACEMENT HOUSING REQUIRED.]

*A government unit which displaces ten or more units of low-income housing in a city of the first class as defined in section 410.01 and is subject to section 2 must provide the replacement housing within 36 months following the date of the final annual housing impact report, unless there is an adequate supply of available and unoccupied low-income housing units to meet the demand for the replacement housing in the city where housing has been displaced by the government unit."*

Delete the title and insert:

"A bill for an act relating to community development; authorizing the establishment of affordable housing programs under the administration of the Minnesota housing finance agency; establishing a neighborhood preservation program; revising certain tenant damage provisions in landlord-tenant actions; regulating tenant screening services; establishing a rent escrow system; providing mandatory building repair fines; authorizing a

housing calendar consolidation pilot project in Hennepin and Ramsey counties; revising certain housing receivership provisions; providing a limited right of entry to secure vacant or unoccupied buildings; providing for city housing rehabilitation loan programs; establishing the community and neighborhood development organization program; establishing a child development program; authorizing a neighborhood revitalization program; establishing a youth employment and housing program; requiring housing impact reports and replacement housing under certain conditions in cities of the first class; imposing penalties; amending Minnesota Statutes 1988, sections 268.361, subdivision 4, and by adding a subdivision; 268.362; 268.364; 268.365; 268.366; 268.367; 282.01, subdivision 1; 462A.03, by adding a subdivision; 462A.05, subdivisions 24 and 27, and by adding subdivisions; 462A.21, subdivisions 4k and 12, and by adding subdivisions; 462C.02, by adding subdivisions; 462C.05, by adding a subdivision; 463.15, subdivisions 3 and 4; 463.16; 463.161; 463.17; 463.20; 463.21; 463.22; 469.007; 469.012, subdivision 1; 504.255; 504.26; 566.17; 566.175, subdivision 1; 566.29, subdivisions 1 and 4, and by adding subdivisions; 580.04; 580.12; 580.23, subdivision 1; 580.24; 581.10; 582.03; and 582.30, subdivision 2; Laws 1974, chapter 285, sections 1, 2, 3, 4, and by adding a section; proposing coding for new law in Minnesota Statutes, chapters 16B; 116J; 129A; 363; 462A; 462C.13; 469; 504; 566; and 582; repealing Minnesota Statutes 1988, section 474A.081, subdivision 3; Laws 1974, chapter 351, sections 1 to 4, as amended; Laws 1975, chapter 260, sections 1 to 5; and Laws 1987, chapters 384, article 3, section 22; and 386, article 6, sections 4 to 11."

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

Senate Conferees: (Signed) Lawrence J. Pogemiller, Ember D. Reichgott, John Bernhagen, Jim Gustafson, Linda Berglin

House Conferees: (Signed) Rich O'Connor, Tom Osthoff, Andy Dawkins, Ben Boo, Wally Sparby

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 522 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 522 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 262 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON 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 joint legislative committee 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.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; 43A.08, subdivision 1; 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; 17; 18B; 40; 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.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 262, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 262 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CHAPTER 103H

GROUNDWATER PROTECTION

Section 1. [103H.001] [DEGRADATION PREVENTION GOAL.]

*It is the goal of the state that groundwater be maintained in its natural condition, free from any degradation caused by human activities. It is recognized that for some human activities this degradation prevention goal cannot be practicably achieved. However, where prevention is practicable, it is intended that it be achieved. Where it is not currently practicable, the development of methods and technology that will make prevention practicable is encouraged.*

Sec. 2. [103H.005] [DEFINITIONS.]

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

*Subd. 2.* [AGRICULTURAL CHEMICAL.] *"Agricultural chemical" means a pesticide, fertilizer, plant amendment, or soil amendment.*

*Subd. 3.* [HEALTH RISK LIMITS.] *"Health risk limits" means a concentration of a substance or chemical adopted by rule of the commissioner of health that is a potential drinking water contaminant because of a systemic or carcinogenic toxicological result from consumption.*

*Subd. 4.* [BEST MANAGEMENT PRACTICES.] *"Best management practices" means practicable voluntary practices that are capable of preventing and minimizing degradation of groundwater, considering economic factors, availability, technical feasibility, implementability, effectiveness, and environmental effects. Best management practices apply to schedules of activities; design and operation standards; restrictions of practices; maintenance procedures; management plans; practices to prevent site releases, spillage, or leaks; application and use of chemicals; drainage from raw material storage; operating procedures; treatment requirements; and other activities causing groundwater degradation.*

*Subd. 5.* [COMMON DETECTION.] *"Common detection" means detection of a pollutant that is not due to misuse or unusual or unique circumstances, but is likely to be the result of normal use of a product or a practice.*

*Subd. 6.* [DEGRADATION.] *"Degradation" means changing groundwater from its natural condition by human activities.*

*Subd. 7.* [FERTILIZER.] *"Fertilizer" has the meaning given in article 6, section 2, subdivision 11.*

*Subd. 8.* [GROUNDWATER.] *"Groundwater" means groundwater as defined in section 115.01, subdivision 21.*

*Subd. 9.* [PESTICIDE.] *"Pesticide" has the meaning given in section 18B.01, subdivision 18.*

*Subd. 10.* [PLANT AMENDMENT.] *"Plant amendment" has the meaning given in article 6, section 2, subdivision 25.*

*Subd. 11.* [POLLUTANT.] *"Pollutant" means a chemical or substance for which a health risk limit has been adopted.*

*Subd. 12.* [POLLUTION.] *"Pollution" means degradation of groundwater by a pollutant.*

*Subd. 13.* [SENSITIVE AREA.] *"Sensitive area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface.*

*Subd. 14.* [SOIL AMENDMENT.] *"Soil amendment" has the meaning given in article 6, section 2, subdivision 34.*

*Subd. 15.* [WATER RESOURCE PROTECTION REQUIREMENTS.] *"Water resource protection requirements" means requirements adopted by rule for one or more pollutants intended to prevent and minimize pollution of groundwater. Water resource protection requirements include design criteria, standards, operation and maintenance procedures, practices to prevent releases, spills, leaks, and incidents, restrictions on use and practices, and treatment requirements.*

PROTECTION OF SENSITIVE AREAS

Sec. 3. [103H.101] [PROTECTION OF SENSITIVE AREAS.]

*Subdivision 1.* [CRITERIA FOR DETERMINATION OF SENSITIVE AREAS.] *The commissioner of natural resources in consultation with the Minnesota geological survey, soil and water conservation districts, local water planning authorities, and other interested parties shall develop specific criteria for identifying sensitive groundwater areas and adopt the criteria by rule.*

*Subd. 2.* [IDENTIFICATION OF SENSITIVE AREAS.] *The commissioner of natural resources shall, in consultation with the Minnesota geological survey, identify the location of sensitive areas by mapping and other appropriate methods after consulting the Minnesota geological survey, soil and water conservation districts, and local water planning authorities.*

*Subd. 3.* [NOTIFICATION OF LOCATION OF SENSITIVE AREAS.] *The commissioner of natural resources shall:*

*(1) notify political subdivisions with planning or zoning authority and provide maps and other materials that show where sensitive areas are located and indicate the type of risk of groundwater degradation that may occur from activities at or near the surface; and*

*(2) publish notification of sensitive areas in a newspaper of general circulation in the county where the sensitive areas are located.*

*Subd. 4.* [INFORMATION GATHERING.] *The commissioner of natural resources shall coordinate the collection of state and local information to identify sensitive areas. Information must be automated on or accessible to systems developed at the land management information center of the state planning agency.*

*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.*

*Subd. 6.* [ACTIONS BY REGULATING AUTHORITIES.] *Upon adoption of a comprehensive local water plan as defined in chapter 110B or a water management plan under chapter 473, a regulating authority must take into account the plan and any geological assessments referenced in the plan when taking appropriate actions in sensitive areas.*

*Subd. 7.* [STATE AGENCIES.] *Each state agency that has a program affecting activities that may cause or contribute to groundwater pollution shall identify and develop best management practices to ensure that the program is consistent with and is effective in achieving the goal of section 1. For those activities which may cause or contribute to pollution of groundwater, but are not directly regulated by the state, best management practices shall be promoted through education, support programs, incentives, and other mechanisms.*

Sec. 4. [103H.105] [CONSERVATION EASEMENTS TO PROTECT SENSITIVE AREAS.]

*(a) Agricultural land within a sensitive area identified in section 3, subdivision 2, or by the board of water and soil resources and land in or immediately surrounding a sinkhole is marginal agricultural land for purposes of section 40.43, subdivision 2, and is eligible for the conservation reserve program under section 40.43.*

*(b) Notwithstanding section 40.43, subdivision 2, clauses (2) and (5), and subdivision 4, the board of water and soil resources may authorize acquisition of hillside easements that restrict hillside pasturing or grazing of livestock.*

Sec. 5. [103H.111] [LIABILITY AFTER PROTECTION OF SENSITIVE AREA.]

*(a) A landowner within a sensitive area, identified under section 3, has a complete defense to liability for degradation of groundwater caused by surface water from the sensitive area recharging groundwater if:*

*(1) the landowner's portion of the sensitive area is subject to a plan adopted by the soil and water conservation district to protect the groundwater from degradation through surface water recharge;*

*(2) the projects and practices required by the plan have been implemented and have been certified as having been implemented by the soil and water conservation district;*

*(3) the projects and practices required by the plan are maintained according to the plan; and*

*(4) the landowner has not allowed unlawful practices on the property that disrupt the projects and practices required by the plan.*

*(b) The soil and water conservation district's plan must include appropriate best management practices and water resource protection requirements.*

Sec. 6. [103H.151] [BEST MANAGEMENT PRACTICES.]

*Subdivision 1.* [DEVELOPMENT BY POLLUTION CONTROL AGENCY.] *Except as provided in subdivision 2 for agricultural chemicals and practices, the pollution control agency in consultation with local water planning*

*authorities shall develop best management practices for the prevention of groundwater degradation for specific activity categories. The pollution control agency shall contact and solicit comments from affected persons and businesses in developing the best management practices. The pollution control agency must publish notice and also solicit comments and recommendations from state agencies and local governments affected by or regulating the activities.*

*Subd. 2.* [AGRICULTURAL CHEMICAL BEST MANAGEMENT PRACTICES.] *The commissioner of agriculture in consultation with local water planning authorities shall develop best management practices for agricultural chemicals and practices. The commissioner shall give public notice and contact and solicit comment from affected persons and businesses interested in developing the best management practices.*

*Subd. 3.* [EDUCATION AND PROMOTION.] *The commissioners of the pollution control agency and agriculture, in conjunction with the board of water and soil resources, soil and water conservation districts, and the Minnesota extension service, must promote best management practices and provide education about how the use of best management practices will prevent, minimize, reduce, and eliminate the source of groundwater degradation. The promotion and education shall include demonstration projects.*

GROUNDWATER QUALITY MONITORING

Sec. 7. [103H.175] [GROUNDWATER QUALITY MONITORING.]

*Subdivision 1.* [MONITORING RESULTS TO BE SUBMITTED TO THE ENVIRONMENTAL QUALITY BOARD.] *The results of monitoring groundwater quality by state agencies and political subdivisions must be submitted to the state planning agency.*

*Subd. 2.* [COMPUTERIZED DATA BASE.] *The state planning agency shall maintain a computerized data base of the results of groundwater quality monitoring in a manner that is accessible to the pollution control agency, department of agriculture, department of health, and department of natural resources. The state planning agency shall assess the quality and reliability of the data and organize the data in a usable format.*

HEALTH RISK LIMITS

Sec. 8. [103H.201] [HEALTH RISK LIMITS.]

*Subdivision 1.* [PROCEDURE.] *(a) If groundwater quality monitoring results show that there is a degradation of groundwater, the commissioner of health may promulgate health risk limits under subdivision 2 for substances degrading the groundwater.*

*(b) Health risk limits shall be determined by two methods depending on their toxicological end point.*

*(c) For systemic toxicants that are not carcinogens, the adopted health risk limits shall be derived using United States Environmental Protection Agency risk assessment methods using a reference dose, a drinking water equivalent, an uncertainty factor, and a factor for relative source contamination, which in general will measure an estimate of daily exposure to the human population, including sensitive subgroups, that is unlikely to result in deleterious effects during long-term exposure.*

*(d) For toxicants that are known or probable carcinogens, the adopted health risk limits shall be derived from a quantitative estimate of the*

*chemical's carcinogenic potency published by the United States Environmental Protection Agency's carcinogen assessment group.*

*Subd. 2.* [ADOPTION.] *(a) Health risk limits shall be adopted by rule.*

*(b) If the commissioner determines that emergency conditions exist and the public health and welfare require the health risk limits to be adopted as soon as possible, the commissioner shall promulgate the adopted health risk limits notwithstanding chapter 14 but the adopted health risk limits adopted under this paragraph are only effective for one year.*

*Subd. 3.* [REVIEW AND REVISION.] *(a) The commissioner shall review each adopted health risk limit at least every four years.*

*(b) The commissioner may revise health risk limits under subdivision 2.*

*Subd. 4.* [ADOPTION OF EXISTING RECOMMENDED ALLOWABLE LIMITS.] *(a) Notwithstanding and in lieu of subdivision 2, the commissioner may adopt recommended allowable limits established by the commissioner on or before May 1, 1989, as health risk limits under this subdivision. Before a recommended allowable limit is adopted as an adopted health risk limit under this subdivision, the commissioner shall:*

*(1) publish in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts notice of intent to adopt a recommended allowable limit as an adopted health risk limit for specific substances and shall solicit information on the health impacts of the substance;*

*(2) publish the recommended allowable limit in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts allowing 60 days for public comment; and*

*(3) publish the recommended allowable limit in the State Register and, at the same time, make available a summary of the public comments received and the commissioner's responses to the comments.*

*(b) A recommended allowable limit adopted by the commissioner as an adopted health risk limit under this subdivision may be challenged in the manner provided in sections 14.44 and 14.45.*

*(c) After July 1, 1991, and before September 1, 1991, 25 or more persons may submit a written request for a public hearing as provided under section 14.25 for any health risk limits as adopted under this subdivision.*

EVALUATION AND COMMON DETECTION OF POLLUTION

Sec. 9. [103H.251] [EVALUATION OF DETECTION OF POLLUTANTS.]

*Subdivision 1.* [METHODS.] *(a) The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall evaluate the detection of pollutants in groundwater of the state. Evaluation of the detection may include collection technique, sampling handling technique, laboratory practices, other quality control practices, climatological conditions, and potential pollutant sources.*

*(b) If conditions indicate a likelihood of the detection of the pollutant or pollutant breakdown product to be a common detection, the commissioner of agriculture or the pollution control agency must begin development of best management practices and continue to monitor for the pollutant or pollutant breakdown products.*

*Subd. 2.* [ANALYSIS OF POLLUTION TREND.] *The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall develop and implement groundwater monitoring and hydrogeologic evaluation following pollution detection to evaluate pollution frequency and concentration trend. Assessment of the site-specific and pollutant-specific conditions and the likelihood of common detection must include applicable monitoring, pollutant use information, physical and chemical properties of the pollutant, hydrogeologic information, and review of information and data from other local, state, or federal monitoring data bases.*

Sec. 10. [103H.275] [MANAGEMENT OF POLLUTANTS WHERE GROUNDWATER IS POLLUTED.]

*Subdivision 1.* [AREAS WHERE GROUNDWATER POLLUTION IS DETECTED.] *(a) If groundwater pollution is detected, a state agency or political subdivision that regulates an activity causing or potentially causing a contribution to the pollution identified shall promote implementation of best management practices to prevent or minimize the source of pollution to the extent practicable.*

*(b) The pollution control agency, or for agricultural chemicals and practices, the commissioner of agriculture may adopt water source protection requirements under subdivision 2 that are consistent with the goal of section 1 and are commensurate with the groundwater pollution if the implementation of best management practices have proven to be ineffective.*

*(c) The water resources protection requirements must be:*

*(1) designed to prevent and minimize the pollution to the extent practicable;*

*(2) designed to prevent the pollution from exceeding the health risk limits; and*

*(3) submitted to the legislative water commission.*

*Subd. 2.* [ADOPTION OF WATER RESOURCE PROTECTION REQUIREMENTS.] *(a) The pollution control agency, or for agricultural chemicals and practices, the commissioner of agriculture shall adopt by rule water resource protection requirements that are consistent with the goal of section 1 to prevent and minimize the pollution to the extent practicable. The proposed rule must be submitted to the legislative water commission for review before adoption. The water resource protection requirements must be based on the use and effectiveness of best management practices, the product use and practices contributing to the pollution detected, economic factors, availability, technical feasibility, implementability, and effectiveness. The water resource protection requirements may be adopted for one or more pollutants or a similar class of pollutants. A water resource protection requirement may not be adopted before January 1, 1991.*

*(b) Before the water resource protection requirements are adopted, the pollution control agency or the commissioner of agriculture for agricultural chemicals and practices must notify affected persons and businesses for comments and input in developing the water resource protection requirements.*

*(c) Unless the water resource protection requirements are to cover the entire state, the water resource protection requirements are only effective in areas designated by the commissioner of the pollution control agency by order or for agricultural chemicals and practices in areas designated*

*by the commissioner of agriculture by order. The procedures for issuing the order and the effective date of the order must be included in the water resource protection requirements rule.*

*(d) The water resource protection requirements rule must contain procedures for notice to be given to persons affected by the rule and order of the commissioner. The procedures may include notice by publication, personal service, and other appropriate methods to inform affected persons of the rule and commissioner's order.*

*(e) A person who is subject to a water resource protection requirement may apply to the pollution control agency, or for agricultural chemicals and practices the commissioner of agriculture, and suggest an alternative protection requirement. Within 60 days after receipt, the agency or commissioner of agriculture must approve or deny the request. If the pollution control agency or commissioner of agriculture approves the request, an order must be issued approving the alternative protection requirement.*

*(f) A person who violates a water resource protection requirement relating to pollutants, other than agricultural chemicals, is subject to the penalties for violating a rule adopted under chapter 116. A person who violates a water resource protection requirement relating to agricultural chemicals and practices is subject to the penalties for violating a rule adopted under chapter 18D.*

Sec. 11. [103H.280] [AUTHORITY IS SUPPLEMENTAL.]

*The authority of the pollution control agency and the commissioner of agriculture in this article is supplemental to other authority given by law and does not restrict other authorities.*

Sec. 12. [NITROGEN COMPOUNDS IN GROUNDWATER STUDY.]

*The pollution control agency and the department of agriculture, in consultation with the board of water and soil resources and the Minnesota experiment station, shall prepare a report on nitrate and related nitrogen compounds in groundwater. The report shall consider recommendations made by local government in comprehensive local water plans and shall incorporate the findings of the nitrogen fertilizer task force and utilize data developed by the Minnesota experiment station. This report shall be submitted to the legislative water commission by July 1, 1991. The commission shall provide recommendations to the legislature by November 15, 1991, based upon this report.*

*The report shall be based on existing information and shall examine areas in which improvements in the state and local response to this problem are feasible. The report shall address the following issues: the determination of trends in nitrogen pollution; causative factors; the development of recommended best management practices to reduce and minimize the pollution; regulatory controls; the feasibility of proposed treatment and corrective or mitigative measures; and the economic impacts of proposed corrective measures.*

ARTICLE 2

WATER RESEARCH, INFORMATION, AND EDUCATION

Section 1. [3.887] [LEGISLATIVE WATER COMMISSION.]

*Subdivision 1.* [ESTABLISHMENT.] *A legislative water commission is established.*

*Subd. 2.* [MEMBERSHIP.] *(a) The legislative water commission shall consist of ten members appointed as follows:*

*(1) five members of the the senate with minority representation proportionate to minority membership in the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed; and*

*(2) five members of the house of representatives with minority representation proportionate to minority membership in the house to be appointed by the speaker of the house and to serve until their successors are appointed.*

*(b) Vacancies shall be filled in the same manner as the original positions.*

*(c) Vacancies occurring on the commission do not affect the authority of the remaining members of the legislative water commission to carry out the function of the commission.*

*Subd. 3.* [SUBCOMMITTEES.] *Two subcommittees shall be established in the legislative water commission, one on groundwater and one on surface water.*

*Subd. 4.* [STAFF.] *The legislative water commission may appoint and fix the compensation of additional legal and other personnel and consultants necessary to enable the commission to carry out its function, or to contract for services to supply necessary data subject to the approval of the legislative coordinating commission under section 3.305. State employees subject to civil service laws and regulations who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege.*

*Subd. 5.* [POWERS AND DUTIES.] *(a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.*

*(b) The commission may conduct public hearings and otherwise secure data and comments.*

*(c) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.*

*(d) Data or information compiled by the legislative water commission or its subcommittees shall be made available to the Minnesota future resources commission and standing and interim committees of the legislature on request of the chair of the respective commission or committee.*

*Subd. 6.* [STUDY.] *The legislative water commission shall study the recommendations of the environmental quality board for the management and protection of water resources in the state, and shall report its findings to the Minnesota future resources commission and the legislature by November 15, 1991, on the state's water management needs for the year 2000.*

*Subd. 7.* [EFFECTS OF SUSTAINABLE AGRICULTURE.] *The legislative water commission shall study the implementation and effects of sustainable agriculture in the state including current and potential practices and their effect on water and groundwater.*

*Subd. 8.* [REPEALER.] *This section is repealed effective June 30, 1995.*

Sec. 2. [17.114] [SUSTAINABLE AGRICULTURE.]

*Subdivision 1.* [PURPOSE.] *To assure the viability of agriculture in this state, the commissioner shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of agriculture in this state. Sustainable agriculture has the meaning given to it in Laws 1987, chapter 396, article 12, section 6.*

*Subd. 2.* [DEFINITIONS.] *For purposes of this section, the following definitions apply:*

*(a) "Sustainable agriculture" represents the best aspects of traditional and modern agriculture by using a fundamental understanding of nature as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive and economical agriculture.*

*(b) "Integrated pest management" means use of a combination of approaches, incorporating the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keep pests below levels where they do economic damage.*

*Subd. 3.* [DUTIES.] *(a) The commissioner shall:*

*(1) establish a clearinghouse and provide information, appropriate educational opportunities and other assistance to individuals, producers, and groups about sustainable agricultural techniques, practices, and opportunities;*

*(2) survey producers and support services and organizations to determine information and research needs in the area of sustainable agricultural practices;*

*(3) demonstrate the on-farm applicability of sustainable agriculture practices to conditions in this state;*

*(4) coordinate the efforts of state agencies regarding activities relating to sustainable agriculture;*

*(5) direct the programs of the department so as to work toward the sustainability of agriculture in this state;*

*(6) inform agencies of how state or federal programs could utilize and support sustainable agriculture practices;*

*(7) work closely with farmers, the University of Minnesota, and other appropriate organizations to identify opportunities and needs as well as assure coordination and avoid duplication of state agency efforts regarding research, teaching, and extension work relating to sustainable agriculture; and*

*(8) report to the legislature every odd-numbered year.*

*(b) The report under paragraph (a), clause (8), must include:*

*(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;*

*(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of*

*those programs;*

*(3) a description of specific actions the department of agriculture is taking in the area of sustainable agriculture;*

*(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and*

*(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.*

*Subd. 4.* [INTEGRATED PEST MANAGEMENT.] *(a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.*

*(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public post-secondary institutions, Minnesota extension service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.*

*(c) The commissioner shall report to the governor and legislature by November 15, 1990, and on a biennial basis thereafter.*

Sec. 3. [40.31] [ENVIRONMENTAL AGRICULTURALIST EDUCATION PROGRAM.]

*Subdivision 1.* [PROGRAM.] *An environmental agricultural program is established:*

*(1) to work with agricultural producers;*

*(2) to advise and inform agricultural producers on the impact of certain farming practices on water quality;*

*(3) to promote sustainable agriculture through use of best management practices and integrated pest management;*

*(4) to demonstrate and evaluate alternative pesticide practices; and*

*(5) to develop and promote farm profitability through a reduction in farm inputs.*

*Subd. 2.* [CONTRACTS.] *Contracts to carry out the program must be awarded by the board of water and soil resources following review by the legislative water commission.*

Sec. 4. Minnesota Statutes 1988, section 40.42, is amended by adding a subdivision to read:

*Subd. 6a.* [SENSITIVE AREA.] *"Sensitive area" means a geographic area defined by natural features where the groundwater is at significant risk of contamination from activities conducted at or near the land surface.*

Sec. 5. Minnesota Statutes 1988, section 40.43, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE LAND.] *(a)* Land may be placed in the conservation

reserve program if the land *complies with paragraph (b) and*:

(1) is marginal agricultural land~~, or~~;

*(2)* is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description~~, or~~;

*(3)* consists of a drained wetland~~, or is land that with a windbreak would be beneficial to resource protection.~~, *and* cropland adjacent to the restored wetland may also be enrolled to the extent of up to four acres of cropland for each acre of wetland restored;

*(4) is land that with a windbreak would be beneficial to resource protection;*

*(5) is land in a sensitive area; or*

*(6) is land on a hillside used for pasture.*

*(b) Land under paragraph (a) may be placed in the conservation reserve program if the land:*

~~(2)~~ *(1)* was owned by the landowner on January 1, 1985, or was owned by the landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

~~(3)~~ *(2)* is at least five acres in size, except for a windbreak, or is a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

~~(4)~~ *(3)* is not set aside, enrolled or diverted under another federal or state government program; and

~~(5)~~ *(4) except for land on a hillside used for pasture* was in agricultural crop production for at least two years during the period 1981 to 1985.

*(c)* The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land the amount that may be enrolled in the conservation reserve is:

~~(a)~~ *(1)* all agricultural land owned, if 20 acres or less; or

~~(b)~~ *(2)* if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

*(d)* In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 40.41.

Sec. 6. Minnesota Statutes 1988, section 40.43, subdivision 6, is amended to read:

Subd. 6. [PAYMENTS FOR CONSERVATION EASEMENTS AND ESTABLISHMENT OF COVER.] *(a)* The commissioner must make the following payments to the landowner for the conservation easement and agreement:

(1) to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed $75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $100 per acre for perpetual easements;

(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed $200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $300 per acre for perpetual easements;

(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;

(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or

(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.

*(b) For hillside pasture conservation easements, the payments in paragraph (a) must be reduced to reflect the value of similar property.*

*(c)* The commissioner may not pay more than $50,000 to a landowner for all the landowner's conservation easements and agreements.

Sec. 7. [103A.43] [WATER RESEARCH NEEDS EVALUATION.]

*(a) The environmental quality board shall evaluate and report to the legislative water commission and the Minnesota future resources commission on statewide water research needs and recommended priorities for addressing these needs. Local water research needs may also be included.*

*(b) The environmental quality board shall conduct a biennial assessment of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water.*

*(c) The environmental quality board shall assess the quantity of surface and ground water in the state and the availability of water to meet the state's needs.*

*(d) The environmental quality board shall prepare and submit a report to the legislative water commission and the Minnesota future resources commission by September 15 of each odd-numbered year.*

Sec. 8. [103B.3361] [CITATION.]

*Sections 103B.3361 to 103B.3369 may be cited as the "local water resources protection and management program."*

Sec. 9. [103B.3363] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *The definitions in this section apply to sections 103B.3363 and 103B.3369.*

*Subd. 2.* [BOARD.] *"Board" means the board of water and soil resources.*

*Subd. 3.* [COMPREHENSIVE LOCAL WATER PLAN.] *"Comprehensive local water plan" means a county water plan authorized under section 110B.04, a watershed management plan required under section 473.878, a watershed management plan required under section 112.46, or a county groundwater plan authorized under section 473.8785.*

*Subd. 4.* [LOCAL UNIT OF GOVERNMENT.] *"Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed*

*for the joint exercise of powers under section 471.59, a local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.*

*Subd. 5.* [PROGRAM.] *"Program" means a water-related program.*

Sec. 10. [103B.3369] [LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.]

*Subdivision 1.* [ASSISTANCE PRIORITIES.] *State agencies may give priority to local requests that are part of or responsive to a comprehensive local water plan when administering programs for water-related financial and technical assistance.*

*Subd. 2.* [ESTABLISHMENT.] *A local water resources protection and management program is established. The board shall provide financial assistance to counties for local government activities that protect or manage water and related land quality. The activities include planning, zoning, official controls, and other activities to implement comprehensive local water plans.*

*Subd. 3.* [COUNTY REQUEST AND SPONSORSHIP.] *Counties must submit funding requests to the board. A county must coordinate and submit requests on behalf of other units of government within its jurisdiction.*

*Subd. 4.* [CONTRACTS WITH LOCAL GOVERNMENTS.] *A county may contract with other appropriate local units of government to implement programs. An explanation of the program responsibilities proposed to be contracted with other local units of government must accompany grant requests. A county that contracts with other local units of government is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.*

*Subd. 5.* [FINANCIAL ASSISTANCE.] *The board may award grants to counties only to carry out water resource protection and management programs identified as priorities in comprehensive local water plans. Grants may be used to employ persons and to obtain and use information necessary to:*

*(1) develop comprehensive local water plans under section 110B.04 that have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a); and*

*(2) implement comprehensive local water plans.*

*Subd. 6.* [LIMITATIONS.] *(a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.*

*(b) Grants provided to develop comprehensive local water plans may not be awarded for a time longer than two years.*

*(c) A county may not request or be awarded grants for project implementation unless a comprehensive water plan has been adopted.*

*Subd. 7.* [RULES.] *The board shall adopt rules that:*

*(1) establish performance criteria for grant administration for local implementation of state delegated or mandated programs that recognize*

*regional variations in program needs and priorities;*

*(2) recognize the unique nature of state delegated or mandated programs;*

*(3) specify that program activities contracted by a county to another local unit of government are eligible for funding;*

*(4) require that grants from the board may not exceed the amount matched by participating local units of government; and*

*(5) specify a process for the board to establish a base level grant amount that all participating counties may be eligible to receive.*

*Subd. 8.* [PRIORITIES.] *(a) In reviewing requests, the board must give priority to requests based on:*

*(1) completion of comprehensive water plans under sections 110B.04 and 473.8785;*

*(2) adoption, administration, and enforcement of official controls;*

*(3) indicate the participation of several local units of government, including multicounty efforts;*

*(4) complement efforts of federal, state, and local units of government; and*

*(5) demonstrate long-term commitments to effective water protection and management programs.*

*(b) The board shall consult with appropriate agencies to evaluate grant requests and coordinate project activities with other state, federal, and local research management projects.*

Sec. 11. Minnesota Statutes 1988, section 110B.04, subdivision 6, is amended to read:

Subd. 6. [SCOPE OF PLANS.] Comprehensive water plans must include:

(1) a description of the existing and expected changes to physical environment, land use, and development in the county;

(2) available information about the surface water, groundwater, and related land resources in the county, including existing and potential distribution, availability, quality, and use;

(3) objectives for future development, use, and conservation of water and related land resources, including objectives that concern water quality and quantity, *and sensitive areas, wellhead protection areas,* and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official

controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

Sec. 12. Minnesota Statutes 1988, section 110B.35, subdivision 3, is amended to read:

Subd. 3. [EX OFFICIO NONVOTING MEMBERS.] The following ~~agencies~~ shall each provide one nonvoting member to the board:

(1) department of agriculture;

(2) department of health;

(3) department of natural resources; ~~and~~

(4) pollution control agency*; and*

*(5) the University of Minnesota.*

Sec. 13. Minnesota Statutes 1988, section 116C.41, subdivision 1, is amended to read:

Subdivision 1. [WATER PLANNING.] The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979" *including a new plan and strategy by November 15, 1990, and each five-year interval afterwards*;

(3) coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies; ~~and~~

(4) *coordinate development of state water policy recommendations and priorities, and a recommended program for funding identified needs, including priorities for implementing the state water resources monitoring plan;*

*(5) in cooperation with state agencies participating in the monitoring of water resources, develop a plan for monitoring the state's water resources;*

*(6)* administer federal water resources planning with multiagency interests*;*

*(7) ensure that groundwater quality monitoring and related data is provided and integrated into the Minnesota land management information system according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data;*

*(8) identify water resources information and education needs, priorities, and goals and prepare an implementation plan to guide state activities relating to water resources information and education;*

*(9) coordinate the development and evaluation of water information and education materials and resources; and*

*(10) coordinate the dissemination of water information and education*

*through existing delivery systems.*

Sec. 14. Minnesota Statutes 1988, section 116C.41, is amended by adding a subdivision to read:

*Subd. 4.* [CONSISTENCY OF STATE INFORMATION ACTIVITIES.] *State agency information and education activities must be consistent with the implementation plan required under subdivision 1, clause (8).*

ARTICLE 3

CHAPTER 1031

WELLS, BORINGS, AND UNDERGROUND USES

Section 1. [1031.001] [LEGISLATIVE INTENT.]

*This chapter is intended to protect the health and general welfare by providing a means for the development and protection of the natural resource of groundwater in an orderly, healthful, and reasonable manner.* [156A.01]

Sec. 2. [1031.005] [DEFINITIONS.]

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

*Subd. 2.* [BORING.] *"Boring" means a hole or excavation that is not used to extract water and includes exploratory borings, environmental bore holes, and test holes.*

*Subd. 3.* [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

*Subd. 4.* [DEPARTMENT.] *"Department" means the department of health.*

*Subd. 5.* [DRIVE POINT WELL.] *"Drive point well" means a well constructed by forcing a pointed well screen, attached to sections of pipe, into the ground with the screen and casing forced or driven into the ground with a hammer, maul, or weight.*

*Subd. 6.* [ELEVATOR SHAFT.] *"Elevator shaft" means a bore hole, jack hole, drilled hole, or excavation constructed to install an elevator shaft or hydraulic cylinder.*

*Subd. 7.* [ELEVATOR SHAFT CONTRACTOR.] *"Elevator shaft contractor" means a person with an elevator shaft contractor's license issued by the commissioner.*

*Subd. 8.* [ENVIRONMENTAL BORE HOLE.] *"Environmental bore hole" means a hole or excavation in the ground that enters or goes through a water bearing layer and is used to monitor or measure physical, chemical, radiological, or biological parameters without extracting water. An environmental bore hole also includes bore holes constructed for vapor recovery or venting systems. An environmental bore hole does not include a well, elevator shaft, exploratory boring, or monitoring well.*

*Subd. 9.* [EXPLORATORY BORING.] *"Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.* [156A.02 s. 5]

*Subd. 10.* [EXPLORER.] *"Explorer" means a person who has the right to drill an exploratory boring.* [156A.02 s. 4]

*Subd. 11.* [GROUNDWATER THERMAL EXCHANGE DEVICE.] *"Groundwater thermal exchange device" means a heating or cooling device that depends on extraction and reinjection of groundwater from an independent aquifer to operate.* [156A.02 s. 6]

*Subd. 12.* [LIMITED WELL CONTRACTOR.] *"Limited well contractor" means a person with a limited well contractor's license issued by the commissioner.*

*Subd. 13.* [LIMITED WELL SEALING CONTRACTOR.] *"Limited well sealing contractor" means a person with a limited well sealing contractor's license issued by the commissioner.*

*Subd. 14.* [MONITORING WELL.] *"Monitoring well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed to extract groundwater for physical, chemical, or biological testing. "Monitoring well" includes a groundwater quality sampling well.*

*Subd. 15.* [MONITORING WELL CONTRACTOR.] *"Monitoring well contractor" means a person who is registered by the commissioner to construct monitoring wells.*

*Subd. 16.* [PERSON.] *"Person" means an individual, firm, partnership, association, or corporation.*

*Subd. 17.* [PROVISIONS OF THIS CHAPTER.] *"Provisions of this chapter" means the sections in this chapter and rules adopted by the commissioner under this chapter.*

*Subd. 18.* [SEALED WELL CERTIFICATE.] *"Sealed well certificate" means the certificate containing information required under section 19.*

*Subd. 19.* [TEST HOLE.] *"Test hole" means a boring that does not enter a water-bearing layer of soil.*

*Subd. 20.* [VERTICAL HEAT EXCHANGER.] *"Vertical heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed piping system installed vertically in the ground to transfer heat to or from the surrounding earth.* [156A.02 s. 7]

*Subd. 21.* [WELL.] *"Well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, or acquisition of groundwater. Well includes monitoring wells, drive point wells, and dewatering wells. "Well" does not include:*

*(1) an excavation by backhoe, or otherwise for temporary dewatering of groundwater for nonpotable use during construction, if the depth of the excavation is 25 feet or less;*

*(2) an excavation made to obtain or prospect for oil, natural gas, minerals, or products of mining or quarrying;*

*(3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products;*

*(4) an excavation for nonpotable use for wildfire suppression activities; or*

*(5) borings.* [156A.02 s.1]

*Subd. 22.* [WELL CERTIFICATE.] *"Well certificate" means a certificate containing the requirements of section 14, subdivision 1, paragraph (e).*

*Subd. 23.* [WELL CONTRACTOR.] *"Well contractor" means a person with a well contractor's license.* [156A.02 s. 2]

*Subd. 24.* [WELLHEAD PROTECTION AREA.] *"Wellhead protection area" means the surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field.*

JURISDICTION OVER WELLS AND BORINGS

Sec. 3. [103I.101] [POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.]

*Subdivision 1.* [POWERS OF COMMISSIONER.] *The commissioner has the powers reasonable and necessary to effectively exercise the authority granted by this chapter.* [156A.05 s. 1]

*Subd. 2.* [DUTIES.] *The commissioner shall:*

*(1) regulate the drilling, construction, and sealing of wells;*

*(2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing unconventional wells such as drive point wells or dug wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;*

*(3) register and examine monitoring well contractors;*

*(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;*

*(5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells and elevator shafts within the state; and*

*(6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.*

*Subd. 3.* [PROCEDURES FOR PERMITS.] *The commissioner shall establish procedures for application, approval, and issuance of permits by rule.*

*Subd. 4.* [INSPECTIONS BY COMMISSIONER.] *The commissioner may inspect, collect water samples, and have access, at all reasonable times, to a well site, including wells drilled, sealed, or repaired.* [156A.05 s. 3]

*Subd. 5.* [COMMISSIONER TO ADOPT RULES.] *The commissioner shall adopt rules including:*

*(1) issuance of licenses for:*

*(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;*

*(ii) persons constructing unconventional wells such as drive points or dug wells;*

*(iii) persons sealing wells; and*

*(iv) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;*

*(2) issuance of registration for monitoring well contractors;*

*(3) establishment of conditions for examination and review of applications for license and registration;*

*(4) establishment of conditions for revocation and suspension of license and registration;*

*(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;*

*(6) establishment of a system for reporting on wells drilled and sealed;*

*(7) modification of fees prescribed in this chapter, according to the procedures for setting fees in section 16A.128;*

*(8) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination, for which the commissioner may adopt emergency rules;*

*(9) establishment of wellhead protection measures for wells serving public water supplies;*

*(10) establishment of procedures to coordinate collection of well data with other state and local governmental agencies; and*

*(11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for geologic and water resource mapping.* [156A.05 s. 2]

*Subd. 6.* [FEES FOR VARIANCES.] *The commissioner shall charge a nonrefundable application fee of $150 to cover the administrative cost of processing a request for a variance or modification of rules under Minnesota Rules, part 4725.0400, and for a variance relating to well construction, the nonrefundable application fee shall be the same amount as the well permit fee.*

Sec. 4. [103I.103] [WASTE PREVENTION MAY BE REQUIRED.]

*The commissioner of natural resources may require the owners of wells, especially flowing artesian wells, to prevent waste to conserve the groundwater water supply of the state.* [105.51 s. 1]

Sec. 5. [103I.105] [ADVISORY COUNCIL ON WELLS AND BORINGS.]

*(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of 15 voting members. Of the 15 voting members:*

*(1) one member must be from the department of health, appointed by the commissioner of health;*

*(2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;*

*(3) one member must be a member of the Minnesota geological survey*

*of the University of Minnesota, appointed by the director;*

*(4) one member must be a licensed exploratory borer;*

*(5) one member must be a licensed elevator shaft contractor;*

*(6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;*

*(7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;*

*(8) one member must be a monitoring well contractor; and*

*(9) six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions.*

*(b) An appointee of the well drilling industry may not serve more than two consecutive terms.*

*(c) The appointees to the advisory council from the well drilling industry must:*

*(1) have been residents of this state for at least three years before appointment; and*

*(2) have at least five years' experience in the well drilling business.*

*(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply.* [156A.06]

Sec. 6. [103I.111] [LOCAL AUTHORITY OVER WELLS AND BORINGS.]

*Subdivision 1.* [DELEGATION OF DUTIES OF COMMISSIONER.] *(a) The commissioner of health may enter into an agreement with a board of health to delegate all or part of the inspection, reporting, and enforcement duties authorized under provisions of this chapter pertaining to permitting, construction, repair, and sealing of wells and elevator shafts.* [145A.07 s. 1]

*(b) A board of health may delegate its powers and duties to other boards of health within its jurisdiction. An agreement to delegate powers and duties of a board of health must be approved by the commissioner and is subject to subdivision 3.* [145A.07 s. 2]

*Subd. 2.* [DELEGATION AGREEMENTS.] *(a) Agreements authorized under this section must be in writing and signed by the delegating authority and the designated agent.*

*(b) The agreement must list criteria the delegating authority will use to determine if the designated agent's performance meets appropriate standards and is sufficient to replace performance by the delegating authority.*

*(c) The agreement may specify minimum staff requirements and qualifications, set procedures for the assessment of costs, and provide for termination procedures if the delegating authority finds that the designated agent fails to comply with the agreement.*

*(d) A designated agent must not perform licensing, inspection, or*

*enforcement duties under the agreement in territory outside its jurisdiction unless approved by the governing body for that territory through a separate agreement.*

*(e) The scope of agreements established under this section is limited to duties and responsibilities agreed upon by the parties. The agreement may provide for automatic renewal and for notice of intent to terminate by either party.*

*(f) During the life of the agreement, the delegating authority shall not perform duties that the designated agent is required to perform under the agreement, except inspections necessary to determine compliance with the agreement and this section or as agreed to by the parties.*

*(g) The delegating authority shall consult with, advise, and assist a designated agent in the performance of its duties under the agreement.*

*(h) This section does not alter the responsibility of the delegating authority for the performance of duties specified in law.* [145A.07 s. 3]

*Subd. 3.* [PREEMPTION UNLESS DELEGATION.] *Notwithstanding any other law, a political subdivision may not regulate the permitting, construction, repair, or sealing of wells or elevator shafts unless the commissioner delegates authority under subdivisions 1 and 2.*

*Subd. 4.* [LOCAL AUTHORITY OVER EXPLORATORY BORING.] *This chapter does not limit the authority of a local unit of government to prohibit mineral exploration within its boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, that is consistent with other law.* [156A.075]

*Subd. 5.* [LOCAL GOVERNMENT REGULATION OF OPEN WELLS AND RECHARGING BASINS.] *(a) The governing body of a county, municipality, statutory or home rule charter city, or town may regulate open wells and recharging basins and may provide penalties for the violations. The use or maintenance of an open well or recharging basin that endangers the safety of a considerable number of persons may be defined as a public nuisance and abated as a public nuisance.* [471.92 s. 1]

*(b) The abatement of the public nuisance may include covering the open well or recharging basin or surrounding the open well or recharging basin with a protective fence.* [471.92 s. 2]

*Subd. 6.* [UNSEALED WELLS ARE PUBLIC HEALTH NUISANCES.] *A well that is required to be sealed under section 16 but is not sealed is a public health nuisance. A county may abate the unsealed well with the same authority of a board of health to abate a public health nuisance under section 145A.04, subdivision 8.*

*Subd. 7.* [LOCAL LICENSE OR REGISTRATION FEES PROHIBITED.] *(a) A political subdivision may not require a licensed well contractor to pay a license or registration fee.*

*(b) The commissioner of health must provide a political subdivision with a list of licensed well contractors upon request.* [156A.07 s. 9]

*Subd. 8.* [MUNICIPAL REGULATION OF DRILLING.] *A municipality may regulate all drilling, except well, elevator shaft, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may*

*prohibit, restrict, control, and require permits for the drilling.* [469.141 s. 2]

Sec. 7. [103I.113] [APPLICABILITY TO MINING ACTIVITIES.]

*The provisions of this chapter do not apply to mining activities within a mining area described in a permit to mine issued under section 93.481 except a well or boring from which water is withdrawn.*

WELL CONSTRUCTION AND OWNERSHIP

Sec. 8. [103I.115] [COMPLIANCE WITH THIS CHAPTER REQUIRED.] *A person may not construct, repair, or seal a well or boring, except as provided under the provisions of this chapter.*

Sec. 9. [103I.205] [WELL CONSTRUCTION.]

*Subdivision 1.* [NOTIFICATION REQUIRED.] *(a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 10. If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.*

*(b) The property owner where a well is to be located must file the well notification with the commissioner.*

*(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells.*

*(d) The owner of a drive point well must notify the commissioner of the installation and location of the well. The owner must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.*

*(e) A person may not construct a monitoring well or dewatering well until a permit for the monitoring well is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.*

*Subd. 2.* [EMERGENCY PERMIT EXEMPTIONS.] *The commissioner may adopt rules that modify the procedures for filing a well notification if conditions occur that:*

*(1) endanger the public health and welfare or cause a need to protect the groundwater; or*

*(2) require the monitoring well contractor or well contractor to begin constructing a well before obtaining a permit.*

*Subd. 3.* [MAINTENANCE PERMIT.] *(a) Except as provided under paragraph (b), a well that is not in use and is inoperable must be sealed or have a maintenance permit.*

*(b) If a monitoring well or a dewatering well is not sealed by 14 months after completion of construction, the owner of the property on which the well is located must obtain and annually renew a maintenance permit from the commissioner.*

*Subd. 4.* [LICENSE REQUIRED.] *(a) Except as provided in paragraph (b), (c), (d), or (e), a person may not drill, construct, or repair a well unless the person has a well contractor's license in possession.* [156A.03 s. 2]

*(b) A person may construct a monitoring well if the person is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering, or hydrologists or hydrogeologists certified by the American Institute of Hydrology, any professional engineer registered with the board of architecture, engineering, land surveying, or landscape architecture, or a geologist certified by the American Institute of Professional Geologists, and registers with the commissioner as a monitoring well contractor on forms provided by the commissioner.*

*(c) A person may do the following work with a limited well contractor's license in possession:*

*(1) modify or repair well casings or well screens;*

*(2) construct drive point wells; or*

*(3) install well pumps or pumping equipment.*

*(d) A person may do the following work with a limited well sealing contractor's license in possession:*

*(1) modify or repair well casings or well screens;*

*(2) construct drive point wells;*

*(3) install well pumps or pumping equipment; or*

*(4) seal wells.*

*(e) Notwithstanding other provisions of this chapter requiring a license, a license is not required for a person who complies with the other provisions of this chapter if the person is:*

*(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or*

*(2) an individual who performs labor or services for a well contractor in connection with the construction or repair of a well or sealing a well at the direction and at the personal supervision of a well contractor.*

*Subd. 5.* [AT-GRADE MONITORING WELLS.] *At-grade monitoring wells are authorized and may be installed for the purpose of evaluating groundwater conditions or for use as a leak detection device. The at-grade completion must comply with rules of the commissioner. The at-grade monitoring wells must be installed with an impermeable double locking cap and must be labeled monitoring wells.*

*Subd. 6.* [DISTANCE REQUIREMENTS FOR SOURCES OF CONTAMINATION.] *A person may not place, construct, or install an actual or potential source of contamination any closer to a well than the isolation distances prescribed by the commissioner by rule unless a variance has been prescribed by rule.*

*Subd. 7.* [WELL IDENTIFICATION LABEL REQUIRED.] *After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number, the depth of the well, the name of the person who constructed the well, and the date the well was constructed.*

*Subd. 8.* [MONITORING WELL CONTRACT REQUIREMENT.] *A person may not construct a monitoring well until the owner of the property on which the well is located and the well owner sign a written contract that describes the nature of the work to be performed, the estimated cost of the work, and provisions for sealing the monitoring well.*

*Subd. 9.* [REPORT OF WORK.] *(a) Within 30 days after completion or sealing of a well, the person doing the work must submit a verified report to the commissioner on forms provided by the commissioner.*

*(b) The report must contain:*

*(1) the name and address of the owner of the well and the actual location of the well;*

*(2) a log of the materials and water encountered in connection with drilling the well, and pumping tests relating to the well; and*

*(3) other information the commissioner may require concerning the drilling or sealing of the well.*

*(c) Within 30 days after receiving the report, the commissioner shall send a copy of the report to the commissioner of natural resources, the local soil and water conservation district where the well is located, and to the director of the Minnesota geological survey.*

Sec. 10. [WELL NOTIFICATION FILING FEES AND PERMIT FEES.]

*Subdivision 1.* [WELL NOTIFICATION FEE.] *The well notification fee to be paid by a property owner is:*

*(1) for a new well drilled that produces less than 50 gallons a minute based on the actual capacity of the pump installed, $50; and*

*(2) for a new well that produces 50 gallons a minute or more based on the actual capacity of the pump installed, $100.*

*Subd. 2.* [PERMIT FEE.] *The permit fee to be paid by a property owner is:*

*(1) for a well that is inoperable or disconnected from a power supply under a maintenance permit, $50;*

*(3) for construction of a monitoring well, $50;*

*(4) for monitoring wells owned by a state or federal agency or a local unit of government as defined in article 2, section 9, subdivision 4, there is no fee;*

*(5) annually for a monitoring well that is unsealed under a maintenance permit, $50;*

*(6) for monitoring wells used as a leak detection device at a single motor fuel retail outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is $50 per site regardless of the number of wells constructed on the site and the annual fee for a maintenance permit for unsealed monitoring wells is $50 per site regardless of the number of monitoring wells located on site;*

*(6) for a groundwater thermal exchange device, $50;*

*(7) for a vertical heat exchanger, in addition to the permit fee for wells, $50;*

*(8) for construction of the dewatering well, $50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for $500; and*

*(9) annually for a dewatering well that is unsealed under a maintenance permit, $25 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.*

Sec. 11. [103I.211] [DRILLING RECORDS.]

*(a) A person, firm, or corporation that provides the means of appropriating groundwater by drilling, boring, or another manner must file a verified statement with the director of the division of waters of the department of natural resources containing the log of the materials and water encountered and related water pumping tests.*

*(b) The statements are private data and can be used only by the division of waters of the department of natural resources for scientific study. The study's result may be public information.*

*(c) The commissioner of natural resources may exclude from the requirement to file statements those whose operations are of a type that would not yield significant scientific information.* [105.51 s. 2]

Sec. 12. [103I.221] [PLASTIC CASINGS.]

*Subdivision 1.* [PLASTIC CASINGS ALLOWED.] *The use of plastic casings in wells is expressly authorized.*

*Subd. 2.* [RULES.] *The commissioner may adopt rules relating to the installation of plastic well casing.*

Sec. 13. [103I.231] [COMMISSIONER MAY ORDER REPAIRS.]

*(a) The commissioner may order the owner of a well to take remedial measures, including making repairs, reconstructing, or sealing the well according to the rules of the commissioner. The order may be issued if the commissioner determines, based on inspection of the water or the well site or an analysis of water from the well, that the well:*

*(1) is contaminated;*

*(2) is required to be sealed under this chapter and has not been sealed according to the rules of the commissioner;*

*(3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;*

*(4) is a health or safety hazard; or*

*(5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.*

*(b) The order of the commissioner may be enforced in an action to seek compliance brought by the commissioner in the district court of the county where the well is located.* [156A.05 s. 4]

Sec. 14. [103I.235] [SALE OF PROPERTY WHERE WELLS ARE

LOCATED.]

*Subdivision 1.* [DISCLOSURE OF WELLS TO BUYER.] *(a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and the location of all known wells on the property, including the legal description, and the quartile, section, township, range, and county, and a map drawn from available information showing the location of the wells to the extent practicable. In the disclosure, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.*

*(b) At the time of closing of the sale, the disclosure information must be provided on a well certificate signed by the seller of the property or a person authorized to act on behalf of the seller.*

*(c) If a seller fails to provide a well certificate, a buyer, or a person authorized to act on behalf of the buyer, may sign a well certificate based on the information provided on the disclosure required by this section or based on other available information.*

*(d) A county recorder or registrar of titles may not record a deed, instrument, or writing for which a certificate of value is required under section 272.115, or any deed or contract for deed from a governmental body exempt from the payment of state deed tax, unless the well certificate required by this subdivision is filed with the county recorder or registrar of titles and the filing fee paid under section 357.18. The county recorder or registrar of titles shall transmit the well certificate to the commissioner of health within 15 days after receiving the well certificate.*

*(e) The commissioner in consultation with county recorders shall prescribe the form for a well certificate and provide well certificate forms to county recorders and registrars of titles and other interested persons.*

*Subd. 2.* [LIABILITY FOR FAILURE TO DISCLOSE.] *Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence of a well at the time of sale and knew of or had reason to know of the existence of a well is liable to the buyer for costs and reasonable attorney fees relating to the sealing of a well. The action must be commenced by the buyer within six years after the date the buyer purchased the real property where the well is located.*

Sec. 15. [1031.241] [ACTION FOR WELL CONTAMINATION.]

*Subdivision 1.* [OWNER'S CAUSE OF ACTION FOR WELL CONTAMINATION.] *The owner of real property where a well is located has a cause of action for civil damages against a person whose action or inaction caused contamination of a well. The property owner may commence an action for a period of six years after the owner knows or becomes aware of the contamination of the well.*

*Subd. 2.* [COURT AWARDS.] *The court may award damages, reasonable attorney fees, and costs and disbursements.*

WELL SEALING

Sec. 16. [1031.301] [WELL AND SEALING REQUIREMENTS.]

*Subdivision 1.* [WELLS.] *(a) A well owner must have a well sealed if:*

*(1) the well is contaminated;*

*(2) the well was attempted to be sealed but was not sealed according to*

*the provisions of this chapter; or*

*(3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.*

*(b) A well that is inoperable must be sealed unless the well owner has a maintenance permit for the well.*

*(c) The well owner must have a well contractor or limited well sealing contractor seal a well.*

*Subd. 2.* [MONITORING WELLS.] *The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, limited well sealing contractor, or a monitoring well contractor seal the monitoring well.*

*Subd. 3.* [DEWATERING WELLS.] *(a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.*

*(b) A well contractor or limited well sealing contractor shall seal the dewatering well.*

*Subd. 4.* [SEALING PROCEDURES.] *Wells, monitoring wells, and dewatering wells must be sealed according to rules adopted by the commissioner.*

*Subd. 5.* [SEALING OF SIX-INCH OR LARGER WELLS.] *The owner of a well with a casing six inches or more in inside diameter may not seal the well, cover or otherwise render the well inaccessible for inspection, or permanently remove the pumps from the well without notifying the commissioner of natural resources and complying with the commissioner's recommendations. The commissioner of natural resources may make recommendations and impose conditions as the commissioner determines to be advisable in the public interest. The commissioner of natural resources, or an authorized agent of the commissioner, must be granted access at reasonable times to inspect the site of a well that has been sealed, or for which notice of sealing has been given under this subdivision.* [105.51 s. 3]

Sec. 17. [103I.311] [IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.]

*Subdivision 1.* [IDENTIFICATION OF WELLS.] *The commissioner of natural resources in cooperation with other state agencies must identify the location and status of wells and abandoned wells located on state property.*

*Subd. 2.* [PLAN AND APPROPRIATION REQUEST FOR WELL SEALING.] *In each budget year of a biennium, the commissioner must present a plan and an appropriation request to properly seal wells on state property.*

*Subd. 3.* [PROHIBITION ON STATE LAND PURCHASED WITHOUT WELL IDENTIFICATION.] *The state may not purchase or sell real property or an interest in real property without identifying the location of all wells whether in use, not in use, or sealed on the property and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. The sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with.*

Sec. 18. [103I.315] [ORDERS TO SEAL WELLS.]

*Subdivision 1.* [ORDER TO SEAL WELL.] *The commissioner may order a property owner to seal a well if:*

*(1) the commissioner determines that without being sealed the well is an imminent threat to public health or public safety;*

*(2) the well is required to be sealed under section 16; or*

*(3) a well is a monitoring well or dewatering well and by 14 months after construction of the well, the owner has not obtained a maintenance permit, or after a maintenance permit has been issued the owner has not renewed a maintenance permit.*

*Subd. 2.* [FAILURE OF OWNER TO SEAL WELL.] *If the property owner fails to seal a well in the time provided in the commissioner's order, the commissioner may enter the property and have the well sealed. The property owner is liable for and must pay the costs of sealing the well.*

Sec. 19. [103I.321] [SEALED WELL CERTIFICATES.]

*Subdivision 1.* [COUNTY ISSUANCE.] *A county must issue a sealed well certificate prescribed by the commissioner of health in consultation with county recorders for wells that are sealed in accordance with this chapter.*

*Subd. 2.* [RULES.] *The commissioner may adopt rules prescribing a procedure to determine that wells are properly sealed.*

Sec. 20. [103I.325] [LANDOWNER SEALED WELL LIABILITY.]

*Subdivision 1.* [CERTIFICATE FILING REQUIRED.] *A landowner must file the sealed well certificate with the county recorder or registrar of titles and pay the filing fee under section 357.18 where the sealed well is located.*

*Subd. 2.* [LIABILITY AFTER SEALING.] *The owner of a well that has had a sealed well certificate filed with the commissioner of health and the county recorder or registrar of titles where the well is located is not liable for contamination of groundwater from the well that occurs after the well has been sealed, if the owner has not disturbed or disrupted the sealed well.*

Sec. 21. [103I.331] [WELL SEALING COST-SHARE PROGRAM.]

*Subdivision 1.* [COUNTY COST-SHARE SEALING PROGRAM.] *(a) The board of water and soil resources may allocate funds to counties selected under subdivision 2 to be used for a well sealing program to share the cost of sealing wells according to the priority under subdivision 3.*

*(b) A county may contract for the administration of the well sealing program under this section with another local unit of government.*

*(c) The county must consult with local health boards, soil and water conservation districts, planning and zoning departments, and other appropriate organizations and local government units during program implementation.*

*(d) To encourage landowner participation in the program, the county shall:*

*(1) publish information in newspapers of general circulation, regarding*

*availability of state funds to share the cost of sealing wells; and*

*(2) invite the public to report to the county on the existence of wells that are not sealed.*

*Subd. 2.* [CRITERIA FOR SELECTING COUNTIES FOR WELL SEALING.] *(a) The board of water and soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:*

*(1) diversity of well construction;*

*(2) diversity of geologic conditions;*

*(3) current use of affected aquifers;*

*(4) diversity of land use; and*

*(5) aquifer susceptibility to contamination by unsealed wells.*

*(b) After July 1, 1991, only well sealings that are a part of, or responsive to, the priority actions identified in an approved comprehensive local water plan, as defined in article 2, section 9, subdivision 3, are eligible for assistance.*

*Subd. 3.* [WELL SEALING PRIORITIES.] *The board of water and soil resources, and the commissioner of health after consultation with local water planning authorities, shall establish priorities for sealing wells that are not an imminent threat to public health or public safety based on the following criteria:*

*(1) well construction, depth, and condition;*

*(2) importance of an aquifer as public and private water supply source;*

*(3) proximity to known or potential point or nonpoint contamination sources;*

*(4) current contamination of the well or aquifer;*

*(5) susceptibility of an aquifer to contamination by wells that are not sealed;*

*(6) limited availability of alternative sources of drinking water;*

*(7) anticipated changes in land or water use;*

*(8) unique conditions such as construction, rehabilitation, or demolition areas;*

*(9) potential use of the well as a monitoring well; and*

*(10) the danger to humans and animals of falling into the well.*

*Subd. 4.* [LANDOWNER WELL SEALING CONTRACTS.] *(a) A county, or contracted local unit of government, may contract with landowners to share the cost of sealing priority wells in accordance with criteria established by the board of water and soil resources.*

*(b) The county must use the funds allocated from the board of water and soil resources to pay up to 75 percent, but not more than $2,000 of the cost of sealing priority wells.*

*(c) A well sealing contract must provide that:*

*(1) sealing is done in accordance with this chapter and rules of the commissioner of health relating to sealing of unused wells;*

*(2) payment is made to the landowner after the well is sealed by a contractor licensed under this chapter;*

*(3) a sealed well certificate will be issued to the landowner after sealing of the well is completed; and*

*(4) the landowner must file a copy of the sealed well certificate and a copy of the well record with the commissioner of health.*

*Subd. 5.* [REPORTS.] *(a) The county shall make an annual report to the board of soil and water resources by February 15 of each year on the status of the well sealing grant program in the county including the number, location, and cost for each well sealed.*

*(b) The board of water and soil resources in cooperation with the commissioner of health shall make annual reports to the legislature on the status of expenditures and well sealings.*

*Subd. 6.* [REPEALER.] *This section is repealed effective June 30, 1995.*

Sec. 22. [103I.335] [FUNDING FOR PERSONS TO SEAL WELLS.]

*Subdivision 1.* [APPLICATION.] *A property owner who desires to seal a well may apply to the board of water and soil resources for the board to provide funds and seal the well.*

*Subd. 2.* [CRITERIA FOR SEALING.] *The board of water and soil resources shall adopt criteria for accepting applications to seal wells for property owners applying under subdivision 1.*

*Subd. 3.* [COLLECTION AND ENFORCEMENT OF COSTS.] *If the applications are accepted, the costs of sealing become a governmental services lien as provided in section 23. The board of water and soil resources must enter a written agreement to collect the costs of sealing the well in a manner provided under section 23, subdivision 3. If the costs are not paid according to the agreement, the board of water and soil resources may enforce the lien in any manner provided under section 23, subdivisions 2 and 3.*

Sec. 23. [103I.341] [COLLECTION AND ENFORCEMENT OF WELL SEALING COSTS.]

*Subdivision 1.* [LIEN FOR SEALING COSTS.] *The commissioner and the board of water and soil resources have a governmental services lien under section 514.67 for the costs of sealing a well that the commissioner or board has contracted to be sealed under section 18, subdivision 2; 21; or 22. The lien attaches to the real property where the well is located. The lien is perfected by filing the lien with the county recorder or registrar of titles where the well and property are located and serving or mailing by return receipt a copy of the lien to the property owner.*

*Subd. 2.* [ENFORCEMENT OF LIEN.] *The commissioner or the board of water and soil resources may enforce the lien in the manner provided for a judgment lien under chapter 550 or certify the amount to the county auditor, which must be assessed against the property and collected in the same manner as real estate taxes.*

*Subd. 3.* [ASSESSMENT OF INSTALLMENTS.] *(a) In lieu of certifying the entire amount to be collected, the commissioner or the board of water*

*and soil resources may have the amount due assessed in seven or less equal annual installments plus interest due at the rate determined by the state court administrator for judgments under section 549.09.*

*(b) The interest due is an additional perfected lien on the property without further action by the commissioner or the board of water and soil resources.*

*(c) The interest and the installment due must be entered on the tax lists for the year and collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as part of the real estate taxes.*

*Subd. 4.* [SATISFACTION OF LIEN.] *The amount due and interest of a lien under this section may be paid at any time. When the amount of the lien including accrued interest is paid, the commissioner or board must execute a satisfaction of the lien and record the satisfaction with the county recorder or registrar of titles where the lien was filed.*

*Subd. 5.* [APPROPRIATION OF RECOVERED COSTS.] *Costs of sealing wells recovered from property owners shall be deposited in the state treasury and credited to the account from which the amounts were originally appropriated. The amounts recovered by the board of water and soil resources are continuously appropriated to the board for sealing wells.*

ELEVATOR SHAFT BORINGS

Sec. 24. [103I.401] [ELEVATOR SHAFT BORINGS.]

*Subdivision 1.* [PERMIT REQUIRED.] *(a) A person may not construct an elevator shaft until a permit for the hole or excavation is issued by the commissioner.*

*(b) The fee for excavating holes for the purpose of installing elevator shafts is $50 for each hole.*

*(c) The elevator shaft permit preempts local permits except local building permits, and counties and home rule charter or statutory cities may not require a permit for elevator shaft holes or excavations.*

*Subd. 2.* [LICENSE REQUIRED.] *A person may not construct an elevator shaft unless the person possesses a well contractor's license or an elevator shaft contractor's license issued by the commissioner.*

*Subd. 3.* [SEALING.] *A well contractor or elevator shaft contractor must seal a hole or excavation that is no longer used for an elevator shaft. The sealing must be done according to rules adopted by the commissioner.*

*Subd. 4.* [REPORT.] *Within 30 days after completion or sealing of a hole or excavation for an elevator shaft, the person doing the work must submit a report to the commissioner on forms provided by the commissioner.*

ENVIRONMENTAL BORE HOLES

Sec. 25. [103I.451] [ENVIRONMENTAL BORE HOLES.]

*An environmental bore hole must be constructed, sealed, and reported as prescribed by rule of the commissioner by a well contractor or a monitoring well contractor.*

LICENSING AND REGISTRATION

Sec. 26. [103I.501] [LICENSING AND REGULATION OF WELLS AND BORINGS.]

*(a) The commissioner shall regulate and license:*

*(1) drilling, constructing, and repair of wells;*

*(2) sealing of wells;*

*(3) installing of well pumps and pumping equipment;*

*(4) excavating, drilling, and sealing of holes for the installation of elevator shafts and hydraulic cylinders; and*

*(5) construction and sealing of environmental bore holes.* [156A.03 s. 1]

*(b) The commissioner shall examine and license well contractors, limited well contractors, and elevator shaft contractors, and examine and register monitoring well contractors.*

*(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring.* [156A.03 s. 1]

Sec. 27. [103I.505] [RECIPROCITY OF LICENSES.]

*Subdivision 1.* [RECIPROCITY AUTHORIZED.] *The commissioner may issue a license or register a person under this chapter, without giving an examination, if the person is licensed or registered in another state and:*

*(1) the requirements for licensing or registration under which the well contractor was licensed or registered do not conflict with this chapter;*

*(2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and*

*(3) equal reciprocal privileges are granted to licensees of this state.*

*Subd. 2.* [LICENSE FEE REQUIRED.] *A well contractor must apply for the license and pay the fees under the provisions of this chapter to receive a license under this section.*

Sec. 28. [103I.515] [LICENSES NOT TRANSFERABLE.]

*A license or registration issued under this chapter is not transferable.*

Sec. 29. [103I.521] [FEES DEPOSITED WITH STATE TREASURER.]

*Fees collected for licenses or registration under this chapter shall be deposited in the state treasury.*

Sec. 30. [103I.525] [WELL CONTRACTOR'S LICENSE.]

*Subdivision 1.* [APPLICATION.] *(a) A person must file an application and application fee with the commissioner to apply for a well contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2.* [APPLICATION FEE.] *The application fee for a well contractor's license is $50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3.* [EXAMINATION.] *After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4.* [ISSUANCE OF LICENSE.] *If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.*

*Subd. 5.* [BOND.] *(a) As a condition of being issued a well contractor's license, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6.* [LICENSE FEE.] *The fee for a well contractor's license is $250.*

*Subd. 7.* [VALIDITY.] *A well contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8.* [RENEWAL.] *(a) A licensee must file an application and a renewal application fee to renew the license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9.* [LATE RENEWAL APPLICATION.] *If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

Sec. 31. [103I.531] [LIMITED WELL CONTRACTOR'S LICENSE.]

*Subdivision 1.* [APPLICATION.] *(a) A person must file an application and an application fee with the commissioner to apply for a limited well contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2.* [APPLICATION FEE.] *The application fee for a limited well contractor's license is $50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3.* [EXAMINATION.] *After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4.* [ISSUANCE OF LICENSE.] *If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well contractor's license.*

*Subd. 5.* [BOND.] *(a) As a condition of being issued a limited well contractor's license, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6.* [LICENSE FEE.] *The fee for a limited well contractor's license is $50.*

*Subd. 7.* [VALIDITY.] *A limited well contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8.* [RENEWAL.] *(a) A person must file an application and a renewal application fee to renew the limited well contractor's license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9.* [LATE RENEWAL APPLICATION.] *If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the limited well contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

Sec. 32. [103I.533] [LIMITED WELL SEALING CONTRACTOR'S LICENSE.]

*Subdivision 1.* [APPLICATION.] *(a) A person must file an application and an application fee with the commissioner to apply for a limited well sealing contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2.* [APPLICATION FEE.] *The application fee for a limited well sealing contractor's license is $50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3.* [EXAMINATION.] *After the commissioner has approved the*

*application, the applicant must take an examination given by the commissioner.*

*Subd. 4.* [ISSUANCE OF LICENSE.] *If an applicant passes the examination and meets qualifications as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well sealing contractor's license.*

*Subd. 5.* [BOND.] *(a) As a condition of being issued a limited well sealing contractor's license, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6.* [LICENSE FEE.] *The fee for a limited well sealing contractor's license is $50.*

*Subd. 7.* [VALIDITY.] *A limited well sealing contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8.* [RENEWAL.] *(a) A person must file an application and a renewal application fee to renew the limited well sealing contractor's license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9.* [LATE RENEWAL APPLICATION.] *If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the limited well sealing contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

Sec. 33. [103I.535] [ELEVATOR SHAFT CONTRACTOR'S LICENSE.]

*Subdivision 1.* [APPLICATION.] *(a) An individual must file an application and application fee with the commissioner to apply for an elevator shaft contractor's license.*

*(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.*

*Subd. 2.* [APPLICATION FEE.] *The application fee for an elevator shaft contractor's license is $50. The commissioner may not act on an application until the application fee is paid.*

*Subd. 3.* [EXAMINATION.] *After the commissioner has approved the application, the applicant must take an examination given by the commissioner.*

*Subd. 4.* [ISSUANCE OF LICENSE.] *If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue an elevator shaft contractor's license to the applicant.*

*Subd. 5.* [BOND.] *(a) As a condition of being issued an elevator shaft contractor's license, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 6.* [LICENSE FEE.] *The fee for an elevator shaft contractor's license is $50.*

*Subd. 7.* [VALIDITY.] *An elevator shaft contractor's license is valid until the date prescribed in the license by the commissioner.*

*Subd. 8.* [RENEWAL.] *(a) A person must file an application and a renewal application fee to renew the license by the date stated in the license.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 9.* [LATE RENEWAL APPLICATION.] *If a licensee submits a renewal application after the required renewal date:*

*(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee are submitted.*

Sec. 34. [1031.541] [MONITORING WELL CONTRACTORS.]

*Subdivision 1.* [INITIAL REGISTRATION AFTER DECEMBER 31, 1990.] *After December 31, 1990, a person seeking initial registration as a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.*

*Subd. 2.* [VALIDITY.] *A monitoring well contractor's registration is valid until the date prescribed in the registration by the commissioner.*

*Subd. 3.* [BOND.] *(a) As a condition of being issued a monitoring well contractor's registration, the applicant must submit a corporate surety bond for $10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.*

*(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.*

*Subd. 4.* [RENEWAL.] *(a) A person must file an application and a*

*renewal application fee to renew the registration by the date stated in the registration.*

*(b) The renewal application fee shall be set by the commissioner under section 16A.128.*

*(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.*

*Subd. 5.* [LATE RENEWAL APPLICATION.] *If a registered person submits a renewal application after the required renewal date:*

*(1) the registered person must include an additional late fee set by the commissioner under section 16A.128; and*

*(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, and late fee are submitted.*

Sec. 35. [103I.545] [REGISTRATION OF DRILLING MACHINES REQUIRED.]

*Subdivision 1.* [DRILLING MACHINE.] *(a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license or registration under this chapter unless the drilling machine is registered with the commissioner.*

*(b) A person must apply for the registration on forms prescribed by the commissioner and submit a $50 registration fee.*

*(c) A registration is valid for one year.*

*Subd. 2.* [PUMP HOIST.] *(a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells, seal wells, or install pumps unless the machine is registered with the commissioner.*

*(b) A person must apply for the registration on forms prescribed by the commissioner and submit a $50 registration fee.*

*(c) A registration is valid for one year.*

EXPLORATORY BORINGS

Sec. 36. [103I.601] [EXPLORATORY BORING PROCEDURES.]

*Subdivision 1.* [DEFINITIONS.] *(a) For the purposes of this section, the following words have the meanings given them.*

*(b) "Data" includes samples and factual noninterpreted data obtained from exploratory borings and samples including analytical results.*

*(c) "Parcel" means a government section, fractional section, or government lot.*

*(d) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer.* [156A.071 s. 1]

*Subd. 2.* [LICENSE REQUIRED TO MAKE BORINGS.] *(a) Except as provided in paragraph (b), a person may not make an exploratory boring without an exploratory borer's license.*

*(b) An explorer may designate a responsible individual to supervise and*

*oversee the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual must take and pass an examination relating to construction, location, and sealing of exploratory borings. A professional engineer registered under sections 326.02 to 326.15 or a certified professional geologist is not required to take the examination required in this subdivision but must be licensed to make an exploratory boring.* [156A.071 s. 2]

*Subd. 3.* [NOTIFICATION OF PROJECT CONSTRUCTION.] *(a) By 30 days before making an exploratory boring, an explorer must register with the commissioner of natural resources and provide a copy of the registration to the commissioner of health. The registration must include:*

*(1) the identity of the firm, association, or company engaged in exploratory boring; and*

*(2) the identification of an agent, including the agent's business address.*

*(b) The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner of natural resources has reasonable doubts about the explorer's financial ability to comply with requirements of law relating to exploratory boring.*

*(c) An explorer shall annually register with the commissioner of natural resources while conducting exploratory boring.* [156A.071 s. 3]

*Subd. 4.* [MAP OF BORINGS.] *By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the department of transportation, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel.* [156A.071 s. 4]

*Subd. 5.* [ACCESS TO DRILL SITES.] *The commissioners of health, natural resources, and the pollution control agency, the community health board as authorized under section 145A.04, and their officers and employees shall have access to exploratory boring sites to inspect the drill holes, drilling, and sealing of the borings, and to sample ambient air and drilling waters, and to measure the radioactivity of the waste drill cuttings at the drilling site at the time of observation.* [156A.071 s. 5]

*Subd. 6.* [EMERGENCY NOTIFICATION.] *The explorer must promptly notify the commissioners of health, natural resources, and the pollution control agency, and the authorized agent of the commissioner of health of an occurrence during exploratory boring that has a potential for significant adverse health or environmental effects. The explorer must take reasonable action to minimize the adverse effects.* [156A.071 s. 6]

*Subd. 7.* [INSPECTION OF DATA BEFORE SUBMISSION.] *The commissioner of health may, if necessary, inspect data before its submission under section 36. The data examined by the commissioner is not public data before it is submitted under section 37.* [156A.071 s. 6]

*Subd. 8.* [PERMANENT AND TEMPORARY SEALING PROCEDURES.] *Exploratory borings must be temporarily or permanently sealed according to rules adopted by the commissioner.* [156A.071 s. 7]

*Subd. 9.* [SEALING REPORT.] *(a) By 30 days after permanent or temporary sealing of an exploratory boring, the explorer must submit a report to the commissioners of health and natural resources.*

*(b) The report must be on forms provided by the commissioner of health and include:*

*(1) the location of each drill hole in as large a scale as possible, which is normally prepared as part of the explorer's record;*

*(2) the type and thickness of overburden and rock encountered;*

*(3) identification of water bearing formations encountered;*

*(4) identification of hydrologic conditions encountered;*

*(5) method of sealing used;*

*(6) methods of construction and drilling used; and*

*(7) average scintillometer reading of waste drill cuttings before backfilling of the recirculation pits.* [156A.071 s. 8]

Sec. 37. [103I.605] [SUBMISSION OF DATA FROM EXPLORATORY BORINGS.]

*Subdivision 1.* [REQUIREMENT.] *Data obtained from exploratory borings must be submitted by the explorer to the commissioner of natural resources as provided in this section.* [156A.071 s. 9]

*Subd. 2.* [MINERAL DEPOSIT EVALUATION DATA.] *(a) In applying for a permit required for activities relating to mineral deposit evaluation, which means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities, but does not include activities intended, by themselves, for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data that, if released, would impair the competitive position of the explorer submitting the data. Data identified must be considered to be not public data.*

*(b) If requested to disclose the data, the commissioner shall mail notice of the request to the explorer and determine whether release of the data would impair the competitive position of the explorer submitting the data. If the commissioner determines that release of the data would impair the competitive position of the explorer submitting the data, the commissioner may not release the data to a person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data.*

*(c) Data that are classified as not public may not be released by the commissioner until 30 days after mailed notice to the explorer of the commissioner's intention to release the data. The commissioner may not release data to a person engaged in exploration, mining, milling, or related industry pertaining to minerals. If the commissioner determines to release data, the explorer may demand a contested case hearing on the commissioner's determination or may withdraw the permit application and the data may not be released.*

*(d) Any person aggrieved by the decision of the commissioner may appeal the decision according to chapter 14.* [156A.071 s. 9]

*Subd. 3.* [MINE DEVELOPMENT DATA.] *In applying for a permit required for mine development, which means activities undertaken after*

*mineral deposit evaluation for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others.* [156A.071 s. 9]

*Subd. 4.* [EXPLORATION DATA.] *By six months after termination by the explorer of a lease or other type of exploration agreement on a property the data from the exploration must be submitted to the commissioner of natural resources. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others.* [156A.071 s. 9]

*Subd. 5.* [DESIGNATION OF SAMPLES TO BE SUBMITTED.] *The commissioner of natural resources shall designate the samples to be submitted, and specify where the sample is to be delivered. If an explorer requires certain samples in their entirety, the commissioner of natural resources may waive the requirement for a one-fourth portion of the samples. Samples submitted are property of the state.* [156A.071 s. 9]

GROUNDWATER THERMAL EXCHANGE DEVICES

Sec. 38. [103I.621] [PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.]

*Subdivision 1.* [PERMIT.] *(a) Notwithstanding any department or agency rule to the contrary, the commissioner shall issue, on request by the owner of the property and payment of the permit fee, permits for the reinjection of water by a properly constructed well into the same aquifer from which the water was drawn for the operation of a groundwater thermal exchange device.*

*(b) As a condition of the permit, an applicant must agree to allow inspection by the commissioner during regular working hours for department inspectors.*

*(c) Not more than 200 permits may be issued for small systems having maximum capacities of 20 gallons per minute or less. The small systems are subject to inspection twice a year.*

*(d) Not more than ten permits may be issued for larger systems having maximum capacities from 20 to 50 gallons per minute. The larger systems are subject to inspection four times a year.*

*(e) A person issued a permit must comply with this section for the permit to be valid.*

*Subd. 2.* [WATER USE REQUIREMENTS APPLY.] *Water use permit requirements and penalties under chapter 103F and related rules adopted and enforced by the commissioner of natural resources apply to groundwater thermal exchange permit recipients. A person who violates a provision of this section is subject to enforcement or penalties for the noncomplying activity that are available to the commissioner and the pollution control agency.*

*Subd. 3.* [CONSTRUCTION REQUIREMENTS.] *(a) Withdrawal and reinjection for the groundwater thermal exchange device must be accomplished by a closed system in which the waters drawn for thermal exchange do not have contact or commingle with water from other sources or with polluting material or substances. The closed system must be constructed*

*to allow an opening for inspection by the commissioner.*

*(b) Wells that are part of a groundwater thermal exchange system may not serve another function, except water may be supplied to the domestic water system if:*

*(1) the supply is taken from the thermal exchange system ahead of the heat exchange unit; and*

*(2) the water discharges to a break tank through an air gap that is at least twice the effective diameter of the water inlet to the tank.*

*(c) A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.*

*Subd. 4.* [RULES.] *The commissioner may adopt rules to administer this section.*

VERTICAL HEAT EXCHANGERS

Sec. 39. [103I.641] [VERTICAL HEAT EXCHANGERS.]

*Subdivision 1.* [REQUIREMENTS.] *A person may not drill or construct an excavation used to install a vertical heat exchanger unless the person is a well contractor.*

*Subd. 2.* [REGULATIONS FOR VERTICAL HEAT EXCHANGERS.] *Vertical heat exchangers must be constructed, maintained, and sealed under the provisions of this chapter.*

*Subd. 3.* [PERMIT REQUIRED.] *(a) A vertical heat exchanger may not be installed without first obtaining a permit for the vertical heat exchanger from the commissioner. A well contractor must apply for the permit on forms provided by the commissioner and must pay the permit fee.*

*(b) As a condition of the permit, the owner of the property where the vertical heat exchanger is to be installed must agree to allow inspection by the commissioner during regular working hours of department of health inspectors.*

UNDERGROUND SPACE DEVELOPMENT

Sec. 40. [103I.661] [MINED UNDERGROUND SPACE DEVELOPMENT.]

*Subdivision 1.* [COMMISSIONER OF NATURAL RESOURCES REVIEW.] *The commissioners of natural resources and health shall review all project plans that involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed.* [469.141 s. 1]

*Subd. 2.* [PERMIT FOR WATER REMOVAL.] *A mined underground space project involving or affecting the quality and quantity of groundwater may not be developed until a water use permit for the appropriation of waters under chapter 103G has been issued by the commissioner of natural resources.* [469.141 s. 4]

UNDERGROUND STORAGE OF GAS OR LIQUID

Sec. 41. [103I.681] [PERMIT FOR UNDERGROUND STORAGE OF GAS OR LIQUID.]

*Subdivision 1.* [PERMIT REQUIRED.] *(a) The state, a person, partnership, association, private or public corporation, county, municipality, or other political subdivision of the state may not displace groundwater in consolidated or unconsolidated formations by the underground storage of a gas or liquid under pressure without an underground storage permit from the commissioners of natural resources and health.* [84.57]

*(b) The state, a person, a public corporation, county, municipality, or other political subdivision of the state may not store a gas or liquid, except water, below the natural surface of the ground by using naturally occurring rock materials as a storage reservoir without an underground storage permit from the commissioners of health and natural resources.* [84.621 s. 1]

*Subd. 2.* [APPLICATION.] *(a) A person may apply for an underground storage permit by filing an application form with the commissioner of natural resources accompanied by the application fee and maps, plans, and specifications describing the proposed displacement of groundwater and the underground storage of gases or liquids and other data required by the commissioner.*

*(b) The commissioner of natural resources shall prescribe the application form to apply for an underground storage permit.* [84.58 s. 1]

*(c) The commissioner of natural resources may require an applicant to demonstrate to the commissioner that the applicant has adequately provided a method to ensure payment of any damages resulting from the operation of a gas or liquid storage reservoir.* [84.61]

*Subd. 3.* [HEARING REQUIRED.] *(a) An underground storage permit allowing displacement of groundwater may not be issued by the commissioner of natural resources or health without holding a public hearing on the issuance of the permit.* [84.58 s. 2]

*(b) By 20 days after receiving a complete application, the commissioner of natural resources shall set a time and location for the hearing.* [84.58 s. 3]

*Subd. 4.* [NOTICE OF HEARING.] *The hearing notice must:*

*(1) state the date, place, and time of the hearing;*

*(2) show the location of groundwater and surface water and property affected by the proposed underground storage;*

*(3) be published by the applicant, or by the commissioner of natural resources if the proceeding is initiated by the commissioner of natural resources or health, once each week for two successive weeks in a legal newspaper that is published in the county where a part or all of the affected groundwater or surface waters are located; and*

*(4) be mailed by the commissioner of natural resources to the county auditor and the chief executive official of an affected municipality.* [84.58 s. 4]

*Subd. 5.* [PROCEDURE AT HEARING.] *(a) The hearing must be public and conducted by the commissioner of natural resources or a referee appointed*

*by the commissioner.*

*(b) Affected persons must have an opportunity to be heard. Testimony must be taken under oath and the parties must have the right of cross-examination. The commissioner of natural resources shall provide a stenographer, at the expense of the applicant, to take testimony and a record of the testimony, and all proceedings at the hearing shall be taken and preserved.*

*(c) The commissioner of natural resources is not bound by judicial rules of evidence or of pleading and procedure.* [84.58 s. 5]

*Subd. 6.* [SUBPOENAS.] *The commissioner of natural resources or health may subpoena and compel the attendance of witnesses and the production of books and documents material to the purposes of the hearing. Disobedience of a subpoena, or refusal to be sworn, or refusal to answer as a witness, is punishable as contempt in the same manner as a contempt of the district court. The commissioner of natural resources must file a complaint of the disobedience with the district court of the county where the disobedience or refusal occurred.* [84.58 s. 6]

*Subd. 7.* [REQUIRED FINDINGS.] *An order granting a permit for the proposed storage may not be issued unless it contains and is based on a finding stating:*

*(1) the proposed storage will be confined to geological stratum or strata lying more than 500 feet below the surface of the soil;*

*(2) the proposed storage will not substantially impair or pollute groundwater or surface water; and*

*(3) the public convenience and necessity of a substantial portion of the gas-consuming public in the state will be served by the proposed project.* [84.60]

*Subd. 8.* [ORDER CONDITIONS.] *The order granting the permit must contain conditions and restrictions that will reasonably protect:*

*(1) private property or an interest not appropriated;*

*(2) the rights of the property owners and owners of an interest in property located within the boundaries of the proposed storage area, or persons claiming under the owners, to explore for, drill for, produce or develop for the recovery of oil or gas or minerals under the property, and to drill wells on the property to develop and produce water; provided that the exploration, drilling, producing, or developing complies with orders and rules of the commissioner of natural resources that protect underground storage strata or formations against pollution and against the escape of gas; and*

*(3) public resources of the state that may be adversely affected by the proposed project.* [84.60]

*Subd. 9.* [PUBLICATION OF FINDINGS, CONCLUSIONS, ORDERS.] *(a) The commissioner of natural resources shall mail notice of any findings, conclusions, and orders made after the hearing to:*

*(1) the applicant;*

*(2) parties who entered an appearance at the hearing;*

*(3) the county auditor; and*

*(4) the chief executive officer of an affected municipality.*

*(b) The commissioner of natural resources must publish notice of findings, conclusions, and orders made after the hearing at least once each week for two successive weeks in a legal newspaper in the county where a part or all of the proposed project is located. The costs of the publication must be paid by the applicant.* [84.59 s. 7]

*Subd. 10.* [APPEAL OF COMMISSIONER'S DETERMINATION.] *An interested party may appeal the determination of the commissioner of natural resources or health to the court of appeals in accordance with the provisions of chapter 14.* [84.59]

*Subd. 11.* [PERMIT FEE SCHEDULE.] *(a) The commissioner of natural resources or health shall adopt a permit fee schedule under chapter 14. The schedule may provide minimum fees for various classes of permits, and additional fees, which may be imposed subsequent to the application, based on the cost of receiving, processing, analyzing, and issuing the permit, and the actual inspecting and monitoring of the activities authorized by the permit, including costs of consulting services.*

*(b) A fee may not be imposed on a state or federal governmental agency applying for a permit.*

*(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. Permit fees received must be deposited in the state treasury and credited to the general fund. The amount of money necessary to pay the refunds is appropriated annually from the general fund to the commissioner of natural resources.* [84.59 s. 8]

Sec. 42. [103I.685] [ABANDONMENT OF UNDERGROUND STORAGE PROJECT.]

*An underground storage project for which an underground storage permit is granted may not be abandoned, or a natural or artificial opening extending from the underground storage area to the ground surface be filled, sealed, or otherwise closed to inspection, except after written approval by the commissioner of natural resources or health and in compliance with conditions that the commissioners may impose.* [84.611]

Sec. 43. [103I.691] [CERTIFICATE OF USE.]

*A person may not use a gas or liquid storage reservoir under an underground storage permit unless the right to use the property affected by the project has been acquired and a notice of the acquisition filed with the commissioner of natural resources or health. The commissioner of natural resources or health must issue a certificate approving use of the gas or liquid storage reservoir.* [84.62]

ENFORCEMENT

Sec. 44. [103I.701] [ADMINISTRATIVE REMEDIES.]

*Subdivision 1.* [DENIAL OF LICENSE OR REGISTRATION RENEWAL.] *(a) The commissioner may deny an application for renewal of a license or registration if the applicant has violated a provision of this chapter.*

*(b) Failure to submit a well report, well sealing report, or to report an excavation to construct an elevator shaft, or to obtain a well permit before construction is a violation of this chapter and the commissioner may refuse renewal.*

*Subd. 2.* [SUSPENSION, REVOCATION OF LICENSE OR REGISTRATION.] *(a) A license or registration issued under this chapter may be suspended or revoked for violation of provisions of this chapter.*

*(b) The commissioner may, after providing a person with reasonable notice and a hearing, suspend or revoke the license or registration of the person upon finding that the person has violated a provision of this chapter that applies to the person's license or registration.*

*Subd. 3.* [PROCEDURE.] *Proceedings by the commissioner under this section and review shall be according to chapter 14.*

*Subd. 4.* [CORRECTIVE ORDERS.] *The commissioner may issue corrective orders for persons to comply with the provisions of this chapter.*

Sec. 45. [103I.705] [ADMINISTRATIVE PENALTIES.]

*Subdivision 1.* [PENALTY AUTHORIZED.] *The commissioner may impose an administrative penalty under this section against a person who does not comply with an order of the commissioner.*

*Subd. 2.* [SEALING WELLS AND ELEVATOR SHAFTS.] *A well contractor or limited well sealing contractor who seals a well, a monitoring well contractor who seals a monitoring well, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with the water well construction code, shall be assessed an administrative penalty of $500.*

*Subd. 3.* [CONTAMINATION RELATING TO WELL CONSTRUCTION.] *A well contractor, limited well contractor, or monitoring well contractor working under a corrective order of the commissioner who fails to comply with the rules in the water well construction code relating to location of wells in relation to potential sources of contamination, grouting, materials, or construction techniques shall be assessed an administrative penalty of $500.*

*Subd. 4.* [WELL CONSTRUCTION AND MACHINERY.] *A well contractor, limited well contractor, or monitoring well contractor working under a corrective order shall be assessed an administrative penalty of $250 if the contractor fails as required in the order:*

*(1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;*

*(2) to have a permit before a well is constructed;*

*(3) to register a drilling rig or pump rig or to display the state decal and the registration number on the machine; or*

*(4) to comply with the rules in the water well construction code relating to disinfection of wells and submission of well construction or well sealing logs and water samples.*

*Subd. 5.* [FALSE INFORMATION.] *A person under a corrective order shall be assessed an administration penalty of $250 if the person:*

*(1) fails to disclose or falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property; or*

*(2) fails to disclose or falsifies information on a well certificate.*

*Subd. 6.* [FAILURE TO SEAL WELL OR HAVE CONSTRUCTION PERMIT.] *A person under a corrective order shall be assessed an administrative penalty of $250 if the person:*

*(1) employs a well contractor on the person's property and fails to obtain a permit for construction of the well; or*

*(2) fails to have a well sealed in accordance with the rules.*

Sec. 46. [103I.711] [IMPOUNDING OF EQUIPMENT.]

*Subdivision 1.* [IMPOUNDMENT.] *If the commissioner issues an order finding that a person is constructing, repairing, or sealing wells or installing pumps or pumping equipment or excavating holes for installing elevator shafts or hydraulic cylinders without a license or registration as required under this chapter, a sheriff on receipt of the order must seize and impound equipment of the person.*

*Subd. 2.* [RELEASE.] *The equipment must remain in the custody of the sheriff until the equipment is released under the order of a court or until the commissioner orders the sheriff to release the equipment.*

Sec. 47. [103I.715] [CRIMINAL PENALTIES.]

*Subdivision 1.* [MISDEMEANORS.] *A person who violates a provision of this chapter is guilty of a misdemeanor.*

*Subd. 2.* [GROSS MISDEMEANORS.] *A person is guilty of a gross misdemeanor who:*

*(1) willfully violates a provision of this chapter or order of the commissioner;*

*(2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator shafts without a license required by this chapter; or*

*(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter.* [156A.08 s. 1]

*Subd. 3.* [PROSECUTION AND VENUE.] *A violation of this chapter shall be prosecuted by the county attorney in the county where the violation occurred or is occurring. The trial shall be held in that county.* [156A.08 s. 1]

Sec. 48. [REPEALER.]

*Minnesota Statutes 1988, sections 84.57; 84.58; 84.59; 84.60; 84.61; 84.611; 84.62; 84.621; 105.51, subdivision 3; 156A.01; 156A.02; 156A.03; 156A.031; 156A.04; 156A.05; 156A.06; 156A.07; 156A.071; 156A.075; 156A.08; 156A.10; and 156A.11, are repealed.*

Sec. 49. [EFFECTIVE DATE.]

*Section 9 is effective July 1, 1989, but a well notification is not required to be filed with the commissioner for construction of a well until after December 31, 1989.*

*Section 14 relating to disclosing wells to buyers and transferees is effective July 1, 1990.*

*Section, 31, 32, and 33 are effective July 1, 1990, and limited well contractor licenses and limited well sealing licenses may not be issued until after that date.*

*Sections 24 and 33 relating to permits required for elevator shafts and elevator shaft contractor licenses are effective July 1, 1990.*

ARTICLE 4

WATER CONSERVATION

Section 1. Minnesota Statutes 1988, section 105.41, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S PERMISSION.] *(a)* It is unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner. This section does not apply to the use of water for domestic purposes serving less than 25 persons. The commissioner shall set up a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.

*(b) A permit may not be issued under this section unless the permit is consistent with state, regional, and local water and related land resources management plans.*

*(c) The commissioner may not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued for agricultural irrigation under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers a domestic water supply.*

Sec. 2. Minnesota Statutes 1988, section 105.41, subdivision 1a, is amended to read:

Subd. 1a. [WATER ALLOCATION ~~RULES.~~ PRIORITIES.] *(a)* The commissioner shall ~~submit to the legislature by January 1, 1975, for its approval, proposed~~ *adopt* rules ~~governing the~~ *for* allocation of waters ~~among potential water users. These rules must be~~ based on the following priorities for *the consumptive* appropriation and use of water:

*(1)* first *priority*: domestic water supply~~,~~ excluding industrial and commercial uses of municipal water supply~~.~~, *and use for power production that meets the contingency planning provisions of section 105.417, subdivision 5;*

*(2)* second *priority*: ~~any~~ *a* use of water that involves consumption of less than 10,000 gallons of water ~~a~~ *per* day~~. In this section "consumption" means water withdrawn from a supply that is lost for immediate further use in the area.~~*;*

*(3)* third *priority*: agricultural irrigation *and processing of agricultural products*, involving consumption in excess of 10,000 gallons ~~a~~ *per* day~~, and processing of agricultural products.~~*;*

*(4)* fourth *priority*: power production~~, involving consumption in excess of 10,000 gallons a day.~~ *in excess of the use provided for in the contingency plan developed under section 105.417, subdivision 5; and*

*(5)* fifth *priority*: ~~other~~ uses, *other than agricultural irrigation, processing of agricultural products, and power production,* involving consumption in excess of 10,000 gallons ~~a~~ *per* day *and nonessential uses of public water supplies as defined in section 105.518, subdivision 1.*

*(b) For the purposes of this section, "consumption" shall mean water*

*withdrawn from a supply which is lost for immediate further use in the area.*

*(c)* Appropriation and use of surface water from streams during periods of flood flows and high water levels must be encouraged subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

*(d)* Appropriation and use of surface water from lakes of less than 500 acres in surface area must be discouraged.

*(e) The treatment and reuse of water from nonconsumptive uses shall be encouraged.*

*(f)* Diversions of water from the state for use in other states or regions of the United States or Canada must be discouraged.

~~No permit may be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans, if regional and local plans are consistent with statewide plans. The commissioner must not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.~~

Sec. 3. Minnesota Statutes 1988, section 105.41, subdivision 1b, is amended to read:

Subd. 1b. [USE LESS THAN MINIMUM.] ~~No~~ *Except for local permits under section 473.877, subdivision 1, a* permit is *not* required for the appropriation and use of less than a minimum amount to be established by the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules must include provisions for reporting to the commissioner the amounts of water appropriated under local permits.

Sec. 4. Minnesota Statutes 1988, section 105.41, is amended by adding a subdivision to read:

*Subd. 1c.* [CERTAIN COOLING SYSTEM PERMITS PROHIBITED.] *(a) The commissioner may not issue a water use permit from a groundwater source for a once-through cooling system using in excess of five million gallons annually.*

*(b) For purposes of this subdivision, a once-through cooling system means a cooling or heating system for human comfort that draws a continuous stream of water from a groundwater source to remove or add heat for cooling, heating, or refrigeration.*

Sec. 5. Minnesota Statutes 1988, section 105.41, subdivision 5, is amended to read:

Subd. 5. [RECORDS REQUIRED.] Records of the amount of water appropriated or used must be kept for each installation. The readings and the total amount of water appropriated must be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

The records must be submitted with an annual water appropriation processing fee in the amount established in accordance with the following schedule of fees for each water appropriation permit in force at any time during the year: ~~(1) irrigation permits, $15 for the first permitted 160 acres or part of 160 acres, and $25 for each additional permitted 160 acres or part of 160 acres; (2) for nonirrigation permits, $5 for each ten million gallons or portion of that amount permitted each year. However, the fee must not exceed a total of $500 per permit~~.

*Subd. 5a.* [WATER USE PROCESSING FEE.] *(a) Except as provided in paragraph (b), a water use processing fee not to exceed $2,000 must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:*

*(1) 0.05 cent per 1,000 gallons for the first 50 million gallons per year; and*

*(2) 0.1 cents per 1,000 gallons for the amounts greater than 50 million gallons per year.*

*(b) For once-through cooling systems as defined in subdivision 1c, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:*

*(1) 5.0 cents per 1,000 gallons until December 31, 1991;*

*(2) 10.0 cents for 1,000 gallons from January 1, 1992, until December 31, 1996; and*

*(3) 15.0 cents per 1,000 gallons after January 1, 1997.*

*(c)* The fee is payable ~~regardless of~~ *based on* the amount of water ~~appropriated~~ *permitted* during the year *and in no case may the fee be less than $25.*

*(d)* Failure to pay the fee is sufficient cause for revoking a permit. ~~No fee may be imposed on any state agency, as defined in section 16B.01, or federal governmental agency holding a water appropriation permit.~~

Sec. 6. Minnesota Statutes 1988, section 105.418, is amended to read:

105.418 [CONSERVATION OF PUBLIC WATER SUPPLIES.]

*(a)* During periods of critical water deficiency as determined by the governor and declared by *executive* order of the governor, public water supply authorities appropriating water shall adopt and enforce restrictions consistent with rules adopted by the commissioner of natural resources within their areas of jurisdiction. The restrictions must limit lawn sprinkling, car washing, golf course and park irrigation, and other nonessential uses and have appropriate penalties for failure to comply with the restrictions.

*(b)* The commissioner may adopt ~~emergency~~ rules ~~according to sections 14.29 to 14.36~~ relating to matters covered by this section ~~during the year 1977~~.

*(c)* Disregard of critical water deficiency orders, even though total appropriation remains less than that permitted, is *adequate* grounds for immediate modification of ~~any~~ *a* public water supply authority's ~~appropriator's~~ *water use* permit.

Sec. 7. Minnesota Statutes 1988, section 473.877, is amended by adding

a subdivision to read:

*Subd. 4.* [APPROPRIATIONS FROM SMALL WATERCOURSES.] *(a) This subdivision applies in Hennepin and Ramsey counties to the following public waters:*

*(1) a public water basin or wetland wholly within the county that is less than 500 acres; or*

*(2) a protected watercourse that has a drainage area of less than 50 square miles.*

*(b) An appropriation of water that is below the minimum established in section 105.41, subdivision 1b, for a nonessential use, as defined under section 105.418, is prohibited unless a permit is obtained from the watershed district or watershed management organization having jurisdiction over the public water basin, wetland, or watercourse. The watershed district or watershed management organization may impose a fee to cover the cost of issuing the permit. This subdivision must be enforced by the home rule charter or statutory city where the appropriation occurs. Violation of this subdivision is a petty misdemeanor, except that a second violation within a year is a misdemeanor. Affected cities shall mail notice of this law to affected riparian landowners.*

Sec. 8. [CONSUMPTIVE WATER USE STUDY.]

*The commissioner of natural resources shall conduct a study of consumptive water use and its impact on existing aquifers. The commissioner shall review methods of reducing consumptive water use, including the conversion of once-through cooling systems to alternative systems. The commissioner shall report to the legislative water commission by February 15, 1990, the commissioner's recommendations for alternatives to the once-through cooling systems, including the environmental and economic implications of the alternatives. The recommendations must include: options for converting once-through cooling systems; a time schedule for phasing out existing systems; recommended technologies to be used to accomplish the conversion; recommendations for a fee structure that will make once-through cooling systems and conventional systems equal in operating costs; recommendations on the use of deep aquifers for once-through cooling; recommendations on authorizing systems of better efficiency; and advisability of systems that recharge aquifers.*

ARTICLE 5

PESTICIDE AMENDMENTS

Section 1. Minnesota Statutes 1988, section 18B.01, subdivision 5, is amended to read:

Subd. 5. [COMMERCIAL APPLICATOR.] "Commercial applicator" means a person who has *or is required to have* a commercial applicator license.

Sec. 2. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 4a.* [COLLECTION SITE.] *"Collection site" means a permanent or temporary designated location with scheduled hours for authorized collection where pesticide end users may bring their waste pesticides.*

Sec. 3. Minnesota Statutes 1988, section 18B.01, is amended by adding

a subdivision to read:

*Subd. 6a.* [CONTAINER.] *"Container" means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.*

Sec. 4. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 6b.* [CORRECTIVE ACTION.] *"Corrective action" means an action taken to minimize, eliminate, or clean up an incident.*

Sec. 5. Minnesota Statutes 1988, section 18B.01, subdivision 12, is amended to read:

Subd. 12. [INCIDENT.] "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, ~~portable container rupture,~~ leak, spill, *emission discharge, escape, disposal,* or other event that releases or *immediately* threatens to release a pesticide accidentally or otherwise *into the environment*, and may cause unreasonable adverse effects on the environment. "Incident" does not include ~~the lawful use or intentional~~ *a* release ~~of a~~ *from normal use of a* pesticide *or practice* in accordance with ~~its approved labeling~~ *law*.

Sec. 6. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 14a.* [LOCAL UNIT OF GOVERNMENT.] *"Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, another special purpose district, and local or regional board.*

Sec. 7. Minnesota Statutes 1988, section 18B.01, subdivision 15, is amended to read:

Subd. 15. [NONCOMMERCIAL APPLICATOR.] "Noncommercial applicator" means a person ~~with~~ *who has or is required to have* a noncommercial applicator license.

Sec. 8. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 15a.* [OWNER OF REAL PROPERTY.] *"Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including a person who has legal title to property and a person who has the right to use or contract use of the property under a lease, contract for deed, or license.*

Sec. 9. Minnesota Statutes 1988, section 18B.01, subdivision 19, is amended to read:

Subd. 19. [PESTICIDE DEALER.] "Pesticide dealer" means a person ~~with~~ *who has or is required to have* a pesticide dealer license.

Sec. 10. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 19a.* [PESTICIDE END USER.] *"Pesticide end user" means a farmer or other person who uses, intends to use, or owns a pesticide. Pesticide end user does not include a dealer, manufacturer, formulator, or packager.*

Sec. 11. Minnesota Statutes 1988, section 18B.01, subdivision 21, is amended to read:

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

Sec. 12. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 24b.* [RETURNABLE CONTAINER.] *"Returnable container" means a container for distributing pesticides that enables the unused pesticide product to be returned to the distributor, manufacturer, or packager, and includes bulk, mini-bulk, or dedicated containers designed to protect the integrity of the pesticide and prevent contamination through the introduction of unauthorized materials.*

Sec. 13. Minnesota Statutes 1988, section 18B.01, subdivision 26, is amended to read:

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

Sec. 14. Minnesota Statutes 1988, section 18B.01, subdivision 30, is amended to read:

Subd. 30. [STRUCTURAL PEST CONTROL APPLICATOR.] "Structural pest control applicator" means a person ~~with~~ *who has or is required to have* a structural pest control *applicator* license.

Sec. 15. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

*Subd. 31a.* [WASTE PESTICIDE.] *"Waste pesticide" means a pesticide that the pesticide end user considers a waste. A waste pesticide can be a canceled pesticide, an unusable pesticide, or a usable pesticide.*

Sec. 16. Minnesota Statutes 1988, section 18B.04, is amended to read:

18B.04 [PESTICIDE IMPACT ON ~~WATER QUALITY~~ *ENVIRONMENT.*]

The commissioner shall:

(1) determine the impact of pesticides on *the environment, including the impacts on* surface *water* and ~~ground water~~ *groundwater* in this state;

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

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

Sec. 17. [18B.045] [PESTICIDE MANAGEMENT PLAN.]

*Subdivision 1.* [DEVELOPMENT.] *The commissioner shall develop a pesticide management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in groundwaters and surface waters of the state. The pesticide management plan must include components promoting prevention, developing appropriate responses to the detection of pesticides or pesticide breakdown products in groundwater and surface waters, and providing responses to reduce or eliminate continued pesticide movement to groundwater and surface water.*

*Subd. 2.* [COORDINATION.] *The pesticide management plan shall be coordinated and developed with other state agency plans and with other state agencies through the environmental quality board. In addition, the University of Minnesota extension service, farm organizations, farmers, environmental organizations, and industry shall be involved in the pesticide management plan development.*

Sec. 18. [18B.063] [STATE USES OF PESTICIDES AND NUTRIENTS.]

*The state shall use integrated pest management techniques in its management of public lands, including roadside rights-of-way, parks, and forests; and shall use planting regimes that minimize the need for pesticides and added nutrients.*

Sec. 19. [18B.064] [PESTICIDE USE INFORMATION.]

*The commissioner shall monitor urban and rural pesticide use on a biennial basis. Information shall be collected and automated consistent with section 116C.41, subdivision 1.*

Sec. 20. [18B.065] [WASTE PESTICIDE COLLECTION PROGRAM.]

*Subdivision 1.* [COLLECTION AND DISPOSAL.] *The commissioner of agriculture shall establish and operate a program to collect waste pesticides. The program shall be made available to pesticide end users whose waste generating activity occurs in this state.*

*Subd. 2.* [IMPLEMENTATION.] *(a) The commissioner may obtain a United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected.*

*(b) The commissioner may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end users for portions of the costs incurred.*

*Subd. 3.* [INFORMATION AND EDUCATION.] *The commissioner shall provide informational and educational materials regarding waste pesticides and the proper management of waste pesticides to the public.*

*Subd. 4.* [CONSULTATION WITH POLLUTION CONTROL AGENCY.] *The commissioner shall develop the program in this section in consultation and cooperation with the pollution control agency.*

*Subd. 5.* [WASTE PESTICIDE COLLECTION ACCOUNT.] *A waste pesticide account is established in the state treasury. Assessments collected under subdivision 2 shall be deposited in the state treasury and credited to the waste pesticide account. Money in the account is appropriated to the commissioner to pay for costs incurred to implement the waste pesticide collection program.*

*Subd. 6.* [RULES.] *The commissioner may adopt rules to administer this section.*

*Subd. 7.* [COOPERATIVE AGREEMENTS.] *The commissioner may enter into cooperative agreements with state agencies and local units of government for administration of the waste pesticide collection program.*

Sec. 21. Minnesota Statutes 1988, section 18B.07, subdivision 2, is amended to read:

Subd. 2. [PROHIBITED PESTICIDE USE.] (a) A person may not use,

store, handle, *distribute*, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) *that is* inconsistent with *a label or* labeling *as defined by FIFRA*;

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

(3) that will cause unreasonable adverse effects on the environment.

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

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

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

Sec. 22. Minnesota Statutes 1988, section 18B.07, subdivision 3, is amended to read:

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

(b) ~~Fields~~ *Sites* being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. *The posting must be done in accordance with labeling and rules adopted under this chapter.*

Sec. 23. Minnesota Statutes 1988, section 18B.07, subdivision 4, is amended to read:

Subd. 4. [PESTICIDE SAFEGUARDS AT APPLICATION SITES.] A person may not allow a pesticide, rinsate, or unrinsed pesticide container to be stored, kept, or to remain in or on any site without safeguards adequate to prevent ~~the escape or movement of the pesticides from the site~~ *an incident*.

Sec. 24. Minnesota Statutes 1988, section 18B.07, subdivision 6, is amended to read:

Subd. 6. [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.] (a) A person may not fill pesticide application equipment directly from public *or other* waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

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

Sec. 25. Minnesota Statutes 1988, section 18B.08, subdivision 1, is amended to read:

Subdivision 1. [PERMIT REQUIRED.] (a) A person may not apply pesticides through an irrigation system without a chemigation permit from the commissioner. ~~Only one~~ *A* chemigation permit is required for ~~two~~ *one*

or more wells *or other sources of irrigation water* that are protected from contamination by ~~the same~~ devices *as required by rule*. The commissioner may allow irrigation to be used to apply pesticides on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

(b) A person must apply for a chemigation permit on forms prescribed by the commissioner.

Sec. 26. Minnesota Statutes 1988, section 18B.08, subdivision 3, is amended to read:

Subd. 3. [EQUIPMENT.] A chemigation system must be fitted with effective antisiphon devices or check valves that prevent the backflow of pesticides or pesticide-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump *or water source* discharge and the point of pesticide injection; and

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

Sec. 27. Minnesota Statutes 1988, section 18B.08, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FEE.] A person initially applying for a chemigation permit must pay a nonrefundable application fee of $50 ~~for each well that is to be used in applying the pesticides by irrigation~~. *A person who holds a fertilizer chemigation permit under article 6, section 11, is exempt from the fee in this subdivision.*

Sec. 28. [18B.115] [USE OF CHLORDANE PROHIBITED.]

*The state, a state agency, a political subdivision of the state, a person, or other legal entity may not sell, use, or apply the pesticide chlordane or its derivative heptachlor within the state.*

Sec. 29. [18B.135] [SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.]

*Subdivision 1.* [ACCEPTANCE OF RETURNABLE CONTAINERS.] *(a) A person distributing, offering for sale, or selling a pesticide must accept empty pesticide containers and the unused portion of pesticide that remains in the original container from a pesticide end user if:*

*(1) the pesticide was purchased after the effective date of this section; and*

*(2) a place is not designated in the county for the public to return empty pesticide containers and the unused portion of pesticide.*

*(b) This subdivision does not prohibit the use of refillable and reusable pesticide containers.*

*(c) The legislative water commission must prepare a report and make a recommendation to the legislature on the handling of waste pesticide containers and waste pesticides.*

*Subd. 2.* [RULES.] *The commissioner may adopt rules to implement this section, including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers.*

PESTICIDE RELEASE INCIDENTS

Sec. 30. Minnesota Statutes 1988, section 18B.26, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] *(a)* A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

*(b)* Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

*(c) An unregistered pesticide that was previously registered with the commissioner may be used only with the written permission of the commissioner.*

*(d) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.*

Sec. 31. Minnesota Statutes 1988, section 18B.26, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FEE.] (a) ~~An application for initial registration and renewal must be accompanied by a nonrefundable application fee of $125 for each pesticide to be registered.~~ *A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for 1990 and at one-fifth of one percent thereafter of annual gross sales within the state, with a minimum fee of $150. A registrant paying more than the minimum fee shall pay the application fee in quarterly installments by 30 days after the end of each calendar quarter based on the gross sales of the pesticide by the registrant for the preceding calendar quarter. The fee for disinfectants and sanitizers is $150. Of the amount collected after July 1, 1990, $600,000 per year must be credited to the waste pesticide account under section 20, subdivision 5.*

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

(c) ~~An additional fee of $200 must be paid by the applicant for each pesticide distributed or used in the state before initial state registration.~~ *A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed at the time of payment of the registration application fee. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.*

Sec. 32. Minnesota Statutes 1988, section 18B.26, subdivision 5, is amended to read:

Subd. 5. [~~APPLICATION~~ REVIEW AND REGISTRATION.] (a) The

commissioner may not deny the registration of a pesticide because the commissioner determines the pesticide is not essential.

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

(c) The commissioner must notify the applicant of the approval, denial, cancellation, ~~or~~ state use *or distribution* restrictions ~~within 30 days after the application and fee are received~~.

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

Sec. 33. Minnesota Statutes 1988, section 18B.26, is amended by adding a subdivision to read:

*Subd. 6.* [DISCONTINUANCE OF REGISTRATION.] *To ensure complete withdrawal from distribution or further use of a pesticide, a person who intends to discontinue a pesticide registration must:*

*(1) terminate a further distribution within the state and continue to register the pesticide annually for two successive years;*

*(2) initiate and complete a total recall of the pesticide from all distribution in the state within 60 days from the date of notification to the commissioner of intent to discontinue registration; or*

*(3) submit to the commissioner evidence adequate to document that no distribution of the registered pesticide has occurred in the state.*

Sec. 34. [18B.035] [PESTICIDE EDUCATION AND TRAINING.]

*Subdivision 1.* [EDUCATION AND TRAINING.] *(a) The commissioner shall develop, in conjunction with the University of Minnesota extension service, innovative educational and training programs addressing pesticide concerns including:*

*(1) water quality protection;*

*(2) endangered species;*

*(3) pesticide residues in food and water;*

*(4) worker protection;*

*(5) chronic toxicity;*

*(6) integrated pest management; and*

*(7) pesticide disposal.*

*(b) The commissioner shall appoint educational planning committees which must include representatives of industry.*

*(c) Specific current regulatory concerns must be discussed and, if appropriate, incorporated into each training session.*

*(d) The commissioner may approve programs from private industry and nonprofit organizations that meet minimum requirements for education, training, and certification.*

*Subd. 2.* [TRAINING MANUAL AND EXAMINATION DEVELOPMENT.] *The commissioner, in conjunction with the University of Minnesota*

*extension service, shall continually revise and update pesticide applicator training manuals and examinations. The manuals and examinations must be written to meet or exceed the minimum standards required by the United States Environmental Protection Agency and pertinent state specific information. Questions in the examinations must be determined by the responsible agencies. Manuals and examinations must include pesticide management practices that discuss prevention of pesticide occurrence in groundwaters of the state.*

*Subd. 3.* [PESTICIDE APPLICATOR EDUCATION AND EXAMINATION REVIEW BOARD.] *(a) The commissioner shall establish and chair a pesticide applicator education and examination review board. This board must meet at least once a year before the initiation of pesticide educational planning programs. The purpose of the board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness.*

*(b) Membership on this board must represent industry, private, nonprofit organizations, and other governmental agencies, including the University of Minnesota, the pollution control agency, department of health, department of natural resources, and department of transportation.*

*(c) Membership on the board must include representatives from environmental protection organizations.*

Sec. 35. Minnesota Statutes 1988, section 18B.31, subdivision 1, is amended to read:

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

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

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

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

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

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

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

Sec. 36. Minnesota Statutes 1988, section 18B.31, subdivision 3, is amended to read:

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

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

(2) is not transferable to another person *or location; and*

*(3) must be prominently displayed to the public in the pesticide dealer's place of business.*

Sec. 37. Minnesota Statutes 1988, section 18B.31, subdivision 5, is amended to read:

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

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

*(c) An application for a duplicate pesticide dealer's license must be accompanied by a nonrefundable application fee of $10.*

Sec. 38. Minnesota Statutes 1988, section 18B.32, subdivision 2, is amended to read:

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

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

(2) is not transferable*; and*

*(3) must be prominently displayed to the public in the structural pest controller's place of business.*

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

Sec. 39. Minnesota Statutes 1988, section 18B.33, subdivision 1, is amended to read:

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

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

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

Sec. 40. Minnesota Statutes 1988, section 18B.33, subdivision 3, is amended to read:

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

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

(2) is not transferable to another person*; and*

*(3) must be prominently displayed to the public in the commercial applicator's place of business.*

Sec. 41. Minnesota Statutes 1988, section 18B.33, subdivision 7, is amended to read:

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

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

*(c) An application for a duplicate commercial applicator license must be accompanied by a nonrefundable application fee of $10.*

Sec. 42. Minnesota Statutes 1988, section 18B.34, subdivision 1, is amended to read:

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

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

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

Sec. 43. Minnesota Statutes 1988, section 18B.34, subdivision 2, is amended to read:

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

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

(2) is not transferable*; and*

*(3) must be prominently displayed to the public in the noncommercial applicator's place of business.*

Sec. 44. Minnesota Statutes 1988, section 18B.34, subdivision 5, is amended to read:

Subd. 5. [FEES.] (a) A person initially applying for or renewing a noncommercial applicator license ~~as a business entity~~ must pay a nonrefundable application fee of $50~~. A person who is an employee of a business entity that has a noncommercial applicator license and is applying for or renewing a noncommercial applicator license as an individual must pay a nonrefundable application fee of $25~~, except an applicant who is a government employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of $10.

(b) If an application for renewal of a noncommercial license is not filed before March 1 in the year for which the license is to be issued, an additional

penalty fee of $10 must be paid before the renewal license may be issued.

*(c) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of $10.*

Sec. 45. Minnesota Statutes 1988, section 18B.36, subdivision 1, is amended to read:

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

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

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

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

Sec. 46. Minnesota Statutes 1988, section 18B.36, subdivision 2, is amended to read:

Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training *that meets or exceeds United States Environmental Protection Agency standards* to certify ~~persons as~~ private applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies *and must be a minimum of three hours in duration.*

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

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

Sec. 47. Minnesota Statutes 1988, section 18B.37, subdivision 1, is amended to read:

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

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

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

Sec. 48. Minnesota Statutes 1988, section 18B.37, subdivision 2, is amended to read:

Subd. 2. [COMMERCIAL AND NONCOMMERCIAL APPLICATORS.]

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

(1) date of the pesticide use;

(2) time the pesticide application was completed;

(3) *brand name of the* pesticide, *the United States Environmental Protection Agency registration number,* and dosage used;

(4) number of units treated;

(5) temperature, wind speed, and wind direction;

(6) location of the site where the pesticide was applied;

(7) name and address of the customer;

(8) name *and signature of applicator, name of company*, license number *of applicator*, *and* address~~, and signature~~ of applicator *company*; and

(9) any other information required by the commissioner.

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

(c) All information for this record requirement must be contained in a single *page* document for each pesticide application, *except a map may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages.* ~~Invoices~~ *An invoice* containing the required information may constitute the required record. *The commissioner shall make sample forms available to meet the requirements of this paragraph.*

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

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

Sec. 49. Minnesota Statutes 1988, section 18B.37, subdivision 3, is amended to read:

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

(1) date of structural pest control application;

(2) target pest;

(3) *brand* name of the pesticide, *United States Environmental Protection Agency registration number, and amount* used;

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

*(5) time the pesticide application was completed;*

~~(5)~~ *(6)* name and address of the customer;

~~(6)~~ *(7) name and signature of* structural pest control ~~applicator's company~~ *applicator;* name *of company* and address *of applicator or company*, applicator's signature, and license number *of applicator*; and

~~(7)~~ *(8)* any other information required by the commissioner.

(b) ~~Invoices~~ *All information for this record requirement must be contained in a single-page document for each pesticide application. An invoice* containing the required information may constitute the record.

(c) Records must be retained for five years after the date of treatment.

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site. *The commissioner must make sample forms available that meet the requirements of this subdivision.*

Sec. 50. Minnesota Statutes 1988, section 18B.37, subdivision 4, is amended to read:

Subd. 4. [STORAGE, HANDLING, AND DISPOSAL PLAN.] A commercial, noncommercial, or structural pest control applicator or the ~~licensed~~ business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Sec. 51. 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.*

Sec. 52. [PESTICIDE CONTAINER COLLECTION AND RECYCLING PILOT PROJECT.]

*Subdivision 1.* [PROJECT.] *The department of agriculture, in consultation and cooperation with the commissioner of the pollution control agency and the Minnesota extension service, shall design and implement a pilot collection project, to be completed by June 30, 1991, to:*

*(1) collect, recycle, and dispose of empty, triple-rinsed pesticide containers;*

*(2) develop, demonstrate, and promote proper pesticide container management; and*

*(3) evaluate the current pesticide container management methods and the cause and extent of the problems associated with pesticide containers.*

*Subd. 2.* [COLLECTION AND DISPOSAL.] *The department of agriculture shall provide for the establishment and operation of temporary collection sites for pesticide containers. The department may limit the type and quantity of pesticide containers acceptable for collection.*

*Subd. 3.* [INFORMATION AND EDUCATION.] *The department shall, in consultation with the Minnesota extension service, develop informational and educational materials to promote proper methods of pesticide container management.*

*Subd. 4.* [REPORT.] *During the pilot project, the department of agriculture shall conduct surveys and collect information on proper and improper*

*pesticide container storage and disposal. By November 30, 1991, the department shall report to the legislature its conclusions from the project and recommendations for additional legislation or rules governing the management of pesticide containers.*

*Subd. 5.* [MANAGEMENT AND DISPOSAL.] *The department of agriculture or other entity collecting pesticide containers must manage and dispose of the containers in compliance with applicable federal and state requirements.*

Sec. 53. [REPEALER.]

*Minnesota Statutes 1988, sections 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; and 18B.25, are repealed.*

Sec. 54. [EFFECTIVE DATE.]

*Section 29, subdivisions 1 and 2, relating to the sale and distribution of pesticides in returnable containers is effective July 1, 1994.*

ARTICLE 6

CHAPTER 18C

FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS

Section 1. [18C.001] [CITATION.]

*This chapter may be cited as the "fertilizer, soil amendment, and plant amendment law."* [17.711]

Sec. 2. [18C.005] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to this chapter.* [17.713 s. 1]

*Subd. 2.* [BEST MANAGEMENT PRACTICES.] *"Best management practices" means practices, techniques, and measures developed under article 1, section 6, subdivision 2.*

*Subd. 3.* [BRAND.] *"Brand" means a term, design, or trademark used in connection with one or several grades of fertilizers or soil and plant amendment materials.* [17.713 s. 2]

*Subd. 4.* [CHEMIGATION.] *"Chemigation" means a process of applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.*

*Subd. 5.* [COMMISSIONER.] *"Commissioner" means the commissioner of agriculture.* [17.713 s. 4a]

*Subd. 6.* [COMPOST.] *"Compost" is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.*

*Subd. 7.* [CUSTOM APPLY.] *"Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for compensation.*

*Subd. 8.* [DEFICIENCY.] *"Deficiency" means that amount of nutrient found by analysis is less than the amount guaranteed resulting from a lack of nutrient ingredients or from lack of uniformity.*

*Subd. 9.* [DISTRIBUTOR.] *"Distributor" means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer,*

*or who offers for sale, sells, barters, or otherwise supplies fertilizer or soil and plant amendments in this state.* [17.713 s. 5]

*Subd. 10.* [ENVIRONMENT.] *"Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.*

*Subd. 11.* [FERTILIZER.] *"Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.*

*Subd. 12.* [FIXED LOCATION.] *"Fixed location" means all stationary fertilizer facility operations, owned or operated by a person, located in the same plant location or locality.* [17.713 s. 6a]

*Subd. 13.* [GRADE.] *"Grade" means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid (P2O5), and soluble potassium (K) or soluble potash (K2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash.* [17.713 s. 7]

*Subd. 14.* [GUARANTOR.] *"Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis.* [17.713 s. 9]

*Subd. 15.* [INCIDENT.] *"Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.*

*Subd. 16.* [INVESTIGATIONAL ALLOWANCE.] *"Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.*

*Subd. 17.* [LABEL.] *"Label" means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a fertilizer, soil amendment, or plant amendment.* [17.713 s. 9a]

*Subd. 18.* [LABELING.] *"Labeling" means all written, printed or graphic matter on or accompanying a fertilizer, soil amendment, or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting the sale of fertilizers, soil amendments, or plant amendments.* [17.713 s. 9b]

*Subd. 19.* [MANIPULATED.] *"Manipulated" means fertilizers that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.*

*Subd. 20.* [MOBILE MECHANICAL UNIT.] *"Mobile mechanical unit"*

*means a portable machine or apparatus used to blend, mix, or manufacture fertilizers.* [17.713 s. 11]

*Subd. 21.* [OFFICIAL SAMPLE.] *"Official sample" means a sample of fertilizer, soil amendment, or plant amendment taken by the commissioner according to methods prescribed by this chapter or by rule.* [17.713 s. 12]

*Subd. 22.* [ORGANIC.] *"Organic" in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition with a water insoluble nitrogen content of at least 60 percent of the guaranteed total nitrogen.* [17.713 s. 13]

*Subd. 23.* [PERCENT; PERCENTAGE.] *"Percent" or "percentage" means the percentage by weight.* [17.713 s. 14]

*Subd. 24.* [PERSON.] *"Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision.* [17.713 s. 15]

*Subd. 25.* [PLANT AMENDMENT.] *"Plant amendment" means a substance applied to plants or seeds that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule.* [17.713 s. 15a]

*Subd. 26.* [PLANT FOOD.] *"Plant food" means a plant nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.* [17.713 s. 15b]

*Subd. 27.* [REGISTRANT.] *"Registrant" means the person who registers fertilizer, soil amendment, or plant amendment under this chapter.* [17.713 s. 16]

*Subd. 28.* [RINSATE.] *"Rinsate" means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.*

*Subd. 29.* [SAFEGUARD.] *"Safeguard" means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident as required by rule.*

*Subd. 30.* [SELL.] *"Sell," in reference to the sale of fertilizer, soil amendment, or plant amendment, includes:*

*(1) the act of selling, transferring ownership;*

*(2) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;*

*(3) the possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;*

*(4) the storing, carrying, and handling in aid of trafficking fertilizers, plant amendments, or soil amendments, whether done in person or through an agent, employee or others; and*

*(5) receiving, accepting, and holding of consignment for sale.* [17.713 s. 17]

*Subd. 31.* [SEWAGE SLUDGE.] *"Sewage sludge" means the solids and associated liquids in municipal wastewater that are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.* [17.713 s. 17a]

*Subd. 32.* [SITE.] *"Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.*

*Subd. 33.* [SOIL AMENDMENT.] *"Soil amendment" means a substance intended to improve the physical characteristics of the soil, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by the commissioner's rules.* [17.713 s. 19]

*Subd. 34.* [SPECIALTY FERTILIZER.] *"Specialty fertilizer" means a fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries, sod farms, home gardens, house plants, lawn fertilizer that is not custom applied, shrubs, golf courses, municipal parks, cemeteries, and research or experimental uses.* [17.713 s. 20]

*Subd. 35.* [SUBSTANTIALLY ALTERING.] *"Substantially altering" means modifying a facility by adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping or of existing mixing, blending, weighing, and handling equipment.*

*Subd. 36.* [TON.] *"Ton" means a net ton of 2,000 pounds avoirdupois.* [17.713 s. 21]

*Subd. 37.* [UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.] *"Unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.*

*Subd. 38.* [WILDLIFE.] *"Wildlife" means living things that are not human, domesticated, or pests.*

GENERAL PROVISIONS

Sec. 3. [18C.105] [ADMINISTRATION.]

*The commissioner of agriculture shall administer this chapter.* [17.712]

Sec. 4. [18C.111] [POWERS AND DUTIES OF COMMISSIONER.]

*Subdivision 1.* [ADMINISTRATION BY COMMISSIONER.] *The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of fertilizer, including storage, handling, distribution, use, and disposal of fertilizer.*

*Subd. 2.* [DELEGATION OF DUTIES.] *The commissioner may delegate duties under this chapter to designated employees or agents of the department of agriculture.*

*Subd. 3.* [DELEGATION TO APPROVED AGENCIES.] *The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of other*

*agencies. The delegation may only be made to a state agency, a political subdivision, or a political subdivision's agency that has signed a joint powers agreement with the commissioner as provided in section 471.59.*

Sec. 5. [18C.115] [ADOPTION OF NATIONAL STANDARDS.]

*Subdivision 1.* [POLICY OF UNIFORMITY.] *It is the policy of this state to achieve and maintain uniformity as much as possible with national standards and with other states in the regulation and control of the manufacture, distribution, and sale of fertilizer in this state.*

*Subd. 2.* [ADOPTION OF NATIONAL STANDARDS.] *Applicable national standards contained in the 1989 official publication, number 42, of the association of American plant food control officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.*

Sec. 6. [18C.121] [RULES.]

*Subdivision 1.* [ADMINISTRATION.] *The commissioner may adopt emergency or permanent rules necessary to implement and enforce this chapter. The rules must conform to national standards in a manner that is practicable and consistent with state law.* [17.725 s. 1]

*Subd. 2.* [LIMING MATERIALS.] *The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes.* [17.725 s. 2]

*Subd. 3.* [CERTIFICATION OF LABORATORIES.] *The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory.* [17.725 s. 3]

*Subd. 4.* [HEARINGS.] *Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.*

Sec. 7. [18C.131] [FERTILIZER INSPECTION ACCOUNT.]

*A fertilizer inspection account is established in the state treasury. The fees collected under this chapter must be deposited in the state treasury and credited to the fertilizer inspection account. Money in that account, including interest earned and money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration of this chapter.* [17.717 s. 1a]

Sec. 8. [18C.135] [APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.]

*Subdivision 1.* [SEWAGE SLUDGE WITHOUT CHARGE EXEMPT.] *Sewage sludge that is transferred between parties without compensation is exempt from the requirements of this chapter except the labeling requirements of this chapter.*

*Subd. 2.* [SEWAGE SLUDGE ANALYSIS MEETS LABELING REQUIREMENTS.] *A copy of the sewage sludge analysis required by the*

*rules of the pollution control agency is sufficient to meet the labeling requirements.*

*Subd. 3.* [COMPOST WITHOUT CHARGE EXEMPT.] *Compost that is transferred between parties without compensation is exempt from all requirements of this chapter.*

Sec. 9. [18C.141] [SOIL TESTING LABORATORY CERTIFICATION.]

*Subdivision 1.* [PROGRAM ESTABLISHMENT.] *The commissioner shall establish a program to certify the accuracy of analyses from soil testing laboratories and promote standardization of soil testing procedures and analytical results.*

*Subd. 2.* [CHECK SAMPLE SYSTEM.] *(a) The commissioner shall institute a system of check samples that requires a laboratory to be certified to analyze at least four multiple soil check samples during the calendar year. The samples must be supplied by the commissioner or by a person under contract with the commissioner to prepare and distribute the samples.*

*(b) Within 30 days after the laboratory receives check samples, the laboratory shall report to the commissioner the results of the analyses for all requested elements or compounds or for the elements or compounds the laboratory makes an analytical determination of as a service to others.*

*(c) The commissioner shall compile analytical data submitted by laboratories and provide laboratories submitting samples with a copy of the data without laboratory names or code numbers.*

*(d) The commissioner may conduct check samples on laboratories that are not certified.*

*Subd. 3.* [ANALYSES REPORTING STANDARDS.] *(a) The results obtained from soil or plant analysis must be reported in accordance with standard reporting units established by the commissioner by rule. The standard reporting units must conform as far as practical to uniform standards that are adopted on a regional or national basis.*

*(b) If a certified laboratory offers a recommendation, the University of Minnesota recommendation or that of another land grant college in a contiguous state must be offered in addition to other recommendations, and the source of the recommendation must be identified on the recommendation form. If relative levels such as low, medium, or high are presented to classify the analytical results, the corresponding relative levels based on the analysis as designated by the University of Minnesota or the land grant college in a contiguous state must also be presented.*

*Subd. 4.* [REVOCATION OF CERTIFICATION.] *If the commissioner determines that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, the commissioner may deny, suspend, or revoke certification.*

*Subd. 5.* [CERTIFICATION FEES.] *(a) A laboratory applying for certification shall pay an application fee of $100 and a certification fee of $100 before the certification is issued.*

*(b) Certification is valid for one year and the renewal fee is $100. The commissioner shall charge an additional application fee of $100 if a certified laboratory allows certification to lapse before applying for renewed certification.*

*(c) The commissioner shall notify a certified lab that its certification lapses within 30 to 60 days of the date when the certification lapses.*

*Subd. 6.* [RULES.] *The commissioner shall adopt rules for the establishment of minimum standards for laboratories, equipment, procedures, and personnel used in soil analysis and rules necessary to administer and enforce this section. The commissioner shall consult with representatives of the fertilizer industry, representatives of the laboratories doing business in this state, and with the University of Minnesota college of agriculture before proposing rules.* [17.73]

SALE, USE, AND STORAGE

Sec. 10. [18C.201] [PROHIBITED FERTILIZER ACTIVITIES.]

*Subdivision 1.* [STORAGE, HANDLING, DISTRIBUTION, OR DISPOSAL.] *A person may not store, handle, distribute, or dispose of a fertilizer, rinsate, fertilizer container, or fertilizer application equipment in a manner:*

*(1) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife;*

*(2) that will cause unreasonable adverse effects on the environment; or*

*(3) that will cause contamination of public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, from backsiphoning or backflowing of fertilizers through water wells or from the direct flowage of fertilizers.*

*Subd. 2.* [USE OF PUBLIC WATER SUPPLIES FOR FILLING EQUIPMENT.] *A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.*

*Subd. 3.* [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.] *A person may not fill fertilizer application equipment directly from public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms.*

*Subd. 4.* [CLEANING EQUIPMENT IN OR NEAR SURFACE WATER.] *A person may not:*

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

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

*Subd. 5.* [FERTILIZER, RINSATE, AND CONTAINER DISPOSAL.] *A person may only dispose of fertilizer, rinsate, and fertilizer containers in accordance with this chapter. The manner of disposal must not cause unreasonable adverse effects on the environment.*

Sec. 11. [18C.205] [CHEMIGATION.]

*Subdivision 1.* [AUTHORIZATION.] *The commissioner may issue chemigation permits for irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.*

*Subd. 2.* [PERMIT REQUIRED.] *A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells that are protected from contamination by the same devices.*

*Subd. 3.* [APPLICATION.] *(a) A person must apply for a chemigation permit on forms prescribed by the commissioner.*

*(b) A person initially applying for a chemigation permit must pay a nonrefundable application fee of $50. A person who holds a valid pesticide chemigation permit as required in chapter 18B is exempt from the fee in this subdivision.*

*Subd. 4.* [PERMIT REQUIREMENTS.] *An irrigation system operating under a chemigation permit must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:*

*(1) the irrigation system pump or other source discharge and the point of fertilizer injection; and*

*(2) the point of fertilizer injection and the fertilizer supply.*

*Subd. 5.* [RULES.] *The commissioner shall adopt rules prescribing conditions and restrictions for applying fertilizers by irrigation.*

Sec. 12. [18C.211] [GUARANTEED ANALYSIS.]

*Subdivision 1.* [N, P, and K NUTRIENT CONTENT STATED.] *(a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.*

*(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:*

*"Total Nitrogen (N) . . . . . percent*
*Available Phosphoric Acid (P2O5) . . . . . percent*
*Soluble Potash (K20) . . . . . percent"*

*(c) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total phosphoric acid or degree of fineness may also be stated.* [17.713 s. 8]

*Subd. 2.* [GUARANTEES OF THE NUTRIENTS.] *(a) A person may guarantee plant nutrients other than nitrogen, phosphorus, and potassium only if allowed or required by commissioner's rule.*

*(b) The guarantees for the plant nutrients must be expressed in the elemental form.*

*(c) The sources of other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of*

*the agricultural experiment station.*

*(d) If plant nutrients or other substances or compounds are guaranteed, the plant nutrients are subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.*

*(e) The commissioner may, by rule, require the potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.* [17.713 s. 8]

*Subd. 3.* [FORM FOR ANALYSES.] *(a) The commissioner may require a guaranteed analysis to be in a prescribed form if the commissioner determines that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer because of conflicting labeling requirements among the states.*

*(b) The commissioner must give proper notice and hold a public hearing before the determination is made.*

*(c) After making the determination under paragraph (a), the commissioner may require by rule that guaranteed analyses be in the following form:*

*"Total Nitrogen (N) . . . . . percent*
*Available Phosphorus (P) . . . . . percent*
*Soluble Potassium (K) . . . . . percent"*

*(d) In adopting the rule, the commissioner must provide that:*

*(1) the effective date of the rule is at least one year after the rule is adopted; and*

*(2) for a period of two years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash.*

*(e) After the effective date of the rule requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium constitute the grade.* [17.713 s. 8]

*Subd. 4.* [GUARANTEED ANALYSIS OF SOIL OR PLANT AMENDMENT.] *The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed.* [17.713 s. 8]

Sec. 13. [18C.215] [FERTILIZER LABELING.]

*Subdivision 1.* [LABEL CONTENTS.] *(a) A person may not sell or distribute fertilizer in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the following information:*

*(1) the net weight;*

*(2) the brand and grade, except (i) the grade is not required if primary nutrients are not claimed, and (ii) the grade on the label is optional if the fertilizer is used only for agricultural purposes and the guaranteed analysis statement is shown in the complete form as in section 12;*

*(3) the guaranteed analysis;*

*(4) the name and address of the guarantor;*

*(5) directions for use; and*

*(6) a derivatives statement.*

*(b) The labeled information must appear:*

*(1) on the face or display side of the container in a conspicuous form;*

*(2) on the upper one-third of the side of the container;*

*(3) on the upper end of the container; or*

*(4) printed on tags affixed conspicuously to the upper end of the container.* [17.716 s. 1]

*Subd. 2.* [BLENDED AND MIXED FERTILIZER.] *(a) A distributor who blends or mixes fertilizer to a customer's order without a guaranteed analysis of the final mixture must furnish each purchaser with an invoice or delivery ticket in written or printed form showing the net weight and guaranteed analysis of each of the materials used in the mixture.*

*(b) The invoice or delivery ticket must accompany the delivery.*

*(c) Records of invoices or delivery tickets must be kept for five years after the delivery or application.* [17.716 s. 3]

*Subd. 3.* [BULK FERTILIZER.] *If fertilizer is transported or distributed in bulk, the information in subdivision 1, paragraph (a), must accompany each delivery in written or printed form and be supplied to each purchaser at time of delivery.* [17.716 s. 3]

*Subd. 4.* [PLANT FOOD CONTENT MUST BE UNIFORM.] *The plant food content of a given lot of fertilizer must remain uniform and may not become segregated within the lot.* [17.716 s. 4]

*Subd. 5.* [FERTILIZER IN BULK STORAGE.] *Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis.* [17.716 s. 5]

Sec. 14. [18C.221] [FERTILIZER PLANT FOOD CONTENT.]

*(a) Products that are deficient in plant food content are subject to this subdivision.*

*(b) An analysis must show that a fertilizer is deficient:*

*(1) in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation; or*

*(2) if the overall index value of the fertilizer is shown below the level established by rule.*

*(c) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.*

*(d) For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.*

*(e) If a fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant or licensee of the fertilizer must submit a penalty payment of two times the value of the actual shortage to the consumer within 30 days after official notice from the commissioner.*

Sec. 15. [18C.225] [MISBRANDED PRODUCTS.]

*Subdivision 1.* [SALE AND DISTRIBUTION PROHIBITED.] *A person may not sell or distribute a misbranded fertilizer, soil amendment, or plant amendment.* [17.722]

*Subd. 2.* [FACTORS CAUSING MISBRANDING.] *A fertilizer, soil amendment, or plant amendment is misbranded if:*

*(1) it carries a false or misleading statement on the container, on the label attached to the container; or*

*(2) false or misleading statements concerning the fertilizer, soil amendment, or plant amendment are disseminated in any manner or by any means.* [17.722]

Sec. 16. [18C.231] [ADULTERATION.]

*Subdivision 1.* [SALE AND DISTRIBUTION PROHIBITED.] *A person may not sell or distribute an adulterated fertilizer, soil amendment, or plant amendment product.* [17.723]

*Subd. 2.* [FACTORS CAUSING ADULTERATION.] *A fertilizer, soil amendment, or plant amendment is adulterated if:*

*(1) it contains a deleterious or harmful ingredient in an amount to render it injurious to plant life if applied in accordance with directions for use on the label;*

*(2) the composition falls below or differs from that which the product is purported to possess by its labeling; or*

*(3) the product contains unwanted crop seed or weed seed.* [17.723]

*Subd. 3.* [CERTAIN ADULTERATED PRODUCTS MUST BE DISPOSED.] *Adulterated products that cannot be reconditioned must be disposed of according to methods approved by the commissioner.* [17.723]

FACILITIES

Sec. 17. [18C.235] [CONTINGENCY PLAN FOR STORAGE OF BULK PRODUCTS.]

*Subdivision 1.* [PLAN REQUIRED.] *A person who stores fertilizers, soil amendment, or plant amendment products in bulk must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices.*

*Subd. 2.* [PLAN AVAILABILITY.] *(a) The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request.*

*(b) The plan must be available for inspection by the commissioner.*

Sec. 18. [18C.301] [MIXING PESTICIDE WITH FERTILIZER, SOIL AMENDMENT, OR PLANT AMENDMENT.]

*A distributor who blends, mixes, or otherwise adds pesticides to fertilizers, soil amendments, or plant amendments must:*

*(1) be licensed under section 23; and*

*(2) comply with the provisions of chapter 18B and the federal Insecticide, Fungicide and Rodenticide Act, Public Law Number 92-516, as amended.* [17.72]

Sec. 19. [18C.305] [FERTILIZER FACILITIES.]

*Subdivision 1.* [CONSTRUCTION PERMIT.] *A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:*

*(1) safeguards; or*

*(2) an existing facility used for the manufacture, blending, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site.* [17.7155 s. 1]

*Subd. 2.* [PERMIT FEES.] *(a) An application for a new facility must be accompanied by a nonrefundable application fee of $100 for each location where fertilizer is stored.*

*(b) An application to substantially alter a facility must be accompanied by a nonrefundable $50 fee.*

*(c) In addition to the fees under paragraphs (a) and (b), a fee of $250 must be paid by an applicant who begins construction or substantial alteration before a permit is issued.* [17.7155 s. 2]

*(d) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of $100.*

REGISTRATION AND LICENSING

Sec. 20. [18C.401] [GENERAL LICENSING AND REGISTRATION CONDITIONS.]

*Subdivision 1.* [SUBSTANTIATION OF CLAIMS.] *The commissioner may require a person applying for a license or registration to manufacture or distribute a product for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. The commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota as evidence to substantiate claims and may accept or reject additional sources of evidence in evaluating a fertilizer, soil amendment, or plant amendment. The experimental evidence must relate to conditions in this state for which the product is intended. The commissioner may also require evidence of value when used as directed or recommended.*

*Subd. 2.* [INSUFFICIENT EVIDENCE.] *If the commissioner determines that the evidence submitted does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate the product's performance and usefulness.*

*Subd. 3.* [REFUSAL TO LICENSE OR REGISTER.] *The commissioner*

*may refuse to license a person or register a specialty fertilizer, soil amendment, or plant amendment if:*

*(1) the application for license or registration is not complete;*

*(2) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents will not or is not likely to produce the results or effects claimed if used as directed;*

*(3) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents is not useful in this state; or*

*(4) the facility does not properly safeguard for bulk storage.*

*Subd. 4.* [CONDITIONAL LICENSE AND REGISTRATION.] *(a) After reviewing an application accompanied by the application fee, the commissioner may issue a conditional license or registration:*

*(1) to prevent unreasonable adverse effects on the environment; or*

*(2) if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims; or*

*(3) to correct minor label violations.*

*(b) The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration.*

*(c) The commissioner may revoke or modify a conditional license or registration if the commissioner finds that the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.*

*(d) The commissioner may deny issuance of a conditional license or registration if the commissioner determines that issuance of a license or registration is not warranted or that the use to be made of the product under the proposed terms and conditions may cause unreasonable adverse effects on the environment.*

Sec. 21. [18C.405] [PROTECTION OF TRADE SECRETS.]

*Subdivision 1.* [NOTATION OF PROTECTED INFORMATION.] *In submitting data required by this chapter, the applicant may:*

*(1) clearly mark any portions that in the applicant's opinion are trade secrets, or commercial or financial information; and*

*(2) submit the marked material separately from other material.*

*Subd. 2.* [PROTECTION OF INFORMATION BY COMMISSIONER.] *(a) After consideration of the applicant's request submitted under subdivision 1, the commissioner may not allow the information to become public that the commissioner determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.*

*(b) If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under paragraph (a),*

*the commissioner must notify the applicant or registrant by certified mail. The commissioner may not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may begin an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.*

Sec. 22. [18C.411] [REGISTRATION OF SPECIALTY FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS.]

*Subdivision 1.* [REGISTRATION REQUIRED.] *(a) A person may not sell brands or grades of specialty fertilizers, soil amendments, or plant amendments in this state unless they are registered with the commissioner.* [17.714 s. 1]

*(b) Registration of the materials is not a warranty by the commissioner or the state.* [17.714 s. 6]

*(c) Specialty fertilizers custom applied are exempt from the registration requirements of this section.*

*Subd. 2.* [APPLICATION.] *The application for registration must include:*

*(1) for specialty fertilizers:*

*(i) the name and address of the guarantor and registrant;*

*(ii) the brand and grade;*

*(iii) the guaranteed analysis as required by section 12;*

*(iv) the sources from which nitrogen, phosphorus, potassium or other elements or materials are derived; and*

*(v) the amount and formulas of inert ingredients; and*

*(2) for soil amendments and plant amendments:*

*(i) the name and address of the guarantor and registrant;*

*(ii) the brand name;*

*(iii) the sources from which the ingredients used in the product are derived; and*

*(iv) the guaranteed analysis as required by section 12.* [17.714 s. 2]

*Subd. 3.* [COPY OF LABEL, AND LABELING MATERIAL.] *Application for registration of a specialty fertilizer, a soil amendment, or a plant amendment must include:*

*(1) a label or label facsimile of each product for which registration is requested; and*

*(2) a copy of all labeling material used in this state for promotion and sale of each product being registered.* [17.714 s. 3]

*Subd. 4.* [YEARLY REGISTRATION.] *A registration is effective until January 1 following the date of issuance or approval. A product registration is not transferable from one person to another or from the ownership to whom the registration is issued to another ownership.* [17.714 s. 5]

Sec. 23. [18C.415] [FERTILIZER LICENSES.]

*Subdivision 1.* [LICENSE REQUIRED.] *(a) A person may not sell or*

*distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or manufacture, blend, or otherwise manipulate fertilizers without obtaining a license from the commissioner from each fixed location where the person does business within the state and one license for all fixed locations that are located outside of the state.* [17.715 s. 1, 2]

*(b) A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit.* [17.715 s. 3]

*Subd. 2.* [COPY OF LABEL AND LABELING MATERIAL.] *Application for license must include:*

*(1) a designation of the formula such as is provided on an invoice, delivery ticket, label, or label facsimile, for each product manufactured or formulated; and*

*(2) a copy of all labeling material used in this state for promotion of each product manufactured or formulated.*

*Subd. 3.* [EFFECTIVE PERIOD.] *Other licenses are for the period from January 1 to the following December 31 and must be renewed annually by the licensee before January 1. A license is not transferable from one person to another, from the ownership to whom issued to another ownership, or from one location to another location.* [17.715 s. 4]

*Subd. 4.* [POSTING OF LICENSE.] *The license must be posted in a conspicuous place in each fixed location in this state and accompany each mobile mechanical unit operated in this state.* [17.715 s. 5]

Sec. 24. [18C.421] [DISTRIBUTOR'S TONNAGE REPORT.]

*Subdivision 1.* [SEMIANNUAL STATEMENT.] *(a) Each licensed distributor of fertilizer and each registrant of a specialty fertilizer, soil amendment, or plant amendment must file a semiannual statement for the periods ending December 31 and June 30 with the commissioner on forms furnished by the commissioner stating the number of net tons of each brand or grade of fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period.*

*(b) A report from a licensee who sells to an ultimate consumer must be accompanied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received.*

*(c) The report is due on or before the last day of the month following the close of each reporting period of each calendar year.*

*(d) The inspection fee at the rate stated in section 25, subdivision 6, must accompany the statement.* [17.718 s. 1]

*Subd. 2.* [ADDITIONAL REPORTS.] *The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state.* [17.718 s. 1]

*Subd. 3.* [LATE REPORT AND FEE PENALTY.] *(a) If a distributor does not file the semiannual statement or pay the inspection fees by 31 days after the end of the reporting period, the commissioner shall assess a penalty of the greater of $25 or ten percent of the amount due against the licensee or registrant.*

*(b) The fees due, plus the penalty, may be recovered in a civil action against the licensee or registrant.*

*(c) The assessment of the penalty does not prevent the commissioner from taking other actions as provided in this chapter.* [17.718 s. 1]

*Subd. 4.* [RESPONSIBILITY FOR INSPECTION FEES.] *If more than one person is involved in the distribution of a fertilizer, soil amendment, or plant amendment, the distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered is responsible for the inspection fee on products produced or brought into this state. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.* [117.718 s. 2]

*Subd. 5.* [VERIFICATION OF STATEMENTS.] *The commissioner may verify the records on which the statement of tonnage is based.* [17.718 s. 3]

Sec. 25. [18C.425] [REGISTRATION, LICENSE, AND INSPECTION FEES.]

*Subdivision 1.* [APPLICATION FEES.] *(a) An application for other licenses for each fixed location to be covered by the license within the state must be accompanied by a $100 fee.*

*(b) An application for a license for all fixed locations of a firm outside of the state must be accompanied by a fee of $100.*

*(c) An application for a license to cover mobile mechanical units must be accompanied by a fee of $100 for the first unit operated by one distributor and $50 for each additional mobile mechanical unit.* [17.717 s. 1]

*Subd. 2.* [SPECIALTY FERTILIZER REGISTRATION.] *An application for registration of a specialty fertilizer must be accompanied by a registration fee of $100 for each brand and grade to be sold or distributed as provided in section 22.* [17.717 s. 3]

*Subd. 3.* [SOIL AMENDMENT AND PLANT AMENDMENT REGISTRATION.] *An application for registration of a soil amendment or plant amendment must be accompanied by a registration fee of $200 for each brand sold or distributed as provided in section 22.* [17.717 s. 4]

*Subd. 4.* [FEE FOR LATE APPLICATION.] *If an application for renewal of a fertilizer license or registration of a specialty fertilizer, soil amendment, or plant amendment is not filed before January 1 or July 1 of a year, as required, an additional application fee of one-half of the amount due must be paid before the renewal license or registration may be issued.* [17.717 s. 4a]

*Subd. 5.* [FEE FOR PRODUCT USE WITHOUT INITIAL REGISTRATION OR LICENSE.] *An additional application fee equal to the amount due must be paid by an applicant for each license or registration required for products distributed or used in this state before an initial license or registration for the products distributed or used is issued by the commissioner.*

*Subd. 6.* [INSPECTION FEES.] *A person who sells or distributes fertilizers, soil amendments, or plant amendments in this state must pay an inspection fee amounting to the greater of 15 cents per ton of fertilizer, soil amendment, and plant amendment sold or distributed in this state or $10. Products sold or distributed to manufacturers or exchanged between them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes.* [17.717 s. 5]

INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIALS

Sec. 26. [18C.501] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 26 to 31.* [17.7241 s. 1]

*Subd. 2.* [COMMISSIONER.] *"Commissioner" means the commissioner of agriculture.* [17.7241 s. 2]

*Subd. 3.* [INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIAL.] *"Industrial by-product soil buffering material" means an industrial waste or by-product or the by-product of municipal water treatment processes containing calcium or magnesium or both in a form that may neutralize soil acidity.* [17.7241 s. 3]

*Subd. 4.* [LIMESTONE.] *"Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.* [17.7241 s. 4]

*Subd. 5.* [SOIL BUFFERING MATERIALS.] *"Soil buffering materials" means materials whose calcium or magnesium or both are capable of neutralizing soil acidity.* [17.7241 s. 5]

*Subd. 6.* [STOCKPILE.] *"Stockpile" means a supply of agricultural soil buffering material stored for future use.* [17.7241 s. 6]

*Subd. 7.* [TNP.] *"TNP" means total neutralizing power and is the number of pounds of neutralizing value in one ton of a soil buffering material.* [17.7241 s. 7]

Sec. 27. [18C.505] [SOIL BUFFERING DEMONSTRATION PROJECT AND STUDY.]

*Subdivision 1.* [PURPOSE.] *The purpose of the demonstration project required under sections 26 to 31 is to identify appropriate and mutually beneficial methods for the use of industrial by-product soil buffering materials. Proper use will minimize current waste disposal problems, provide a market for an underutilized resource, and make available to farmers an effective, low-cost soil buffering product.* [17.7242 s. 1]

*Subd. 2.* [AUTHORITY.] *The commissioner shall coordinate the design and implementation of a demonstration project to examine the technical feasibility, economic benefits, and environmental impacts of using industrial by-product soil buffering materials as a substitute for limestone and other traditional soil buffering materials.* [17.7242 s. 2]

*Subd. 3.* [PROCEDURES DEVELOPED.] *The demonstration project must identify and recommend as proposed standards appropriate procedures for the sampling, analysis, TNP labeling, storage, stockpiling, transportation, and application of industrial by-product soil buffering materials. After TNP labeling standards have been established, they must be provided*

*to the landowner or tenant prior to land application or stockpiling.* [17.7242 s. 3]

*Subd. 4.* [SCOPE.] *The demonstration project must be on a scale deemed by the commissioner to be efficient and manageable while providing the greatest practicable use of industrial by-product soil buffering materials for agricultural purposes.* [17.7242 s. 4]

Sec. 28. [18C.511] [RESPONSIBILITIES OF THE COMMISSIONER.]

*Subdivision 1.* [BROAD PARTICIPATION.] *The commissioner shall seek participation in the demonstration project by other persons, institutions, and organizations having an interest in soil buffering materials and industrial by-product soil buffering materials including the pollution control agency, one or more counties, one or more soil and water conservation districts, and the University of Minnesota.* [17.7243 s. 1]

*Subd. 2.* [PUBLIC EDUCATION.] *The commissioner shall seek to maximize the public education benefit of the demonstration program.* [17.7243 s. 2]

Sec. 29. [18C.515] [ENVIRONMENTAL CONTROLS.]

*Subdivision 1.* [SAMPLING AND ANALYSIS.] *The commissioner and the commissioner's agents may sample, inspect, make analysis of, and test industrial by-product soil buffering materials used in the demonstration project and study at a time and place and to an extent the commissioner considers necessary to determine whether the industrial by-product soil buffering materials are suitable for the project. The commissioner and the commissioner's agents may enter public or private premises where demonstration projects are being conducted in order to have access to:*

*(1) soil buffering materials used in the demonstration project;*

*(2) sampling of sites actually or reportedly exposed to industrial by-product soil buffering materials;*

*(3) inspection of storage, handling, transportation, use, or disposal areas of industrial by-product soil buffering materials;*

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

*(5) observation of the use and application of the soil buffering material;*

*(6) inspection of records related to the production, transportation, stockpiling, use, or disposal of industrial by-product soil buffering material; and*

*(7) other purposes necessary to implement sections 26 to 31.* [17.7244 s. 1]

*Subd. 2.* [RECEIPT AND REPORT ON SAMPLES.] *Before leaving inspected premises, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.* [17.7244 s. 2]

*Subd. 3.* [EMERGENCY INSPECTION.] *The commissioner and the commissioner's agents may enter public or private property without a notice of inspection if a suspected incident involving industrial by-product soil buffering materials may threaten public health or the environment.*

[17.7244 s. 3]

Sec. 30. [18C.521] [REPORT.]

*The commissioner shall report to the committees on agriculture of the house of representatives and senate on March 1 of each year, about the activities, findings, and recommendations related to the demonstration project.* [17.7245]

Sec. 31. [18C.525] [EXEMPTION.]

*Sections 26 to 31 do not apply to industrial by-product soil buffering material produced at a facility if the University of Minnesota, North Central Experimental Station, has conducted a study of the material at that facility.* [17.7246]

Sec. 32. [CROP CONSULTANT CERTIFICATION.]

*The commissioner shall, in consultation with the Minnesota extension service and the consultant community, develop recommendations for a mandatory state crop consultant certification program and report its recommendations to the governor and legislature by November 15, 1990. The program shall include consideration of educational requirements, current professional certification programs, and certification subcategories based on the need for consultant specialization.*

Sec. 33. [FERTILIZER PRACTICES.]

*Subdivision 1.* [COMMISSIONER'S DUTIES.] *The commissioner shall:*

*(1) establish best management practices and water resources protection requirements involving fertilizer use, distribution, storage, handling, and disposal;*

*(2) cooperate with other state agencies and local governments to protect public health and the environment from harmful exposure to fertilizer; and*

*(3) appoint a task force to study the effects and impact on water resources from nitrogen fertilizer use so that best management practices, a fertilizer management plan, and nitrogen fertilizer use regulations can be developed.*

*Subd. 2.* [TASK FORCE.] *(a) The task force must include farmers, representatives from farm organizations, the fertilizer industry, University of Minnesota, environmental groups, representatives of local government involved with comprehensive local water planning, and other state agencies, including the pollution control agency, the department of health, the department of natural resources, the state planning agency, and the board of water and soil resources.*

*(b) The task force shall review existing research including pertinent research from the University of Minnesota and shall develop recommendations for a nitrogen fertilizer management plan for the prevention, evaluation, and mitigation of nonpoint source occurrences of nitrogen fertilizer in waters of the state. The nitrogen fertilizer management plan must include components promoting prevention and developing appropriate responses to the detection of inorganic nitrogen from fertilizer sources in ground or surface water.*

*(c) The task force shall report its recommendations to the commissioner by May 1, 1990. The commissioner shall report to the environmental quality board by July 1, 1990, on the task force's recommendations. The recommendations of the task force shall be incorporated into an overall*

*nitrogen plan prepared by the pollution control agency and the department of agriculture.*

Sec. 34. [REPEALER.]

*Minnesota Statutes 1988, sections 17.711; 17.712; 17.713; 17.714; 17.715; 17.7155; 17.716; 17.717; 17.718; 17.719; 17.72; 17.721; 17.722; 17.723; 17.7241; 17.7242; 17.7243; 17.7244; 17.7245; 17.7246; 17.725; 17.726; 17.727; 17.728; 17.7285; 17.729; and 17.73, are repealed.*

*Sections 26 to 31 are repealed June 30, 1991.*

ARTICLE 7

CHAPTER 18D

AGRICULTURAL CHEMICAL LIABILITY, INCIDENTS, AND ENFORCEMENT

Section 1. [DEFINITIONS.]

*Subdivision 1.* [DEFINITIONS IN CHAPTERS 18B AND 18C APPLY.] *The definitions in chapters 18B and 18C apply to this chapter.*

*Subd. 2.* [APPLICABILITY OF DEFINITIONS IN THIS SECTION.] *The definitions in this section apply to this chapter.*

*Subd. 3.* [AGRICULTURAL CHEMICAL.] *"Agricultural chemical" means a pesticide as defined under chapter 18B or a fertilizer, plant amendment, or soil amendment as defined under chapter 18C.*

*Subd. 4.* [CORRECTIVE ACTION.] *"Corrective action" means an action taken to minimize, eliminate, or clean up an incident.*

*Subd. 5.* [HAZARDOUS WASTE.] *"Hazardous waste" means a substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.*

*Subd. 6.* [INCIDENT.] *"Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release an agricultural chemical accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.*

*Subd. 7.* [OWNER OF REAL PROPERTY.] *"Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.*

*Subd. 8.* [PERSON.] *"Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision.* [17.713 s. 15]

*Subd. 9.* [PROVISION OF THIS CHAPTER.] *"Provision of this chapter" means a provision of this chapter, chapter 18B, chapter 18C, or a rule adopted under those chapters.*

*Subd. 10.* [RESPONSIBLE PARTY.] *"Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a pesticide, fertilizer, pesticide or fertilizer container, or pesticide or fertilizer rinsate.*

AGRICULTURAL CHEMICAL APPLICATION LIABILITY

Sec. 2. [18D.101] [LIABILITY FOR APPLICATION.]

*(a) Notwithstanding other law relating to liability for agricultural chemical use, an end user or landowner is not liable for the cost of active cleanup, or damages associated with or resulting from agricultural chemicals in groundwater if the person has applied or has had others apply agricultural chemicals in compliance with state law, with any applicable labeling, and orders of the commissioner.*

*(b) It is a complete defense for liability if the person has complied with the provisions in paragraph (a).*

INCIDENTS

Sec. 3. [18D.103] [REPORT OF INCIDENTS REQUIRED.]

*Subdivision 1.* [REPORT TO COMMISSIONER.] *A responsible party or an owner of real property must, on discovering an incident has occurred, immediately report the incident to the commissioner.*

*Subd. 2.* [WRITTEN REPORT.] *The responsible party must submit a written report of the incident to the commissioner in the form and by the time prescribed by the commissioner.*

Sec. 4. [18D.105] [CORRECTIVE ACTION ORDERS.]

*Subdivision 1.* [CORRECTIVE ACTION ORDERS.] *(a) After determining an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions.*

*(b) The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action.*

*(c) A political subdivision may not request or order any person to take an action that conflicts with the corrective action ordered by the commissioner.*

*(d) The attorney general on request of the commissioner may bring an action to compel corrective action.*

*Subd. 2.* [COMMISSIONER'S CORRECTIVE ACTIONS.] *The commissioner may take corrective action if:*

*(1) a responsible party cannot be identified; or*

*(2) an identified responsible party cannot or will not comply with a corrective action order issued under subdivision 1.*

*Subd. 3.* [EMERGENCY CORRECTIVE ACTION.] *(a) To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.*

*(b) Before taking an action under this subdivision, the commissioner must make all reasonable efforts, taking into consideration the urgency of*

*the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.*

*Subd. 4.* [AGRICULTURE IS LEAD AGENCY.] *The department of agriculture is the lead state agency in taking corrective action for incidents.*

Sec. 5. [18D.111] [LIABILITY FOR COSTS.]

*Subdivision 1.* [CORRECTIVE ACTION COSTS.] *(a) A responsible party is liable for the costs, including for a corrective action administrative cost incurred after the corrective action order has been issued, or for emergency corrective action, all costs. The commissioner may issue an order for recovery of the costs.*

*(b) A responsible party is liable for the costs of any destruction to wildlife. Payments of costs for wildlife destruction shall be deposited in the game and fish fund of the state treasury.*

*Subd. 2.* [OWNER OF REAL PROPERTY.] *An owner of real property is not a responsible party for an incident on the owner's property unless that owner:*

*(1) was engaged in manufacturing, formulating, transporting, storing, handling, applying, distributing, or disposing of an agricultural chemical on the property;*

*(2) knowingly permitted any person to make regular use of the property for disposal of agricultural chemicals; or*

*(3) violated this chapter in a way that contributed to the incident.*

*Subd. 3.* [LIABILITY FOR EMPLOYEES.] *A person licensed under chapter 18B or chapter 18C is civilly liable for violations of this chapter, chapter 18B, or chapter 18C by the person's employees and agents.*

*Subd. 4.* [AVOIDANCE OF LIABILITY.] *(a) A responsible party may not avoid liability by means of a conveyance of a right, title, or interest in real property, or by an indemnification, hold harmless agreement, or similar agreement.*

*(b) This subdivision does not:*

*(1) prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability;*

*(2) prohibit the enforcement of an insurance, hold harmless, or indemnification agreement; or*

*(3) bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.*

*Subd. 5.* [DEFENSE.] *As a defense to a penalty or liability for damages, a person may prove that a violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or a combination of these defenses.*

Sec. 6. [18D.115] [APPORTIONMENT OF LIABILITY AND CONTRIBUTION.]

*Subdivision 1.* [RIGHT OF APPORTIONMENT.] *(a) A responsible party held liable under this chapter has the right to have the trier of fact apportion liability among the responsible parties as provided in this section. The*

*burden is on each responsible party to show how that responsible party's liability should be apportioned. The trier of fact shall reduce the amount of damages in proportion to the amount of liability apportioned to the party recovering.*

*(b) In apportioning the liability of a party under this section, the trier of fact shall consider the following:*

*(1) the extent to which that responsible party contributed to the incident;*

*(2) the amount of agricultural chemical involved;*

*(3) the degree of toxicity of the agricultural chemical involved;*

*(4) the degree of involvement of and care exercised by the responsible party in manufacturing, formulating, handling, storing, distributing, transporting, applying, and disposing of the agricultural chemical;*

*(5) the degree of cooperation by the responsible party with federal, state, or local officials to prevent any harm to the public health or the environment; and*

*(6) knowledge by the responsible party of the hazardous nature of the agricultural chemical.*

*Subd. 2.* [CONTRIBUTION.] *If a responsible party is held liable under this chapter and establishes a proportionate share of the aggregate liability, the provisions of section 604.02, subdivisions 1 and 2, shall apply with respect to contribution and reallocation of any uncollectible amounts, except that an administrative law judge may also perform the functions of a court identified in section 604.02, subdivision 2.*

INSPECTION

Sec. 7. [18D.201] [INSPECTION, SAMPLING, ANALYSIS.]

*Subdivision 1.* [ACCESS AND ENTRY.] *(a) The commissioner, upon presentation of official department credentials, must be granted access at reasonable times without delay to sites:*

*(1) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports an agricultural chemical; or*

*(2) which the commissioner reasonably believes are affected, or possibly affected, by the use of an agricultural chemical, agricultural chemical container, agricultural chemical rinsate, or agricultural chemical device in violation of this chapter.*

*(b) The commissioner may enter sites for:*

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

*(2) sampling of sites actually or reportedly exposed to agricultural chemicals;*

*(3) inspection of storage, handling, distribution, use, or disposal areas of agricultural chemicals or their containers;*

*(4) inspection or investigation of complaints of injury to the environment;*

*(5) sampling of agricultural chemicals;*

*(6) observation of the use and application of an agricultural chemical;*

*(7) inspection of records related to the manufacture, distribution, storage, handling, use, or disposal of an agricultural chemical;*

*(8) investigating the source, nature, and extent of an incident, and the extent of the adverse effects on the environment; and*

*(9) other purposes necessary to implement this chapter, chapter 18B, or 18C.*

*(c) The commissioner may enter any public or private premises during or after regular business hours without a notice of inspection when a suspected incident may threaten public health or the environment.*

*Subd. 2.* [NOTICE OF INSPECTION SAMPLES AND ANALYSES.] *(a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.*

*(b) The methods of sampling and analysis must be those adopted by the United States Environmental Protection Agency or the association of official analytical chemists. In cases not covered by those methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.*

*(c) In sampling a lot of agricultural chemical that is registered, a single package may constitute the official sample.*

*Subd. 3.* [INSPECTION REQUESTS BY OTHERS.] *(a) A person who believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.*

*(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.*

*(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.*

*Subd. 4.* [ORDER TO ENTER AFTER REFUSAL.] *After a refusal or an anticipated refusal based on a prior refusal to allow entrance on a prior occasion by an owner, operator, or agent in charge to allow entry as specified in this chapter, the commissioner may apply for an order in the district court in the county where a site is located, that compels a person with authority to allow the commissioner to enter and inspect the site.*

*Subd. 5.* [VIOLATOR LIABLE FOR INSPECTION COSTS.] *(a) The*

*cost of reinspection and reinvestigation may be assessed by the commissioner if the person subject to the corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order.*

*(b) The commissioner may enter an order for recovery of the inspection and investigation costs.*

*Subd. 6.* [INVESTIGATION AUTHORITY.] *(a) In making inspections under this chapter, the commissioner may administer oaths, certify official acts, issue subpoenas to take and cause to be taken depositions of witnesses, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony.*

*(b) If a person fails to comply with a subpoena, or a witness refuses to produce evidence or to testify to a matter about which the person may be lawfully questioned, the district court shall, on application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in court.*

ENFORCEMENT

Sec. 8. [18D.301] [ENFORCEMENT.]

*Subdivision 1.* [ENFORCEMENT REQUIRED.] *(a) The commissioner shall enforce this chapter and chapters 18B and 18C.*

*(b) Violations of chapter 18B or chapter 18C or rules adopted under chapter 18B or chapter 18C are a violation of this chapter.*

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

*Subd. 2.* [COMMISSIONER'S DISCRETION.] *If minor violations of this chapter, chapter 18B, or chapter 18C occur or when the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter does not require the commissioner to:*

*(1) report the violation for prosecution;*

*(2) institute seizure proceedings; or*

*(3) issue a withdrawal from distribution or stop-sale order.* [17.728 s. 3]

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

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

*Subd. 5.* [CRIMINAL ACTIONS.] *For a criminal action, the county attorney from the county where a criminal violation occurred is responsible for prosecuting a violation of this chapter. If the county attorney refuses*

*to prosecute, the attorney general on request of the commissioner may prosecute.*

*Subd. 6.* [AGENT FOR SERVICE OF PROCESS.] *All nonresident commercial and structural pest control applicator licensees licensed as individuals must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee.*

Sec. 9. [18D.305] [ADMINISTRATIVE ACTION.]

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

*Subd. 2.* [REVOCATION AND SUSPENSION.] *The commissioner may, after written notice and hearing, revoke, suspend, or refuse to grant or renew a registration, permit, license, or certification if a person violates a provision of this chapter or has a history within the last three years of violations of this chapter.*

*Subd. 3.* [CANCELLATION OF REGISTRATION.] *(a) The commissioner may cancel the registration of a specialty fertilizer, soil amendment, or plant amendment or refuse to register a brand of specialty fertilizer, soil amendment, or plant amendment after receiving satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this chapter.*

*(b) Registration may not be revoked until the registrant has been given opportunity for a hearing by the commissioner.* [17.728 s. 1]

*Subd. 4.* [CANCELLATION OF LICENSE.] *(a) The commissioner may cancel a license issued under this chapter after receiving satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this chapter.*

*(b) A license may not be revoked until the licensee has been given opportunity for a hearing by the commissioner.* [17.728 s. 2]

*Subd. 5.* [CANCELLATION OF FACILITY AND EQUIPMENT APPROVAL.] *(a) The commissioner may cancel the approval of a facility or equipment if:*

*(1) hazards to people's lives, adjoining property, or the environment exist; or*

*(2) there is satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade the provisions of this chapter.*

*(b) An approval may not be canceled until the person has been given an opportunity for a hearing by the commissioner.* [17.728 s. 2a]

*Subd. 6.* [SERVICE OF ORDER OR NOTICE.] *(a) If a person is not available for service of an order, the commissioner may attach the order to the agricultural chemical container, rinsate, equipment, or device or facility and notify the owner, custodian, other responsible party, or registrant.*

*(b) The agricultural chemical container, rinsate, equipment, or device may not be sold, used, or removed until the agricultural chemical container,*

*rinsate, equipment, or device has been released under conditions specified by the commissioner, by an administrative law judge, or by a court.*

Sec. 10. [18D.311] [DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.]

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

Sec. 11. [18D.315] [ADMINISTRATIVE PENALTIES.]

*Subdivision 1.* [ASSESSMENT.] *(a) In determining the amount of the administrative penalty, the commissioner shall consider the economic gain received by the person allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to human health and the environment, and the violator's culpability, good faith, and history of violations.*

*(b) The commissioner may assess an administrative penalty of up to $1,500 per day for a violation of a corrective action order or remedial action order.*

*(c) An administrative penalty may be assessed if the person subject to a corrective action order or remedial action order does not comply with the order in the time provided in the order. The commissioner must state the amount of the administrative penalty in the corrective action order or remedial action order.*

*Subd. 2.* [COLLECTION OF PENALTY.] *(a) If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final order by the commissioner, by 30 days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty plus attorney fees and costs.*

*(b) An administrative penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.*

Sec. 12. [18D.321] [APPEAL OF COMMISSIONER'S ORDERS.]

*Subdivision 1.* [NOTICE OF APPEAL.] *(a) After service of an order, a person has 45 days from receipt of the order to notify the commissioner in writing that the person intends to contest the order.*

*(b) If the person fails to notify the commissioner that the person intends to contest the order, the order is a final order of the commissioner and not subject to further judicial or administrative review.*

*Subd. 2.* [ADMINISTRATIVE REVIEW.] *If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.*

*Subd. 3.* [JUDICIAL REVIEW.] *Judicial review of a final decision in a contested case is available as provided in chapter 14.*

Sec. 13. [18D.325] [CIVIL PENALTIES.]

*Subdivision 1.* [GENERAL PENALTY.] *Except as provided in subdivisions 2 and 3, a person who violates this chapter, chapter 18B or 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to $7,500 per day of violation as determined by the court.*

*Subd. 2.* [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] *A person who violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of agricultural chemicals so that they become hazardous waste, is subject to the penalties in section 115.071.*

*Subd. 3.* [DEFENSE TO CIVIL REMEDIES AND DAMAGES.] *As a defense to a civil penalty or claim for damages under subdivisions 1 and 2, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.*

*Subd. 4.* [ACTIONS TO COMPEL PERFORMANCE.] *In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.*

*Subd. 5.* [RECOVERY OF PENALTIES BY CIVIL ACTION.] *The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.*

Sec. 14. [18D.331] [CRIMINAL PENALTIES.]

*Subdivision 1.* [GENERAL VIOLATION.] *Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor if the person violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner.*

*Subd. 2.* [VIOLATION ENDANGERING HUMANS.] *A person is guilty of a gross misdemeanor if the person violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.*

*Subd. 3.* [VIOLATION WITH KNOWLEDGE.] *A person is guilty of a gross misdemeanor if the person knowingly violates a provision of this chapter, chapter 18B, or chapter 18C or a standard, special order, stipulation, agreement, or schedule of compliance of the commissioner.*

*Subd. 4.* [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] *A person who knowingly, or with reason to know, disposes of an agricultural chemical so that the product becomes hazardous waste is subject to the penalties in section 115.071.*

ARTICLE 8

CHAPTER 18E

AGRICULTURAL CHEMICAL INCIDENT PAYMENT AND REIMBURSEMENT

Section 1. [18E.01] [CITATION.]

*This chapter may be cited as the agricultural chemical response and reimbursement law.*

Sec. 2. [18E.02] [DEFINITIONS.]

*Subdivision 1.* [DEFINITIONS IN CHAPTERS 18B, 18C, AND 18D APPLY.] *The definitions contained in this section and chapters 18B, 18C, and 18D apply to this chapter.*

*Subd. 2.* [ACCOUNT.] *"Account" means the agricultural chemical response and reimbursement account.*

*Subd. 3.* [AGRICULTURAL CHEMICAL.] *"Agricultural chemical" means pesticide, fertilizer, plant amendment, or soil amendment but does not include nitrate and related nitrogen from a natural source.*

*Subd. 4.* [BOARD.] *"Board" means the agricultural chemical response compensation board.*

*Subd. 5.* [ELIGIBLE PERSON.] *"Eligible person" means a responsible party or an owner of real property, but does not include the state, a state agency, a political subdivision of the state, the federal government, or an agency of the federal government.*

Sec. 3. [18E.03] [AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT.]

*Subdivision 1.* [ESTABLISHMENT.] *The agricultural chemical response and reimbursement account is established as an account in the state treasury.*

*Subd. 2.* [EXPENDITURES.] *(a) Money in the agricultural chemical response and reimbursement account may only be used:*

*(1) to pay for the commissioner's responses to incidents under chapters 18B, 18C, and 18D that are not eligible for payment under section 115B.20, subdivision 2;*

*(2) to pay for emergency responses that are otherwise unable to be funded; and*

*(3) to reimburse and pay corrective action costs under section 4.*

*(b) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments as provided in this subdivision.*

*Subd. 3.* [DETERMINATION OF RESPONSE AND REIMBURSEMENT FEE.] *(a) The commissioner shall determine the amount of the response and reimbursement fee under subdivision 5 after a public hearing, but notwithstanding section 16A.128, based on:*

*(1) the amount needed to maintain a balance in the account of $1,000,000;*

*(2) the amount estimated to be needed for responses to incidents as provided in subdivision 2, clauses (1) and (2); and*

*(3) the amount needed for payment and reimbursement under section 4.*

*(b) The commissioner shall determine the response and reimbursement fee so that the balance in the account does not exceed $5 million.*

*(c) Money from the response and reimbursement fee shall be deposited in the treasury and credited to the agricultural chemical response and reimbursement account.*

*Subd. 4.* [FEE THROUGH 1990.] *(a) The response and reimbursement fee consists of the surcharge fees in this subdivision and shall be collected until December 31, 1990.*

*(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state for use in the state during the previous calendar quarter, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner.*

*(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under article 6, section 25, subdivision 6, for fertilizers, soil amendments, and plant amendments.*

*(d) The commissioner shall impose a surcharge on the license application of persons licensed under chapters 18B and 18C consisting of:*

*(1) a $150 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;*

*(2) a $150 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under article 6, sections 23 and 25;*

*(3) a $50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;*

*(4) a $20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;*

*(5) a $20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, political subdivision of the state, the federal government, or an agency of the federal government; and*

*(6) a $50 surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.*

*(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.*

*Subd. 5.* [FEE AFTER 1990.] *(a) The response and reimbursement fee after December 31, 1990, consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined under subdivision 3. The amount of the surcharges shall be proportionate to and may not exceed the surcharges in subdivision 4.*

*(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of sales of the pesticide in the state for use in the state during the previous calendar quarter, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner.*

*(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under article 6, section 25, subdivision 6, for fertilizers, soil amendments, and plant amendments.*

*(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:*

*(1) a surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;*

*(2) a surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under article 6, sections 23 and 25;*

*(3) a surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;*

*(4) a surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;*

*(5) a surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and*

*(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.*

*(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.*

*Subd. 6.* [REVENUE SOURCES.] *Revenue from the following sources must be deposited in the state treasury and credited to the agricultural chemical response and reimbursement account:*

*(1) the proceeds of the fees imposed by subdivisions 3 and 5;*

*(2) money recovered by the state for expenses paid with money from the account;*

*(3) interest attributable to investment of money in the account; and*

*(4) money received by the commissioner in the form of gifts, grants other than federal grants, reimbursements, and appropriations from any source intended to be used for the purposes of the account.*

Sec. 4. [18E.04] [REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.]

*Subdivision 1.* [REIMBURSEMENT OF RESPONSE COSTS.] *The commissioner shall reimburse an eligible person from the agricultural chemical response and reimbursement account for the reasonable and necessary costs incurred by the eligible person in taking corrective action as provided*

*in subdivision 4, if the board determines:*

*(1) the eligible person complied with corrective action orders issued to the eligible person by the commissioner; and*

*(2) the incident was reported as required in chapters 18B, 18C, and 18D.*

*Subd. 2.* [PAYMENT OF CORRECTIVE ACTION COSTS.] *(a) On request by an eligible person, the board may pay the eligible person for the reasonable and necessary cash disbursements for corrective action costs incurred by the eligible person as provided under subdivision 4 if the board determines:*

*(1) the eligible person pays the first $1,000 of the corrective action costs;*

*(2) the eligible person provides the board with a sworn affidavit and other convincing evidence that the eligible person is unable to pay additional corrective action costs;*

*(3) the eligible person continues to assume responsibility for carrying out the requirements of corrective action orders issued to the eligible person or that are in effect; and*

*(4) the incident was reported as required in chapters 18B, 18C, and 18D.*

*(b) An eligible person is not eligible for payment or reimbursement and must refund amounts paid or reimbursed by the board if false statements or misrepresentations are made in the affidavit or other evidence submitted to the commissioner to show an inability to pay corrective action costs.*

*Subd. 3.* [PARTIAL REIMBURSEMENT.] *If the board determines that an incident was caused by a violation of chapter 18B, 18C, or 18D, the board may reimburse or pay a portion of the corrective action costs of the eligible person based on the culpability of the eligible person and the percentage of the costs not attributable to the violation.*

*Subd. 4.* [REIMBURSEMENT PAYMENTS.] *(a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:*

*(1) 90 percent of the total reasonable and necessary corrective action costs greater than $1,000 and less than $100,000; and*

*(2) 100 percent of the total reasonable and necessary corrective action costs equal to or greater than $100,000 but less than $200,000.*

*(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.*

*(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.*

*(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.*

*Subd. 5.* [REIMBURSEMENT OR PAYMENT DECISIONS.] *(a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.*

*(b) The board must issue an order granting or denying a request within 30 days following a request for reimbursement or for payment under subdivisions 1, 2, or 3.*

*(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.*

*(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.*

*Subd. 6.* [SUBROGATION.] *(a) If a person other than a responsible party is paid or reimbursed from the response reimbursement account as a condition of payment or reimbursement, the state is subrogated to the rights of action the person paid or reimbursed has against the responsible party. The commissioner shall collect the amounts from the responsible party and on request of the commissioner on behalf of the board the attorney general shall bring an action to enforce the collection.*

*(b) Amounts collected under this subdivision must be credited to the agricultural chemical response and reimbursement account.*

Sec. 5. [18E.05] [AGRICULTURAL CHEMICAL RESPONSE COMPENSATION BOARD.]

*Subdivision 1.* [MEMBERSHIP.] *(a) The agricultural chemical response compensation board is created to consist of the commissioner of agriculture, the commissioner of commerce, and three private industry members consisting of: one representative of agricultural chemical manufacturers and wholesalers; one representative of farmers; and one representative of dealers who sell the agricultural chemicals at retail. The governor shall appoint the private industry members. Appointment, vacancies, removal, terms, and payment of compensation and expenses of members, but not expiration of the board itself, are governed by section 15.0575.*

*(b) The commissioner of agriculture shall provide staff to support the activities of the board.*

*(c) The board shall adopt rules regarding its practices and procedures, the application form and procedures for determining eligibility for and the amount of reimbursement, and procedures for investigation of claims. The board may adopt emergency rules under this subdivision for one year from the effective date of this article.*

*Subd. 2.* [DUTIES.] *The board shall:*

*(1) accept applications for reimbursement from the account;*

*(2) determine the eligibility of applicants for reimbursement;*

*(3) determine the amount of reimbursement due each eligible applicant and the reimbursement payment schedule where applicable; and*

*(4) order reimbursement and notify the commissioner of the eligible person, the amount of reimbursement due, and the payment schedule, if any.*

*Subd. 3.* [PROCEDURES.] *The board must issue an order granting or denying a request within 30 days of receipt of a completed application unless the applicant and the commissioner agree to a longer time period. If the board denies reimbursement, its decision may be appealed in a contested case proceeding under chapter 14.*

Sec. 6. [18E.06] [REPORT TO WATER COMMISSION.]

*By November 1, 1990, and each year thereafter, the agricultural chemical response compensation board and the commissioner shall submit to the house of representatives committee on appropriations, the senate committee on finance, and the legislative water commission a report detailing the activities and reimbursements for which money from the account has been spent during the previous year.*

Sec. 7. Minnesota Statutes 1988, section 115B.20, is amended to read:

115B.20 [ENVIRONMENTAL RESPONSE, COMPENSATION AND COMPLIANCE FUND.]

Subdivision 1. [ESTABLISHMENT.] *(a)* The environmental response, compensation and compliance fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2.

*(b) The commissioner of finance shall administer a response account in the fund for the agency and the commissioner of agriculture to take removal, response, and other actions authorized under subdivision 2, clauses (1) to (4). The commissioner of finance shall allocate money from the response account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4).*

*(c) The commissioner of finance shall administer the account in a manner that allows the commissioner of agriculture and the agency to utilize the money in the account to implement their removal and remedial action duties as effectively as possible.*

Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:

~~(a)~~ *(1)* preparation by the agency *and the commissioner of agriculture* for taking removal or remedial action under section 115B.17, *or under chapter 18D*, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, *or chapter 18D*;

~~(b)~~ *(2)* removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, *or taken or authorized by the commissioner of agriculture under chapter 18D* including related enforcement and compliance efforts under section 115B.17 or 115B.18, *or chapter 18D,* and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(c)~~ *(3)* reimbursement to any private person for expenditures made before July 1, 1983 to provide alternative water supplies deemed necessary by the agency *or the commissioner of agriculture* and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

~~(d)~~ *(4)* removal and remedial actions taken or authorized by the agency

or the commissioner of *agriculture or* the pollution control agency under section 115B.17, *or chapter 18D*, including related enforcement and compliance efforts under section 115B.17 or 115B.18, *or chapter 18D*, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(e)~~ *(5)* compensation as provided by law, after submission by the waste management board of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

~~(f)~~ *(6)* planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

~~(g)~~ *(7)* inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(h)~~ *(8)* grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

~~(i)~~ *(9)* intervention and environmental mediation by the legislative commission on waste management under chapter 115A; and

~~(j)~~ *(10)* grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state.

Subd. 3. [LIMIT ON CERTAIN EXPENDITURES.] The commissioner of *agriculture or* the pollution control agency or the agency may not spend any money under subdivision 2, clause ~~(b)~~ *(2)* or ~~(d)~~ *(4)*, for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, United States Code, title 42, section 9600 et seq. The commissioner of *agriculture or* the pollution control agency or the agency shall determine the extent to which any of the costs of those actions may be compensated under the federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the commissioner of *agriculture or* the pollution control agency or the agency shall take into account:

~~(a)~~ *(1)* the urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;

~~(b)~~ *(2)* the availability of money in the funds established under the Federal Superfund Act; and

~~(c)~~ *(3)* the consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.

Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the environmental response, compensation and compliance fund:

~~(a)~~ *(1)* the proceeds of the taxes imposed pursuant to section 115B.22, including interest and penalties;

~~(b)~~ *(2)* all money recovered by the state under sections 115B.01 to 115B.18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 116.12;

~~(c)~~ *(3)* all interest attributable to investment of money deposited in the fund; and

~~(d)~~ *(4)* all money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.

Subd. 5. [RECOMMENDATION BY LCWM.] The legislative commission on waste management *and the commissioner of agriculture* shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations from the fund.

Subd. 6. [REPORT TO LEGISLATURE.] ~~By November 1, 1984, and~~ Each year ~~thereafter~~, *the commissioner of agriculture and* the agency shall submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the environmental response, compensation and compliance fund has been spent during the previous fiscal year.

Sec. 8. [REVIEW OF PRIORITIES LIST.]

*The commissioner of agriculture in consultation with the pollution control agency shall review the priorities list under section 115B.17, subdivision 13, and evaluate the appropriateness of the ranking criteria for agricultural chemical releases, and how groundwater in the state is protected from agricultural chemical releases based on the priorities and use of the fund. The commissioner of agriculture shall prepare a report and submit it to the legislative water commission and the legislature by January 1, 1990.*

Sec. 9. [STUDY ON THE HEALTH AND RESPONSE RISKS OF AGRICULTURAL CHEMICALS.]

*The commissioner of agriculture shall conduct a study and report and submit it to the legislature by January 15, 1990, on agricultural chemicals in the state that pose the greatest health risk and health hazard due to toxicity, amount used in the state, leachability, persistence, and other factors, and the agricultural chemicals that pose the greatest risk of incurring corrective action which would be reimbursed from the agricultural chemical response and reimbursement account.*

*The study and report must include a plan for assessing surcharges under section 3, subdivision 5.*

Sec. 10. [EFFECTIVE DATE.]

*Sections 3, 4, and 5 are effective July 1, 1990.*

ARTICLE 9

WATERSHED DISTRICTS

Section 1. [METROPOLITAN LOCAL WATER MANAGEMENT TASK FORCE.]

*Subdivision 1.* [ESTABLISHMENT AND PURPOSE.] *(a) A metropolitan local water management task force is established to study and prepare a report on the following issues:*

*(1) how to accomplish constructive public participation in and local coordination of local water management;*

*(2) how to avoid excessive public costs associated with the planning and implementation of capital improvement projects;*

*(3) whether adequate oversight exists of local water management activities to assure adherence to state law and approved watershed management plans;*

*(4) the procedures to be used in urbanizing areas to maintain, repair, improve, construct, and abandon public drainage systems;*

*(5) the appropriate methods for financing capital improvement projects;*

*(6) whether local water management levies and bonds should be exempt from levy limits and caps on net indebtedness;*

*(7) whether the metropolitan water management act has met its original expectations; and*

*(8) what changes are needed in state law or the structure of local watershed management organizations to achieve greater consistency and stability in metropolitan watershed management organizations.*

*(b) The task force shall elect a chair at its first meeting.*

*(c) The task force shall be given legal and technical staff support by the board of water and soil resources. The board of water and soil resources shall provide administrative support.*

*Subd. 2.* [MEMBERSHIP.] *The task force shall consist of:*

*(1) three members of the senate appointed by the majority leader;*

*(2) three members of the house of representatives appointed by the speaker;*

*(3) the chair and two additional members of the board of water and soil resources appointed by the chair;*

*(4) the state planning commissioner or the commissioner's designee;*

*(5) the commissioner of the department of natural resources or the commissioner's designee;*

*(6) the commissioner of the pollution control agency or the commissioner's designee;*

*(7) the chair of the metropolitan council or the chair's designee;*

*(8) a member of the association of metropolitan municipalities appointed by the chair of the board of water and soil resources;*

*(9) a member of the Minnesota association of watershed districts appointed by the chair of the board of water and soil resources;*

*(10) a member of the association of Minnesota soil and water conservation districts appointed by the chair of the board of water and soil resources;*

*(11) a member representing watershed management organizations appointed by the chair of the board of water and soil resources;*

*(12) a member of the association of Minnesota counties appointed by the chair of the board of water and soil resources;*

*(13) a member of the metropolitan inter-county association appointed by the chair of the board of water and soil resources;*

*(14) a member representing consulting engineers appointed by the chair of the board of water and soil resources;*

*(15) a member representing the reinvest in Minnesota coalition appointed by the chair of the board of water and soil resources; and*

*(16) a resident of the state interested in metropolitan water management issues appointed by the chair of the board of water and soil resources.*

*Subd. 3.* [REPORT.] *The task force shall prepare a report and submit it to the governor and the legislature by December 15, 1989.*

Sec. 2. [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. 3. [LOCAL APPROVAL.]

*Section 2 is effective upon approval of the Coon Creek watershed board.*

Sec. 4. [EFFECTIVE DATE.]

*Section 1 is effective June 1, 1989.*

ARTICLE 10

APPROPRIATION

Section 1. [APPROPRIATION.]

*Subdivision 1. $13,000,000 is appropriated from the general fund to the agencies and for the purposes indicated in this section, to be available for the fiscal year ending June 30 in the years indicated. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.*

| | 1990 | 1991 |
|---|---|---|
| | $ | $ |
| *Subd. 2. HEALTH* | | |
| *(a) Promulgate health risk limits under article 1, section 8* | *125,000* | *125,000* |
| *(b) Water well management program under article 3* | *540,000* | *1,300,000* |
| *(c) Ensure safe drinking water under the safe drinking water act* | *1,410,000* | *1,190,000* |
| *The approved complement of the department of health is increased by 30 positions in fiscal year 1990 and 20 additional positions in fiscal year 1991.* | | |
| *Subd. 3. AGRICULTURE* | | |
| *(a) Sustainable agriculture program* | *50,000* | *50,000* |
| *(b) Monitor water quality, provide technical support, provide laboratory services* | *225,000* | *225,000* |
| *The approved complement of the department of agriculture is increased by 37 positions, four in the general fund and 33 in the special revenue fund.* | | |
| *Subd. 4. BOARD OF WATER AND SOIL RESOURCES* | | |
| *(a) Comprehensive local water management* | *50,000* | *50,000* |
| *(b) Local water resources protection under article 2 for which grants the first year of the biennium may be made without rules* | *610,000* | *2,610,000* |
| *(c) Environmental agriculture education under article 2, section 3* | *200,000* | *200,000* |
| *(d) Well sealing cost-share grants under article 3, section 21* | *65,000* | *465,000* |
| *(e) Study and preparation of metropolitan local water management task force* | *25,000* | |
| *The approved complement of the board of water and soil resources is increased by three positions.* | | |
| *Subd. 5. LEGISLATIVE WATER COMMISSION* | | |
| *General operations under article 2, section 1* | *83,000* | *87,000* |
| *Subd. 6. NATURAL RESOURCES* | | |
| *(a) Develop county atlas* | *185,000* | *180,000* |
| *Priority for county atlas grants shall be given to counties in sensitive areas.* | | |

| | | |
|---|---|---|
| *(b) Regional groundwater assessment, gauging, and technical assistance* | *950,000* | *650,000* |
| *$100,000 of this appropriation is to contract with the Minnesota geological survey to study the existence and source of high levels of natural radium in municipal water supplies and alternatives to reduce levels of natural radium in municipal water supplies.* | | |
| *The approved complement of the department of natural resources is increased by eight positions.* | | |
| *Subd. 7. POLLUTION CONTROL AGENCY* | | |
| *(a) Develop and implement best management practices and provide technical assistance under article 1* | *125,000* | *125,000* |
| *(b) Integrated Groundwater Information System* | *125,000* | *125,000* |
| *The approved complement of the pollution control agency is increased by five positions.* | | |
| *Subd. 8. STATE PLANNING AGENCY* | | |
| *Maintain integrated, computerized groundwater monitoring data base under article 1, section 7* | *100,000* | *100,000* |
| *Subd. 9. UNIVERSITY OF MINNESOTA* | | |
| *(a) Integrated pest management* | *175,000* | *175,000* |
| *This appropriation is intended to provide for three positions within the Minnesota extension service: one assistant integrated pest management coordinator, one agricultural integrated pest management specialists, and one urban integrated pest management specialist.* | | |
| *(b) Research by agricultural experiment stations on the impact of agriculture on groundwater* | *150,000* | *150,000* |

Sec. 2. [APPROPRIATION AND REIMBURSEMENT.]

*$1,000,000 is appropriated from the general fund to the response and reimbursement account to be used for the purposes of article 8. This amount must be reimbursed from the response and reimbursement account to the general fund from revenue to the response and reimbursement account by June 30, 1991."*

Delete the title and insert:

"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 water commission; 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.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 1, 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; 43A.08, subdivision 1; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 110B.35, subdivision 3; 115B.20; 116C.41, subdivision 1, and by adding a subdivision; and 473.877, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; and 40; 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."

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

Senate Conferees: (Signed) Steven Morse, Gregory L. Dahl, Charles R. Davis, John Bernhagen, Gene Merriam

House Conferees: (Signed) Willard Munger, Len Price, Dave Bishop, Elton R. Redalen, Henry J. Kalis

Mr. Morse moved that the foregoing recommendations and Conference Committee Report on S.F. No. 262 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 262 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 2, as follows:

Those who voted in the affirmative were:

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

Messrs Berg and Renneke voted in the negative.

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

## RECESS

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

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

## APPOINTMENTS

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

S.F. No. 258: Messrs. Moe, D.M.; Brandl and Anderson.

S.F. No. 1582: Mr. Pogemiller, Ms. Peterson, D.C. and Mr. Bernhagen.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 491 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 491

A bill for an act relating to health care; creating a health care access commission; requiring a health care access study; appropriating money.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 491, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 491 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [62J.01] [FINDINGS.]

*The legislature finds that substantial numbers of Minnesotans have no health care coverage and that most of these residents are wage earners or their dependents. One-third of these individuals are children.*

*The legislature further finds that when these individuals enter the health care system they have often foregone preventive care and are in need of more expensive treatment that often exceeds their financial resources. Much of the cost for these uncompensated services to the uninsured are already in the health care system in the form of increased insurance and provider rates and property and income taxes.*

*The legislature further finds that these costs, spread among the already insured, represent a woefully inefficient method for providing basic preventive and acute care for the uninsured and represent an added cost to employers now providing health insurance to their employees.*

*The legislature further finds that it is necessary to ensure basic and affordable health care to all Minnesotans while addressing the economic pressures on the health care system as a whole in Minnesota.*

Sec. 2. [62J.02] [HEALTH CARE ACCESS COMMISSION.]

*Subdivision 1.* [MEMBERSHIP; COMPENSATION; CHAIR.] *The Minnesota health care access commission consists of 15 members. Five members are appointed by the governor, one of whom must be an experienced health care professional, one of whom must be a representative of small business, and one of whom must be a representative of consumers. Three members are appointed under the rules of the senate and three members are appointed under the rules of the house of representatives. The commissioners of health, human services, employee relations, and commerce, or their designated representatives are also members. The governor shall appoint the chair of the commission from among the members who are not agency commissioners. The terms, compensation, and removal of the members appointed by the governor are as provided in section 15.0575.*

*Subd. 2.* [STAFF; OFFICE SPACE; EQUIPMENT.] *The commission shall select a director to serve at its pleasure as the chief administrative officer of the commission. The director may hire advisors, consultants, and employees, as authorized by the commission, and prescribe their duties. Employees are not state employees, but are covered by section 3.736. At the option of the commission, the employees may participate in the following plans for employees in the unclassified service: the state retirement plan, the state deferred compensation plan, and the health insurance and life insurance plans. The commissioner of state planning shall provide to the commission, at a reasonable cost, administrative assistance, office space, and access to office equipment and services.*

*Subd. 3.* [DUTIES.] *The health care access commission, with the assistance of the commissioner of state planning, shall develop and recommend to the legislature a plan to provide access to health care for all state residents. In developing the plan, the commission shall:*

*(1) develop a system to estimate the total number of uninsured Minnesotans by age, sex, employment status, income level, geography, and other relevant characteristics;*

*(2) explore all potential insurance options including size and makeup of risk groups;*

*(3) prepare a legal analysis of restrictions and other potential legal issues of the Employee Retirement Income Security Act, United States Code, title 29, sections 1001 to 1461;*

*(4) study and make recommendations on insurance and health care law changes that will improve access to health care;*

*(5) study and make recommendations on incentives and disincentives to ensure that employers continue to provide health insurance coverage;*

*(6) study and make recommendations regarding benefits to be covered by health plans that would be available through the health care access*

*program, including preventive, well-child, and prenatal care;*

*(7) identify cost savings to public programs that would result from implementation of the health care access program;*

*(8) develop a cost containment policy after reviewing cost containment methods such as hospital admission precertification, concurrent review of hospital stays, discharge planning, hospital bill audit prior to discharge, primary gatekeepers, claims data analysis, a drug formulary, pharmacy data analysis, bulk discounts, emergency room use, outpatient surgery oversight, protocols for preventive care and common acute care, practice data compared to peers, practitioner rewards and penalties, and other cost containment methods;*

*(9) develop a system to administer the health care access program, including recommendations for eligibility criteria, enrollment procedures, and options for contracting with carriers, health plans, and providers, to ensure access to affordable health care in all geographic areas of the state;*

*(10) define the number, functions, and duties of administrative staff;*

*(11) study alternatives for financing the state share of the cost of the premiums in an amount sufficient to generate one-half of the total costs of the health care access program, but not more than $150,000,000 a year, including, but not limited to, an actuarial analysis, a sliding fee scale analysis, and reserve fund requirements;*

*(12) develop a system for collection of premium payments;*

*(13) examine and make recommendations on gatekeeping mechanisms for access to health care services, different benefit and service packages for the minimum core coverage plan, and dollar limitations for prescription drug costs;*

*(14) consider limits on provider reimbursement and covered services and make recommendations;*

*(15) examine the effect of different copayment levels on access to health care for persons with low incomes and provide recommendations based on this analysis;*

*(16) examine and make recommendations on maximum lifetime benefits;*

*(17) develop methods to ensure representation in service delivery by eligible practitioners, without regard to race, color, or sex;*

*(18) develop methods to coordinate the health care access program with other government-subsidized programs; and*

*(19) conduct other activities it considers necessary to carry out the intent of the legislature as expressed in section 1 and this section.*

*Subd. 4.* [REPORT.] *The commission shall report to the legislature by February 15, 1990, on its progress in developing the plan, including preliminary data analysis and other appropriate information. The commission shall provide a final report and implementation plan to the legislature by January 1, 1991.*

Sec. 3. [DEMONSTRATION PROJECT REPORT.]

*The nine-county demonstration project for the uninsured authorized in Minnesota Statutes, section 256B.73, shall report to the commission by January 1, 1990, on the number and percentage of enrollees in the project,*

*benefits provided, and the financial commitment of enrollees and employers.*

Sec. 4. [REPEALER.]

*Section 2 is repealed effective July 1, 1991.*

Sec. 5. [APPROPRIATION.]

*Subdivision 1.* [HEALTH CARE ACCESS COMMISSION.] *$800,000 is appropriated from the general fund to the health care access commission for purposes of sections 1 and 2, to be available until June 30, 1991.*

*Subd. 2.* [COMMISSIONER OF HUMAN SERVICES.] *(a) $50,000 is appropriated from the general fund to the commissioner of human services to provide one-time subsidies to community-based clinics, to be available until June 30, 1990. The commissioner shall publish in the State Register a notice of the availability of clinic subsidies, a request for applications from clinics that desire a subsidy, a notice that a subsidy review committee will be convened to allocate the subsidies, and notice that each clinic that seeks representation on the committee must submit the name, address, and telephone number of its designated representative. Applications from clinics that desire a subsidy must include detailed information about the financial condition of the clinic, the amounts and sources of financial support received by the clinic, and the proportion of patients who are uninsured and for whom the clinic does not receive any payments. The commissioner shall convene a committee consisting of a representative of each community-based clinic meeting the definition in this paragraph that asks to be represented on the committee. Committee members do not receive compensation but may be reimbursed out of the appropriation in this subdivision for reasonable travel expenses incurred to attend committee meetings. The committee shall determine the recipients and amounts of the subsidies. Subsidies must be awarded to those clinics with the greatest financial need due to the number of uninsured patients, the inadequacy of grant support and charitable contributions, and other factors. The committee shall consider the extent to which the subsidy would enable the clinic to continue effectively serving the uninsured. The commissioner must award the subsidies according to the recommendations of the committee. For purposes of this paragraph, "community-based clinics" means an entity that:*

*(1) through its staff and supporting resources or through its contracts or cooperative arrangements with other public or private entities, provides primary health services for all intended residents of its service area;*

*(2) was established to serve the primary health needs of low-income population groups;*

*(3) uses a sliding fee scale based on ability to pay, and does not limit access or care because of the financial limitations of the client;*

*(4) has nonprofit status under Minnesota Statutes, chapter 317; and*

*(5) has a governing board, for which at least 51 percent of the membership resides in the local community served by the clinic.*

*(b) $175,000 for the fiscal year ending June 30, 1990, and $200,000 for the fiscal year ending June 30, 1991, are appropriated from the general fund to the commissioner of human services to provide a 20 percent increase in medical assistance and children's health plan payments for covered services provided by clinics enrolled as public health clinics or community health clinics under Minnesota Rules, Parts 9505.0380 and 9505.0255."*

Delete the title and insert:

"A bill for an act relating to health care; creating a health care access commission; requiring an implementation plan for a health care access program; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 62J."

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

Senate Conferees: (Signed) Linda Berglin, Don Samuelson, Cal Larson

House Conferees: (Signed) Paul Anders Ogren, Ben Boo, Peter Rodosovich

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on S.F. No. 491 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 491 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 654, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 654 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 654

A bill for an act relating to education; providing for general education revenue, transportation, special programs, community education, school facilities and equipment, education organization and cooperation, access to education excellence, school breakfast programs, sexual harassment and violence policies, parental involvement programs, libraries, state education agencies and education agency services, providing for limits on open enrollment and post-secondary options; appropriating money; amending Minnesota Statutes 1988, sections 43A.08, subdivision 1a; 120.06, by adding a subdivision; 120.062, subdivisions 4, 6, and by adding a subdivision; 120.17, subdivisions 3, 3b, and by adding a subdivision; 121.88, subdivisions 2 and 5; 121.882, subdivisions 2 and 4; 121.904, subdivision 4a; 121.908, subdivision 5; 121.912, subdivision 1; 121.935, subdivision 6; 122.23, by adding a subdivision; 122.43, subdivision 1; 122.532, subdivision 4; 122.541, subdivision 5; 122.91; 122.92; 122.93, subdivision 2, and by adding subdivisions; 122.94, subdivision 1, and by adding a subdivision; 122.95, subdivision 2, and by adding a subdivision; 123.3514, subdivisions 2, 4, 4c, 5, 7, and 10; 123.39, by adding a subdivision; 123.58, subdivision 9, and by adding a subdivision; 123.702, subdivisions 1, 1a, 2, 3, 4, and by adding subdivisions; 123.703, by adding subdivisions; 123.705, subdivision 1, and by adding a subdivision; 124.17, subdivision 1b; 124.19, subdivision 5; 124.195, subdivision 8; 124.2131, subdivision 1; 124.223; 124.225; 124.243, subdivision 3, and by adding a subdivision; 124.244, subdivision 2; 124.245, subdivision 3b; 124.26, subdivisions 1c, 7, and by adding a subdivision; 124.261; 124.271, by adding subdivisions; 124.2711, subdivisions 1, 3, 4, and by adding a subdivision; 124.2721; 124.273, subdivisions 1b, 4, 5, 7, and by adding a subdivision; 124.32, subdivisions 1b, 1d, and by adding a subdivision; 124.38, subdivision 7; 124.43, subdivision 1, and by adding a subdivision; 124.494, subdivision 2; 124.573, subdivision 2b, and by adding subdivisions; 124.574, subdivisions 1, 4, and 5; 124.575, subdivision 3; 124.82, subdivision 3; 124.83, subdivisions 3, 4, and 6; 124A.02, by adding a subdivision; 124A.03, subdivision 2; 124A.035, subdivisions 2 and 4; 124A.036, by adding a subdivision; 124A.22, subdivisions 2, 4, and 9; 124A.23, subdivision 1; 124A.28, subdivision 1; 124A.31; 126.151, subdivision 2; 126.23; 126.56, subdivision 4, and by adding a subdivision; 126.67, subdivision 8; 128A.09; 129.121, by adding a subdivision; 129C.10; 134.33, subdivision 1; 134.34, subdivisions 1, 2, 3, and 4; 134.35, subdivision 5; 136D.27, subdivision 1; 136D.74, subdivision 2; 136D.87, subdivision 1; 141.35; 273.1102, subdivision 3; 275.011, subdivision 1; 275.125, subdivisions 5, 5b, 5c, 5e, 6e, 6h, 6i, 8, 8b, 8c, 8e, 9, 9a, 9b, 9c, 11d, 14a, and by adding a subdivision; 354.094, subdivisions 1 and 2; 354.66, subdivision 4; 354A.091, subdivisions 1 and 2; 354A.094, subdivision 4; and 363.06, subdivision 3; Laws 1965, chapter 705, as amended; Laws 1976, chapter 20, section 4; Laws 1988, chapter 718, article 7, section 61, subdivisions 1, 2, and 3; chapter 719, article 5, section 84; proposing coding for new law in Minnesota Statutes, chapters 122; 124; 124A; 126; 127; 275; and 363; repealing Minnesota Statutes 1988, sections 120.062, subdivision 8; 123.702, subdivisions 1a, 5, 6, and 7; 124.217; 124.243, subdivision 4; 124.271, subdivision 26; 129B.11; 129B.48; 134.33, subdivision 1; 134.34, subdivision 5; and 275.125, subdivision 6f; Laws 1988, chapter 718, article 5, section 4.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 654, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 654 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION REVENUE

Section 1. Minnesota Statutes 1988, section 16A.1541, is amended to read:

16A.1541 [ADDITIONAL REVENUES; PRIORITY.]

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget and cash flow reserve account until the total amount in the account equals ~~$550,000,000~~ *five percent of total general fund appropriations for the current biennium as established by the most recent legislative session after reducing the property tax levy recognition percent under section 121.904, subdivision 4a to 27 percent.*

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

Sec. 2. Minnesota Statutes 1988, section 124.19, subdivision 5, is amended to read:

Subd. 5. [SCHEDULE ADJUSTMENTS.] (a) It is the intention of the legislature to encourage efficient and effective use of staff and facilities by school districts. School districts are encouraged to consider both cost and energy saving measures.

(b) Notwithstanding the provisions of subdivision 1 or 4, any district~~, including a district~~ operating a program pursuant to sections 120.59 to 120.67 or 129B.42 to 129B.47, *or operating a commissioner-designated area learning center program under section 129B.56, or that otherwise receives the approval of the commissioner to operate its instructional program to avoid an aid reduction in any year,* may adjust the annual school schedule *for that program* throughout the calendar year so long as the number of instructional hours in the year is not less than the number *of instructional hours per day* specified in the rules of the state board *multiplied by the minimum number of instructional days required by subdivision 1.*

Sec. 3. Minnesota Statutes 1988, section 124.19, is amended by adding a subdivision to read:

*Subd. 7.* [ALTERNATIVE PROGRAMS.] *(a) This subdivision applies to an alternative program that has been approved by the state board of*

*education pursuant to Minnesota Rules, part 3500.3500, as exempt from Minnesota Rules, part 3500.1500, requiring a school day to be at least six hours in duration.*

*(b) To receive general education revenue for a pupil in an alternative program, a school district must meet the requirements in this paragraph. The program must be approved by the commissioner of education. In approving a program, the commissioner may use the process used for approving state designated area learning centers under section 129B.56.*

*(c) In addition to the requirements in paragraph (b), to receive general education revenue for a pupil in an alternative program that has an independent study component, a school district must meet the requirements in this paragraph.*

*For a course having an independent study component, the pupil must complete coursework and receive credit for each course for which the aid is claimed.*

*The school district must develop with the pupil a continual learning plan for the pupil. A district must allow a minor pupil's parent or guardian to participate in developing the plan, if the parent or guardian wants to participate. The plan must identify the learning experiences and expected outcomes needed for satisfactory credit for the year and for graduation. The plan must be updated each year.*

*General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full school year, or its equivalent.*

*General education revenue for a pupil in an approved alternative program that has an independent study component must be prorated for a pupil receiving fewer than six credits in a year.*

*For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.*

*A credit for a year in an approved alternative program shall, for the purposes of audit, be considered to be 170 hours of teacher contact time and independent study time.*

Sec. 4. Minnesota Statutes 1988, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] ~~(1)~~ *(a)* The levy authorized by section 124A.23, subdivision 2, may be increased in ~~any~~ *the* amount ~~that is~~ approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. ~~The referendum shall be held on a date set by the school board. Only two elections may be held to approve a levy increase that will commence in a specific school year.~~ *The referendum must be held on the first Tuesday after the first Monday in November.* The ballot shall state the maximum amount of the increased levy ~~in mills~~ *as a percentage of net tax capacity*, the amount that will be raised by that tax capacity rate in the first year it is to be levied, and that the tax capacity rate shall be used to finance school operations. The ballot may designate a specific number of years for which

the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the levy proposed by (petition to) the board of . . . . . , School District No. . . . . , be approved?"

If approved, the amount provided by the approved tax capacity rate applied to ~~each year's gross~~ *the net* tax capacity *for the year preceding the year the levy is certified* shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

~~(2)~~ *(b)* A referendum on the question of revoking or reducing the increased levy amount authorized pursuant to ~~clause (1)~~ *paragraph (a)* may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A levy approved by the voters of the district pursuant to ~~clause (1)~~ *paragraph (a)* must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one ~~such~~ revocation or reduction election may be held to revoke or reduce a levy for any specific year and for years thereafter.

~~(3) A petition authorized by clause (1) shall be effective if signed by a number of qualified voters in excess of 15 percent, or ten percent if the school board election is held in conjunction with a general election, of the average number of voters at the two most recent district wide school elections. A referendum invoked by petition shall be held within three months of submission of the petition to the school board.~~

~~(4)~~ *(c)* A petition authorized by ~~clause (2)~~ *paragraph (a) or (b)* shall be effective if signed by a number of qualified voters in excess of ~~five~~ *15* percent of the ~~residents~~ *registered voters* of the school district ~~as determined by the most recent census~~ *on the day the petition is filed with the school board*. A ~~revocation or reduction~~ referendum invoked by petition shall be held ~~within three months of submission of the petition to the school board~~ *on the date specified in paragraph (a)*.

~~(5)~~ *(d)* ~~Notwithstanding any law to the contrary,~~ The approval of 50 percent plus one of those voting on the question is required to pass a referendum *authorized by this subdivision*.

~~(6)~~ *(e)* Within 30 days after the district holds a referendum pursuant to this clause, the district shall notify the commissioner of education of the results of the referendum.

Sec. 5. Minnesota Statutes 1988, section 124A.22, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION REVENUE.] The general education revenue for each district equals the sum of the district's basic revenue, compensatory education revenue, training and experience revenue, *secondary* sparsity revenue, *elementary sparsity revenue,* and supplemental revenue.

Sec. 6. Minnesota Statutes 1988, section 124A.22, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. ~~The formula allowance is $2,755 for the 1988-1989 school year.~~ The formula allowance is ~~$2,800~~ *$2,838* for fiscal year 1990. *The formula allowance for subsequent fiscal years is $2,953.*

Sec. 7. Minnesota Statutes 1988, section 124A.22, is amended by adding a subdivision to read:

*Subd. 2a.* [ELIGIBILITY FOR INCREASE.] *Notwithstanding subdivision 2 or any other law to the contrary, if a school board and the bargaining unit of the teachers in a school district have not ratified a contract by January 15, 1990, for the two-year period ending June 30, 1991, the district is no longer eligible for $25 of the formula allowance for fiscal year 1990. The total amount of money that would have been paid to districts that are not eligible according to this subdivision shall be allocated to eligible districts according to the number of actual pupil units in all of the eligible districts.*

Sec. 8. Minnesota Statutes 1988, section 124A.22, subdivision 5, is amended to read:

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

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

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of resident pupils in grades 7 through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of resident pupils in grades 7 through 12 in the high school, times the ratio of six to the number of grades in the high school.

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

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

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

*(f) "Qualifying elementary school" means an elementary school that is located 20 miles or more from the nearest elementary school or from the nearest elementary school within the district and, in either case, has an elementary average daily membership of an average of 20 or fewer per grade.*

*(g) "Elementary average daily membership" means, for a district that has only one elementary school, the average daily membership of resident pupils in kindergarten through grade 6. For a district that has more than one elementary school, "average daily membership" for each school means the average daily membership of kindergarten through grade 6 multiplied by the ratio of seven to the number of grades in the elementary school.*

Sec. 9. Minnesota Statutes 1988, section 124A.22, subdivision 6, is amended to read:

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

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

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

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

(4) the lesser of one or the quotient obtained by dividing the isolation index minus 23 by ten.

Sec. 10. Minnesota Statutes 1988, section 124A.22, is amended by adding a subdivision to read:

*Subd. 6a.* [ELEMENTARY SPARSITY REVENUE.] *A district's elementary sparsity revenue equals the sum of the following amounts for each qualifying elementary school in the district:*

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

*(2) the elementary average daily membership of the school, multiplied by*

*(3) the quotient obtained by dividing 140 minus the elementary average daily membership by 140 plus the average daily membership.*

Sec. 11. Minnesota Statutes 1988, section 124A.22, subdivision 8, is amended to read:

Subd. 8. [SUPPLEMENTAL REVENUE.] If a district's minimum allowance exceeds the sum of its basic revenue, compensatory revenue, training and experience revenue, *secondary sparsity revenue,* and *elementary* sparsity revenue per actual pupil unit for a school year, the district shall receive supplemental revenue equal to the amount of the excess times the actual pupil units for the school year.

Sec. 12. Minnesota Statutes 1988, section 124A.22, subdivision 9, is amended to read:

Subd. 9. [DEFINITIONS FOR SUPPLEMENTAL REVENUE.] (a) The definitions in this subdivision apply only to subdivision 8.

(b) "1987-1988 revenue" means the sum of the following categories of revenue for a district for the 1987-1988 school year:

(1) basic foundation revenue, tier revenue, and declining pupil unit revenue, according to Minnesota Statutes 1986, as supplemented by Minnesota Statutes 1987 Supplement, chapter 124A, plus any reduction to second tier revenue, according to Minnesota Statutes 1986, section 124A.08, subdivision 5;

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

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

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

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

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

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

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

For the purpose of this subdivision, intermediate districts and other employing units, as defined in Minnesota Statutes 1986, section 124.2161, shall allocate the amount of their teacher retirement and FICA aid for fiscal year 1988 among their participating school districts.

(c) "Minimum allowance" for a district means:

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

(2) the district's 1987-1988 actual pupil units, adjusted for the change in secondary pupil unit weighting from 1.4 to 1.35 made by Laws 1987, chapter 398; plus

(3) ~~$105~~ *$143 for fiscal year 1990 and $258 for subsequent fiscal years.*

Sec. 13. Minnesota Statutes 1988, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX CAPACITY RATE.] The commissioner of revenue shall establish the general education tax capacity rate and certify it to the commissioner of education by September 1 of each year for levies payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the nearest tenth of a ~~mill~~ *percent*, that, when applied to the adjusted gross tax capacity for all districts, raises the amount specified in this subdivision. The general education tax capacity rate ~~for the 1990 fiscal year~~ shall be the rate that raises ~~$1,100,580,000~~ *$1,156,000,000 for fiscal year 1991 and $1,213,800,000 for subsequent fiscal years*. The general education tax capacity rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 14. [INSTRUCTIONS TO THE DEPARTMENT OF EDUCATION FOR 1989 LEVY LIMITS.]

*Notwithstanding sections 2, 6, 8, 10, and 12, or any other law to the contrary, the department shall determine for the 1989-1990 school year only, levies under Minnesota Statutes, chapter 124A as they were authorized before the enactment of this article.*

Sec. 15. [CONVERSION OF EXISTING REFERENDUM LEVIES.]

*The department of education shall convert the referendum levy authority existing under Minnesota Statutes, section 124A.03, for 1988 taxes payable in 1989, for future years, as follows:*

*The tax capacity rate equals the rate determined by dividing the district's maximum levy under Minnesota Statutes, section 124A.03, for 1988 taxes payable in 1989 by the district's 1987 net tax capacity. A district's maximum levy for all subsequent years for which the levy is authorized equals the amount provided by the tax capacity rate applied to the net tax capacity for the year preceding the year the levy is certified.*

*However, if a district's levy is limited to a dollar amount, the maximum levy under Minnesota Statutes, section 124A.03, must not exceed the dollar*

*amount.*

Sec. 16. [ADDITIONAL CONVERSION PROCEDURES.]

*For a referendum levy authorized after December 1, 1988, and before the effective date of section 4, the department of education shall convert the approved levy amount to the appropriate net tax capacity rate. Levy amounts approved prior to the effective date of this act are validated.*

Sec. 17. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [GENERAL AND SUPPLEMENTAL EDUCATION AID.] *For general and supplemental education aid:*

*$1,222,815,000 . . . . . 1990*

*$1,293,366,000 . . . . . 1991*

*The 1990 appropriation includes $174,824,000 for 1989 and $1,047,991,000 for 1990.*

*The 1991 appropriation includes $177,889,000 for 1990 and $1,115,477,000 for 1991.*

*Subd. 3.* [EXCEPTIONAL NEED AID.] *For exceptional need aid according to Minnesota Statutes, section 124.217:*

*$420,000 . . . . . 1990*

*$ 70,000 . . . . . 1991*

*The 1990 appropriation includes $23,000 for 1989 and $397,000 for 1990.*

*The 1991 appropriation includes $70,000 for 1990 and $0 for 1991.*

Sec. 18. [REPEALER.]

*Minnesota Statutes 1988, section 124.217 is repealed July 1, 1990, and section 275.125, subdivision 6f, is repealed July 1, 1989.*

ARTICLE 2

PUPIL TRANSPORTATION

Section 1. Minnesota Statutes 1988, section 123.39, is amended by adding a subdivision to read:

*Subd. 14. The board may provide transportation for a pupil who is a custodial parent and that pupil's child between the pupil's home and a child care provider and between the provider and the school. The board shall establish criteria for transportation it provides according to this subdivision.*

Sec. 2. Minnesota Statutes 1988, section 124.223, is amended to read:

124.223 [TRANSPORTATION AID AUTHORIZATION.]

School transportation and related services for which state transportation aid is authorized are: *listed in this section.*

(1) [TO AND FROM SCHOOL; BETWEEN SCHOOLS.] *(a) State transportation aid is authorized for* transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who

reside two miles or more from the public schools which they could attend; transportation to and from schools the resident pupils attend according to a program approved by the commissioner of education, or between the schools the resident pupils attend for instructional classes; transportation of resident elementary pupils who reside one mile or more from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79; transportation of ~~pupils~~ *a pupil* who ~~are~~ *is a* custodial ~~parents to and from~~ *parent and that pupil's child between the pupil's home and* the *child care* provider ~~of child care services for the pupil's child~~ *and between the provider and the school, if the home and provider are* within the attendance area of the school ~~the pupil attends;~~.

*(b)* For the purposes of ~~this~~ clause *(1)*, a district may designate a licensed day care facility ~~or~~, *respite care facility,* the residence of a relative, *or the residence of a person chosen by the pupil's parent or guardian* as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends~~;~~.

*(c) State transportation aid is authorized for transportation to and from school of an elementary pupil who moves during the school year within an area designated by the district as a mobility zone, but only for the remainder of the school year. The attendance areas of schools in a mobility zone must be contiguous. To be in a mobility zone, a school must meet both of the following requirements:*

*(i) more than 50 percent of the pupils enrolled in the school are eligible for free or reduced school lunch; and*

*(ii) the pupil withdrawal rate for the last year is more than 12 percent.*

*(d) A pupil withdrawal rate is determined by dividing:*

*(i) the sum of the number of pupils who withdraw from the school, during the school year, and the number of pupils enrolled in the school as a result of transportation provided under this paragraph, by*

*(ii) the number of pupils enrolled in the school.*

*(e) The district may establish eligibility requirements for individual pupils to receive transportation in the mobility zone.*

(2) [OUTSIDE DISTRICT.] *State transportation aid is authorized for* transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school~~;~~. The pupils may attend a classified secondary school in another district and shall receive board and lodging in or transportation to and from a district having a classified secondary school at the expense of the district of the pupil's residence~~;~~.

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

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

(5) [BOARD AND LODGING; NONRESIDENT HANDICAPPED.] *State transportation aid is authorized for,* when necessary, board and lodging for nonresident handicapped pupils in a district maintaining special classes~~;~~.

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

(7) [FARIBAULT STATE ACADEMIES.] *State transportation aid is authorized for* transportation for residents to and from the Minnesota state academy for the deaf or the Minnesota state academy for the blind~~;~~.

(8) [SUMMER INSTRUCTIONAL PROGRAMS.] *State transportation aid is authorized for* services described in clauses (1) to (7), (9), and (10) when provided in conjunction with a summer program that meets the requirements of section 124A.27, subdivision 9~~;~~.

(9) [COOPERATIVE ACADEMIC AND VOCATIONAL.] *State transportation aid is authorized for* transportation to, from or between educational facilities located in any of two or more school districts jointly offering academic classes or secondary vocational classes not provided at a secondary vocational center for resident pupils of any of these districts~~;~~ ~~and~~.

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

Sec. 3. Minnesota Statutes 1988, section 124.225, is amended to read:

124.225 [TRANSPORTATION AID ENTITLEMENT.]

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

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

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

(1) all expenditures for transportation in the regular category, as defined

in ~~clause~~ *paragraph* (e), *clause* (1), for which aid is authorized in section 124.223, plus

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

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

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

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

(d) "~~Aid entitlement per FTE~~ *Regular transportation allowance" for the 1989-1990 school year* means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.

(e) *For purposes of this section,* "transportation category" means a category of transportation service provided to pupils~~.~~*:*

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

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

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

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

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

~~(ii)~~ *(2)* nonregular transportation is transportation services provided under section 124.223, clause (1), that are excluded from the regular category, and transportation services provided under section 124.223, clauses (3), (4), (5), (6), (7), (8), (9), and (10)~~.~~*;*

*(3) excess transportation is transportation to and from school for secondary pupils residing at least one mile but less than two miles from the*

*public school they could attend or from the nonpublic school actually attended, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic hazards; and*

*(4) desegregation transportation is transportation of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the state board or under court order.*

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

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

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

(i) "Base cost" ~~for the 1984-1985 and 1985-1986 base years means the authorized regular transportation cost per FTE in the base year in the regular transportation category, excluding summer school transportation. Base cost~~ for the 1986-1987 *and 1987-1988* base ~~year and after~~ *years* means the ratio of:

(1) the sum of:

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

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

~~(iii) the actual cost in the base year for transportation costs which are necessary because of extraordinary traffic hazards~~ *as defined in paragraph (e), clause (3),*

(2) to the sum of:

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

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

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

(j) *Base cost for the 1988-1989 base year and later years means the ratio of:*

*(1) the sum of the authorized cost in the base year for regular transportation as defined in clause (b) plus the actual cost in the base year for excess transportation as defined in clause (e);*

*(2) to the sum of the number of weighted FTE pupils transported in the regular and excess categories in the base year.*

*(k)* "Predicted base cost" *for the 1986-1987 and 1987-1988 base years* means the base cost as predicted by subdivision 3.

*(l) "Predicted base cost" for the 1988-1989 base year and later years means the predicted base cost as computed in subdivision 3a.*

*(m) "Pupil weighting factor" for the excess transportation category for a school district means the lesser of one, or the result of the following computation:*

*(1) divide the square mile area of the school district by the number of FTE pupils transported in the regular and excess categories in the base year;*

*(2) raise the result in clause (1) to the one-fifth power;*

*(3) divide four-tenths by the result in clause (2).*

*The pupil weighting factor for the regular transportation category is one.*

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

*(o) "Sparsity index" for a school district means the greater of .005 or the ratio of the square mile area of the school district to the sum of the number of weighted FTE's transported by the district in the regular and excess categories in the base year.*

*(p) "Density index" for a school district means the greater of one or the result obtained by subtracting the product of the district's sparsity index times 20 from two.*

*(q) "Contract transportation index" for a school district means the greater of one or the result of the following computation:*

*(1) multiply the district's sparsity index by 20;*

*(2) select the greater of one or the result in clause (1);*

*(3) multiply the district's percentage of regular FTE's transported using vehicles that are not owned by the school district by the result in clause (2).*

*(r) "Adjusted predicted base cost" for the 1988-1989 base year and after means the predicted base cost as computed in subdivision 3a as adjusted under subdivision 7a.*

*(s) "Regular transportation allowance" for the 1990-1991 school year and after means the adjusted predicted base cost, inflated and adjusted under subdivision 7b.*

*(t) "Minimum regular transportation allowance" for the 1990-1991 school year and after means the result of the following computation:*

*(1) compute the sum of the district's basic transportation aid for the 1989-1990 school year according to subdivision 8a and the district's excess transportation levy for the 1989-1990 school year according to section 275.125, subdivision 5e, clause (a);*

*(2) divide the result in clause (1) by the sum of the number of weighted FTE's transported by the district in the regular and excess transportation categories in the 1989-1990 school year;*

*(3) select the lesser of the result in clause (2) or the district's base cost for the 1989-1990 base year according to paragraph (j).*

Subd. 3. [FORMULA.] For each school year, the state shall pay to each school district for all pupil transportation and related services for which the district is authorized by law to receive state aid an amount determined according to this section. The department of education shall conduct multiple regression analysis using the terms specified in subdivision 4b for ~~each school year~~ *the 1986-1987 and 1987-1988 base years* to predict the base cost for each district. ~~Each year~~ *The department shall use* a formula ~~shall be derived~~ based upon the regression analysis~~, and shall be used~~ to determine a predicted base cost for each district. The amount determined for each district shall be adjusted according to the provisions of subdivisions 7a and 7b.

*Subd. 3a.* [PREDICTED BASE COST.] *A district's predicted base cost for the 1988-1989 base year and later years equals the result of the following computation:*

*(a) Multiply the transportation formula allowance by the district's sparsity index raised to the one-fourth power. The transportation formula allowance is $406 for the 1988-1989 base year.*

*(b) Multiply the result in clause (a) by the district's density index raised to the 35/100 power.*

*(c) Multiply the result in clause (b) by the district's contract transportation index raised to the 1/20 power.*

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

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

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

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

~~(b)~~ To predict the logarithm of the base cost for each district according to subdivision 3 for the 1986-1987 *and 1987-1988* base ~~year and thereafter,~~ *years* the multiple regression formula shall use the following terms for each district:

(1) the logarithm of the lesser of:

(A) 200; or

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

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

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

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

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

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

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

Subd. 7a. [BASE YEAR SOFTENING FORMULA.] Each district's predicted base cost determined for ~~each school year~~ *the 1986-1987 and 1987-1988 base years* according to subdivision 3 shall be adjusted as provided in this ~~clause~~ *subdivision* to determine the district's adjusted authorized predicted cost per FTE for that year.

(a) If the base cost of the district is within five percent of the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to the base cost.

(b) If the base cost of the district is more than five percent greater than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 105 percent of the predicted base cost, plus 40 percent of the difference between (i) the base cost, and (ii) 105 percent of the predicted base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be less than 80 percent of base cost.

(c) If the base cost of the district is more than five percent less than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 95 percent of the predicted base cost, minus 40 percent of the difference between (i) 95 percent of predicted base cost, and (ii) the base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be more than 120 percent of base cost.

*(d) For the 1988-1989 base year and later years, each district's predicted base cost determined according to subdivision 3a must be adjusted as provided in this subdivision to determine the district's adjusted predicted base cost for that year. The adjusted predicted base cost equals 50 percent of the district's base cost plus 50 percent of the district's predicted base cost, but the adjusted predicted base cost cannot be less than 80 percent, nor more than 110 percent, of the base cost.*

Subd. 7b. [INFLATION FACTORS.] The adjusted authorized predicted cost per FTE determined for a district under subdivision 7a for the base year shall be increased by ~~6.0 percent to determine the district's aid entitlement per FTE for the 1986-1987 school year, by 4.9 percent to determine the district's aid entitlement per FTE for the 1987-1988 school year, and by~~ 4.1 percent to determine the district's aid entitlement per FTE for the 1988-1989 school year~~.~~ *and by 5.8 percent to determine the district's regular transportation allowance for the 1989-1990 school year. The adjusted predicted base cost determined for a district under subdivision 7a for the base year must be increased by 5.4 percent to determine the district's regular transportation allowance for the 1990-1991 school year, but the regular transportation allowance for a district cannot be less than the district's minimum regular transportation allowance according to subdivision 1, paragraph (t).*

*Subd. 7c.* [TRANSPORTATION REVENUE.] *Beginning in the 1990-1991 school year, the transportation revenue for each district equals the sum of the district's regular transportation revenue and the district's nonregular transportation revenue.*

*(a) The regular transportation revenue for each district equals the district's regular transportation allowance according to subdivision 7b times the sum of the number of FTE's transported by the district in the regular and desegregation categories in the current school year.*

*(b) The nonregular transportation revenue for each district equals the district's actual cost in the current school year for nonregular transportation services, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation category in the current school year.*

Subd. 8a. [*TRANSPORTATION* AID.] (a) For the 1988-1989 ~~school year~~ and ~~thereafter~~ *1989-1990 school years*, a district's transportation aid is equal to the sum of its basic transportation aid under subdivision 8b, its nonregular transportation aid under subdivision 8i, and its nonregular transportation levy equalization aid under subdivision 8j, minus its contracted services aid reduction under subdivision 8k and minus its basic transportation levy limitation for the levy attributable to that school year under section 275.125, subdivision 5.

(b) *For 1990-1991 and later school years, a district's transportation aid equals the product of:*

*(1) the difference between the transportation revenue and the sum of:*

*(i) the maximum basic transportation levy for that school year under section 275.125, subdivision 5, plus*

*(ii) the maximum nonregular transportation levy for that school year under section 275.125, subdivision 5c, plus*

*(iii) the contracted services aid reduction under subdivision 8k,*

*(2) times the ratio of the sum of the actual amounts levied under section 275.125, subdivisions 5 and 5c, to the sum of the maximum levies under section 275.125, subdivisions 5 and 5c.*

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

Subd. 8b. [BASIC AID COMPUTATION.] A district's basic transportation aid pursuant to this section for ~~each school year~~ *the 1988-1989 and 1989-1990 school years* shall equal the district's aid entitlement per FTE determined according to subdivision 7b, times the total number of authorized FTE's transported in the regular category in the district in the ~~current~~ school year.

Subd. 8i. [NONREGULAR TRANSPORTATION AID.] (a) A district's nonregular transportation aid shall be determined according to this subdivision.

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

~~(c)~~ For the 1988-1989 *and 1989-1990* school ~~year and thereafter~~ *years*, nonregular transportation aid equals (1) 60 percent of the actual cost in the current year for nonregular transportation services per total pupil unit which exceeds $30, times (2) the number of total pupil units in the district in the current year.

Subd. 8j. [NONREGULAR TRANSPORTATION LEVY EQUALIZATION AID.] For the ~~1984-1985 school year and each year thereafter~~ *1988-1989 and 1989-1990 school years*, a district's nonregular transportation levy equalization aid shall be determined pursuant to this subdivision.

(a) Unreimbursed nonregular transportation revenue shall equal the actual cost in the ~~current~~ *school* year for nonregular transportation services, minus the district's nonregular transportation aid computed pursuant to subdivision 8i.

(b) The nonregular transportation levy is the levy authorized by section 275.125, subdivision 5c.

(c) Nonregular transportation levy equalization aid for a district shall equal the product of (1) its unreimbursed nonregular transportation revenue, minus the nonregular transportation levy limitation for that year, times (2) the ratio of the district's actual nonregular transportation levy to its nonregular transportation levy limitation.

Subd. 8k. [CONTRACTED SERVICES AID REDUCTION.] *(a)* For the 1984-1985 school year and each year thereafter, each district's transportation aid shall be reduced according to the provisions of this subdivision, if the district contracted for some or all of the transportation services provided in the regular category.

*(b) For the 1988-1989 and 1989-1990 school years,* the department of education shall compute this subtraction by conducting the multiple regression analysis specified in subdivision 3 and computing the district's aid under two circumstances, once including the coefficient of the factor specified in subdivision 4b, clause (3), and once excluding the coefficient of that factor. The aid subtraction shall equal the difference between the district's aid computed under these two circumstances.

*(c) For 1990-1991 and later school years, the department of education shall determine the subtraction by computing the district's regular transportation revenue under two circumstances, once including the factor specified in subdivision 3a, clause (c), and once excluding the factor. The aid subtraction equals the difference between the district's revenue computed under the two circumstances.*

Subd. 8l. [ALTERNATIVE ATTENDANCE PROGRAMS.] A district that ~~serves~~ *enrolls* nonresident pupils in programs under sections 120.062, 120.075, 120.0751, 120.0752, 123.3515, 126.22, and 129B.52 to 129B.55 shall provide authorized transportation to the pupil within the attendance

area for the school that the pupil attends. The state shall pay transportation aid attributable to the pupil to the ~~serving~~ *nonresident* district according to this section. The *resident* district ~~of the pupil's residence~~ need not provide or pay for transportation between the pupil's residence and the district's border.

Subd. 9. [DISTRICT REPORTS.] Each district shall report data to the department as required by the department to implement the transportation aid formula. If a district's final transportation aid payment is adjusted after the final aid payment has been made to all districts, the adjustment shall be made by increasing or decreasing the district's aid for the next fiscal year.

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

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

~~(2) the district's basic transportation levy limitation under section 275.125, subdivision 5, plus~~

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

~~(4) the district's nonregular transportation levy limitation under section 275.125, subdivision 5c~~ *district's transportation revenue under subdivision 7c.*

Sec. 4. Minnesota Statutes 1988, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax capacity rate times the adjusted gross tax capacity of the district for the preceding year. The commissioner of revenue shall establish the basic transportation tax capacity rate and certify it to the commissioner of education by September 1 of each year for levies payable in the following year. The basic transportation tax capacity rate shall be a rate, rounded up to the nearest hundredth of a ~~mill~~ *percent*, that, when applied to the adjusted gross tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax capacity rate for transportation ~~for the 1990 fiscal year~~ shall be the rate that raises ~~$72,681,200~~ *$82,063,200 for fiscal*

*year 1991 and $86,166,400 for subsequent fiscal years.* The basic transportation tax capacity rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 5. Minnesota Statutes 1988, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] *(a)* In ~~any~~ *the 1989 and 1990* fiscal ~~year~~ *years*, if the basic transportation levy under subdivision 5 in a district attributable to ~~a particular~~ *the* fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the ~~year following each~~ *next* fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.

*(b) For 1991 and later fiscal years, in a district if the basic transportation levy under subdivision 5 attributable to that fiscal year is more than the difference between (1) the district's transportation revenue under section 124.225, subdivision 7c, and (2) the sum of the district's maximum nonregular levy under subdivision 5c and the district's contracted services aid reduction under section 124.225, subdivision 8k, and the amount of any reduction due to insufficient appropriation under section 124.225, subdivision 8a, the district's transportation levy in the next fiscal year must be reduced by the amount of the excess.*

Sec. 6. Minnesota Statutes 1988, section 275.125, subdivision 5c, is amended to read:

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

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

~~(b) the lesser of~~

~~(i) one, or~~

~~(ii) the ratio of the district's adjusted gross tax capacity for the preceding year per total pupil unit in the school year to which the levy is attributable, to $83,800.~~ *be the result of the following computation:*

*(a) multiply*

*(1) the amount of the district's nonregular transportation revenue under section 124.225, subdivision 7c that is more than the product of $30 times the district's actual pupil units, by*

*(2) 60 percent;*

*(b) subtract the result in clause (a) from the district's total nonregular*

*transportation revenue;*

*(c) multiply the result in clause (b) by the lesser of one or the ratio of (i) the quotient derived by dividing the adjusted gross tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to (ii) $9,722.*

Sec. 7. Minnesota Statutes 1988, section 275.125, subdivision 5e, is amended to read:

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

(a) Multiply the *lesser of (1) the regular transportation allowance for the fiscal year to which the levy is attributable, or (2) the* base cost ~~computed using data~~ for the ~~current school~~ *fiscal* year ~~according to section 124.225, subdivision 1, paragraph (i)~~ *to which the levy is attributable*, by the ~~sum of the number of secondary FTE pupils transported to and from school in the current year who live more than one mile but less than two miles from the public school which they could attend or the nonpublic school actually attended, plus the number of FTE pupils residing less than one mile from school who were transported to and from school in the current year due to extraordinary traffic hazards~~ *number of weighted FTE pupils transported in the excess category in the district in the current school year.*

(b) Add to the result in paragraph (a) the actual cost in the ~~current~~ *fiscal* year *to which the levy is attributable* of other related services that are necessary because of extraordinary traffic hazards.

Sec. 8. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [TRANSPORTATION AID.] *For transportation aid under Minnesota Statutes, section 124.225:*

*$91,979,000 . . . . . 1990*

*$99,265,000 . . . . . 1991*

*The 1990 appropriation includes $12,773,000 for 1989 and $79,206,000 for 1990.*

*The 1991 appropriation includes $13,978,000 for 1990 and $85,287,000 for 1991.*

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

*$50,000 . . . . . 1990*

*$50,000 . . . . . 1991*

*Subd. 4.* [TRANSPORTATION AID FOR ENROLLMENT OPTIONS.] *For transportation of pupils attending nonresident districts according to Minnesota Statutes, section 120.0621 or section 123.3515:*

*$50,000 . . . . . 1990*

*$50,000 . . . . . 1991*

Sec. 9. [SECTIONS NOT EFFECTIVE.]

*The amendments to Minnesota Statutes 1988, section 124.225, made by Laws 1989, chapter 222, section 14, if enacted, are not effective.*

*The amendments to Minnesota Statutes 1988, section 275.125, subdivision 5b, made by Laws 1989, chapter 222, section 32, if enacted, are not effective.*

*The amendments to Minnesota Statutes 1988, section 275.125, subdivision 5c, made by Laws 1989, chapter 222, section 33, if enacted, are not effective.*

*The amendments to Minnesota Statutes 1988, section 275.125, subdivision 5e, made by Laws 1989, chapter 222, section 34, if enacted, are not effective.*

## ARTICLE 3

## SPECIAL PROGRAMS

Section 1. Minnesota Statutes 1988, section 120.17, subdivision 3, is amended to read:

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

Sec. 2. Minnesota Statutes 1988, section 120.17, subdivision 3b, is amended to read:

Subd. 3b. [PROCEDURES FOR DECISIONS.] Every district shall utilize

at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

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

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

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

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

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause (d) at the district's initiative;

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

(d) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted *by and* in the school district ~~where the child resides~~ *responsible for assuring that an appropriate program is provided in accordance with state board rules*, if the parent or guardian continues to object to:

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

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

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

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

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

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

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional

interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

(e) The decision of the hearing officer pursuant to clause (d) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause (f).

The local decision shall:

(1) be in writing;

(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

(f) Any local decision issued pursuant to clauses (d) and (e) may be appealed to the hearing review officer within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district ~~where the child resides~~ *responsible for assuring that an appropriate program is provided in accordance with state board rules.*

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

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

(g) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

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

(1) the commissioner has a personal interest in or specific involvement with the student who is a party to the hearing;

(2) the commissioner has been employed as an administrator by the district that is a party to the hearing;

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 1988, section 120.17, subdivision 11a, is amended to read:

Subd. 11a. [STATE INTERAGENCY COORDINATING COUNCIL.] An interagency coordinating council of 15 members is established. The members and the chair shall be appointed by the governor. The council shall be composed of at least three parents of ~~handicapped~~ children under age seven *with handicaps*, ~~a representative of each of the commissioners of education, health, and human services,~~ three representatives of public or private providers of services for ~~handicapped~~ children under age five *with handicaps*, one member of the senate, one member of the house of representatives, one representative of teacher preparation programs in early childhood-special education, at least one representative of advocacy organizations for ~~handicapped~~ children *with handicaps, at least one representative of a school district or a school district cooperative*, and other members knowledgeable about ~~handicapped~~ children under age five *with handicaps*. Section 15.059, subdivisions 2 to 5, apply to the council. The council shall

meet at least quarterly. *A representative of each of the commissioners of education, health, and human services shall attend council meetings as a nonvoting member of the council.*

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

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

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

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

Sec. 4. Minnesota Statutes 1988, section 124.273, subdivision 4, is amended to read:

Subd. 4. [APPLICATION DATES.] ~~(a)~~ *To obtain aid for limited English proficiency programs,* a district shall submit ~~an initial application for aid by October 15 and shall submit an amended application by February 15 or by June 15 if the number of enrolled pupils of limited English proficiency has changed since filing a previous application. Districts which do not submit an initial application by October 15 but enroll pupils of limited English proficiency after that date may submit an initial application by February 15 or by June 15. A final report with actual salary and enrollment information shall be submitted by August 15 for calculation of the final payment~~ *information required by the department to implement this section.*

~~(b) All applications shall be submitted to the department in the manner prescribed by the commissioner. Each application shall include (1) the number of pupils or additional pupils enrolled who meet the criteria in section 126.262, subdivision 2; (2) the number, dates of hire, full time equivalency, and salaries of essential licensed personnel or additional essential licensed personnel employed in the district's educational program for pupils of limited English proficiency who meet the criteria in section 126.262, subdivision 3; and (3) any other information deemed necessary by the commissioner to implement this section. School districts may submit joint~~

~~applications for aid pursuant to this section and may share essential instructional personnel employed in educational programs for pupils of limited English proficiency.~~

Sec. 5. Minnesota Statutes 1988, section 124.273, subdivision 5, is amended to read:

Subd. 5. [NOTIFICATION; AID PAYMENTS.] The department ~~shall~~ *must promptly* inform each applicant district of the amount of aid it will receive pursuant to this section ~~within a month after the application deadline~~.

Sec. 6. [124.311] [ASSURANCE OF MASTERY REVENUE.]

*Subdivision 1.* [INSTRUCTION IN REGULAR CLASSROOM.] *A school district may receive assurance of mastery revenue to provide direct instructional services to eligible pupils in the pupils' regular classroom.*

*Subd. 2.* [ELIGIBLE DISTRICTS.] *To be eligible to receive assurance of mastery revenue, a district must have a policy adopted according to section 126.67, subdivision 3a, that identifies the direct instructional services to be used to assure that individual pupils master the learner outcomes in communications and mathematics.*

*Subd. 3.* [ELIGIBLE PUPILS.] *A pupil is eligible to receive services provided with assurance of mastery revenue if the pupil has not demonstrated mastery of learner outcomes in communications or mathematics, or both, after receiving instruction that was designed to enable the pupil to master the learner outcomes in a regular classroom setting. To determine pupil eligibility, a district must use the learner outcomes and the evaluation process, adopted by the school board under section 126.666, subdivision 1, clauses (2) and (3), for the subjects and at the grade level at which the district uses the revenue.*

*Subd. 4.* [ELIGIBLE SERVICES.] *Assurance of mastery revenue must be used to provide direct instructional services to an eligible pupil, or group of eligible pupils, under the following conditions:*

*(a) Instruction may be provided at one or more grade levels from kindergarten through grade eight.*

*(b) Instruction must be provided in the usual and customary classroom of the eligible pupil.*

*(c) Instruction must be provided under the supervision of the eligible pupil's regular classroom teacher. Instruction may be provided by the eligible pupil's classroom teacher, by another teacher, by a team of teachers, or by an education assistant or aide. A special education teacher may provide instruction, but instruction that is provided under this section is not eligible for aid under section 124.32.*

*(d) The instruction that is provided must differ from the initial instruction the pupil received in the regular classroom setting. The instruction may differ by presenting different curriculum than was initially presented in the regular classroom, or by presenting the same curriculum:*

*(1) at a different rate or in a different sequence than it was initially presented;*

*(2) using different teaching methods or techniques than were used initially; or*

*(3) using different instructional materials than were used initially.*

*Subd. 5.* [REVENUE AMOUNT.] *Assurance of mastery revenue is the sum of state and district money. The sum may equal up to $45 for fiscal year 1991 and thereafter times the number of actual pupil units in kindergarten through grade eight in the district. The district shall determine the amount of money it will provide and the state shall provide an equal amount of money.*

*Subd. 6.* [USES OF REVENUE.] *Assurance of mastery revenue may be used only to provide eligible services to eligible pupils.*

*Subd. 7.* [DISTRICT REPORT.] *A district that receives assurance of mastery revenue shall include the following in the report required by section 126.666, subdivision 4:*

*(a) A summary of initial assessment results used to determine pupil eligibility to receive instructional services must be included. The summary must include:*

*(1) a description of the assessment device used;*

*(2) the number of pupils who were assessed; and*

*(3) the number of pupils who were determined to be eligible to receive services.*

*(b) A description of the services provided to eligible pupils must be included.*

*(c) A summary of assessment results for eligible pupils obtained after providing the services must be included.*

Sec. 7. Minnesota Statutes 1988, section 124.32, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay to a district a portion of the salary of each essential person employed in the district's program for handicapped children during the regular school year, whether the person is employed by one or more districts. The portion for a full-time person shall be an amount not to exceed the lesser of ~~66~~ *60* percent of the salary or ~~$18,400~~ *$16,727*. The portion for a part-time or limited-time person shall be an amount not to exceed the lesser of ~~66~~ *60* percent of the salary or the product of ~~$18,400~~ *$16,727* times the ratio of the person's actual employment to full-time employment.

Sec. 8. Minnesota Statutes 1988, section 124.573, subdivision 2, is amended to read:

Subd. 2. [~~SALARIES AND TRAVEL~~ *LIMIT.*] ~~The eligible expenses for secondary vocational aid are: (1) the salaries paid to essential, licensed personnel in that school year for services rendered in that district's or center's approved secondary vocational education programs; (2) the costs of necessary travel between instructional sites by secondary vocational education teachers; and (3) the costs of necessary travel by secondary vocational education teachers accompanying students to and from vocational student organization meetings held within the state for educational purposes. The state shall pay to any district or cooperative center 41.5 percent of the eligible expenses incurred in an approved secondary vocational program for the 1986-1987 school year. The state shall pay to any district or cooperative center 39 percent of the eligible expenses incurred in an approved secondary vocational program for the 1987-1988 school year.~~ The commissioner may withhold all or any portion of ~~this~~ *the* aid

*paid under this section* for a secondary vocational education program which receives funds from any other source. In no event shall a district or center receive a total amount of state aid pursuant to this section which, when added to funds from other sources, will provide the program an amount for salaries and travel which exceeds 100 percent of the amount of its expenditures for salaries and travel in the program.

Sec. 9. Minnesota Statutes 1988, section 124.573, subdivision 2b, is amended to read:

Subd. 2b. [SECONDARY VOCATIONAL AID.] For ~~1988-1989~~ *1989-1990* and later school years, a district's or cooperative center's "secondary vocational aid" for secondary vocational education programs for a school year equals the sum of the following amounts *for each program*:

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

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

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

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

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

(2) necessary travel between instructional sites by licensed secondary vocational education personnel;

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

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

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

(6) specialized vocational instructional supplies.

Sec. 10. Minnesota Statutes 1988, section 124.573, is amended by adding a subdivision to read:

*Subd. 2d.* [ADMINISTRATION.] *In making the computation in subdivision 2b, paragraph (a), clause (1), the salaries of the administrator and support service facilitator must be apportioned among programs based on the number of full-time-equivalent instructors in each program.*

Sec. 11. Minnesota Statutes 1988, section 124.573, is amended by adding a subdivision to read:

*Subd. 5a.* [DISTRICT REPORTS.] *Each district or cooperative center shall report data to the department for all secondary vocational education programs as required by the department to implement the secondary vocational aid formula.*

Sec. 12. Minnesota Statutes 1988, section 124.574, subdivision 2b, is

amended to read:

Subd. 2b. [SALARIES.] Each year the state shall pay to any district or cooperative center a portion of the salary of each essential licensed person employed during that school year for services rendered in that district or center's secondary vocational education programs for handicapped children. The portion for a full-time person shall be an amount not to exceed the lesser of ~~66~~ *60* percent of the salary or ~~$18,400~~ *$16,727*. The portion for a part-time or limited-time person shall be the lesser of ~~66~~ *60* percent of the salary or the product of ~~$18,400~~ *$16,727* times the ratio of the person's actual employment to full-time employment.

Sec. 13. Minnesota Statutes 1988, section 124.574, subdivision 4, is amended to read:

Subd. 4. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions 2b and 3, a school district may contract with a public or private agency other than a Minnesota school district or cooperative center for the provision of secondary vocational education programs for handicapped children. The formula for payment of aids for these contracts shall be that provided in section 124.32, subdivision ~~1b~~ *1d*. The state board shall promulgate rules relating to approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 6, the district or cooperative center contracting for these services shall be construed to be providing these services.

Sec. 14. Minnesota Statutes 1988, section 124.574, subdivision 5, is amended to read:

Subd. 5. The aid provided pursuant to this section shall be paid only for services rendered as designated in subdivision 2 or for the costs designated in subdivision 3 which are incurred in secondary vocational education programs for handicapped children which are approved by the commissioner of education and operated in accordance with rules promulgated by the state board. These rules shall be subject to the restrictions provided in section 124.573, subdivision 3. The procedure for application for approval of these programs shall be as provided in section 124.32, subdivisions 7 and 10 and the application review process shall be conducted ~~jointly~~ by the ~~division of special and compensatory education and the division of~~ vocational ~~technical~~ education *section* of the state department.

Sec. 15. [124.85] [STATE REVENUE FOR AMERICAN INDIAN SCHOOLS.]

*Subdivision 1.* [AUTHORIZATION.] *Each year each American Indian-controlled contract school authorized by the United States Code, title 25, section 450f that is located on a reservation within the state is eligible to receive tribal contract school aid subject to the requirements in this subdivision.*

*(a) The school must plan, conduct, and administer an education program that complies with the requirements of chapters 120, 121, 122, 123, 124, 124A, 125, 126, 129, 129A, and 129B.*

*(b) The school must comply with all other state statutes governing independent school districts.*

*(c) The state tribal contract school aid must be used to supplement, and not to replace, the money for American Indian education programs provided*

*by the federal government.*

*Subd. 2.* [REVENUE AMOUNT.] *For 1989-1990 and later school years, an American Indian-controlled contract school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive tribal contract school aid. The amount of aid is derived by:*

*(1) multiplying the formula allowance under section 124A.22, subdivision 2, times the actual pupil units as defined in section 124A.02, subdivision 19, in attendance during the fall count week, but not including pupil units for which the school has received reimbursement under sections 123.933 and 126.23 for the school for the current school year;*

*(2) subtracting from the result in clause (1) the amount of money allotted to the school by the federal government through the Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section 39, 11, b but not money allotted through subparts F to L for contingency funds, school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section 126.23;*

*(3) dividing the result in clause (2) by the actual pupil units; and*

*(4) multiplying the actual pupil units by the lesser of $1,500 or the result in clause (3).*

*Subd. 3.* [LAW WAIVER.] *Notwithstanding subdivision 1, paragraphs (a) and (b), a contract school:*

*(1) is not subject to the Minnesota election law;*

*(2) has no authority under this section to levy for property taxes, issue and sell bonds, or incur debt; and*

*(3) may request through its managing tribal organization a recommendation of the state board of education, for consideration of the legislature, that a contract school not be subject to specified statutes related to independent school districts.*

Sec. 16. [124A.215] [REVENUE FOR INDIVIDUALIZED LEARNING AND DEVELOPMENT.]

*Subdivision 1.* [PURPOSE.] *The purpose of sections 16 to 18 is to improve the education of public school pupils by:*

*(1) working toward reducing instructor-learner ratios and increasing the amount of individual attention given each learner in kindergarten and grade one to help each learner develop socially and emotionally and in knowledge, skills, and attitudes; and*

*(2) improving program offerings.*

*Subd. 2.* [DEFINITION.] *"Instructor" in this section means a public employee licensed by the board of teaching whose duties are full-time instruction or the equivalent, excluding a teacher for whom categorical aids are received pursuant to sections 124.273 and 124.32. Instruction may be provided by a learner's instructor, by another instructor, by a team of instructors, or by an education assistant or aide supervised by a learner's regular instructor. In this section, instructor does not include supervisory*

*and support personnel, as defined in section 125.03. An instructor whose duties are less than full-time instruction must be included as an equivalent only for the number of hours of instruction.*

*Subd. 3.* [STATE REVENUE CRITERIA.] *Revenue available under section 17 is to enable a district to work to achieve the district's instructor-learner ratios in kindergarten and grade one established by the curriculum advisory committee in each district, and to prepare and use an individualized learning plan for each learner in kindergarten and grade one. A district must not increase the districtwide instructor-learner ratios in grades two through eight as a result of reducing instructor-learner ratios in kindergarten and grade one.*

*A district's curriculum advisory committee, as part of the policy under section 126.666, must develop a districtwide plan to work to achieve the instructor-learner ratios in kindergarten and grade one adopted by the school board of the district, and to prepare and use an individualized learning plan for each learner in kindergarten and grade one. If the school board of a school district determines that the district has achieved and is maintaining the instructor-learner ratios specified by the district's curriculum advisory committee, and has prepared and is using individualized learning plans, the school board must direct the school district to use the aid it receives under section 17 to work to improve program offerings throughout the district, or the education district of which the district is a member, based upon a plan developed by the district's curriculum advisory committee.*

Sec. 17. [124A.216] [INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.]

*Subdivision 1.* [ELIGIBILITY.] *A district is eligible for individualized learning and development aid if the school board of the district has adopted a district instructor-learner ratio specified by the district's curriculum advisory committee and submits its ratio to the department of education by April 15, 1990.*

*Subd. 2.* [AID AMOUNT.] *An eligible district shall receive individualized learning and development aid in an amount equal to $62.25 times the district's average daily membership in kindergarten and grade one. Aid received under this subdivision must be used only to achieve the district's instructor-learner ratios and prepare and use individualized learning plans for learners in kindergarten and grade one. If the district has achieved and is maintaining the district's instructor-learner ratios, then the district may use the aid to work to improve program offerings throughout the district.*

*Subd. 3.* [WITHHOLDING.] *The commissioner must withhold individualized learning and development aid from any district that fails to make a good faith effort to achieve its instructor-learner ratios.*

Sec. 18. [124A.218] [REPORT.]

*The commissioner of education shall monitor and evaluate the effectiveness of districts' reduced instructor-learner ratios, individualized learning plans, and efforts to improve program offerings and shall report to the education committees in the legislature before March 1 of each school year.*

Sec. 19. Minnesota Statutes 1988, section 124A.28, subdivision 1, is

amended to read:

Subdivision 1. [USE OF THE REVENUE.] The compensatory education revenue under section 124A.22, subdivision 3, may be used *to provide eligible services to eligible pupils according to section 6, subdivisions 3 and 4. It also may be used* to meet the educational needs of pupils whose educational achievement is below the level that is appropriate for pupils of their age. These needs may be met by providing at least some of the following:

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

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

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

(4) in-service education for teachers, teacher aides, principals, and other personnel to improve their ability to recognize these pupils and provide appropriate responses to the pupils' needs;

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

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

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

Sec. 20. Minnesota Statutes 1988, section 126.151, subdivision 2, is amended to read:

Subd. 2. [ACCOUNTS OF THE ORGANIZATION.] The state boards of education and vocational technical education may retain dues and other money collected on behalf of students participating in approved vocational student organizations and may deposit the money in separate accounts. The money in these accounts shall be available for expenditures for state and national activities related to specific organizations. Administration of money collected under this section is not subject to the provisions of chapters 15, 16A, and 16B, and may be deposited outside the state treasury. Money shall be administered under the policies of the applicable state board or agency relating to post-secondary *and secondary* vocational student organizations and is subject to audit by the legislative auditor. Any unexpended money shall not cancel but may be carried forward to the next fiscal year.

Sec. 21. [126.237] [ALTERNATE INSTRUCTION REQUIRED.]

*Before a pupil is referred for a special education assessment, the district*

*must conduct and document at least two instructional strategies, alternatives, or interventions while the pupil is in the regular classroom. The pupil's teacher must provide the documentation. A special education assessment team may waive this requirement when they determine the pupil's need for the assessment is urgent. This section may not be used to deny a pupil's right to a special education assessment.*

Sec. 22. [GRANTS FOR INDIAN TEACHERS.]

*Subdivision 1.* [ESTABLISHMENT.] *A grant program is established during the biennium to assist American Indian people to become teachers and to provide additional education for American Indian teachers. The state board may award a joint grant to each of the following: (1) the University of Minnesota, Duluth, and independent school district No. 709, Duluth; (2) Bemidji state university and independent school district No. 38, Red Lake; and (3) Moorhead state university and one of the school districts located within the White Earth reservation. To obtain a joint grant, a joint application must be submitted to the state board of education. The application must be developed with the participation of the district parent advisory committee, established according to Minnesota Statutes, section 126.51, and the Indian advisory committee at the post-secondary institution.*

*Subd. 2.* [GRANT APPLICATION.] *The application must set forth the in-kind services to be provided by the post-secondary institution. The coordination and mentorship services to be provided by the post-secondary institution and the school district must also be set forth in the application.*

*Subd. 3.* [LOAN FORGIVENESS.] *The portion of the scholarship attributable to living expenses and additional needs, according to subdivision 4, clause (4), shall be in the form of a loan to be forgiven if the recipient teaches in a school district in Minnesota. One-fifth of the principal of the outstanding loan amount must be forgiven for each year of teaching. The loan forgiveness program and procedures to administer the program shall be approved by the higher education coordinating board.*

*Subd. 4.* [ELIGIBILITY FOR SCHOLARSHIPS.] *The following American Indian people are eligible for scholarships:*

*(1) a student who intends to become a teacher and who is enrolled in a post-secondary institution receiving a joint grant;*

*(2) a teacher aide who intends to become a teacher and who is employed by a district receiving a joint grant;*

*(3) a licensed employee of a district receiving a joint grant who is enrolled in a master of education degree program; and*

*(4) a student who, after receiving federal and state financial aid and an Indian scholarship according to Minnesota Statutes, section 124.48, has financial needs that remain unmet. Financial need shall be determined according to the uniform methodology for needs determination. Additional needs attributable to living expenses may be included in the forgivable loan.*

*Subd. 5.* [REVIEW AND COMMENT.] *The joint application shall be submitted to the Minnesota Indian scholarship committee for review and comment.*

*Subd. 6.* [GRANT AMOUNT.] *The state board may award a joint grant in the amount it determines appropriate. Scholarship money shall be included*

*in the joint grant.*

Sec. 23. [LEVY ADJUSTMENT.]

*The department of education shall adjust the 1989 levy for each school district by the amount of the increase in the district's special education levy for fiscal year 1990 according to Minnesota Statutes, section 275.125, subdivision 8c, resulting from the changes to special education aid under sections 7 and 12. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for fiscal year 1990.*

Sec. 24. [HANDICAPPED CHILDREN UNDER AGE 5; REPORT.]

*The department of education, the state interagency coordinating council, and the association of Minnesota counties shall jointly prepare a report describing the responsibilities of county boards and school districts to provide services for handicapped children under age five and their families.*

*The report shall include at least the following:*

*(1) a description of current procedures used to determine county and school district responsibilities;*

*(2) a summary of problems of the current delivery system;*

*(3) recommendations for improving the efficiency and quality of services;*

*(4) recommendations for funding services; and*

*(5) an accounting of current expenditures that includes a list of financing sources.*

Sec. 25. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [SPECIAL EDUCATION AID.] *For special education aid:*

*$160,331,000 . . . . . 1990*

*$165,870,000 . . . . . 1991*

*The 1990 appropriation includes $23,074,000 for 1989 and $137,257,000 for 1990.*

*The 1991 appropriation includes $24,222,000 for 1990 and $141,648,000 for 1991.*

*Subd. 3.* [SPECIAL PUPIL AID.] *For special education aid under Minnesota Statutes, section 124.32, subdivision 6, for pupils with handicaps placed in residential facilities within the district boundaries for whom no district of residence can be determined:*

*$284,000 . . . . . 1990*

*$158,000 . . . . . 1991*

*If the appropriation for either year is insufficient, the appropriation for the other year is available. If the appropriations for both years are insufficient, the appropriation for special education aid may be used to meet the special pupil obligations.*

*Subd. 4.* [SUMMER SPECIAL EDUCATION AID.] *For special education summer school aid according to Minnesota Statutes, section 124.32, subdivision 10:*

*$5,836,000 . . . . . 1990*

*$5,766,000 . . . . . 1991*

*The 1990 appropriation is for 1989 summer school programs.*

*The 1991 appropriation is for 1990 summer school programs.*

*Subd. 5.* [TRAVEL FOR HOME-BASED SERVICES.] *For aid for teacher travel for home-based services according to Minnesota Statutes, section 124.32, subdivision 2b:*

*$51,000 . . . . . 1990*

*$51,000 . . . . . 1991*

*The 1990 appropriation includes $8,000 for 1989 and $43,000 for 1990.*

*The 1991 appropriation includes $8,000 for 1990 and $43,000 for 1991.*

*Subd. 6.* [RESIDENTIAL FACILITIES AID.] *For residential facilities aid under aid according to Minnesota Statutes, section 124.32, subdivision 5:*

*$1,398,000 . . . . . 1990*

*$1,374,000 . . . . . 1991*

*Subd. 7.* [LIMITED ENGLISH PROFICIENCY PUPILS PROGRAM AID.] *For aid to educational programs for pupils of limited English proficiency according to Minnesota Statutes, section 124.273:*

*$3,270,000 . . . . . 1990*

*$3,403,000 . . . . . 1991*

*The 1990 appropriation includes $454,000 for 1989 and $2,816,000 for 1990.*

*The 1991 appropriation includes $497,000 for 1990 and $2,906,000 for 1991.*

*Subd. 8.* [AMERICAN INDIAN SCHOLARSHIPS.] *For American Indian scholarships under Minnesota Statutes, section 124.48:*

*$1,582,000 . . . . . 1990*

*$1,582,000 . . . . . 1991*

*Any unexpended balance remaining in the first year does not cancel but is available for fiscal year 1991.*

*Subd. 9.* [AMERICAN INDIAN POST-SECONDARY PREPARATION GRANTS.] *For American Indian post-secondary preparation grants according to Minnesota Statutes, section 124.481:*

*$857,000 . . . . . 1990*

*$857,000 . . . . . 1991*

*Subd. 10.* [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAMS.] *For grants to American Indian language and culture education programs according to Minnesota Statutes, section 126.54, subdivision 1:*

*$590,000 . . . . . 1990*

*$590,000 . . . . . 1991*

*The 1990 appropriation includes $89,000 for 1989 and $501,000 for 1990.*

*The 1991 appropriation includes $89,000 for 1990 and $501,000 for 1991.*

*Subd. 11.* [AMERICAN INDIAN EDUCATION.] *For certain American Indian education programs in school districts there is appropriated:*

*$176,000 . . . . . 1990*

*$176,000 . . . . . 1991*

*The 1990 appropriation includes $27,000 for 1989 and $149,000 for 1990.*

*The 1991 appropriation includes $27,000 for 1990 and $149,000 for 1991.*

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

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

*Up to the following amounts may be distributed to the following school districts for each fiscal year: $54,800 to independent school district No. 309, Pine Point School; $9,700 to independent school district No. 166; $14,900 to independent school district No. 432; $14,100 to independent school district No. 435; $42,200 to independent school district No. 707; and $39,100 to independent school district No. 38. These amounts shall be spent only for the benefit of American Indian pupils and to meet established state educational standards or statewide requirements.*

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

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

*(2) compiled accurate daily pupil attendance records.*

*Subd. 12.* [SECONDARY VOCATIONAL EDUCATION AID.] *For secondary vocational education aid according to Minnesota Statutes, section 124.573:*

*$11,471,000 . . . . . 1990*

*$11,720,000 . . . . . 1991*

*The 1990 appropriation includes $1,525,000 for 1989 and $9,946,000 for 1990.*

*The 1991 appropriation includes $1,755,000 for 1990 and $9,965,000 for 1991.*

*Subd. 13.* [SECONDARY VOCATIONAL HANDICAPPED.] *For aid for*

*secondary vocational education for handicapped pupils according to Minnesota Statutes, section 124.574:*

*$5,294,000 . . . . . 1990*

*$6,224,000 . . . . . 1991*

*The 1990 appropriation includes $645,000 for 1989 and $4,649,000 for 1990.*

*The 1991 appropriation includes $821,000 for 1990 and $5,403,000 for 1991.*

*Subd. 14.* [TRIBAL CONTRACT SCHOOLS.]

*For tribal contract school aid:*

*$200,000 . . . . . 1990*

*$200,000 . . . . . 1991*

*Subd. 15.* [AMERICAN INDIAN TEACHER GRANTS.] *For joint grants to assist American Indian people to become teachers:*

*$150,000 . . . . . 1990*

*$150,000 . . . . . 1991*

*Up to $70,000 each year is for a joint grant to the University of Minnesota-Duluth and the Duluth school district.*

*Up to $40,000 each year is for a joint grant to Bemidji state university and Red Lake school district.*

*Up to $40,000 each year is for a joint grant to Moorhead state university and a school district located within the White Earth reservation.*

*Subd. 16.* [ASSURANCE OF MASTERY.] *For assurance of mastery aid:*

*$10,582,000 . . . . . 1991*

*The 1991 appropriation includes $0 for 1990 and $10,582,000 for 1991.*

*The 1991 appropriation is based on a formula entitlement of $12,449,000.*

*Subd. 17.* [INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.] *For individualized learning and development aid under section 17:*

*$6,400,000 . . . . . 1991*

*The 1991 appropriation includes $6,400,000 for 1991.*

*This appropriation is based on a formula entitlement of $7,550,000.*

Sec. 26. [EFFECTIVE DATE.]

*Section 4 is effective the day following final enactment. Sections 6, 16, 17, and 18 are effective for the 1990-1991 school year.*

ARTICLE 4

COMMUNITY AND ADULT EDUCATION

Section 1. Minnesota Statutes 1988, section 121.88, subdivision 8, is amended to read:

Subd. 8. [YOUTH DEVELOPMENT PLANS.] A district advisory council may prepare a youth development plan. The council is encouraged to use the state model plan developed under section 121.87, subdivision 1a,

when developing the local plan. ~~If~~ The school board ~~approves~~ *may approve* the youth development plan ~~and the district makes a community education levy, the district is eligible for additional community education revenue under section 124.271, subdivision 2b~~.

Sec. 2. Minnesota Statutes 1988, section 121.88, subdivision 9, is amended to read:

Subd. 9. [~~COMMUNITY~~ *YOUTH* SERVICE PROGRAMS.] A school board may offer, as part of a community education program *with a youth development program*, a ~~community~~ *youth* service program for ~~public school~~ pupils ~~for the purpose of promoting~~ *to promote* active citizenship and ~~addressing~~ *to address* community needs through youth service. *The school board may award up to one credit, or the equivalent, toward graduation for a pupil who completes the youth service requirements of the district.* The community education advisory council shall design the ~~service~~ program in cooperation with the district planning, evaluating and reporting committee and local organizations that train volunteers or need volunteers' services. Programs must include:

(1) preliminary training for pupil volunteers conducted, when possible, by organizations experienced in such training;

(2) supervision of the pupil volunteers to ensure appropriate placement and adequate learning opportunity;

(3) sufficient opportunity, *in a positive setting for human development,* for pupil volunteers *to develop general skills in preparation for employment, to enhance self esteem and self worth, and* to give genuine service to their community; and

(4) integration of academic learning with the service experience.

~~Examples of appropriate pupil service placements include: child care, Head Start, early childhood education, and extended day programs; tutoring programs involving older pupils tutoring younger pupils; environmental beautification projects; and regular visits for shut-in senior citizens.~~

*Youth service projects include, but are not limited to, the following:*

*(1) human services for the elderly, including home care and related services;*

*(2) tutoring and mentoring;*

*(3) training for and providing emergency services;*

*(4) services at extended day programs; and*

*(5) environmental services.*

*The commissioner shall maintain a list of acceptable projects with a description of each project. A project that is not on the list must be approved by the commissioner.*

*A youth service project must have a community sponsor that may be a governmental unit or nonprofit organization. To assure that pupils provide additional services, each sponsor must assure that pupil services do not displace employees or reduce the workload of any employee.*

*The commissioner must assist districts in planning youth service programs, implementing programs, and developing recommendations for obtaining community sponsors.*

Sec. 3. Minnesota Statutes 1988, section 121.882, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CHARACTERISTICS.] Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. The programs may include the following:

(1) programs to educate parents about the physical, mental, and emotional development of children;

(2) programs to enhance the skills of parents in providing for their children's learning and development;

(3) learning experiences for children and parents;

(4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(5) *activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;*

*(6)* educational materials which may be borrowed for home use;

~~(6)~~ *(7)* information on related community resources; or

~~(7)~~ *(8)* other programs or activities.

The programs shall not include activities for children that do not require substantial involvement of the children's parents. The programs shall be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs shall encourage parents to be aware of practices that may affect equitable development of children.

Sec. 4. Minnesota Statutes 1988, section 121.912, is amended by adding a subdivision to read:

*Subd. 1b.* [TRA AND FICA TRANSFER.] *Notwithstanding subdivision 1, a district shall transfer money from the general fund to the community education fund for teacher retirement and FICA obligations attributable to community education programs.*

Sec. 5. [123.706] [EARLY CHILDHOOD SCREENING.]

*Subdivision 1.* [OBJECTIVES.] *The objectives of an early childhood screening program are to:*

*(1) detect health and developmental conditions that may impede learning;*

*(2) encourage further assessment, if needed; and*

*(3) refer children to appropriate programs.*

*Subd. 2.* [SCREENING.] *Early childhood screening is a program for making a preliminary determination whether a child has a health or developmental condition that may impede learning. After screening, a child who may have such a condition is referred to a qualified individual or organization for assessment.*

*Subd. 3.* [PROGRAM AVAILABLE.] *Beginning in fiscal year 1994, a school district shall make a screening program available to children who are three years old and older but who have not entered kindergarten. No child may be required to be screened. A district shall follow up on referrals to determine whether a child needs or has obtained additional services.*

*To the extent possible, a district shall cooperate with public and private organizations in the community to deliver, finance, and provide volunteer and in-kind services.*

*Subd. 3a.* [DISTRICT OPTIONS DURING INTERIM YEARS.] *During fiscal years 1990, 1991, 1992, and 1993, a school district must conduct a screening program either according to this section or according to sections 123.702 and 123.704.*

*Subd. 4.* [REQUIREMENTS FOR ALL CHILDREN.] *The following must be available for all children who are screened:*

*(1) developmental screening;*

*(2) vision and hearing screening;*

*(3) height and weight assessment;*

*(4) immunization review and immunizations;*

*(5) review of health and family history;*

*(6) identification of additional risk factors that may influence learning;*

*(7) a summary interview with the parent;*

*(8) referral for assessment when potential needs are identified; and*

*(9) referral to a qualified health, developmental, education, or social service provider.*

*Subd. 5.* [REQUIREMENTS FOR CERTAIN CHILDREN.] *(a) Additional services must be offered to children:*

*(1) who have not had a physical examination within one year; or*

*(2) for whom information from a physical examination conducted within one year cannot be provided by the parent.*

*(b) The following must be available for the children described in paragraph (a):*

*(1) nutrition assessment;*

*(2) physical examination;*

*(3) laboratory tests;*

*(4) oral inspection and dental referral; and*

*(5) any other service required by medical assistance rules set forth in Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748.*

*Services in this subdivision may be offered in conjunction with the screening program or provided by a public or private individual or health care organization within 30 days before the screening program.*

*Subd. 6.* [DEVELOPMENTAL SCREENING.] *Developmental screening, according to subdivision 4, clause (1), must be conducted by an individual who is licensed as, or has the equivalent training of, a special education teacher, school psychologist, kindergarten teacher, prekindergarten teacher, school nurse, public health nurse, registered nurse, or physician. The individual may be a volunteer.*

*Subd. 7.* [DATA PRIVACY.] *Data on individuals collected in a screening program is private, as defined in section 13.02, subdivision 12. Summary*

*data shall be reported by the health provider who performs the screening to the school district for the purposes of developing educational and health programs. If the child's parent or guardian consents in writing, individual data shall also be reported.*

*Subd. 8.* [STATE AGENCY COOPERATION.] *The commissioner of education shall consult regularly with the commissioners of human services, health, and jobs and training, about the development of effective policies, practices, and cooperative arrangements to maximize the participation of preschool children and in follow-up services to enhance their health, preparation for formal education, and family nurturing. The commissioners of education and human services shall assist school districts in identifying children eligible for medical assistance or the children's health plan, providing outreach, and providing or paying for services with medical assistance or other available money, including private insurance.*

Sec. 6. [123.707] [HEALTH AND DEVELOPMENTAL SCREENING.]

*Subdivision 1.* [AID AVAILABILITY.] *Screening aid shall be paid to a district meeting the requirements of section 123.702 or 5.*

*Subd. 2.* [AID FOR THREE YEAR OLD CHILDREN.] *Health and developmental screening aid for a three year old screened is the following:*

*(a) for a child who is enrolled in the medical assistance program or the children's health plan, $4;*

*(b) for a child who is covered by a private medical insurance plan that will reimburse the district for some or all of the cost of screening the child, the difference between the amount of eligible reimbursement and $30, plus $4; and*

*(c) for all others, $30.*

*Subd. 3.* [AID FOR OTHER CHILDREN.] *Health and developmental screening aid for a child who is over the age of three, but not yet enrolled in kindergarten, is the following:*

*(a) for a child who is enrolled in the medical assistance program or the children's health plan, $4;*

*(b) for a child who is covered by a private medical insurance plan that will reimburse the district for some or all of the cost of screening the child, and the reimbursement totals less than $8.15, the difference between the amount of reimbursement and $8.15, plus $4; and*

*(c) for all others, $8.15.*

Sec. 7. Minnesota Statutes 1988, section 124.26, subdivision 1c, is amended to read:

Subd. 1c. [PROGRAM APPROVAL.] ~~A district receiving~~ *To receive* aid under this section, *a district* must ~~have its program~~ *submit an application by June 1 describing the program, on a form provided by the department. The program must be* approved by the commissioner according to the following criteria:

(1) how the needs of ~~all~~ *different* levels of ~~learners~~ *learning* will be met;

(2) for continuing programs, an evaluation of results;

(3) anticipated number and education level of participants;

(4) coordination with other resources and services;

(5) participation in a consortium, if any, and ~~funds~~ *money* available from other participants;

(6) management and program design;

(7) volunteer training and use of volunteers;

(8) staff development services;

(9) program sites and schedules; and

(10) program expenditures that qualify for aid.

The commissioner may contract with a private, nonprofit organization to provide services that are not offered by a district or that are supplemental to a district's program. The program provided under a contract must be approved according to the same criteria used for district programs.

Sec. 8. Minnesota Statutes 1988, section 124.26, subdivision 7, is amended to read:

Subd. 7. [ADULT BASIC ~~AND~~ ~~CONTINUING~~ EDUCATION AID.] Each district shall receive aid for approved adult basic ~~and~~ ~~continuing~~ education programs equal to 75 percent of the salary for each teacher, counselor, coordinator of volunteers, and nonlicensed instructional staff. In addition, the state shall pay aid equal to 75 percent of the expenditures for benefits, contracted services, supplies, and materials. Expenditures for which the district receives federal aid shall not qualify for state aid. *Up to five percent of the combined state and federal aid may be for the administrative costs of coordinating services with human services, employment, training, corrections, or other agencies providing educational services to adult learners.*

Sec. 9. Minnesota Statutes 1988, section 124.26, is amended by adding a subdivision to read:

*Subd. 8.* [ADULT BASIC EDUCATION LEVY.] *To obtain adult basic education aid, a district may levy an amount not to exceed the amount raised by a gross tax capacity rate of .16 percent times the adjusted gross tax capacity of the district for the preceding year for taxes payable in 1990 or a net tax capacity rate of .20 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in 1991 and thereafter.*

Sec. 10. Minnesota Statutes 1988, section 124.2711, subdivision 1, is amended to read:

Subdivision 1. [MAXIMUM REVENUE.] *(a)* The maximum revenue for early childhood family education programs for ~~a school year~~ *the 1989 and 1990 fiscal years for a school district* is the amount of revenue derived by multiplying $84.50 times the greater of 150 or the number of people under five years of age residing in the *school* district on September 1 of the preceding school year.

*(b) For 1991 and later fiscal years, the maximum revenue for early childhood family education programs for a school district is the amount of revenue earned by multiplying $87.75 times the greater of:*

*(1) 150; or*

*(2) the number of people under five years of age residing in the school district on September 1 of the last school year.*

Sec. 11. Minnesota Statutes 1988, section 124.2711, subdivision 3, is amended to read:

Subd. 3. [AID.] If a district complies with the provisions of section 121.882, it shall receive early childhood family education aid equal to:

(a) the difference between the maximum revenue, according to subdivision 1, and the permitted levy attributable to the same school year, according to section 275.125, subdivision 8b, times

(b) the ratio of the district's actual levy to its permitted levy attributable to the same school year, according to section 275.125, subdivision 8b.

*In fiscal year 1990 only, a district receiving early childhood family education aid under this subdivision or levy under section 275.125, subdivision 8b, shall receive an additional amount of aid equal to $.95 times the greater of 150 or the number of people under five years of age residing in the district on September 1 of the last school year.*

Sec. 12. [124.2713] [COMMUNITY EDUCATION REVENUE.]

*Subdivision 1.* [TOTAL COMMUNITY EDUCATION REVENUE.] *Community education revenue equals the sum of a district's general community education revenue, youth development plan revenue, and youth service program revenue.*

*Subd. 2.* [ELIGIBILITY.] *To be eligible for community education revenue, a district must:*

*(1) operate a community education program that complies with section 121.88; and*

*(2) file a certificate of compliance with the commissioner of education. The certificate of compliance shall certify that a meeting was held to discuss methods of increasing cooperation among the governing boards of each county, city, and township in which the district, or any part of the district, is located, and that each governing board was sent a written notice of the meeting at least 15 working days before the meeting. The failure of a governing board to attend the meeting shall not affect the authority of the district to obtain community education revenue.*

*Subd. 3.* [GENERAL COMMUNITY EDUCATION REVENUE.] *For fiscal year 1991 and thereafter, the general community education revenue for a district equals $5.95 times the greater of 1,335 or the population of the district. The population of the district is determined according to section 275.14.*

*Subd. 3a.* [1990 GENERAL COMMUNITY EDUCATION REVENUE.] *For fiscal year 1990, the general community education revenue for each district equals $5.75 times the greater of 1,335 or the population of the district.*

*Subd. 4.* [YOUTH DEVELOPMENT PLAN REVENUE.] *Youth development plan revenue for a district with a plan approved by the school board equals 50 cents times the greater of 1,335 or the population of the district.*

*Subd. 5.* [YOUTH SERVICE REVENUE.] *Youth service program revenue is available to a district that has implemented a youth development plan and a youth service program. Youth service revenue equals 25 cents times the greater of 1,335 or the population of the district.*

*Subd. 6.* [COMMUNITY EDUCATION LEVY.] *To obtain community education revenue, a district may levy the amount raised by a gross tax capacity rate of 0.8 percent times the adjusted gross tax capacity of the district for taxes payable in 1990 or a net tax capacity rate of 1.0 percent times the adjusted net tax capacity of the district for taxes payable in 1991 and thereafter. If the amount of the community education levy would exceed the community education revenue, the community education levy shall equal the community education revenue.*

*Subd. 7.* [COMMUNITY EDUCATION AID.] *A district's community education aid is the difference between its community education revenue and the community education levy. If the district does not levy the entire amount permitted, the community education aid shall be reduced in proportion to the actual amount levied.*

*Subd. 8.* [USES OF GENERAL REVENUE.] *General community education revenue may be used for:*

*(1) nonvocational, recreational, and leisure time activities and programs;*

*(2) handicapped adult programs, if the programs and budgets are approved by the department of education;*

*(3) adult basic education programs, according to section 124.26;*

*(4) summer programs for elementary and secondary pupils;*

*(5) implementation of a youth development plan;*

*(6) implementation of a youth service program;*

*(7) early childhood family education programs, according to section 121.882; and*

*(8) extended day programs, according to section 121.88, subdivision 10.*

*(9) 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:*

*(i) to purchase or lease computers and related materials;*

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

*(iii) to purchase textbooks and library books.*

*Subd. 9.* [USE OF YOUTH REVENUE.] *Youth development revenue may be used only to implement the youth development plan approved by the school board. Youth service revenue may be used only to provide a youth service program according to section 121.88, subdivision 9.*

Sec. 13. [124.2714] [ADDITIONAL COMMUNITY EDUCATION REVENUE.]

*A district that is eligible under section 12, subdivision 2, may levy an amount up to the amount authorized by Minnesota Statutes 1986, section 275.125, subdivision 8, clause (2). The proceeds of the levy may be used for the purposes set forth in section 12, subdivision 8.*

Sec. 14. [124.2715] [HANDICAPPED ADULT REVENUE.]

*Subdivision 1.* [REVENUE AMOUNT.] *A district that is eligible according to section 12, subdivision 2, may receive revenue for a handicapped adult program. Handicapped adult program revenue for a district or a group of districts equals the lesser of:*

*(1) the actual expenditures for approved programs and budgets; or*

*(2) $60,000.*

*Subd. 2.* [AID.] *Handicapped adult program aid equals the lesser of:*

*(1) one-half of the actual expenditures for approved programs and budgets; or*

*(2) $30,000.*

*Subd. 3.* [LEVY.] *A district may levy for a handicapped adult program an amount up to the amount designated in subdivision 2. In the case of a program offered by a group of districts, the levy amount shall be apportioned among the districts according to the agreement submitted to the department of education.*

*Subd. 4.* [OUTSIDE REVENUE.] *A district may receive money from public or private sources to supplement handicapped adult program revenue. Aid may not be reduced as a result of receiving money from these sources.*

*Subd. 5.* [USE OF REVENUE.] *Handicapped adult program revenue may be used only to provide handicapped adult programs.*

Sec. 15. [129B.13] [INTERAGENCY ADULT LEARNING ADVISORY COUNCIL AND GRANTS.]

*Subdivision 1.* [SPECIFIC GOALS.] *The interagency adult learning initiative is intended to:*

*(1) increase the number of adults improving their basic skills and completing general educational development, high school diploma, and technical skills training programs;*

*(2) reduce the dropout rate in adult programs by ensuring that transportation, child care, and other barriers to learning are addressed;*

*(3) be a catalyst to upgrade existing adult education programs;*

*(4) expand cooperation among education, human services, and job training agencies; and*

*(5) support employer, labor union, or other initiatives to improve employed workers' basic skills.*

*Subd. 2.* [MEMBERS; MEETINGS; OFFICERS.] *The interagency adult learning advisory council shall have 16 to 18 members. Members must have experience in educating adults or in programs addressing welfare recipients and incarcerated, unemployed, and underemployed people.*

*The members of the interagency adult learning advisory council are appointed as follows:*

*(1) one member appointed by the commissioner of the state planning agency;*

*(2) one member appointed by the commissioner of jobs and training;*

*(3) one member appointed by the commissioner of human services;*

*(4) one member appointed by the director of the refugee and immigrant assistance division of the department of human services;*

*(5) one member appointed by the commissioner of corrections;*

*(6) one member appointed by the commissioner of education;*

*(7) one member appointed by the director of the state board of vocational technical education;*

*(8) one member appointed by the chancellor of community colleges;*

*(9) one member appointed by the Minnesota adult literacy campaign or by another nonprofit literacy organization, as designated by the commissioner of the state planning agency;*

*(10) one member appointed by the council on Black Minnesotans;*

*(11) one member appointed by the Spanish-speaking affairs council;*

*(12) one member appointed by the council on Asian-Pacific Minnesotans;*

*(13) one member appointed by the Indian affairs council; and*

*(14) one member appointed by the disability council.*

*Up to four additional members of the council may be nominated by the participating agencies. Based on the council's recommendations, commissioner of the state planning agency must appoint at least two, but not more than four, additional members. Nominees shall include, but are not limited to, representatives of local education, government, nonprofit agencies, employers, labor organizations, and libraries.*

*The council shall elect its officers.*

*Subd. 3.* [STAFF] *The commissioner of the state planning agency shall provide space and administrative services to the council. The commissioner may contract for staff for the council.*

*Subd. 4.* [COMPENSATION.] *Compensation of members is governed by section 15.059, subdivision 6.*

*Subd. 5.* [EXPIRATION DATE.] *The advisory council expires on June 30, 1995.*

*Subd. 6.* [COUNCIL RESPONSIBILITIES.] *The responsibilities of the council are to make recommendations to:*

*(1) coordinate planning and activities of participating agencies;*

*(2) assist program coordination at the local level;*

*(3) develop policy recommendations on adult literacy for the state, and make recommendations to the participating commissioners and the legislature;*

*(4) establish standards for effective programs and promote statewide implementation of such standards;*

*(5) award grant funds;*

*(6) evaluate programs funded by the state; and*

*(7) provide technical assistance and staff development services, in coordination with participating agencies.*

*Subd. 7.* [TARGETED ADULT LITERACY GRANTS.] *The council may*

*make recommendations to award grants to qualified programs to serve people who are on public assistance, are unemployed, or underemployed and who:*

*(1) are functioning below the eighth grade level;*

*(2) have not completed high school or a GED program;*

*(3) need basic skills remediation for employment, occupational training, or post-secondary education; or*

*(4) do not speak English.*

*The council may prioritize funding for services for people described in clause (1) or to persons with learning disabilities.*

*Priority must be given to qualified programs for the recipients of aid to families with dependent children who are identified for self-sufficiency services under section 256.736, and qualified programs for recipients of general assistance or work readiness assistance.*

*Subd. 8.* [STANDARDS FOR QUALIFIED PROGRAMS.] *(a) Except as provided in paragraph (b) and subdivision 9, a program qualifying for a grant must:*

*(1) be directed to the unemployed, the underemployed, the incarcerated, public assistance recipients, or to non-English speaking immigrants;*

*(2) integrate learning and support services such as child care, transportation, and counseling;*

*(3) have intensive learning that maximizes the weekly hours available to learners;*

*(4) be accessible year-round and during daytime or evening hours as needed, except where otherwise appropriate to learners' needs;*

*(5) have individualized learning plans and outcome based learning;*

*(6) provide instruction in transferable basic skills;*

*(7) have context based learning linked to individual occupational or self-sufficiency goals;*

*(8) provide for reporting and evaluation;*

*(9) have appropriate coordination and differentiation of services among adult literacy services and agencies in the local area;*

*(10) be coordinated with human services and employment and training agencies, as appropriate to the target population; and*

*(11) maximize use of available local resources.*

*(b) The commissioner of the state planning agency may waive a standard because of client need or local conditions. The reason for the waiver must be documented.*

*Subd. 9.* [INNOVATION GRANTS.] *The commissioner of the state planning agency may award grants for innovative programs. An innovation grant need not comply with the standards in subdivision 8. The nature and extent of the proposed innovation must be described in the award.*

*Subd. 10.* [NO FUNDING REQUIRED.] *The commissioner of the state planning agency need not award a grant for any proposal that, in the*

*determination of the commissioner does not meet the standards in subdivision 8.*

*Subd. 11.* [ELIGIBLE GRANTEES.] *To be eligible for a grant, one or more public agencies, or public or private nonprofit organizations, must submit a plan to create or maintain a qualified program. A profit-making organization cannot receive a grant but may be a subcontractor on a grant.*

*Grantees may not reduce existing expenditure levels for the target population.*

*Subd. 12.* [GEOGRAPHIC DISTRIBUTION.] *The commissioner of the state planning agency shall seek to award grants throughout the state, taking into account the incidence of the target population. It shall provide technical assistance to local agencies to enhance fulfillment of this subdivision.*

*Subd. 13.* [SUPPLEMENTAL GRANTS.] *A grant may supplement existing local programs by financing additional services or hours of instruction.*

*Subd. 14.* [GRANT SCHEDULE.] *The commissioner of the state planning agency must award initial grants by April 1, 1990. Beginning in 1991, grants must be awarded by July 1 of each year. Grants may be awarded for a period not to exceed 24 months.*

*Subd. 15.* [LOCAL AND REGIONAL JOINT PLANNING.] *The commissioner of the state planning agency may require grant applicants and existing adult basic education providers in a locality to present a joint services plan as a condition of receiving a grant under this section.*

*Subd. 16.* [REPORTING AND EVALUATION.] *The commissioner of the state planning agency shall evaluate the performance of the grantees and report to the legislature by November 15 of each year, except that a preliminary report may be submitted by February 15, 1991.*

Sec. 16. Minnesota Statutes 1988, section 275.14, is amended to read:

275.14 [CENSUS.]

For the purposes of sections *12 and* 275.11 to 275.16, the population of a city shall be that established by the last federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the metropolitan council, or by the state demographer made according to section 116K.04, subdivision 4, whichever has the latest stated date of count or estimate, before July 2 of the current levy year. The population of a school district must be ~~determined by~~ *as certified by the department of education from* the most recent federal census.

In any year in which no federal census is taken pursuant to law in any school district affected by sections 275.11 to 275.16 a population estimate may be made and submitted to the state demographer for approval as hereinafter provided. The school board of a school district, in case it desires a population estimate, shall pass a resolution by September 1 containing a current estimate of the population of the school district and shall submit the resolution to the state demographer. The resolution shall describe the criteria on which the estimate is based and shall be in a form and accompanied by the data prescribed by the state demographer. The state demographer shall determine whether or not the criteria and process described in the resolution provide a reasonable basis for the population estimate and shall inform the school district of that determination within 30 days of

receipt of the resolution. If the state demographer determines that the criteria and process described in the resolution do not provide a reasonable basis for the population estimate, the resolution shall be of no effect. If the state demographer determines that the criteria and process do provide a reasonable basis for the population estimate, the estimate shall be treated as the population of the school district for the purposes of sections 275.11 to 275.16 until the population of the school district has been established by the next federal census or until a more current population estimate is prepared and approved as provided herein, whichever occurs first. The state demographer shall establish guidelines for acceptable population estimation criteria and processes. The state demographer shall issue advisory opinions upon request in writing to cities or school districts as to proposed criteria and processes prior to their implementation in an estimation. The advisory opinion shall be final and binding upon the demographer unless the demographer can show cause why it should not be final and binding.

In the event that a census tract employed in taking a federal or local census overlaps two or more school districts, the county auditor shall, on the basis of the best information available, allocate the population of said census tract to the school districts involved.

The term "council," as used in sections 275.11 to 275.16, means any board or body, whether composed of one or more branches, authorized to make ordinances for the government of a city within this state.

Sec. 17. [CONVENING THE INTERAGENCY ADULT LEARNING COUNCIL.]

*The commissioner of the state planning agency shall convene the state agency members of the interagency adult learning council on an interim basis by August 1, 1989, and the full council by September 1, 1989.*

Sec. 18. [SCREENING AVAILABILITY.]

*Subdivision 1.* [PLANNING PROCESS.] *Beginning in the 1989-1990 school year, districts must begin a process to make screening readily available to all three year old children, targeting those at-risk and unlikely to be served by other programs. After July 1, 1993, a district shall make available voluntary health and developmental screening to all three year old children in the district. Districts shall collaborate with public and private community-based resources to deliver and finance early childhood screening.*

*Subd. 2.* [GUIDELINES.] *The commissioner of education shall establish guidelines to assist school districts in expanding the early childhood screening program to all three year old children.*

Sec. 19. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *Except as otherwise provided, the sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [ADULT BASIC EDUCATION AID.] *For adult basic education aid according to Minnesota Statutes, section 124.26:*

*$4,780,000 . . . . . 1990*

*$5,043,000 . . . . . 1991*

*The 1990 appropriation includes $638,000 for 1989 and $4,142,000 for*

*1990.*

*The 1991 appropriation includes $731,000 for 1990 and $4,312,000 for 1991.*

*Up to $235,000 in 1990 and $250,000 in 1991 may be used for contracts with private, nonprofit organizations for approved programs.*

*Subd. 3.* [ADULT HANDICAPPED PROGRAM AID.] *For handicapped adult programs according to section 14:*

*$610,000 . . . . . 1990*

*$670,000 . . . . . 1991*

*Any unexpended balance from the appropriations in this subdivision for 1990 does not cancel and is available for the second year of the biennium.*

*Subd. 4.* [COMMUNITY EDUCATION AID.] *For community education aid according to section 12:*

*$4,853,000 . . . . . 1990*

*$3,591,000 . . . . . 1991*

*The 1990 appropriation includes $516,000 for 1989 and $4,337,000 for 1990.*

*The 1991 appropriation includes $766,000 for 1990 and $2,825,000 for 1991.*

*Subd. 5.* [EARLY CHILDHOOD FAMILY EDUCATION AID.] *For early childhood family education aid according to Minnesota Statutes, section 124.2711:*

*$9,635,900 . . . . . 1990*

*$10,262,000 . . . . . 1991*

*The 1990 appropriation includes $1,235,000 for 1989 and $8,400,000 for 1990.*

*The 1991 appropriation includes $1,484,000 for 1990 and $8,778,000 for 1991.*

*Subd. 6.* [HEALTH AND DEVELOPMENTAL SCREENING AID.] *For health and developmental screening aid according to section 6:*

*$881,000 . . . . . 1990*

*$1,357,000 . . . . . 1991*

*The 1990 appropriation includes $60,000 for 1989 and $821,000 for 1990.*

*The 1991 appropriation includes $145,000 for 1990 and $1,212,000 for 1991.*

*Any unexpended balance for fiscal year 1990 does not cancel but is available for fiscal year 1991.*

*Up to $25,000 of the appropriation available in fiscal year 1990 may be used for start-up training and technical assistance.*

*Subd. 7.* [EVALUATION OF BASIC SKILLS PROGRAMS.] *For continuing an independent statewide evaluation of basic skills programs:*

*$75,000 . . . . . 1990*

*$75,000 . . . . . 1991*

*This appropriation is contingent upon the department's receipt of $1 from private sources for each $2 of this appropriation. The commissioner of education must certify the receipt of the private matching funds. The commissioner shall contract with an organization that is not connected with the delivery system.*

*Subd. 8.* [EVALUATION OF ECFE PROGRAMS.] *To develop outcome measures and evaluate district ECFE programs:*

*$ 25,000 . . . . . 1990*

*Any unexpended balance for fiscal year 1990 does not cancel but is available for fiscal year 1991.*

*Subd. 9.* [GED AND LEARN TO READ ON TV.] *For statewide purchase of broadcast costs, publicity, and coordination of the GED on TV series and the learn to read on TV series:*

*$100,000 . . . . . 1990*

*$100,000 . . . . . 1991*

*The department may contract for these services.*

*Subd. 10.* [HEARING IMPAIRED ADULTS.] *For programs for hearing impaired adults according to Minnesota Statutes, section 121.201:*

*$70,000 . . . . . 1990*

*$70,000 . . . . . 1991*

*Subd. 11.* [ADULT LITERACY GRANTS.] *To the state planning agency for grants and duties of the interagency adult literacy council:*

*$400,000 . . . . . 1990*

*$500,000 . . . . . 1991*

*Up to $25,000 each year is to provide technical assistance to employers. Up to $20,000 each year is for the commissioner to contract for staff to the council.*

*The appropriation includes $200,000 each year for programs to assist inmates in state correctional institutions in obtaining a high school diploma or its equivalent.*

Sec. 20. [REPEALER.]

*Minnesota Statutes 1988, sections 123.703; 123.705; 124.271, subdivisions 2b, 3, 4, and 7; 129B.48; and 275.125, subdivision 8, are repealed July 1, 1989. Section 12, subdivision 3a, is repealed July 1, 1990. Minnesota Statutes, sections 123.702 and 123.704, and section 5, subdivision 3a, are repealed July 1, 1993. Section 15 is repealed June 30, 1995.*

Sec. 21. [EFFECTIVE DATE.]

*Section 4 is effective the day following final enactment.*

ARTICLE 5

FACILITIES AND EQUIPMENT

Section 1. Minnesota Statutes 1988, section 16B.60, subdivision 6, is amended to read:

Subd. 6. [PUBLIC BUILDING.] "Public building" means a building and its grounds, the cost of which is paid for by the state, *or* a state agency, ~~or a school district~~.

Sec. 2. Minnesota Statutes 1988, section 121.15, subdivision 2, is amended to read:

Subd. 2. [PLAN SUBMITTAL.] *For a project for which consultation is required under subdivision 1,* the commissioner, after the consultation required in subdivision 1, may require a school district to submit the following for approval:

(a) two sets of preliminary plans for each new building or addition, and

(b) one set of final plans for each construction, remodeling, or site improvement project. The commissioner shall approve or disapprove the plans within 60 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73. The department may furnish to a school district plans and specifications for temporary school buildings containing two classrooms or less.

Sec. 3. Minnesota Statutes 1988, section 123.36, subdivision 1, is amended to read:

Subdivision 1. *According to section 14 or 16,* when funds are available therefor, the board may locate and acquire necessary sites of schoolhouses or enlargements, or additions to existing schoolhouse sites by lease, purchase or condemnation under the right of eminent domain; it may erect schoolhouses thereon; it may erect or purchase garages for district-owned school buses. When property is taken by eminent domain by authority of this subdivision when needed by the school district for such purposes, the fact that the property so needed has been acquired by the owner under the power of eminent domain or is already devoted to public use, shall not prevent its acquisition by the school district. The board may sell or exchange schoolhouses or sites, and execute deeds of conveyance thereof.

Sec. 4. Minnesota Statutes 1988, section 123.36, subdivision 13, as amended by Laws 1989, chapter 222, section 10, if enacted, is amended to read:

Subd. 13. [PROCEEDS OF SALE OR EXCHANGE.] Proceeds of the sale or exchange of school buildings or real property of the school district shall be used as provided in this subdivision.

~~(1)~~ *(a)* In districts with outstanding bonds, the proceeds of the sale or exchange shall first be deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds which is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property which is sold.

~~(2)~~ *(b)* After satisfying the requirements of ~~clause (1)~~ *paragraph (a)*, a district with outstanding bonds may deposit proceeds of the sale or exchange in its capital expenditure fund if the amount deposited is used for the following:

~~(a) for expenditures for the removal of asbestos from school buildings or property or for asbestos encapsulation, if the method for asbestos removal or encapsulation is approved by the department of education;~~

~~(b)~~ *(1)* for expenditures for the cleanup of polychlorinated biphenyls, if the method for cleanup is approved by the department of education;

~~(c)~~ *(2)* for capital expenditures for the betterment, as defined in section 475.51, subdivision 8, of district-owned school buildings~~, other than as provided in clause (a)~~; or

~~(d)~~ *(3)* to replace the building or property sold.

~~The amount of the proceeds used for the purposes specified in clauses (a) and (b) shall be deducted from the levy limitation computed for the levy authorized in section 124.83, subdivision 4, in the first year after the deposit and from levy limitations computed for this levy in succeeding years until the entire amount is deducted.~~

~~(3)~~ *(c)* In a district with outstanding bonds, the amount of the proceeds of the sale or exchange remaining after the application of ~~clauses (1) and (2)~~ *paragraphs (a) and (b)*, which is sufficient to meet when due that percentage of the principal and interest payments for the district's outstanding bonds which is not governed by ~~clause (1)~~ *paragraph (a)*, shall be deposited in the debt retirement fund.

~~(4)~~ *(d)* Any proceeds of the sale or exchange remaining in districts with outstanding bonds after the application of ~~clauses (1), (2), and (3)~~ *paragraphs (a), (b), and (c)*, and all proceeds of the sale or exchange in districts without outstanding bonds shall be deposited in the capital expenditure fund of the district.

~~(5)~~ *(e)* Notwithstanding ~~clauses (2) and (3)~~ *paragraphs (b) and (c)*, a district with outstanding bonds may deposit in its capital expenditure fund and use for any lawful capital expenditure without the reduction of any levy limitation the same percentage of the proceeds of the sale or exchange of a building or property as the percentage of the initial cost of purchasing or constructing the building or property which was paid using revenue from the capital expenditure fund.

~~(6) Every district which sells or exchanges a building or property shall report to the commissioner in the form and at the time the commissioner prescribes on the disposition of the proceeds of the sale or exchange.~~

Sec. 5. Minnesota Statutes 1988, section 124.243, subdivision 2, is amended to read:

Subd. 2. [CAPITAL EXPENDITURE FACILITIES REVENUE.] Capital expenditure facilities revenue for a district equals the lesser of:

(1) ~~$137~~ *$130* times its actual pupil units for the school year; or

(2) the difference between $400 times the actual pupil units for the school year and the unreserved balance in the capital expenditure facilities account on June 30 of the second prior school year. For the purpose of determining revenue for the 1989-1990 and the 1990-1991 school years, the unreserved balance in the capital expenditure facilities account on June 30 of the second prior school year is zero.

Sec. 6. Minnesota Statutes 1988, section 124.243, subdivision 3, is amended to read:

Subd. 3. [CAPITAL EXPENDITURE FACILITIES LEVY.] To obtain capital expenditure facilities revenue, a district may levy an amount not to exceed the capital expenditure facilities revenue determined in subdivision

2 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~75~~ *70* percent of the equalizing factor for the school year to which the levy is attributable.

Sec. 7. Minnesota Statutes 1988, section 124.243, is amended by adding a subdivision to read:

*Subd. 11.* [INSTALLMENT PURCHASE CONTRACTS.] *An installment contract to purchase a facility in excess of $400,000 is subject to the review and comment provisions of section 121.15.*

Sec. 8. Minnesota Statutes 1988, section 124.244, subdivision 1, is amended to read:

Subdivision 1. [REVENUE AMOUNT.] The capital expenditure equipment revenue for each district equals ~~$70~~ *$65* times its actual pupil units counted according to section 124.17, subdivision 1, for the school year.

Sec. 9. Minnesota Statutes 1988, section 124.244, subdivision 2, is amended to read:

Subd. 2. [CAPITAL EXPENDITURE EQUIPMENT LEVY.] To obtain capital expenditure equipment revenue, a district may levy an amount not to exceed the district's capital expenditure equipment revenue as determined in subdivision 1 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~75~~ *70* percent of the equalizing factor for the school year to which the levy is attributable.

Sec. 10. Minnesota Statutes 1988, section 124.245, subdivision 3b, is amended to read:

Subd. 3b. [HAZARDOUS SUBSTANCE REVENUE AND AID.] (a) A district's "hazardous substance revenue" *for fiscal year 1989* equals the approved cost of the hazardous substance plan for the ~~school~~ *fiscal* year ~~to which the levy is attributable~~, minus the unexpended portion of levies certified *and aids earned* by the district in earlier years under ~~section~~ *sections 124.245, subdivision 3, and* 275.125, subdivision 11c.

(b) A district's "hazardous substance levy limitation" means its levy limitation computed according to section 275.125, subdivision 11c.

(c) A district's "hazardous substance aid" for 1988-1989 and later school years equals:

(i) the difference between its hazardous substance revenue and its hazardous substance levy limitation for the levy for that school year, multiplied by

(ii) the ratio of the amount actually levied to the amount of its hazardous substance levy limitation.

(d) Aid paid under this subdivision may be used only for the purposes for which the proceeds of the levy authorized in section 275.125, subdivision 11c, may be used.

(e) In the event that the aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Sec. 11. Minnesota Statutes 1988, section 124.83, subdivision 3, is amended to read:

Subd. 3. [HEALTH AND SAFETY REVENUE.] A district's health and safety revenue *for a fiscal year* equals ~~the approved cost of the health and safety program for the school year to which the levy is attributable, minus the unexpended portion of levies certified by the district in earlier years under section 275.125, subdivision 11c.~~:

*(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, minus*

*(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable, plus (c) the amount of other federal, state, or local receipts for the district's hazardous substance or health and safety programs for fiscal year 1985 through the fiscal year to which the levy is attributable.*

Sec. 12. Minnesota Statutes 1988, section 124.83, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lessor of one, or the ratio of:

(1) the quotient derived by dividing the adjusted gross tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~75~~ *70* percent of the equalizing factor for the school year to which the levy is attributable.

Sec. 13. Minnesota Statutes 1988, section 124.83, subdivision 6, is amended to read:

Subd. 6. [USES OF HEALTH AND SAFETY REVENUE.] Health and safety revenue may be used only for *approved* expenditures necessary to correct fire safety hazards, life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01.

Sec. 14. Minnesota Statutes 1988, section 275.125, subdivision 11d, is amended to read:

Subd. 11d. [EXTRA CAPITAL EXPENDITURE LEVY FOR LEASING BUILDINGS.] When a district finds it economically advantageous to rent or lease a building, *or to purchase a building and site under an installment purchase agreement, lease purchase agreement, or any other deferred payment agreement authorized under section 465.71,* for ~~a secondary vocational cooperative program~~ *any instructional purposes* and it determines that the capital expenditure facilities revenues authorized under section 124.243 are insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease *or agreement*, and a description of the space to be leased *or purchased according to any type of deferred payment agreement,* and its proposed use. The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the ~~leased~~ building, conformity of the lease *or agreement* to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease *or agreement* to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing *or purchasing* a building for approved purposes. The proceeds of this levy must not be used ~~for leasing or renting a facility owned by a district or~~ for custodial or other maintenance services *or to purchase a building newly constructed under an installment purchase agreement, lease purchase agreement, or any other deferred payment agreement authorized under section 465.71.*

Sec. 15. Minnesota Statutes 1988, section 326.03, subdivision 2, is amended to read:

Subd. 2. Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

(a) Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;

(b) Two family dwellings;

(c) Any farm building or accessory thereto; ~~or~~

(d) Temporary buildings or sheds used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters; *or*

*(e) Any public work or public improvement done by a public body in this state where the cost of the work or improvement does not exceed $100,000.*

Sec. 16. Minnesota Statutes 1988, section 465.71, is amended to read:

465.71 [INSTALLMENT AND LEASE PURCHASES; CITIES; COUNTIES; SCHOOL DISTRICTS.]

A home rule charter city, statutory city, county, town, or school district may purchase real or personal property under an installment contract, or lease *real or* personal property with an option to purchase under a lease purchase agreement, by which contract or agreement title is retained by

the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the lease under a lease-purchase agreement. The obligation created by a lease purchase agreement *or installment contract* shall not be included in the calculation of net debt for purposes of section 475.53, *shall be deemed to constitute the issuance of an obligation under section 475.58, subdivision 1, clause (6),* and shall not constitute debt under any other statutory provision. No election shall be required in connection with the execution of a lease purchase agreement *or installment contract* authorized by this section. The city, county, town, or school district ~~shall~~ *must* have the right to terminate a lease purchase agreement at the end of any fiscal year during its term.

Sec. 17. Laws 1959, chapter 462, section 3, subdivision 10, as renumbered, as amended by Laws 1963, chapter 645, section 3, Laws 1967, chapter 661, section 3, Laws 1969, chapter 994, section 1, Laws 1975, chapter 320, section 1, and Laws 1980, chapter 525, section 2, is amended to read:

Subd. 10. [SPECIAL SCHOOL DISTRICT NO. 1; MINNEAPOLIS, CITY OF; EXTENDING BONDING AUTHORITY.] As used in this act the word "project" shall mean any proposed new or enlarged school building site, any proposed new school building or any proposed new addition to a school building, and "undertaking" shall mean any other purpose for which bonds may be issued as authorized in this subdivision. Subject to the limitations of subdivision 11, the special independent school district of Minneapolis may issue and sell bonds with the approval of 53 percent of the electors voting on the question at a general school district election or at a school district election held at the same time and place within the district as a state general or primary election, as determined by the board of education. Subject to the provisions of subdivision 11, the school district may also by a two-thirds majority vote of all the members of its board of education and without any election by the voters of the district, issue and sell in each calendar year bonds of the district in an amount not to exceed one-half of one percent of the assessed value of the taxable property in the district (plus, for ~~each of the~~ calendar ~~years 1980 through 1984~~ *year 1990*, an amount not to exceed ~~50 percent of the amount of indebtedness to be retired during the calendar year~~ *$7,500,000*; with an additional provision that any amount of bonds so authorized for sale in a specific year and not sold can be carried forward and sold in the year immediately following); provided, however, that the board shall submit the list of projects and undertakings to be financed by a proposed issue to the city planning commission as provided in subdivision 11(c). All bonds of the school district shall be payable in not more than ~~20~~ *30* years. The proceeds of the sale of the bonds shall be used only for the rehabilitating, remodeling, expanding and equipping of existing school buildings and for the acquisition of sites, construction and equipping of new school buildings, and for acquisition and betterment purposes, and no part of the proceeds shall be used for maintenance. The provisions of this act shall apply to the issuance and sale of the bonds and to the purposes for which the bonds may be issued notwithstanding any provisions to the contrary in any other existing law relating thereto.

Sec. 18. [HANDICAPPED ACCESSIBILITY LEVY: INDEPENDENT SCHOOL DISTRICT NO. 228.]

*For handicapped accessibility improvements, independent school district No. 228, Harmony, may levy an amount not more than the lesser of $100,000 or the costs of the handicapped accessibility improvements. This levy is authorized for taxes payable in 1990, 1991, or 1992. In no case may the sum of the levies exceed $100,000.*

Sec. 19. [INSTRUCTIONS TO THE DEPARTMENT.]

*The department of education shall make adjustments to the capital expenditure facilities levy, the capital expenditure equipment levy, and the health and safety levy certified for fiscal year 1991, according to sections 5, 6, 8, 9, and 12, for revenue for fiscal year 1990.*

Sec. 20. [SCHOOL DISTRICT NO. 710 BONDS.]

*Subdivision 1.* [AUTHORIZATION.] *Independent school district No. 710, St. Louis county, may issue bonds in an aggregate principal amount not exceeding $1,000,000, in addition to any bonds already issued or authorized, to provide funds to construct, equip, furnish, remodel, rehabilitate, and acquire land for school facilities and buildings. The district may spend the proceeds of the bond sale for those purposes and any architects', engineers', and legal fees incidental to those purposes or the sale. Bonds may be issued under this section without a referendum. Except as permitted by this section, the bonds shall be authorized, issued, sold, executed, and delivered in the manner provided by Minnesota Statutes, chapter 475. An election on the question of issuing the bonds is not required. A resolution of the board levying taxes for the payment of the bonds and interest on them as authorized by this section and pledging the proceeds of the levies for the payment of the bonds and interest on them shall be deemed to be in compliance with the provisions of Minnesota Statutes, chapter 475 with respect to the levying of taxes for their payment.*

*Subd. 2.* [APPROPRIATION.] *There is annually appropriated from the distribution of taconite production tax revenues to the taconite environmental protection fund pursuant to Minnesota Statutes, section 298.28, subdivision 11, and to the northeast Minnesota economic protection trust pursuant to Minnesota Statutes, section 298.28, subdivisions 9 and 11, in equal shares, an amount sufficient to pay when due 100 percent of the principal and interest on the bonds issued pursuant to subdivision 1. If the annual distribution to the northeast Minnesota economic protection trust is insufficient to pay its share after fulfilling any obligations of the trust under Minnesota Statutes, section 298.225 or 298.293, the deficiency shall be appropriated from the taconite environmental protection fund.*

*Subd. 3.* [DISTRICT OBLIGATIONS.] *Bonds issued under authority of this section shall be the general obligations of the school district for which its full faith and credit and unlimited taxing powers shall be pledged. If there are any deficiencies in the amount received pursuant to subdivision 2, they shall be made good by general levies, not subject to limit, on all taxable properties in the district in accordance with Minnesota Statutes, section 475.74. If any deficiency levies are necessary, the school board may effect a temporary loan or loans on certificates of indebtedness issued in anticipation of them to meet payments of principal or interest on the bonds due or about to become due.*

*Subd. 4.* [LEVY LIMITATIONS.] *Taxes levied pursuant to this section*

*shall be disregarded in the calculation of any other tax levies or limits on tax levies provided by other law.*

*Subd. 5.* [BONDING LIMITATIONS.] *Bonds may be issued under authority of this section notwithstanding any limitations upon the indebtedness of a district, and their amounts shall not be included in computing the indebtedness of a district for any purpose, including the issuance of subsequent bonds and the incurring of subsequent indebtedness.*

*Subd. 6.* [TERMINATION OF APPROPRIATION.] *The appropriation authorized in subdivision 2 shall terminate upon payment or maturity of the last of those bonds.*

*Subd. 7.* [LOCAL APPROVAL.] *This section is effective for independent school district No. 710, the day after its governing body complies with Minnesota Statutes, section 645.021, subdivision 3.*

Sec. 21. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [CAPITAL EXPENDITURE FACILITIES AID.] *For capital expenditure facilities aid according to Minnesota Statutes, section 124.243, subdivision 5:*

*$33,800,000 . . . . . 1990*

*$41,039,000 . . . . . 1991*

*The 1990 appropriation includes $33,800,000 for 1990.*

*The 1991 appropriation includes $5,965,000 for 1990 and $35,074,000 for 1991.*

*Subd. 3.* [CAPITAL EXPENDITURE EQUIPMENT AID.] *For capital expenditure equipment aid according to Minnesota Statutes, section 124.244, subdivision 3:*

*$16,900,000 . . . . . 1990*

*$20,520,000 . . . . . 1991*

*The 1990 appropriation includes $16,900,000 for 1990.*

*The 1991 appropriation includes $2,983,000 for 1990 and $17,537,000 for 1991.*

*Subd. 4.* [HEALTH AND SAFETY AID.] *For health and safety aid according to Minnesota Statutes, section 124.83, subdivision 5:*

*$8,168,000 . . . . . 1990*

*$10,796,000 . . . . . 1991*

*The 1990 appropriation includes $8,168,000 for 1990.*

*The 1991 appropriation includes $1,442,000 for 1990 and $9,354,000 for 1991.*

*Subd. 8.* [MAXIMUM EFFORT SCHOOL LOAN FUND.] *For the maximum effort school loan fund:*

*$855,500 . . . . . 1990*

*$2,100,000 . . . . . 1991*

*These appropriations shall be placed in the loan repayment account of the maximum effort school loan fund for the payment of the principal and interest on school loan bonds, as provided in Minnesota Statutes, section 124.46, to the extent that money in the fund is not sufficient to pay when due the full amount of principal and interest due on school loan bonds. The purpose of these appropriations is to ensure that sufficient money is available in the fund to prevent a statewide property tax levy as would otherwise be required pursuant to Minnesota Statutes, section 124.46, subdivision 3. Notwithstanding the provisions of Minnesota Statutes, section 124.39, subdivision 5, any amount of the appropriation made in this section which is not needed to pay when due the principal and interest due on school loan bonds shall not be transferred to the debt service loan account of the maximum effort school loan fund but instead shall cancel and revert to the general fund.*

*The 1990 appropriation does not cancel and is available until July 1, 1991.*

*Subd. 6.* [HAZARDOUS SUBSTANCE AID.] *For the final adjustment payment of hazardous substance aid under Minnesota Statutes 1987 Supplement, section 124.245, subdivision 3b:*

*$9,000 . . . . . 1990*

*The 1990 appropriation includes $9,000 for 1989.*

*Subd. 5.* [CAPITAL EXPENDITURE AID.] *For the final adjustment payment of capital expenditure aid according to Minnesota Statutes 1987 Supplement, section 124.244, subdivision 3:*

*$5,628,000 . . . . . 1990*

*The 1990 appropriation includes $5,628,000 for 1989.*

Sec. 22. [REPEALER.]

*Minnesota Statutes 1988, section 124.243, subdivision 4, is repealed.*

Sec. 23. [EFFECTIVE DATE.]

*Section 10 is effective the day following final enactment.*

## ARTICLE 6

## EDUCATION ORGANIZATION AND COOPERATION

Section 1. Minnesota Statutes 1988, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to ~~section~~ *sections 124.2721, subdivision 3; 124.575, subdivision 3; and* 275.125, subdivision 9a~~,~~*;* and Laws 1976, chapter 20, section 4.

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

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

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus ~~27~~ *27.8* percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) ~~27~~ *27.8* percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

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

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

(iii) retirement and severance pay pursuant to ~~section~~ *sections 124.4945 and* 275.125, subdivision 6a, and Laws 1975, chapter 261, section 4; and

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

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

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

Sec. 2. Minnesota Statutes 1988, section 121.904, is amended by adding a subdivision to read:

*Subd. 4e.* [COOPERATION LEVY RECOGNITION.] *(a) A cooperative district is a district or cooperative that receives revenue according to section 124.2721 or 124.575.*

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

*(1) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, that are for the fiscal year payable in that fiscal year; or*

*(2) 27.8 percent of the difference between*

*(i) the sum of the amount of levies certified in the prior year according to sections 124.2721, subdivision 3, and 124.575, subdivision 3; and*

*(ii) the amount of transition aid paid to the cooperative unit according to section 273.1392 for the fiscal year to which the levy is attributable.*

Sec. 3. Minnesota Statutes 1988, section 121.908, subdivision 5, is amended to read:

Subd. 5. All governmental units formed by joint powers agreements entered into by districts pursuant to section 120.17, 123.351, 471.59, or any other law and all educational cooperative service units *and education*

*districts* shall be subject to the provisions of this section.

Sec. 4. Minnesota Statutes 1988, section 122.23, is amended by adding a subdivision to read:

*Subd. 13a.* [CONSOLIDATION IN AN EVEN-NUMBERED YEAR.] *Notwithstanding subdivision 13, school districts may consolidate during an even-numbered year if the school board and the exclusive bargaining representative of the teachers in each affected district agree to the effective date of the consolidation. The agreement must be in writing and submitted to the commissioner of education.*

Sec. 5. [122.241] [COOPERATION AND COMBINATION.]

*Subdivision 1.* [SCOPE.] *Sections 5 to 12 establish procedures for school boards that adopt, by resolution, a five-year written agreement:*

*(1) to provide at least secondary instruction cooperatively for at least two years; and*

*(2) to combine into one district after cooperating.*

*Subd. 2.* [COOPERATION REQUIREMENTS.] *Cooperating districts shall:*

*(1) have a written agreement according to section 122.541;*

*(2) all be members of one education district, if any one of the districts is a member; and*

*(3) all be members of one ECSU, if any one of the districts is a member.*

*Subd. 3.* [COMBINATION REQUIREMENTS.] *Combining districts must be contiguous and meet one of the following requirements at the time of combination:*

*(1) at least two districts with at least 400 resident pupils enrolled in grades 7 through 12 in the combined district and projections, approved by the department of education, of enrollment at least at that level for five years;*

*(2) at least two districts, both of which qualify for sparsity revenue under section 124A.22, subdivision 6, and have an average isolation index over 23; or*

*(3) at least three districts with fewer than 420 resident pupils enrolled in grades 7 through 12 in the combined district.*

*A combination under clause (3) must be approved by the state board of education. The state board shall disapprove a combination under clause (3) if the combination is educationally unsound or would not reasonably enable the districts to fulfill statutory and rule requirements.*

Sec. 6. [122.242] [COOPERATION AND COMBINATION PLAN.]

*Subdivision 1.* [ADOPTION AND STATE BOARD REVIEW.] *Each school board must adopt, by resolution, a plan for cooperation and combination. The plan must address each item in this section. The plan must be specific for any item that will occur within three years and may be general or set forth alternative resolutions for an item that will occur in more than three years. The plan must be submitted to the state board of education for review and comment. Significant modifications and specific resolutions of items must be submitted to the state board for review and comment. In the*

*official newspaper of each district proposed for combination, the school board must publish at least a summary of the adopted plans, each significant modification and resolution of items, and each state board review and comment.*

*Subd. 2.* [RULE EXEMPTIONS.] *The plan must identify the rules of the state board of education from which the district intends to request exemption, according to Minnesota Rules, part 3500.1000. The plan may provide information about state laws that deter or impair cooperation or combination.*

*Subd. 3.* [BOARD FORMATION.] *The plan must state:*

*(1) whether the new district would have one elected school board or whether it would have one elected school board and one elected board for each elementary school exercising powers and duties delegated to it by the school board of the entire district;*

*(2) how many of the existing members of each district would become members of the school board of the combined district and, if so, a method to gradually reduce the membership to six or seven; and*

*(3) if desired, election districts that include the establishment of separate areas from each of the combining districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts.*

*Subd. 4.* [ADMINISTRATION.] *The plan must provide for:*

*(1) selection of one superintendent for the combined district at a specified time, according to section 123.34, subdivision 9; and*

*(2) alterations, if any, in administrative personnel and duties.*

*Subd. 5.* [EMPLOYEES.] *The plan must state:*

*(1) procedures needed, at the time of combination, to combine teachers into one bargaining unit, with the exclusive representative determined according to section 122.532;*

*(2) procedures needed, at the time of combination, to combine other bargaining units;*

*(3) procedures to negotiate, with the assistance of the bureau of mediation services, an employment plan for licensed employees affected by the agreement;*

*(4) procedures to negotiate, with the assistance of the bureau of mediation services, an employment plan for nonlicensed employees affected by the agreement; and*

*(5) incentives that may be offered to superintendents, principals, teachers, and other licensed and nonlicensed employees, such as early retirement, severance pay, and health insurance benefits.*

*Subd. 6.* [ACADEMIC PROGRAMS.] *The plan must set forth:*

*(1) elementary curriculum and programs;*

*(2) improvements in secondary course offerings in at least communications, mathematics, science, social studies, foreign languages, physical education, health, and career education;*

*(3) procedures for involving parents, teachers, and other interested people in developing learner outcomes in curricular areas;*

*(4) procedures for involving teachers in determining levels of learner outcomes;*

*(5) implications for special education cooperatives, secondary vocational cooperatives, joint powers agreements, education districts, and other cooperative arrangements if the districts combined and if they did not; and*

*(6) a description of the long-range educational services of the combined district and of the individual districts if the combination is not achieved.*

*Subd. 7.* [PUPIL ACTIVITIES.] *The plan must provide for combining extracurricular and cocurricular activities.*

*Subd. 8.* [REFERENDUM.] *The plan must set forth:*

*(1) procedures for a referendum, held prior to the year of the proposed combination, to approve combining the school districts; and*

*(2) whether a majority of those voting in each district proposed for combination or a majority of those voting on the question in the entire area proposed for combination would be needed to pass the referendum.*

*Subd. 9.* [FINANCES.] *The plan must state:*

*(1) whether debt service for the bonds outstanding at the time of combination remains solely with the district that issued the bonds or whether the debt service for the bonds will be assumed by the combined district and paid by the combined district on behalf of the district that issued the bonds;*

*(2) the treatment of debt service levies and referendum levies;*

*(3) two-, five-, and ten-year projections, prepared by the department of education upon the request of any district, of revenues, expenditures, and property taxes for each district if it cooperated and combined and if it did not.*

*Subd. 10.* [BUILDING SITES.] *The plan must provide for:*

*(1) locations for elementary schools which need not be altered and may contain assurances that, to the extent feasible, elementary schools will be retained for at least the number of years specified in the plan; and*

*(2) one location, if possible, for a secondary school.*

*Subd. 11.* [TIMING.] *The plan must contain a time schedule for implementation.*

Sec. 7. [122.243] [STATE BOARD AND VOTER APPROVAL.]

*Subdivision 1.* [STATE BOARD APPROVAL.] *Before submitting the question of combining school districts to the voters at a referendum, the cooperating districts shall submit the proposed combination to the state board of education. The state board shall determine the date for submission and may require any information it determines necessary. The state board shall disapprove the proposed combination if it is educationally unsound, will not reasonably enable the combined district to fulfill statutory and rule requirements, or if the plan or modifications are incomplete. If disapproved by the state board, the referendum shall be postponed, but not*

*canceled, by the school boards.*

*Subd. 2.* [VOTER APPROVAL.] *During the second year of cooperation, a referendum on the question of combination shall be conducted. The referendum shall be on a date called by the school boards. The referendum shall be conducted by the school boards according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following school year. If a question is submitted, the second referendum must be conducted on a date before October 1. If the referendum fails again, the same question may not be submitted. A different question may be submitted on any date before October 1. Referendums shall be conducted on the same date in all districts.*

Sec. 8. [122.244] [EFFECTIVE DATE OF COMBINATION.]

*The effective date for combination of districts shall be July 1.*

Sec. 9. [122.245] [EMPLOYEES OF COOPERATING AND COMBINING DISTRICTS.]

*Subdivision 1.* [COMBINED SENIORITY LIST.] *During the school year before the cooperation begins and during the school years of cooperation, the districts shall comply with section 122.541, subdivision 5, unless compatible plans are negotiated according to section 122.541, subdivision 4. The districts shall comply with section 122.532.*

*Subd. 2.* [NONLICENSED EMPLOYEES TERMINATION.] *If compatible plans are not negotiated according to section 6, subdivision 5, the school boards shall comply with this subdivision with respect to nonlicensed employees. Nonlicensed employees whose positions are discontinued as a result of cooperation or combination, as applicable, shall be:*

*(1) employed by a cooperating board or the combined board, if possible;*

*(2) assigned to work in a cooperating district or the combined district, if possible; or*

*(3) terminated in the inverse order in which they were employed in a district, according to a combined seniority list of nonlicensed employees in the cooperating or combined district, as applicable.*

*Subd. 3.* [EMPLOYMENT LAWS.] *Unless otherwise explicitly provided, chapter 179A governs the rights and duties of employers and employees. Either party may promptly submit questions of procedure, interpretation, or application to the commissioner of mediation services.*

Sec. 10. [122.246] [COUNTY AUDITOR PLAT.]

*Upon the request of two or more districts that have adopted a resolution to cooperate and combine, the county auditor shall prepare a plat. If the proposed combined district is located in more than one county, the request shall be submitted to the county auditor of the county that has the greatest land area in the proposed district. The plat shall show:*

*(1) the boundaries of each of the present districts;*

*(2) the boundaries of the proposed district;*

*(3) the boundaries of proposed election districts, if requested; and*

*(4) other information deemed pertinent by the school boards or the county auditor.*

Sec. 11. [122.247] [LEVIES FOR DISTRICTS AT THE TIME OF COMBINATION.]

*Subdivision 1.* [REFERENDUM LEVIES.] *The referendum levy authorization of the combined district shall be one of the methods set forth in section 122.531, subdivision 2a, 2b, or 2c, and must be consistent with the plan adopted according to section 6, and any subsequent modifications.*

*Subd. 2.* [BONDED DEBT.] *Debt service for bonds outstanding at the time of the combination may be levied by the combined school board consistent with the plan adopted according to section 6, and any subsequent modifications, subject to section 475.61. The primary obligation to pay the bonded indebtedness that is outstanding on the effective date of combination remains with the district that issued the bonds. However, the combined district may make debt service payments on behalf of a preexisting district.*

*Subd. 3.* [TRANSITIONAL LEVY.] *The board of the combined district may levy for the expenses of negotiation, administrative expenses directly related to the transition from cooperation to combination, and the cost of necessary new athletic and music uniforms. The board may levy this amount over three or fewer years. All expenses must be approved by the state board of education.*

Sec. 12. [122.248] [REPORTS TO DEPARTMENT OF EDUCATION.]

*Cooperating districts may submit joint reports and jointly provide information required by the department of education. The joint reports must allow information to be attributed to each district. A combined district must report and provide information as a single unit.*

Sec. 13. Minnesota Statutes 1988, section 122.41, is amended to read:

122.41 [POLICY.]

The policy of the state is to encourage organization of school districts into units of administration to afford better educational opportunities for all pupils, make possible more economical and efficient operation of the schools, and insure more equitable distribution of public school revenue. To this end all area of the state shall be included in an independent or special school district maintaining classified elementary and secondary schools, grades 1 through 12, unless a district has made an agreement with another district or districts as provided in ~~section~~ *sections* 122.535 ~~or~~, 122.541, *or sections 5 to 12, or 27, or has received a grant under sections 124.492 to 124.495*.

Sec. 14. Minnesota Statutes 1988, section 122.43, subdivision 1, is amended to read:

Subdivision 1. ~~Any organized school district not a part of an independent~~ *A* school district ~~maintaining classified~~ *shall maintain* elementary and secondary schools, grades 1 through 12 ~~is dissolved~~, unless the district has made an agreement with another district or districts as provided in ~~section~~ *sections* 122.535 ~~or~~, 122.541, *5 to 12, or 27, or has received a grant under sections 124.492 to 124.495*.

Sec. 15. Minnesota Statutes 1988, section 122.532, subdivision 3, is amended to read:

Subd. 3. The organization certified as the exclusive bargaining representative for the teachers in the particular preexisting district which employed

the largest proportion of the teachers who are assigned to a new employing district according to subdivision 2 shall be certified as the exclusive bargaining representative for the teachers assigned to that new employing district, until that organization is decertified or another organization is certified in its place pursuant to sections 179A.01 to 179A.25. ~~If no new contract has been executed as of the effective date of the consolidation or dissolution and attachment, the terms and conditions of employment of teachers assigned to the new employing district shall be temporarily governed by the contract executed by that exclusive bargaining representative and that particular preexisting district, until a new contract is executed between the newly elected board or the board of the district to which a dissolved district is attached and the exclusive bargaining representative.~~ For purposes of negotiation of a new contract with the board of the new employing district and the certification of an exclusive bargaining representative for purposes of that negotiation, the teachers assigned to that district shall be considered an appropriate unit of employees of that district as of the date the county board orders its interlocutory order of dissolution and attachment to be final and effective or as of the date the commissioner assigns an identification number to a new district created by consolidation. During the school year before the consolidation becomes effective, the newly elected board or the board of the district to which a dissolved district is attached, may place teachers assigned to it on unrequested leave of absence as provided in section 125.12 according to: (a) a plan negotiated in a new master contract between it and the exclusive bargaining representative of the teachers assigned to it, or (b) if no such plan exists, an applicable plan negotiated in the contract which according to this subdivision will temporarily govern the terms and conditions of employment of teachers assigned to it, or (c) if no plan exists pursuant to either (a) or (b), the provisions of section 125.12, subdivision 6b, on the basis of a combined seniority list of all teachers assigned to it.

Sec. 16. Minnesota Statutes 1988, section 122.532, is amended by adding a subdivision to read:

*Subd. 3a.* [INTERIM CONTRACTUAL AGREEMENTS.] *(a) Until a successor contract is executed between the new school board and the exclusive representative of the teachers of the new district, the school boards of both districts and the exclusive representatives of the teachers of both districts may agree:*

*(1) to comply with the contract of either district with respect to all of the teachers assigned to the new district; or*

*(2) that each of the contracts shall apply to the teachers previously subject to the respective contract.*

*(b) In the absence of an agreement according to paragraph (a), the following shall apply:*

*(1) if the effective date is July 1 of an even-numbered year, each of the contracts shall apply to the teachers previously subject to the respective contract and shall be binding on the new school board; or*

*(2) if the effective date is July 1 of an odd-numbered year, the contract of the district that previously employed the largest proportion of teachers assigned to the new district applies to all of the teachers assigned to the new district and shall be binding on the new school board.*

Sec. 17. Minnesota Statutes 1988, section 122.532, subdivision 4, is

amended to read:

Subd. 4. Except as provided in this section, the provisions of section 125.12 or 125.17 shall apply to the employment of each teacher by the new employing district on the same basis as they would have applied to the employment if the teacher had been employed by that new district before the effective date of the consolidation or dissolution and attachment. For the purpose of applying the provisions of subdivision 3, clause ~~(b)~~ *(c)*, and the provisions of section 125.12, subdivision 6b, ~~pursuant to this section, a teacher's date of first employment shall be the date of beginning continuous employment in the preexisting district which employed the teacher~~ *each school district must be considered to have started school each year on the same date.*

Sec. 18. Minnesota Statutes 1988, section 122.541, is amended to read:

122.541 [INTERDISTRICT COOPERATION.]

Subdivision 1. [DISTRICT REQUIREMENTS.] The *school* boards of two or more ~~school~~ districts may, after consultation with the department of education, enter into an agreement providing for ~~the~~:

*(1)* discontinuance by ~~a district~~ *all districts except one* of ~~any of~~ *at least the 10th, 11th, and 12th* grades ~~kindergarten through 12 or portions of those grades~~; and ~~the~~

*(2)* instruction ~~in a cooperating district~~ of the pupils in the discontinued grades ~~or portions of grades; provided, the board of a district discontinuing a grade pursuant to the agreement~~ *in one of the cooperating districts. Each district* shall continue to ~~maintain~~ *operate* a school ~~enrolling pupils in~~ *with* at least three grades. Before ~~making~~ *entering into a* final ~~an~~ agreement ~~permitted by this subdivision~~, the boards shall provide a copy of this agreement to the commissioner of education.

Subd. 2. [AID; TRANSPORTATION.] ~~A~~ *(a) Each* district ~~entering into an agreement permitted in subdivision 1~~ shall:

~~(1)~~ continue to count its resident pupils who are educated in a cooperating district as resident pupils in the calculation of pupil units for all purposes~~, including the calculation of state aids and levy limitations. Notwithstanding section 124.18, subdivision 2, an~~ *The* agreement ~~permitted by subdivision 1~~ shall provide for ~~the~~ tuition payments *between or among* the ~~cooperating~~ districts ~~determine are necessary and equitable to compensate each district for the instruction of nonresident pupils; and~~.

~~(2)~~ *(b) Each district shall* continue to provide transportation and collect transportation aid for its resident pupils pursuant to sections 123.39, 124.223, and 124.225. ~~This clause shall not be construed to prohibit~~ A district ~~from providing~~ *may provide* some or all transportation to its resident pupils by contracting with a *cooperating* district ~~that has entered the agreement~~. For purposes of ~~aid calculations pursuant to~~ section 124.225, the commissioner may adjust the base cost per eligible pupil transported to reflect changes in costs resulting from ~~an~~ *the* agreement ~~which provides for a district to discontinue at least one grade~~.

Subd. 3. [TEACHER DEFINED.] As used in this section, the term "teacher" ~~shall have~~ *has* the meaning given it in section 125.12, subdivision 1.

Subd. 4. [NEGOTIATED PLAN FOR DISCONTINUED TEACHERS.]

The school board and exclusive bargaining representative of the teachers in each district discontinuing grades ~~pursuant to an agreement permitted by subdivision 1~~ may negotiate a plan ~~for the assignment~~ *to assign* or ~~employment~~ *employ* in a cooperating district or ~~the placement~~ *to place* on unrequested leave of absence ~~of~~ *all* teachers whose positions are discontinued as a result of the agreement. The school board and exclusive bargaining representative of the teachers in each district providing instruction to nonresident pupils ~~pursuant to an agreement permitted by subdivision 1~~ may negotiate a plan ~~for the employment of~~ *to employ* teachers from a cooperating district whose positions are discontinued as a result of the agreement. If ~~such~~ plans are negotiated ~~in cooperating districts~~ and if the boards determine the plans are compatible ~~with one another~~, the boards ~~of the districts~~ shall include the plans in their agreement.

Subd. 5. [COMBINED SENIORITY LIST.] If compatible plans are not negotiated ~~pursuant to subdivision 4~~ before the March 1 preceding any year of the agreement ~~permitted by subdivision 1~~, the cooperating districts shall be governed by ~~the provisions of~~ this subdivision. Insofar as possible, teachers who have acquired continuing contract rights and whose positions are discontinued as a result of the agreement shall be employed by a cooperating district or assigned to teach in a cooperating district as exchange teachers pursuant to section 125.13. If necessary, teachers whose positions are discontinued as a result of the agreement and who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by a cooperating district, according to a combined seniority list of teachers in the cooperating districts. *For the purpose of establishing a combined seniority list, each school district must be considered to have started school each year on the same date.*

Subd. 6. [NOTICE AND HEARING.] Prior to ~~making~~ *entering into* an agreement ~~permitted by subdivision 1~~, the school board ~~of a district participating in the agreement~~ shall consult with the community at an informational meeting. The board shall publish notice of the meeting in the official newspaper of the district and may send written notice of the meeting to parents of pupils who would be affected ~~by the plan~~.

Subd. 7. [MEETING LOCATION.] Notwithstanding any law to the contrary, ~~the~~ school boards ~~of districts with~~ *that have* an agreement ~~under this section~~ may hold a valid joint meeting at any location that would be permissible for one of the school boards participating in the meeting.

Sec. 19. Minnesota Statutes 1988, section 122.91, subdivision 1, is amended to read:

122.91 [EDUCATION DISTRICT ESTABLISHMENT.]

Subdivision 1. [PURPOSE.] The purpose of an education district is to increase educational opportunities for ~~pupils~~ *learners* by increasing cooperation and coordination among school districts *and post-secondary institutions*.

Sec. 20. Minnesota Statutes 1988, section 122.91, is amended by adding a subdivision to read:

*Subd. 2a.* [AGREEMENT; SPECIAL PROVISIONS.] *The education district agreement may contain a special provision adopted by the vote of a majority of the full membership of each of the boards of the member school districts to allow a post-secondary institution to become a member of the*

*education district.*

Sec. 21. Minnesota Statutes 1988, section 122.91, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS FOR FORMATION.] An education district must have one of the following at the time of formation:

(1) at least five districts;

(2) at least four districts with a total of at least 5,000 pupils in average daily membership; or

(3) at least four districts with a total of at least 2,000 square miles.

*Members of an education district must be contiguous. Districts with a cooperation agreement according to section 18 may belong to an education district only as a unit.*

*A noncontiguous district may be a member of an education district if the state board of education determines that:*

*(1) a district between the education district and the noncontiguous district has considered and is unwilling to become a member; or*

*(2) a noncontiguous configuration of member districts has sufficient technological or other resources to offer effective levels of programs and services required under sections 122.94, subdivision 2, and 122.945.*

Sec. 22. Minnesota Statutes 1988, section 122.91, is amended by adding a subdivision to read:

*Subd. 3a.* [MEETING WITH REPRESENTATIVES.] *Before entering into an agreement, the school board of each member district must meet and confer with the exclusive representatives of the teachers of each school district proposing to enter the education district.*

Sec. 23. Minnesota Statutes 1988, section 122.91, subdivision 5, is amended to read:

Subd. 5. [JOINDER AND WITHDRAWAL.] A process for a district to join or withdraw from an education district shall be included in the education district agreement.

*If a school district withdraws from an education district that receives revenue under section 124.2721 before the end of the fiscal year for which a levy under section 124.2721 has been certified, a reduction in the school district's general education aid for the fiscal year to which the levy is attributable must be made. The amount of aid reduction equals the amount that the school district certified for that year under section 124.2721 minus transition aid allocated for that levy according to section 273.1398, subdivision 6. The amount of the aid reduction shall be paid to the education district. The school district need not transfer the revenue required under section 36, subdivision 3a.*

Sec. 24. Minnesota Statutes 1988, section 122.92, is amended to read:

122.92 [EDUCATION DISTRICT BOARD.]

*Subdivision 1.* [SCHOOL DISTRICT REPRESENTATION.] The education district board shall be composed of at least one representative appointed by the school board of each member district. ~~The~~ *Each* representative ~~shall reside in the school district~~ *must be a member* of the appointing school

board. ~~The~~ *Each* representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business.

*Subd. 2.* [POST-SECONDARY REPRESENTATION.] *The education district board may appoint, with the approval of the member post-secondary institution, a representative from one or more member post-secondary institutions as a member of the education district board. Each post-secondary representative shall serve at the pleasure of the education district board and may be recalled by a majority vote of the education district board. The education district agreement may specify issues on which a post-secondary representative may vote.*

Sec. 25. Minnesota Statutes 1988, section 122.93, subdivision 2, is amended to read:

Subd. 2. [PERSONNEL.] The board may employ personnel as necessary to provide and support the programs and services of the education district. Education district staff shall participate in retirement programs. *Notwithstanding section 123.34, subdivision 9, a member district of an education district may contract with the education district to obtain the services of a superintendent. The person to provide the services need not be employed by the education district or a member district at the time the contract is entered into.*

Sec. 26. Minnesota Statutes 1988, section 122.93, is amended by adding a subdivision to read:

*Subd. 7.* [BUDGET.] *The education district board must adopt a budget for the expenditure of revenue received by the education district. The budget must be included in the five-year plan required under section 30.*

Sec. 27. Minnesota Statutes 1988, section 122.93, is amended by adding a subdivision to read:

*Subd. 8.* [DISCONTINUING GRADES.] *The board of a school district that is a member of an education district may discontinue any of kindergarten through grade 12 or part of those grades and provide instruction for those grades or parts of grades within the education district.*

Sec. 28. Minnesota Statutes 1988, section 122.94, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] An education district board shall adopt a comprehensive agreement for continuous learning. The agreement must address methods to improve the educational opportunities available in the education district. It must be submitted for review by ~~all~~ *the* educational cooperative service ~~units serving~~ *unit within which the majority of* the education district *membership lies*. The education district board shall review the agreement annually and propose necessary amendments to the member districts.

Sec. 29. Minnesota Statutes 1988, section 122.94, is amended by adding a subdivision to read:

*Subd. 6.* [COMMON ACADEMIC CALENDAR.] *For 1990-1991 and*

*later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include at least the following:*

*(1) the number of days of instruction;*

*(2) the first and last days of instruction in a school year; and*

*(3) the specific days reserved for staff development.*

*Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 30. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.*

Sec. 30. [122.945] [EDUCATION DISTRICT PLAN.]

*Subdivision 1.* [FIVE-YEAR PLAN.] *Each education district must develop a five-year plan to increase educational opportunities for all learners. The plan must give priority to the mandated programs and services under section 122.94, subdivision 2, with an emphasis on new, improved, or expanded programs or services. The plan must emphasize the integration of all aspects of education, including community education. Teachers must be involved in developing the plan. The plan must include at least the following components:*

*(1) a detailed description of the proposed increased educational opportunities for pupils resulting from the new, improved, or expanded programs or services;*

*(2) a budget for the current fiscal year and an estimated budget for the next fiscal year;*

*(3) an estimate of the number of school districts and pupils affected by program and service expenditures; and*

*(4) any other information required by the state board.*

*Subd. 2.* [SUBMISSION AND APPROVAL OF FIVE-YEAR PLAN.] *Each education district must submit a five-year plan developed according to subdivision 1 to the state board of education. An education district established before January 1, 1990, must submit a plan to the state board by April 1, 1990. An education district established after December 31, 1989, must submit a plan to the state board by April 1 of the first year that the education district will certify the amount of education district revenue to be raised under section 36. The board must approve or disapprove the plan within 60 days of receiving it from the education district.*

*Subd. 3.* [UPDATING EDUCATION DISTRICT PLAN.] *The state board of education may require education districts to submit updated five-year plans.*

*Subd. 4.* [EDUCATION DISTRICT REVENUE.] *An education district must receive state board of education approval of its five-year plan to be eligible for education district revenue under section 124.2721, subdivision 6, for fiscal year 1991 and thereafter.*

*Subd. 5.* [EVALUATION OF FIVE-YEAR PLAN.] *The state board of education must annually evaluate the programs and services in a selected*

*number of education districts to determine compliance with the five-year plan and any updated plans submitted to the board under this section.*

Sec. 31. Minnesota Statutes 1988, section 122.95, is amended by adding a subdivision to read:

*Subd. 1a.* [FILLING POSITIONS; NEGOTIATED AGREEMENTS.] *The school boards in all member districts and exclusive bargaining representatives of the teachers in all member districts may negotiate a plan for filling positions resulting from implementation of the education district agreement. If the plan is negotiated among the member school districts and the exclusive bargaining representative of each member school district and unanimously agreed upon, in writing, the education district shall include the plan in the education district agreement. If a plan is not negotiated, the education district is governed by subdivision 2.*

Sec. 32. Minnesota Statutes 1988, section 122.95, subdivision 2, is amended to read:

Subd. 2. [FILLING POSITIONS.] (a) When an education district board or a member board is filling a position resulting from implementation of the agreement, the board may offer the position to a teacher currently employed by a member district according to the exchange teacher provisions of section 125.13.

(b) If the position is not filled by a currently employed teacher, the board shall offer the position to an available teacher in the order of seniority in fields of licensure on a combined seniority list of all available teachers in the member districts. *For the purpose of establishing a combined seniority list, each school district must be considered to have started school each year on the same date.* An available teacher is a teacher in a member district who:

(1) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, not more than one year before the initial formation of an education district as a result of an intention to enter into an education district agreement;

(2) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, as a result of implementing the education district agreement, after the formation of the education district; or

(3) is placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or is terminated according to section 125.17, subdivision 11, as a result of implementing the education district, in the same year the position is filled.

(c) If no currently employed teacher or available teacher accepts the position, the board may fill the position with any other teacher.

(d) Any teacher who has been placed on unrequested leave of absence or who has been terminated has a right to a position only as long as the teacher has a right to reinstatement in a member district under section 125.12, subdivision 6a or 6b, or 125.17, subdivision 11.

Sec. 33. Minnesota Statutes 1988, section 123.58, subdivision 4, is amended to read:

Subd. 4. [MEMBERSHIP AND PARTICIPATION.] Full membership in an ECSU shall be limited to public school districts of the state but nonvoting associate memberships shall be available to nonpublic school administrative units within the ECSU. Participation in programs and services provided by the ECSU shall be discretionary ~~and~~. No school district shall be compelled to participate in these services under authority of this section~~, except that~~. *However,* all school districts whose central administrative offices are within that ECSU whose boundaries coincide with those of development region 11 shall participate in the planning and planning research functions of that ECSU. *All of the members of an education district shall belong to the same ECSU, if any members belong to an ECSU.* No planning or planning research decision of that ECSU shall be binding on these region 11 districts. Nonpublic school students and personnel are encouraged to participate in programs and services to the extent allowed by law.

Sec. 34. Minnesota Statutes 1988, section 124.155, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF ADJUSTMENT.] ~~In fiscal year 1984 and~~ Each year ~~thereafter,~~ state aids and credits enumerated in subdivision 2 payable to any school district, *education district, or secondary vocational cooperative* for that fiscal year shall be adjusted, in the order listed, by an amount equal to (1) the amount the district, *education district, or secondary vocational cooperative* recognized as revenue for the prior fiscal year pursuant to section 121.904, subdivision 4a, clause (b), *plus revenue recognized according to section 2*, minus (2) the amount the district recognizes as revenue for the current fiscal year pursuant to section 121.904, subdivision 4a, clause (b), *plus revenue recognized according to section 2*. For the purposes of making the aid adjustment under this subdivision, the amount the district recognizes as revenue for either the prior fiscal year or the current fiscal year pursuant to section 121.904, subdivision 4a, clause (b), *plus revenue recognized according to section 2*, shall not include any amount levied pursuant to section 124A.03, subdivision 2. Payment from the permanent school fund shall not be adjusted pursuant to this section. The school district shall be notified of the amount of the adjustment made to each payment pursuant to this section.

Sec. 35. Minnesota Statutes 1988, section 124.155, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENT TO AIDS.] The amount specified in subdivision 1 shall be used to adjust the following state aids and credits in the order listed:

(a) general education aid authorized in section 124A.23;

(b) secondary vocational aid authorized in section 124.573;

(c) special education aid authorized in section 124.32;

(d) secondary vocational aid for handicapped children authorized in section 124.574;

(e) aid for pupils of limited English proficiency authorized in section 124.273;

(f) transportation aid authorized in section 124.225;

(g) community education programs aid authorized in section 124.271;

(h) adult education aid authorized in section 124.26;

(i) early childhood family education aid authorized in section 124.2711;

(j) capital expenditure aid authorized in sections 124.244 and 124.245;

(k) *education district aid according to section 124.2721;*

*(l) secondary vocational cooperative aid according to section 124.575;*

*(m)* homestead credit under section 273.13 for taxes payable in 1989 and under section 273.1398 for taxes payable in 1990 and thereafter;

~~(l)~~ *(n)* agricultural credit under section 273.132 for taxes payable in 1989 and under section 273.1398 for taxes payable in 1990 and thereafter; and

~~(m)~~ *(o)* transition aid and disparity reduction aid authorized in section 273.1398;

~~(n)~~ *(p)* attached machinery aid authorized in section 273.138, subdivision 3.

The commissioner of education shall schedule the timing of the adjustments to state aids and credits specified in subdivision 1, as close to the end of the fiscal year as possible.

Sec. 36. Minnesota Statutes 1988, section 124.2721, is amended to read:

124.2721 [EDUCATION DISTRICT REVENUE.]

Subdivision 1. [ELIGIBILITY.] An education district is eligible for education district revenue if the department certifies that it meets the requirements of section 122.91, subdivisions 3 and 4, *and section 30*. The pupil units of a *school* district that is a member of intermediate district No. 287, 916, or 917 may not be used to obtain revenue under this section. The pupil units of a *school* district may not be used to obtain revenue under this section and section 124.575.

Subd. 2. [REVENUE.] ~~Education district revenue is $60 per actual pupil unit in each district that is a member of an education district.~~ *Each year the education district board shall certify to the department of education the amount of revenue to be raised. Revenue for the education district shall be the lesser of:*

*(1) $60 times the actual pupil units in the education district, or*

*(2) the amount certified by the education district board.*

Subd. 3. [LEVY.] ~~To obtain education district revenue, an eligible education district may levy the lesser of its education district revenue or the amount raised by 1.3 mills times the adjusted gross tax capacity of each participating district for the preceding year. Each year, the education district board shall certify to the county auditor or county auditors the amount of taxes to be levied under this section.~~ *The education district levy is equal to the following:*

*(1) the education district revenue according to subdivision 2, times*

*(2) the lesser of*

*(a) one, or*

*(b) the ratio of the adjusted gross tax capacity for taxes payable in 1990 and adjusted net tax capacity for taxes payable in 1991 and thereafter of the education district divided by the number of actual pupil units in the education district to an amount equal to $60 divided by 1.5 percent for*

*taxes payable in 1990 and 1.87 percent for taxes payable in 1991 and thereafter.*

*The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.*

*Subd. 3a.* [REVENUE TRANSFER.] *Each year a member district shall transfer revenue to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount shall be transferred equal to:*

*(1) 50 percent times*

*(2) the amount certified in subdivision 3 minus transition aid allocated for that levy according to section 273.1398, subdivision 6.*

Subd. 4. [AID.] The aid for an education district equals its education district revenue minus its education district levy, times the ratio of the actual amount levied to the permitted levy.

Subd. 5. [USES OF REVENUE.] *Education district revenue is under the control of the education district board.* Education district revenue must be used by the education district board to provide educational programs according to the agreement adopted by the education district board, as required by section 122.94.

*The education district board may pay to member school districts a part of the education district revenue received by the education district under this section only for programs that are (1) available to all member districts, and (2) included in the five-year plan under section 30.*

*Subd. 6.* [CONSOLIDATION.] *If all member districts of an education district receiving revenue under this section or a group of member districts of an education district receiving revenue under this section that would qualify as an education district under section 122.91, subdivision 3, consolidate into a single independent school district by proceedings taken in accordance with section 122.23, that consolidated district may continue to receive education district revenue according to this section.*

Sec. 37. [124.2725] [COOPERATION AND COMBINATION REVENUE.]

*Subdivision 1.* [ELIGIBILITY.] *A school district is eligible for cooperation and combination revenue if it has a plan approved by the state board of education according to section 7.*

*Subd. 2.* [COOPERATION AND COMBINATION REVENUE.] *Cooperation and combination revenue equals, for each resident and nonresident pupil receiving instruction in a cooperating or combined district, $100 times the actual pupil units. A district may not receive revenue under this section if it levies under section 275.125, subdivision 8e.*

*Subd. 3.* [COOPERATION AND COMBINATION LEVY.] *To obtain cooperation and combination revenue, a district may levy an amount equal to the cooperation and combination revenue multiplied by the lesser of one or the following ratio:*

*(1) the quotient derived by dividing the adjusted gross tax capacity for the district in the year preceding the year the levy is certified by the actual pupil units in the district for the year to which the levy is attributable, to*

*(2) the percentage, specified in subdivision 4, of the equalizing factor*

*for the school year to which the levy is attributable.*

*Subd. 4.* [INCREASING LEVY.] *The percentage in subdivision 3, clause (2), shall be:*

*(1) 100 percent for the first year of cooperation;*

*(2) 75 percent for the second year of cooperation;*

*(3) 50 percent for the first year of combination; and*

*(4) 25 percent for the second year of combination.*

*Subd. 5.* [COOPERATION AND COMBINATION AID.] *For the first two years of cooperation and the first two years of combination, cooperation and combination aid is equal to the difference between the cooperation and combination revenue and cooperation and combination levy. Aid shall not be paid after two years of combining.*

*Subd. 6.* [ADDITIONAL AID.] *In addition to the aid in subdivision 5, districts shall receive aid under this subdivision. For the first year of cooperation, a district shall receive, for each resident and nonresident pupil receiving instruction in a cooperating district, $100 times the actual pupil units. For the first year of combination, the combined district shall receive, for each resident and nonresident pupil receiving instruction in the combined district, $100 times the actual pupil units.*

*Subd. 7.* [PROPORTIONAL AID.] *If a district does not levy the entire amount permitted under subdivision 3, the aid in subdivisions 5 and 6 must be reduced in proportion to the actual amount levied.*

*Subd. 8.* [PERMANENT REVENUE.] *For the third year of combination and thereafter, a combined district may levy an amount equal to the cooperation and combination revenue, defined in subdivision 2.*

*Subd. 9.* [SUBSEQUENT DISTRICTS.] *If a district subsequently cooperates or combines with districts that have previously received revenue under this section, the new district shall receive revenue, according to subdivision 4 or 6, as though it had been a party to the initial agreement. The previously cooperating or combined districts may not receive revenue, according to subdivision 6 or 10, as though parties to a new agreement.*

*Subd. 10.* [REVENUE LIMIT.] *Revenue under this section shall not exceed the revenue received by cooperating districts or a combined district with 2,000 actual pupil units.*

*Subd. 11.* [USE OF REVENUE.] *Revenue under this section shall be used for expenses of cooperating and combining school districts, including, but not limited to:*

*(1) secondary course offerings in communications, mathematics, science, social studies, foreign languages, physical education, health, and career education if the courses have specific learner outcomes;*

*(2) participation by teachers in determining the learner outcomes;*

*(3) staff in-service related to cooperation and combination;*

*(4) any of the purposes set forth in section 124.243, subdivision 6, clauses (3), (4), and (15), and section 124.244, subdivision 4, clauses (2), (3), (4), (5), and (6), if the purposes are related to courses offered cooperatively; and*

*(5) incentives for superintendents, principals, teachers, and other licensed and nonlicensed employees, such as early retirement, severance pay, and health insurance benefits.*

*Subd. 12.* [JOINT PURPOSES.] *Cooperating district revenue may only be used for purposes of joint efforts between cooperating districts. The revenue shall be in a separate account. School boards shall mutually determine cooperative expenditures.*

*Subd. 13.* [REVENUE FOR EXTENDED COOPERATION.] *If the state board disapproves of the plan according to section 7, subdivision 1, or if a second referendum fails under section 7, subdivision 2, cooperation and combination revenue shall equal $60 times the actual pupil units. Cooperation and combination aid must be reduced by an amount equal to the aid paid under subdivision 6 plus the difference between the aid paid under subdivision 5 for the first two years of the agreement and the aid that would have been paid if the revenue had been $60 times the actual pupil units. If the aid is insufficient to recover the entire amount, the department of education shall reduce other aids due the district to recover the entire amount. The cooperation and combination levy shall be reduced by an amount equal to the difference between the levy for the first two years of the agreement and the levy that would have been authorized if the revenue had been $60 times the actual pupil units. A district that receives revenue under this subdivision may not also receive revenue according to sections 124.2721 and 124.575.*

*Subd. 14.* [CESSATION OF REVENUE.] *At any time the districts cease cooperating, aid shall not be paid and the authority to levy ceases.*

*Subd. 15.* [RETIREMENT AND SEVERANCE LEVY.] *A cooperating or combined district may levy for severance pay or early retirement incentives for licensed and nonlicensed employees who retire early as a result of the cooperation or combination.*

Sec. 38. Minnesota Statutes 1988, section 124.494, subdivision 2, is amended to read:

Subd. 2. [REVIEW BY COMMISSIONER.] (a) Any group of districts that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to acquire, construct, remodel or improve the secondary facility. The commissioner must not approve an application for an incentive grant for any secondary facility unless the facility receives a favorable review and comment under section 121.15 and the following criteria are met:

(1) a minimum of three or more districts, with kindergarten to grade 12 enrollments in each district of no more than 1,000 pupils, enter into a joint powers agreement;

(2) a joint powers board representing all participating districts is established under section 471.59 to govern the cooperative secondary facility;

(3) the planned secondary facility will result in the joint powers district meeting the requirements of Minnesota Rules, parts 3500.2010 and 3500.2110;

(4) at least 240 pupils would be served in grades 10 to 12, 320 pupils would be served in grades 9 to 12, or 480 pupils would be served in grades

7 to 12;

(5) no more than one superintendent is employed by the joint powers board as a result of the cooperative secondary facility agreement;

(6) a statement of need is submitted, that may include reasons why the current secondary facilities are inadequate, unsafe or inaccessible to the handicapped;

(7) an educational plan is prepared, that includes input from both community and professional staff;

(8) a combined seniority list for all participating districts is developed by the joint powers board;

(9) an education program is developed that provides for more learning opportunities and course offerings for students than is currently available in any single member district; and

(10) a plan is developed for providing instruction of any resident students in other districts when distance to the secondary education facility makes attendance at the facility unreasonably difficult or impractical.

(b) To the extent possible, the joint powers board is encouraged to provide for severance pay or for early retirement incentives under section 125.611, for any teacher or administrator, as defined under section 125.12, subdivision 1, who is placed on unrequested leave as a result of the cooperative secondary facility agreement.

*(c) For the purpose of paragraph (a), clause (8), each school district must be considered to have started school each year on the same date.*

Sec. 39. [124.4946] [TRANSPORTATION.]

*The joint powers board representing the districts that have entered into a joint powers agreement under section 124.494, subdivision 2, or the boards of the districts that are contiguous to the districts that have entered into a joint powers agreement, may transport nonresident pupils without charge between a school within the district and a point within a district that has entered into a joint powers agreement chosen by the pupil on a route traveled by a bus from the district.*

Sec. 40. Minnesota Statutes 1988, section 124.575, subdivision 2, is amended to read:

Subd. 2. [REVENUE.] ~~Secondary vocational cooperative revenue is $20 per actual pupil unit in the participating school districts of a secondary vocational cooperative.~~ *Each year the secondary vocational cooperative board shall certify to the department of education the amount of revenue to be raised. Revenue for the secondary vocational cooperative shall be the lesser of:*

*(1) $20 times the actual pupil units in the secondary vocational cooperative, or*

*(2) the amount certified by the secondary vocational cooperative board.*

Sec. 41. Minnesota Statutes 1988, section 124.575, subdivision 3, is amended to read:

Subd. 3. [LEVY.] ~~To obtain secondary vocational cooperative revenue, an eligible secondary vocational cooperative may levy the lesser of its secondary vocational cooperative revenue or the amount raised by .4 mills~~

~~times the adjusted gross tax capacity of each member district for the preceding year. Each year, the secondary vocational cooperative board must certify the amount of taxes to be levied under this section to the county auditor or county auditors.~~ *The secondary vocational cooperative levy is equal to the following:*

*(1) the secondary vocational cooperative revenue according to subdivision 2, times*

*(2) the lesser of*

*(a) one, or*

*(b) the ratio of the adjusted gross tax capacity for taxes payable in 1990 and adjusted net tax capacity for taxes payable in 1991 and thereafter of the secondary vocational cooperative divided by the number of actual pupil units in the secondary vocational cooperative to an amount equal to $20 divided by .6 percent for taxes payable in 1990 and .74 percent for taxes payable in 1991 and thereafter.*

*The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.*

Sec. 42. Minnesota Statutes 1988, section 124.575, is amended by adding a subdivision to read:

*Subd. 3a.* [REVENUE TRANSFER.] *Each year a member district shall transfer revenue to the secondary vocational cooperative according to this subdivision. By June 20 and November 30 of each year, an amount shall be transferred equal to:*

*(1) 50 percent times*

*(2) the amount certified in subdivision 3 minus transition aid allocated for that levy according to section 273.1398, subdivision 6.*

Sec. 43. [129B.12] [GRANTS FOR COOPERATION AND COMBINATION.]

*Subdivision 1.* [ELIGIBILITY.] *Two or more districts that have adopted a plan according to section 6 may apply for a grant under this section. The grant shall be awarded after the districts combine according to sections 5 to 12.*

*Subd. 2.* [PROCEDURES.] *The state board shall establish procedures and deadlines for the grants. The state board shall review each application for a grant and may require modifications consistent with sections 5 to 12.*

*Subd. 3.* [GRANT AMOUNT.] *The state board shall determine the amount of a grant according to the needs of the districts to effectuate combination. A grant may not exceed $250,000.*

*Subd. 4.* [USE OF GRANT MONEY.] *The grant money may be used for any purpose related to combining school districts, including, but not limited to:*

*(1) secondary course offerings in communications, mathematics, science, social studies, foreign languages, physical education, health, and career education if the courses have specific learner outcomes;*

*(2) staff development related to cooperation; and*

*(3) any of the purposes set forth in section 124.243, subdivision 6, clauses (3), (4), and (15), and section 124.244, subdivision 4, clauses (2), (3), (4), (5), and (6), in all cases only if related to courses offered cooperatively.*

Sec. 44. Minnesota Statutes 1988, section 136D.27, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the joint school board may certify to each participating school district tax levies that shall not in any year exceed ~~.6 mills on each dollar of adjusted gross tax capacity for special education and .7 mills on each dollar of adjusted gross tax capacity for expenses for secondary vocational education.~~ *the greater of:*

*(a) the amount of levy certified for taxes payable in 1989; or*

*(b) the lesser of (1) $60 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) 1.1 percent of adjusted gross tax capacity.* Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors, and shall remit the collections of such levies to the board promptly when received. These levies shall not be included in computing the limitations upon the levy of any participating district. The board may, any time after these levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of such levies, but in aggregate amounts such as will not exceed the portion of the levies which is then not collected and not delinquent.

*Five-elevenths of the proceeds of the levy must be used for special education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.*

Sec. 45. Minnesota Statutes 1988, section 136D.74, subdivision 2, is amended to read:

Subd. 2. [TAX LEVY.] Each year the intermediate school board may certify to each county auditor of each county in which said intermediate school district shall lie, as a single taxing district, tax levies that shall not in any year exceed ~~.6 mills on each dollar of adjusted gross tax capacity for expenses for special education and .7 mills on each dollar of adjusted gross tax capacity for expenses for secondary vocational education.~~ *the greater of:*

*(a) the amount of levy certified for taxes payable in 1989; or*

*(b) the lesser of (1) $60 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) 1.1 percent of adjusted gross tax capacity.* Said annual tax levies shall be certified pursuant to section 275.07. Upon such certification the county auditor or auditors and other appropriate county officials shall levy and collect such levies and remit the proceeds of collection thereof to the intermediate school district as in the case with independent school districts. Such levies shall not be included in computing the limitations upon the levy of any of the participating districts.

*Five-elevenths of the proceeds of the levy must be used for special education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.*

Sec. 46. Minnesota Statutes 1988, section 136D.87, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the joint school board may certify to each participating school district tax levies that shall not in any year exceed ~~.6 mills on each dollar of adjusted gross tax capacity for expenses for special education and .7 mills on each dollar of adjusted gross tax capacity for expenses for secondary vocational education.~~ *the greater of:*

*(a) the amount of levy certified for taxes payable in 1989; or*

*(b) the lesser of (1) $60 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) 1.1 percent of adjusted gross tax capacity.* Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors and shall remit the collections of these levies to the board promptly when received. These levies shall not be included in computing the limitations upon the levy of any participating district. The board may, any time after these levies have been certified to the participating school districts, issue and sell certificates of indebtedness in anticipation of the collection of levies, but in aggregate amounts that will not exceed the portion of the levies which is then not collected and not delinquent.

*Five-elevenths of the proceeds of the levy must be used for special education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.*

Sec. 47. Minnesota Statutes 1988, section 273.1398, subdivision 6, is amended to read:

Subd. 6. [PAYMENT.] The commissioner shall certify the aids provided in subdivisions 2 and 3 before September 30 of the year preceding the distribution year to the county auditor of the affected local government and pay them and the credit reimbursements to local governments other than school districts at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions. Aids and credit reimbursements to school districts must be certified to the commissioner of education and paid under section 273.1392. *Except for education districts and secondary cooperatives that receive revenue according to section 124.2721 or 124.575,* payment shall not be made to any taxing jurisdiction that has ceased to levy a property tax nor shall transition aid be payable on the part of a levy to which transition aid was separately allocated under subdivision 2, paragraph (b), clause (2), which is no longer levied.

Sec. 48. Minnesota Statutes 1988, section 275.125, subdivision 8e, is amended to read:

Subd. 8e. [INTERDISTRICT COOPERATION LEVY.] *(a)* This subdivision does not apply to special school district No. 1, independent school district No. 11, 625, or 709, or to a district that is a member of intermediate school district No. 287, 916, or 917.

*(b)* A district may levy each year under this subdivision if it:

(1) is a member of an education district, under sections 122.91 to 122.96, and the education district of which the district is a member does not receive revenue under section 124.2721; or

(2) has a *written* cooperation agreement with other districts to expand curricular offerings in mathematics in grades 10 to 12, science in grades 10 to 12, foreign languages for two years, computer usage, or other programs recommended by the state board.

*(c)* The levy must not exceed ~~the amount raised by one mill times the adjusted gross tax capacity of the district for the preceding year~~ *$50 times the actual pupil units, the cost of the agreement to expand curricular offerings, or $50,000, whichever is the smallest.*

*(d)* A district that is a member of a secondary vocational cooperative that levies under section 124.575, may levy the difference between *(1)* the *smallest* amount ~~raised by one mill times the adjusted gross tax capacity of the district for the preceding year and~~ *under paragraph (c), and (2)* the amount levied under section 124.575.

*(e)* The proceeds of the levy may be used only to pay for instructional and administrative costs incurred in providing the curricular offerings under this section. A district may not spend more than five percent of the amount of the levy for administration.

Sec. 49. Minnesota Statutes 1988, section 275.125, is amended by adding a subdivision to read:

*Subd. 11e.* [EXTRA CAPITAL EXPENDITURE LEVY FOR COOPERATING DISTRICTS.] *A district that has an agreement according to section 122.535 or 122.541 may levy for the repair costs, as approved by the department of education, of a building located in another district that is a party to the agreement.*

Sec. 50. [1988-1989 INTERDISTRICT COOPERATION AGREEMENTS.]

*Notwithstanding section 18, independent school district Nos. 424, Lester Prairie; 427, Winsted; and 880, Howard Lake, may renew or continue an agreement according to Minnesota Statutes 1988, section 122.541, providing for instruction of pupils in 10th, 11th, and 12th grades in two districts.*

Sec. 51. [BOARD OF CONSOLIDATED DISTRICT.]

*Subdivision 1.* [SCHOOL BOARD COMPOSITION.] *Notwithstanding any other law to the contrary, independent school districts Nos. 232, Peterson, and 234, Rushford, may elect a seven-member school board in the first election after consolidation in the following manner:*

*(1) two members elected from the Peterson school district, one member for a one-year term and one member for a two-year term;*

*(2) two members elected from the Rushford school district, one member for a one-year term and one member for a two-year term; and*

*(3) three members elected at large, each for a three-year term.*

*Subsequent elections must comply with the general provisions of law governing the election of school board members.*

*Subd. 2.* [LOCAL APPROVAL.] *Subdivision 1 is effective upon approval of the board of independent school district No. 232 and the board of independent school district No. 234 the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the board of independent school district No. 232 and the board of independent school district No. 234.*

Sec. 52. [TECHNOLOGY REPORT.]

*Subdivision 1. Between July 1, 1989 and February 15, 1990, each school district, education district, intermediate district, ECSU, and school district that is party to a cooperative agreement must submit a report to the information policy office in the department of administration for review and comment before purchasing, contracting for, or otherwise committing to new two-way interactive television equipment, or to a system or service agreement other than a maintenance agreement, that expands the capacity of two-way interactive television.*

*Subd. 2. Between July 1, 1989 and February 15, 1990, a school district must file a report as specified in subdivision 1 of this section before receiving grant funds received under section 53, subdivisions 5, 6, and 7.*

Sec. 53. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [EDUCATION DISTRICT AID.] *For education district aid:*

*$4,653,000 . . . . . 1990*

*$3,967,000 . . . . . 1991*

*The 1990 appropriation includes $0 for 1989 and $4,652,000 for 1990.*

*The 1991 appropriation includes $822,000 for 1990 and $3,145,000 for 1991.*

*Subd. 3.* [COOPERATION AND COMBINATION AID.] *For aid for districts that cooperate and combine there is appropriated:*

*$75,000 . . . . . 1991.*

*Subd. 4.* [SECONDARY VOCATIONAL COOPERATIVE AID.] *For secondary vocational cooperative aid:*

*$495,000 . . . . . 1990*

*$224,000 . . . . . 1991*

*The 1990 appropriation includes $0 for 1989 and $495,000 for 1990.*

*The 1991 appropriation includes $88,000 for 1990 and $136,000 for 1991.*

*Subd. 5.* [TELECOMMUNICATIONS GRANT.] *For a grant to the Wasioja cooperative, involving independent school district Nos. 201, Claremont; 202, Dodge Center; 205, West Concord; 253, Goodhue; 254, Kenyon; 255, Pine Island; 258, Wanamingo; and 260, Zumbrota, to support the cooperative educational technology program:*

*$150,000 . . . . . 1990.*

*Subd. 6.* [TELECOMMUNICATIONS GRANT.] *For a grant to independent school districts Nos. 356, 353, 444, 441, 524, 564, 592, 440, 678, 676, 682, 690, 390, 593, 595, 630, and 600 to support a cooperative educational technology program:*

*$340,000 . . . . . 1990.*

*Subd. 7.* [COMMUNICATIONS LINK GRANT.] *For a grant to independent school district No. 240, Blue Earth, to pay for the cost of a communications link between the Blue Earth school district and Mankato:*

*$4,500 . . . . . 1990.*

*The appropriation does not cancel but is available until June 30, 1991.*

Sec. 54. [TIME OF EFFECT.]

*The changes in the composition of an education district board required by section 122.92 must be made as soon as possible after the effective date of section 122.92 as vacancies occur or terms of members expire.*

Sec. 55. [REPEALERS.]

*Minnesota Statutes 1988, sections 122.96 and 129B.11, are repealed.*

Sec. 56. [EFFECTIVE DATE.]

*Section 37 is effective for revenue for fiscal year 1991 and thereafter.*

ARTICLE 7

ACCESS TO EXCELLENCE

Section 1. Minnesota Statutes 1988, section 120.06, is amended by adding a subdivision to read:

*Subd. 2a.* [EDUCATION OF HOMELESS.] *Notwithstanding subdivision 1, a school district must not deny free admission to a homeless person of school age solely because the school district cannot determine that the person is a resident of the school district.*

Sec. 2. Minnesota Statutes 1988, section 121.11, subdivision 7, is amended to read:

Subd. 7. [GENERAL SUPERVISION OVER EDUCATIONAL AGENCIES.] The state board of education shall *adopt goals for and* exercise general supervision over public schools and public educational agencies in the state, classify and standardize public elementary and secondary schools, and prepare for them outlines and ~~suggestive~~ *suggested* courses of study. *The board shall develop a plan to attain the adopted goals. At the board's request, the commissioner may assign department of education staff to assist the board in attaining its goals. The commissioner shall explain to the board in writing any reason for refusing or delaying a request for staff assistance.* The board shall establish rules relating to examinations, reports, acceptances of schools, courses of study, and other proceedings in connection with elementary and secondary schools applying for special state aid. The state board may recognize educational accrediting agencies for the sole purposes of sections 120.101, 120.102, and 120.103.

Sec. 3. [121.111] [OFFICE OF EDUCATIONAL LEADERSHIP.]

*Subdivision 1.* [ESTABLISHMENT.] *The office of educational leadership is established within the department of education. The purpose of the office is to assist school districts, education districts, and other education organizations in developing education policies that maximize the learning of all pupils.*

*Subd. 2.* [OFFICE STRUCTURE.] *The assistant commissioner of instructional effectiveness, in consultation with the assistant commissioner of development and partnership effectiveness, shall administer the office*

*of educational leadership. A director in the unclassified service appointed by the assistant commissioner of instructional effectiveness shall manage the office.*

*Subd. 3.* [RESEARCH PROJECT ON LEARNER OUTCOMES.] *The office shall develop a plan for a two-year research project to determine the effectiveness of a learner outcome-based system of education in improving pupils' learning. The plan shall include:*

*(1) specific educational goals to be attained;*

*(2) various options for achieving the goals;*

*(3) the development of a hierarchy of learner outcomes composed of state learner goals, integrated learner outcomes and program learner outcomes, and course, unit, and lesson learner outcomes;*

*(4) mechanisms for communicating the progress and the results of the research;*

*(5) an objective process for evaluating the progress and results of the research that is performed by an independent evaluator;*

*(6) alternatives for evaluating pupils' progress at the classroom level; and*

*(7) methods of assessing pupils' thinking and problem-solving skills.*

*Subd. 4.* [RESEARCH ADVISORY COMMITTEE.] *The state board of education shall appoint an advisory committee of seven members to assist the office in developing its two year plan. Committee members shall solicit and obtain information and ideas from school districts, education districts, and other education organizations. Committee members, or their designees, shall include the chairs of the task force on education organization, the state curriculum advisory committee, the state board of education, the Minnesota association of colleges of teacher education, the education effectiveness council, the council on vocational technical education, and the minority education partnership.*

Sec. 4. [124.276] [CAREER TEACHER AID.]

*Subdivision 1.* [ELIGIBILITY.] *A school district that has a career teacher program, according to sections 129B.41 to 129B.46, for one or more of its teachers is eligible for aid to extend the teaching contract of a career teacher.*

*Subd. 2.* [STATE SHARE OF EXTENDED CONTRACT.] *The state shall pay two-thirds of the portion of the teaching contract, excluding fringe benefits, that is in addition to the standard teaching contract of the district. The district shall pay the remaining portion.*

*Subd. 3.* [STATE BOARD APPROVAL.] *The state board may approve plans and applications for districts throughout the state for career teacher aid. Application procedures and deadlines shall be established by the state board.*

*Subd. 4.* [USE OF AID.] *Career teacher aid may be used only to implement a career teacher program.*

Sec. 5. Minnesota Statutes 1988, section 124A.036, is amended by adding a subdivision to read:

*Subd. 1a.* [REPORTING; REVENUE FOR HOMELESS.] *For all school*

*purposes, unless otherwise specifically provided by law, a homeless pupil must be considered a resident of the school district that enrolls the pupil.*

Sec. 6. Minnesota Statutes 1988, section 124A.29, is amended to read:

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

*Subdivision 1.* [GENERAL STAFF DEVELOPMENT PROGRAMS.] Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to $10 times the number of actual pupil units shall be reserved and may be used only to provide staff development programs, according to section 126.70, subdivisions 1 and 2a. The school board shall determine which programs to provide, the manner in which they will be provided, and the extent to which other money may be used for the programs.

*Subd. 2.* [CAREER TEACHER STAFF DEVELOPMENT.] *Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to $5 times the number of actual pupil units shall be reserved by a district operating a career teacher program according to sections 129B.42 to 129B.46. The revenue may be used only to provide staff development for the career teacher program.*

Sec. 7. [124A.291] [RESERVED REVENUE FOR CAREER TEACHER PROGRAM.]

*A district that has a career teacher program may reserve part of the basic revenue under section 124A.22, subdivision 2, for the district's share, according to section 4, of the portion of the teaching contract that is in addition to the standard teaching contract of the district.*

Sec. 8. Minnesota Statutes 1988, section 126.22, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PROGRAMS.] (a) A pupil who is eligible according to subdivision 2, clause (a), (b), (c), or (d), may enroll in any program approved by the state board of education under Minnesota Rules, part 3500.3500, including area learning centers under sections 129B.52 to 129B.55, or according to section 121.11, subdivision 12.

(b) A pupil who is eligible according to subdivision 2, clause (b), (c), or (d), may enroll in secondary school courses upon a resolution passed by a school board approving enrollment, or may enroll in post-secondary courses under section 123.3514.

(c) A pupil who is eligible under subdivision 2, clause (a), (b), (c), or (d), may enroll in any public secondary education program.

*(d) A pupil who is eligible under subdivision 2, clause (a), (b), or (c), may enroll in any nonprofit, nonpublic, nonsectarian school that has contracted with the school district of residence to provide educational services.*

*(e)* An eligible institution providing eligible programs as defined in this subdivision may contract with an entity providing adult basic education programs under the community education program contained in section 121.88 for actual program costs.

Sec. 9. Minnesota Statutes 1988, section 126.22, is amended by adding a subdivision to read:

*Subd. 8.* [ENROLLMENT VERIFICATION.] *For eligible programs under subdivision 3, paragraph (d), the department of education shall pay 85 percent of the basic revenue of the district to the eligible program and 15*

*percent of the basic revenue to the resident district within 30 days after enrollment verification. The department of education shall provide a form for the eligible program to use for enrollment verification.*

Sec. 10. Minnesota Statutes 1988, section 126.23, is amended to read:

126.23 [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for high school dropouts or other eligible students under section 126.22, subdivision 2, the resident district must reimburse the provider an amount equal to at least ~~50~~ *85* percent of the basic revenue of the district for each pupil. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2.

Sec. 11. Minnesota Statutes 1988, section 126.661, is amended by adding a subdivision to read:

*Subd. 3a.* [STATE LEARNER GOALS.] *"State learner goals" means the knowledge, skills, processes, values, and attitudes pupils can expect to attain.*

Sec. 12. Minnesota Statutes 1988, section 126.663, subdivision 2, is amended to read:

Subd. 2. [~~MODEL~~ STATE ~~CORE CURRICULUM~~ *LEARNER OUTCOMES.*] The state board *of education, with the assistance of the state curriculum advisory committee and the office on educational leadership* shall *identify and* adopt ~~a set of~~ learner ~~outcomes that it considers to be~~ *goals,* essential ~~for each subject area~~ *learner outcomes, and integrated learner outcomes for curriculum areas, under section 120.101, subdivision 6, and for career vocational curricula. Learner outcomes shall include thinking and problem solving skills.* The ~~department of education, in cooperation with the state curriculum advisory committee, shall develop a validated research based process to identify a set of learner outcomes that are essential for each subject area.~~

Sec. 13. Minnesota Statutes 1988, section 126.663, subdivision 3, is amended to read:

Subd. 3. [MODEL LEARNER OUTCOMES.] The department shall develop and maintain ~~sets of~~ *model* learner outcomes in state board identified subject areas ~~that it considers to be model learner outcomes~~, *including career vocational learner outcomes.* The department shall make ~~the sets~~ *learner outcomes* available ~~for use by a district at the option of the districts~~ *upon request by a district.* ~~The sets~~ *Learner outcomes* shall be for pupils in kindergarten to grade 12. The department shall consult with each of the public post-secondary systems and with the higher education coordinating board in developing model learner outcomes appropriate for entry into post-secondary institutions. *Learner outcomes shall include thinking and problem solving skills.*

Sec. 14. Minnesota Statutes 1988, section 126.67, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENT ITEM BANK.] The department shall maintain an assessment item bank to provide assessment ~~programs~~ *items* that are

~~tailored~~ *designed* to *measure pupils' attainment of state essential learner outcomes and* specific ~~educational objectives~~ *learner outcomes* of an individual school or district. ~~The department shall develop an item bank for at least two curriculum areas each year. The department shall develop and maintain an item bank for at least ten different curriculum areas.~~

Sec. 15. Minnesota Statutes 1988, section 129B.41, is amended to read:

129B.41 [CITATION.]

Sections ~~129B.41~~ *129B.42* to ~~129B.47~~ *129B.46* may be cited as the "Minnesota ~~improved learning and principal-teacher, counselor-teacher, and~~ career teacher act."

Sec. 16. Minnesota Statutes 1988, section 129B.42, is amended to read:

129B.42 [PURPOSE *OF THE CAREER TEACHER ACT.*]

The legislature recognizes the unique and lifelong learning *and development* process of all human beings. The legislature is committed to the goal of maximizing the individual growth potential of all ~~students through the secondary schools~~ *learners*. The purposes of ~~sections 129B.41 to 129B.47~~ *the career teacher act* are:

~~(a)~~ *(1)* to offer ~~improved learning~~ *career teacher* programs which emphasize ~~basic and applied learning skills and the liberal arts~~ *learning and development based on learner outcomes*;

~~(b)~~ *(2)* to recognize and utilize the unique skills that teachers, students, family, and the community have in both the teaching process and the learning *and development* process; and

~~(c)~~ *(3)* to provide an opportunity for maximum use of ~~principals and~~ teachers, *principals, and counselors*.

Sec. 17. Minnesota Statutes 1988, section 129B.44, is amended to read:

129B.44 [ADVISORY COUNCIL.]

The school board of a district providing ~~an improved learning~~ *a career teacher* program shall appoint an advisory council. Council members shall be selected from the school attendance area in which programs are provided. Members of the council may include students, teachers, principals, administrators and community members. A majority of the members shall be parents with children participating in the local program. The local advisory council shall advise the school board in the development, coordination, supervision, and review of the ~~improved learning~~ *career teacher* program. The council shall meet at least two times each year with any established community education advisory council in the district. Members of the council may be members of the community education advisory council. The council shall report to the school board.

Sec. 18. Minnesota Statutes 1988, section 129B.45, is amended to read:

129B.45 [*CAREER TEACHER* PROGRAM COMPONENTS.]

Subdivision 1. [MANDATORY COMPONENTS.] ~~An improved learning~~ *A career teacher* program shall include:

~~(a)~~ *(1)* participation by a designated individual as a *career teacher,* principal-teacher, ~~career~~ *or counselor* teacher~~, or counselor-teacher, as defined in sections 129B.46 and 129B.47~~;

~~(b) a plan~~ *(2) an emphasis on each individual child's unique learning and development needs;*

*(3) procedures to give the career teacher a major responsibility for leadership of the instructional and noninstructional activities of each child beginning with early childhood family education;*

*(4) procedures* to involve parents in ~~planning~~ the ~~educational~~ *learning and development* experiences of their children;

~~(c) an annual plan for the district to evaluate program goals and objectives;~~

~~(d) a plan~~ *(5) procedures to implement outcome based education by focusing on the needs of the learner;*

*(6) procedures to coordinate and integrate the instructional program with all community education programs;*

*(7) procedures to concentrate career teacher programs at sites that provide early childhood family education and subsequent learning and development programs; and*

*(8) procedures* for the district to fund the program ~~after the third year of the program~~.

Subd. 2. [OPTIONAL COMPONENTS.] ~~An improved learning~~ *A career teacher* program may include:

~~(a)~~ *(1)* efforts to improve curricula strategies, instructional strategies, and use of materials ~~which~~ *that* respond to the individual educational needs and learning styles of each pupil in order to enable each pupil to make continuous progress and to learn at a rate appropriate to that pupil's abilities;

~~(b)~~ *(2)* efforts to develop student abilities in basic skills; applied learning skills; and, when appropriate, arts; humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education;

~~(c)~~ *(3)* use of community resources and communications media to pursue ~~improved~~ learning *and development* opportunities for pupils;

~~(d)~~ *(4)* staff development for teachers and other school personnel;

~~(e)~~ *(5)* improvements to the learning *and development* environment, including use of the community in general, to enhance the learning *and development* process;

~~(f)~~ *(6)* cooperative efforts with other agencies involved with human services or child development and development of alternative community based learning *and development* experiences;

~~(g) apprenticeship~~ *(7)* post-secondary education components for pupils who are able to accelerate or programs for pupils with special abilities and interests who are given advanced learning *and development* opportunities within existing programs;

~~(h)~~ *(8)* use of volunteers in the learning *and development* program;

~~(i)~~ *(9)* flexible attendance schedules for pupils;

~~(j)~~ *(10)* adult education component;

~~(k)~~ *(11)* coordination with early childhood ~~and~~ family education *and community education* programs;

~~(l)~~ *(12)* variable student/faculty ratios for special education students to provide for special programming;

~~(m)~~ *(13)* inclusion of nonpublic pupils as part of the ratio in the *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher component;

~~(n)~~ *(14)* application of educational research findings;

~~(o)~~ *(15)* summer learning *and development* experiences for students as recommended by the *career teacher,* principal-teacher , and ~~career~~ *counselor* teacher;

~~(p)~~ *(16)* use of ~~educational~~ *education* assistants, teacher aides, or paraprofessionals as part of the ~~improved learning~~ *career teacher* program;

~~(q)~~ *(17)* establishment of alternative criteria for high school graduation; and

~~(r)~~ *(18)* variable age and ~~class~~ *learning* size groupings of students.

Sec. 19. Minnesota Statutes 1988, section 129B.46, is amended to read:

129B.46 [~~PRINCIPAL-TEACHER AND~~ CAREER TEACHER ~~COMPONENT~~.]

Subdivision 1. [STATUS.] ~~An improved learning~~ *A career teacher* program may include a *career teacher,* principal-teacher ~~and career teacher~~, *and counselor teacher* component. The *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher shall not be the exclusive teacher for students assigned to them but shall serve *as a primary teacher and perform* the function of developing and implementing a student's overall learning *and development* program. The *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher may be responsible for regular ~~classroom~~ assignments as well as learning *and development* programs for other assigned students.

Subd. 2. [QUALIFICATIONS.] (a) ~~An individual employed as a principal-teacher must be licensed as a principal by the state board of education and shall be considered a principal as defined in section 179A.03, subdivision 12, for purposes of the public employment labor relations act.~~

~~(b)~~ An individual employed as a career teacher must be licensed as a teacher ~~by the state board of teaching~~ and shall be considered a teacher as defined in section 179A.03, subdivision 18, for purposes of ~~the public employment labor relations act~~ *chapter 179A.*

*(b) An individual employed as a principal teacher must be licensed as a teacher and shall be considered a principal, as defined in section 179A.03, subdivision 12, for purposes of chapter 179A.*

*(c) An individual employed as a counselor teacher must be licensed as a counselor and shall be considered a teacher, as defined in section 179A.03, subdivision 18, for purposes of chapter 179A.*

Subd. 3. [STAFF/STUDENT RATIO.] (a) Except as provided in clause (b), one *career teacher,* principal-teacher, or ~~career~~ *counselor* teacher shall be assigned for every 125 students. For each special education student included in the assignment, the 1:125 ratio shall be reduced by one.

(b) One principal-teacher shall be assigned for every 50 students when the principal-teacher is also the principal of the school.

Subd. 4. [SELECTION; RENEWAL.] (a) The school board shall establish procedures for teachers ~~and~~, principals, *and counselors* to apply for the

position of *career teacher,* principal-teacher ~~and career~~, *or counselor* teacher. The authority for selection of *career teachers,* principal-teachers, and ~~career~~ *counselor* teachers shall be vested in the board and no individual shall have a right to employment as a *career teacher,* principal-teacher, or ~~career~~ *counselor* teacher based on seniority or order of employment in the district.

(b) Employment of the *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher ~~shall~~ *may* be on a 12-month basis with vacation time negotiated individually with the board. The annual contract of a *career teacher,* principal-teacher, or ~~career~~ *counselor* teacher may not be renewed, as the board shall see fit; provided, however, the board shall give any such teacher whose contract as a *career teacher,* principal-teacher, or ~~career~~ *counselor* teacher it declines to renew for the following year written notice to that effect before April 15. If the board fails to renew the contract of a *career teacher,* principal-teacher, or ~~career~~ *counselor* teacher, that individual shall be reinstated to another position in the district if eligible pursuant to section 125.12 or 125.17.

Subd. 5. [DUTIES.] The *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher shall be responsible for:

~~(a)~~ *(1)* the overall education ~~and~~, learning, *and development* plan of assigned students. This plan shall be designed by the *career teacher,* principal-teacher, and ~~career~~ *counselor* teacher with the student, parents, and other faculty, and shall seek to maximize the learning *and development* potential and maturation level of each pupil;

~~(b)~~ *(2)* measuring the proficiency of the assigned students and assisting other staff in identifying pupil needs and making appropriate educational and subject groupings;

~~(c)~~ *(3)* when part of the district's plan, taking responsibility for the parent and early childhood education of assigned students;

~~(d)~~ *(4)* designing and being responsible for program components which meet special learning needs of high potential and talented students; ~~and~~

~~(e)~~ *(5)* coordinating the ongoing, year-to-year learning *and development* program for assigned students; *and*

*(6) developing learning and development portfolios.*

Sec. 20. [MINORITY TEACHER INCENTIVES.]

*During the biennium, a school district that has a minority enrollment of more than ten percent or that has a desegregation plan approved by the state board shall be reimbursed if it employs a minority teacher who has not taught in a Minnesota school district during the school year before the year the teacher is employed according to this section. The reimbursement shall equal one-half of the salary and fringe benefits, but not more than $20,000. The district shall receive reimbursement for each year during the biennium that a minority teacher is employed.*

*The department of education shall contract with an outside agency, school district, or group of districts to assist in recruiting minority teachers from outside the state.*

*The department of education shall establish application or other procedures for districts to obtain the entire reimbursement amount. The department shall not prorate the reimbursement amount.*

*For the purposes of this section, a minority person is an African American, American Indian, Asian Pacific American, or an American of Mexican, Puerto Rican, or Spanish origin or ancestry.*

Sec. 21. [RESEARCH AND DEVELOPMENT SITES.]

*Subdivision 1.* [SITE CHARACTERISTICS.] *The state board of education shall select up to ten sites, including public schools or classrooms, school districts, and education districts, to serve as research and development sites to examine and implement learner outcome-based education policies.*

*The office of educational leadership shall coordinate the learner outcome-based education efforts of each research and development site and shall provide technical assistance upon request.*

*The educational activities and policies of each site must conform with the research plan of the office developed under section 121.111, subdivision 3. The sites must be located in different geographical areas of the state, and include school populations of various sizes and schools at various stages of implementing a learner outcome-based system of education. The sites must establish and maintain an affiliation with a teacher preparation institution that incorporates a learner outcome-based system of education in training beginning teachers. The sites may have been pilot or demonstration sites for other education improvement programs. Sites may be chosen to demonstrate how vocational outcomes can be integrated into a comprehensive education curriculum.*

*Subd. 2.* [SELECTION CRITERIA.] *The office of educational leadership, in consultation with the research advisory committee, shall develop criteria the state board shall use to award two year grants. The office shall determine the form and manner by which to apply for grants. The office may consider the following in developing selection criteria, including:*

*(1) building upon the PER process for curriculum development under sections 126.661 to 126.67;*

*(2) identifying or developing district resources and management policies under section 126.666, subdivision 1;*

*(3) developing policies for involving teachers in identifying and integrating learner outcomes and establishing levels of attainment of learner outcomes by classroom, by school and by district;*

*(4) incorporating alternative technology-based learning models and administrative practices that promote individualized learning;*

*(5) incorporating staffing alternatives, including a career teacher program and teacher mentors;*

*(6) developing and using multiple assessment indicators;*

*(7) identifying and incorporating into district or site-based education programs the career vocational learner outcomes that ensure the articulation of secondary and post-secondary vocational programs;*

*(8) examining state board of education and state board of teaching rules that affect learner outcome-based education;*

*(9) developing site-based management and collaborative decision making;*

*(10) identifying the professional needs of education staff and designing*

*staff programs to implement outcome based education; and*

*(11) developing alternative models for grouping pupils according to their attainment of learner outcomes.*

*Sites may use staff development revenue under section 126.70 to accomplish clauses (3) and (10).*

*Subd. 3.* [REQUIREMENTS OF SITES.] *To be considered for selection as a site by the state board, an applicant must develop a written proposal that describes the activities to be conducted at the site. The site proposal must include:*

*(1) plans for a two-year project;*

*(2) specific goals to be achieved in the first and second years;*

*(3) documentation that will allow other districts to replicate the activities of the proposed site;*

*(4) procedures to involve the community in the project; and*

*(5) a budget.*

*The state board, in consultation with the office, shall select the sites and determine the amount of the grant to be awarded to each site by October 1, 1989.*

Sec. 22. [REPORT OF OFFICE OF EDUCATIONAL LEADERSHIP.]

*By January 15, 1991, the office of educational leadership shall submit to the education committees of the legislature an interim evaluation of the progress of the ten sites in implementing their plans. By January 15, 1992, the office shall submit a final evaluation of the efforts of the ten sites to implement learner outcome-based education.*

Sec. 23. [APPROPRIATIONS FOR THE OFFICE OF EDUCATIONAL LEADERSHIP.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the office of educational leadership for the fiscal years indicated.*

*Subd. 2.* [RESEARCH AND DEVELOPMENT GRANTS.] *For grants for research and development sites:*

*$1,050,000 . . . . . 1990*

*Up to $50,000 may be used for administration and evaluation.*

*Any unexpended balance remaining from fiscal year 1990 does not cancel and is available for fiscal year 1991.*

*Subd. 3.* [TECHNICAL ASSISTANCE; RESEARCH AND DEVELOPMENT SITES.] *For technical assistance to research and development sites:*

*$250,000 . . . . . 1990*

*$250,000 . . . . . 1991*

Sec. 24. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of*

*education for the fiscal years designated.*

*Subd. 2.* [ADULT GRADUATION AID.] *For adult graduation aid:*

*$1,238,000 . . . . . 1990*

*$1,573,000 . . . . . 1991*

*The 1990 appropriation includes $0 for 1989 and $1,238,000 for 1990.*

*The 1991 appropriation includes $219,000 for 1990 and $1,354,000 for 1991.*

*Subd. 3.* [AREA LEARNING CENTER GRANTS.] *For grants to area learning centers:*

*$150,000 . . . . . 1990*

*$150,000 . . . . . 1991*

*Subd. 4.* [ARTS PLANNING GRANTS.] *For grants for arts planning according to Minnesota Statutes, section 129B.20:*

*$38,000 . . . . . 1990,*

*$38,000 . . . . . 1991.*

*Any unexpended balance in the first year does not cancel but is available for fiscal year 1991.*

*Subd. 5.* [PER PROCESS AID.] *For the planning, evaluating, and reporting process according to Minnesota Statutes, section 124.274:*

*$1,038,000 . . . . . 1990*

*$1,046,000 . . . . . 1991*

*Subd. 6.* [CAREER TEACHER AID.] *For career teacher aid:*

*$1,000,000 . . . . . 1990*

*This appropriation is available until June 30, 1991.*

*Subd. 7.* [MINORITY TEACHER INCENTIVES.] *For minority teacher incentives:*

*$1,000,000 . . . . . 1990*

*This appropriation is available until June 30, 1991.*

Sec. 25. [REPEALER.]

*Minnesota Statutes 1988, section 129B.47, is repealed.*

ARTICLE 8

OTHER EDUCATION PROGRAMS

Section 1. Minnesota Statutes 1988, section 121.11, subdivision 14, is amended to read:

Subd. 14. [SCHOOL LUNCH PROGRAM, REVOLVING FUND.] The commissioner of finance shall establish for the state board a revolving fund for deposit of storage and handling charges paid by recipients of donated foods shipped by the school lunch section of the department of education. These funds are to be used only to pay storage and related charges as they are incurred for United States Department of Agriculture foods.

*The commissioner of finance shall also establish a revolving fund for*

*the department of education to deposit charges paid by recipients of processed commodities and for any authorized appropriation transfers for the purpose of this subdivision. These funds are to be used only to pay for commodity processing and related charges as they are incurred using United States Department of Agriculture donated commodities.*

Sec. 2. Minnesota Statutes 1988, section 124.195, subdivision 8, is amended to read:

Subd. 8. [PAYMENT PERCENTAGE FOR REIMBURSEMENT AIDS.] One hundred percent of the aid for the last fiscal year must be paid for the following aids: ~~abatement aid according to section 124.214, subdivision 2;~~ special education residential aid according to section 124.32, subdivision 5; *special education pupil aid according to section 124.32, subdivision 6;* special education summer school aid, according to section 124.32, subdivision 10; and planning, evaluating, and reporting process aid according to section 124.274.

Sec. 3. Minnesota Statutes 1988, section 124.195, subdivision 9, is amended to read:

Subd. 9. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] One hundred percent of the aid for the current fiscal year must be paid for the following aids: management information center subsidies, according to section 121.935; reimbursement for transportation to post-secondary institutions, according to section 123.3514, subdivision 8; handicapped adult program aid, according to section 124.271, subdivision 7; school lunch aid, according to section 124.646; *tribal contract school aid, according to article 3, section 15;* hearing impaired support services aid, according to section 121.201; Indian post-secondary preparation grants according to section 124.481; and ~~desegregation~~ *integration* grants according to ~~Laws 1987, chapter 398, article 6, section 18~~ *section 14, subdivision 3.*

Sec. 4. Minnesota Statutes 1988, section 124.252, subdivision 3, is amended to read:

Subd. 3. [DISTRICT AID.] An eligible district shall receive 54 cents ~~in fiscal year 1987 and~~ each year ~~thereafter~~ for each pupil, in average daily membership enrolled in a public elementary, secondary, or technical institute or nonpublic elementary or secondary school. Aid for nonpublic school pupils shall be paid to the district upon request by or on behalf of the pupils. No school district shall receive less than $1,040 ~~in fiscal year 1987 and~~ each year ~~thereafter~~.

Sec. 5. [124.6472] [SCHOOL BREAKFAST PROGRAM]

*Subdivision 1.* [BREAKFAST REQUIRED.] *A school district shall offer a school breakfast program in every school building in which:*

*(1) at least 40 percent of the school lunches served during the 1989-1990 school year were served free or at a reduced price; or*

*(2) at least 15 percent of the children in the school would take part in the program, as indicated by a survey of the parents in the school.*

*Subd. 2.* [EXEMPTION.] *Subdivision 1 does not apply to a school in which fewer than 25 pupils are expected to take part in the program.*

Sec. 6. [SCHOOL BREAKFAST SURVEY.]

*Subdivision 1.* [SURVEY REQUIRED.] *By October 1, 1990, a school*

*district shall complete a survey of parents of pupils enrolled in each school to determine the number of parents who are interested in having their children participate in a school breakfast program.*

*Subd. 2.* [APPLICABILITY.] *This section does not apply to a school building:*

*(1) that has a school breakfast program; or*

*(2) that is subject to section 5, subdivision 1, clause (1).*

*Subd. 3.* [REPORTS.] *Each school district shall report the survey results, including anticipated costs of providing the program, to the commissioner of education by November 1, 1990.*

Sec. 7. [127.45] [SEXUAL HARASSMENT AND VIOLENCE POLICY.]

*Each school board shall adopt a written sexual harassment and sexual violence policy that conforms with sections 363.01 to 363.15. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 127.27 to 127.39. The policy must be conspicuously posted in each school building and included in each school's student handbook on school policies.*

Sec. 8. [127.455] [MODEL POLICY.]

*The commissioner of education shall maintain and make available to school boards a model sexual harassment and violence policy. The model policy shall address the requirements of section 127.45.*

*Each school board shall submit to the commissioner of education a copy of the sexual harassment and sexual violence policy the board has adopted.*

Sec. 9. Minnesota Statutes 1988, section 129.121, is amended by adding a subdivision to read:

*Subd. 6.* [SEXUAL HARASSMENT AND VIOLENCE POLICY AND RULES.] *The board of the league shall adopt a policy, rules, penalties, and recommendations addressing sexual harassment and sexual violence toward and by participants in league activities.*

Sec. 10. Minnesota Statutes 1988, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a $200 fee before the person's drivers license is reinstated to be credited as follows:

(1) 25 percent shall be credited to the trunk highway fund;

(2) 50 percent shall be credited to a separate account to be known as the county probation reimbursement account. Money in this account may be appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5;

(3) ten percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) 15 percent shall be credited to a separate account to be known as the ~~alcohol impaired~~ *alcohol-impaired* driver education account. Money in the account may be appropriated to the commissioner of education for grants to develop ~~alcohol impaired~~ *alcohol-impaired* driver education programs in elementary, secondary, and post-secondary schools. The state board of education shall establish guidelines for the distribution of the grants. ~~The commissioner of education shall report to the legislature by January 15, 1988, on the expenditure of grant funds under this clause.~~ Each year the commissioner may use $100,000 to administer the grant program and other traffic safety education programs.

Sec. 11. Minnesota Statutes 1988, section 363.06, subdivision 3, is amended to read:

Subd. 3. [TIME FOR FILING CLAIM.] A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363.14, subdivision 1, clause (a), filed in a charge with a local commission pursuant to section 363.116, or filed in a charge with the commissioner within one year after the occurrence of the practice. The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ~~or~~ ordinance provisions for a civil service or other employment system *or a school board sexual harassment or sexual violence policy*. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

Sec. 12. [SPECIAL LEVY.]

*Independent school district No. 232, Peterson, may levy an amount not more than $100,000 for purposes of retiring operating debt. This levy is authorized for taxes payable in 1990, 1991, or 1992. In no case may the sum of the levies exceed $100,000.*

Sec. 13. [1989 RULE COMPLIANCE LEVY.]

*In 1989, special school district No. 1, Minneapolis, and independent school district No. 709, Duluth, may each levy an amount up to a gross tax capacity rate of .80 percent times the adjusted gross tax capacity of the district for taxes payable in 1990. Each district may levy according to Minnesota Statutes, section 275.125, subdivision 6i, and this section. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy shall be recognized as revenue for the fiscal year in which the levy is certified. This levy shall not be considered in computing the aid*

*reduction under Minnesota Statutes, section 124.155.*

Sec. 14. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums in this section are appropriated, unless otherwise indicated, from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [ABATEMENT AID.] *For abatement aid according to Minnesota Statutes, section 124.214:*

*$5,111,000 . . . . . 1990*

*$6,018,000 . . . . . 1991*

*The 1990 appropriation includes $0 for 1989 and $5,111,000 for 1990.*

*The 1991 appropriation includes $902,000 for 1990 and $5,116,000 for 1991.*

*Subd. 3.* [INTEGRATION GRANTS.] *For grants to districts implementing desegregation plans mandated by the state board:*

*$14,944,000 . . . . . 1990*

*$14,944,000 . . . . . 1991*

*$1,285,200 each year shall be allocated to independent school district No. 709, Duluth: $7,382,300 each year shall be allocated to special school district No. 1, Minneapolis; and $6,276,500 each year shall be allocated to independent school district No. 625, St. Paul. As a condition of receiving a grant, each district must continue to report its costs according to the uniform financial accounting and reporting system. As a further condition of receiving a grant, each district must submit a report to the chairs of the education committees of the legislature about the actual expenditures it made for integration using the grant money. These grants may be used to transport students attending a nonresident district under Minnesota Statutes, section 120.062 or 123.3515, to the border of the resident district. A district may allocate a portion of the grant to the transportation fund for this purpose.*

*Subd. 4.* [NONPUBLIC PUPIL AID.] *For nonpublic pupil education aid according to Minnesota Statutes, sections 123.931 to 123.947:*

*$8,524,000 . . . . . 1990*

*$8,847,000 . . . . . 1991*

*The 1990 appropriation includes $1,229,000 for 1989 and $7,295,000 for 1990.*

*The 1991 appropriation includes $1,288,000 for 1990 and $7,559,000 for 1991.*

*Subd. 5.* [SCHOOL LUNCH AND FOOD STORAGE AID.] *For school lunch aid according to Minnesota Statutes, section 124.646, and for food storage and transportation costs for USDA donated commodities; and for a temporary transfer to the commodity processing revolving fund to provide cash flow to permit schools and other recipients of donated commodities to take advantage of volume processing rates:*

*$4,625,000 . . . . . 1990*

*$4,625,000 . . . . . 1991*

*Any unexpended balance remaining from the appropriations in this subdivision shall be prorated among participating schools based on the number of fully paid lunches served during that school year in order to meet the state revenue matching requirement of the USDA National School Lunch Program.*

*If the appropriation amount attributable to either year is insufficient, the rate of payment for each fully paid student lunch shall be reduced and the aid for that year shall be prorated among participating schools so as not to exceed the total authorized appropriation for that year.*

*Any temporary transfer processed in accordance with this subdivision to the commodity processing fund will be returned by June 30 in each year so that school lunch aid and food storage costs can be fully paid as scheduled.*

*Subd. 6.* [SCHOOL MILK AID.] *For school milk aid according to Minnesota Statutes, section 124.648:*

*$800,000 . . . . . 1990*

*$800,000 . . . . . 1991*

*Subd. 7.* [TOBACCO USE PREVENTION.] *For tobacco use prevention aid according to Minnesota Statutes, section 124.252:*

*$565,000 . . . . . 1990*

*$672,000 . . . . . 1991*

*The 1990 appropriation includes $0 for 1989 and $565,000 for 1990.*

*The 1991 appropriation includes $100,000 for 1990 and $572,000 for 1991.*

*Subd. 8.* [WEST ST. PAUL.] *For a grant to independent school district No. 197, West St. Paul:*

*$500,000 . . . . . 1990*

*The proceeds of this grant must be deposited in the district's debt redemption fund.*

*Subd. 9.* [ALCOHOL-IMPAIRED DRIVER EDUCATION GRANTS.] *For grants for alcohol-impaired driver education according to Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), clause (4):*

*$620,000 . . . . . 1990*

*$620,000 . . . . . 1991*

*This appropriation is from the special revenue fund.*

*Subd. 10.* [NETT LAKE LIABILITY INSURANCE.] *For a grant to independent school district No. 707, Nett Lake, to pay insurance premiums under Minnesota Statutes, section 466.06:*

*$40,000 . . . . . 1990*

*This sum is available until June 30, 1991.*

*Subd. 11.* [NETT LAKE UNEMPLOYMENT COMPENSATION.] *For payment of the obligation of independent school district No. 707, Nett Lake, for transfer to the appropriate state agency for unemployment compensation:*

*$40,000 . . . . . 1990*

*This sum is available until June 30, 1991.*

*Subd. 12.* [PETERSON OPERATING DEBT.] *For a grant to independent school district No. 232, Peterson to retire operating debt.*

*$50,000 . . . . . 1990*

Sec. 15. [EFFECTIVE DATE.]

*Subdivision 1. Section 5 is effective September 1, 1991.*

*Subd. 2. Each school board shall adopt a written sexual harassment and sexual violence policy required under section 127.45 before September 1, 1991. Each school board shall submit a copy of its adopted sexual harassment and sexual violence policy required under section 127.455 to the education commissioner by September 1, 1991.*

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 120.062, subdivision 4, is amended to read:

Subd. 4. [PUPIL APPLICATION PROCEDURES.] In order that a pupil may attend a school or program in a nonresident district, the pupil's parent or guardian must submit an application to the nonresident district. *Before submitting an application, the pupil and the pupil's parent or guardian must explore with a school guidance counselor, or other appropriate staff member employed by the district the pupil is currently attending, the pupil's academic or other reason for applying to enroll in a nonresident district. The pupil's application must identify the reason for enrolling in the nonresident district.* The parent or guardian of a pupil ~~residing in a district that does not have a desegregation plan approved by the state board of education~~ must submit an application by January 1 for *initial* enrollment ~~during~~ *beginning* the following school year. ~~The parent or guardian of a pupil residing in a district that has a desegregation plan approved by the state board of education may apply to a district at any time.~~ The application shall be on a form provided by the department of education. A particular school or program may be requested by the parent. *Once enrolled in a nonresident district, the pupil may remain enrolled and is not required to submit annual or periodic applications. To return to the resident district or to transfer to a different nonresident district, the parent or guardian of the pupil must provide notice to the resident district or apply to a different nonresident district by January 1 for enrollment beginning the following school year.*

Sec. 2. Minnesota Statutes 1988, section 120.062, subdivision 5, is amended to read:

Subd. 5. [DESEGREGATION ~~PLANS~~ *DISTRICT TRANSFERS.*] *(a) This subdivision applies to a transfer into or out of a district that has a desegregation plan approved by the state board of education.*

*(b) An application to transfer may be submitted at any time for enrollment beginning at any time.*

*(c) The parent or guardian of a pupil who is a resident of a district that has a desegregation plan must submit an application to the resident district. If the district accepts the application, it must forward the application to the nonresident district.*

*(d) The parent or guardian of a pupil who applies for enrollment in a*

*nonresident district that has a desegregation plan must submit an application to the nonresident district.*

*(e) Each district must accept or reject an application it receives and notify the parent or guardian in writing within 30 calendar days of receiving the application. A notification of acceptance must include the date enrollment can begin.*

*(f) If an application is rejected, the district must state the reason for rejection in the notification. If a district that has a desegregation plan rejects an application for a reason related to the desegregation plan, the district must state with specificity how acceptance of the application would result in noncompliance with state board rules with respect to the school or program for which application was made.*

*(g) If an application is accepted, the parent or guardian must notify the nonresident district in writing within 15 calendar days of receiving the acceptance whether the pupil intends to enroll in the nonresident district. Notice of intention to enroll obligates the pupil to enroll in the nonresident district, unless the school boards of the resident and nonresident districts agree otherwise. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district at that time, unless the school boards of the resident and nonresident district agree otherwise.*

*(h) Within 15 calendar days of receiving the notice from the parent or guardian, the nonresident district shall notify the resident district in writing of the pupil's intention to enroll in the nonresident district.*

*(i) A pupil enrolled in a nonresident district under this subdivision is not required to make annual or periodic application for enrollment but may remain enrolled in the same district. A pupil may transfer to the resident district at any time.*

*(j) A pupil enrolled in a nonresident district and applying to transfer into or out of a district that has a desegregation plan must follow the procedures of this subdivision. For the purposes of this type of transfer, "resident district" means the nonresident district in which the pupil is enrolled at the time of application.*

*(k)* A district that has a desegregation plan approved by the state board of education ~~may limit the number of pupils who transfer into or out of the district. To remain in compliance with its desegregation plan, the district may establish the number of majority and minority group pupils who may transfer into or out of the district. The district may~~ *must* accept or reject ~~applications~~ *each individual application* in a manner that will enable compliance with ~~the~~ *its* desegregation plan. ~~The district shall notify the parent or guardian and the resident district according to the requirements of subdivision 6.~~"

Sec. 3. Minnesota Statutes 1988, section 120.062, subdivision 6, is amended to read:

Subd. 6. [NONRESIDENT DISTRICT PROCEDURES.] ~~Within 60 days of receiving an application,~~ A district that does not exclude nonresident pupils, according to subdivision 3, shall notify the parent or guardian ~~and the resident district~~ in writing *by February 1* whether the application has been accepted or rejected. If an application is rejected, the district must state in the notification the reason for rejection. *The parent or guardian*

*shall notify the nonresident district by February 15 whether the pupil intends to enroll in the nonresident district. Notice of intent to enroll in the nonresident district obligates the pupil to attend the nonresident district during the following school year, unless the school boards of the resident and the nonresident districts agree in writing to allow the pupil to transfer back to the resident district, or the pupil's parents or guardians change residence to another district. If a parent or guardian does not notify the nonresident district, the pupil may not enroll in that nonresident district during the following school year, unless the school boards of the resident and nonresident district agree otherwise. The nonresident district shall notify the resident district by March 1 of the pupil's intent to enroll in the nonresident district. The same procedures apply to a pupil who applies to transfer from one participating nonresident district to another participating nonresident district.*

Sec. 4. Minnesota Statutes 1988, section 121.11, subdivision 12, is amended to read:

Subd. 12. [ADMINISTRATIVE RULES.] The state board ~~shall~~ *may* adopt ~~and enforce~~ rules~~, consistent with this code, appropriate for the administration and enforcement thereof~~ *only upon specific authority other than under this subdivision*. Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management ~~which~~ *that* attempt to make better use of community resources or available technology.

Sec. 5. [121.585] [LEARNING YEAR PROGRAMS.]

*Subdivision 1.* [PROGRAM ESTABLISHED.] *A learning year program provides instruction throughout the year. A pupil may participate in the program and accelerate attainment of grade level requirements or graduation requirements. A learning year program may begin after the close of the regular school year in June. The program may be for students in one or more grade levels from kindergarten through twelfth grade.*

*Students may participate in the program if they reside in:*

*(1) a district that has been designated a learning year site under subdivision 2;*

*(2) a district that is a member of the same education district as a site; or*

*(3) a district that participates in the same area learning center program as a site.*

*Subd. 2.* [STATE BOARD DESIGNATION.] *An area learning center designated by the state must be a site. Up to an additional ten learning year sites may be designated by the state board of education. To be designated, a district or center must demonstrate to the commissioner of education that it will:*

*(1) provide a program of instruction that permits pupils to receive instruction throughout the entire year; and*

*(2) maintain a record system that, for purposes of section 124.17, permits identification of membership attributable to pupils participating in the program. The record system and identification must ensure that the program will not have the effect of increasing the total number of pupil units*

*attributable to an individual pupil as a result of a learning year program.*

*Subd. 3.* [HOURS OF INSTRUCTION.] *Pupils participating in a program must be able to receive the same total number of hours of instruction they would receive if they were not in the program. If a pupil has not completed the graduation requirements of the district after completing the minimum number of secondary school hours of instruction, the district may allow the pupil to continue to enroll in courses needed for graduation.*

*For the purposes of section 120.101, subdivision 5, the minimum number of hours for a year determined for the appropriate grade level of instruction shall constitute 170 days of instruction. Hours of instruction that occur after the close of the instructional year in June shall be attributed to the following fiscal year.*

*Subd. 4.* [STUDENT PLANNING.] *A district must inform all pupils and their parents about the learning year program. A continual learning plan must be developed for each pupil with the participation of the pupil, parent or guardian, teachers, and other staff. The plan must specify the learning experiences that must occur each year and, for secondary students, for graduation. The plan may be modified to conform to district schedule changes. The district may not modify the plan if the modification would result in delaying the student's time of graduation.*

*Subd. 5.* [TRANSPORTATION.] *Summer transportation expenditures for this program must be included in nonregular transportation according to sections 124.225, subdivision 8; and 275.125, subdivision 5c.*

*Subd. 6.* [CONTRACTS.] *A district may contract with a licensed employee to provide services in a learning year program that are in addition to the services provided according to the master contract of employment for teachers or an equivalent contract for licensed employees who are not teachers. These additional services and compensation, if any, for the services shall not become a part of the employee's continuing contract rights under section 125.12 or 125.17.*

*Subd. 7.* [REVENUE COMPUTATION AND REPORTING.] *Aid and levy revenue computations shall be based on the total number of hours of education programs for pupils in average daily membership for each fiscal year. For purposes of section 124.17, average daily membership shall be computed by dividing the total number of hours of participation for the fiscal year by the minimum number of hours for a year determined for the appropriate grade level. Hours of participation that occur after the close of the regular instructional year and before July 1 shall be attributed to the following fiscal year. Thirty hours may be used for teacher workshops, staff development, or parent-teacher conferences. As part of each pilot program, the department of education and each district must report and evaluate the changes needed to adjust the dates of the fiscal year for aid and levy computation and fiscal year reporting. For revenue computation purposes, the learning year program shall generate revenue based on the formulas for the fiscal year in which the services are provided.*

*State aid and levy revenue computation for the learning year programs begins July 1, 1988, for fiscal year 1989.*

*Subd. 8.* [EXEMPTION.] *To operate the pilot program, the state board of education may exempt the district from specific rules relating to student and financial accounting, reporting, and revenue computation.*

Sec. 6. Minnesota Statutes 1988, section 121.88, subdivision 10, is amended to read:

Subd. 10. [EXTENDED DAY PROGRAMS.] A school board may offer, as part of a community education program, an extended day program for children from kindergarten through grade 6 for the purpose of expanding students' learning opportunities. A program must include the following:

(1) adult supervised programs while school is not in session;

(2) parental involvement in program design and direction;

(3) partnerships with the K-12 system, and other public, private, or nonprofit entities; and

(4) opportunities for trained secondary school pupils to work with younger children in a supervised setting as part of a community service program.

The district may charge a sliding fee based upon family income for extended day programs. The district may receive money from other public or private sources for the extended day program. The *school* board *of the district* shall develop standards for school age child care programs. *The state board of education may not adopt rules for extended day programs.*

Sec. 7. Minnesota Statutes 1988, section 123.33, subdivision 7, is amended to read:

Subd. 7. The board shall superintend and manage the schools of the district; adopt~~, modify, or repeal~~ rules for their organization, government, and instruction ~~and for the keeping of~~; *keep* registers; and prescribe textbooks and courses of study. *The board may arrange for courses for secondary pupils that are offered by a post-secondary institution.*

Sec. 8. Minnesota Statutes 1988, section 123.3514, subdivision 4c, is amended to read:

Subd. 4c. [LIMIT ON PARTICIPATION.] A pupil who first enrolls in grade 11 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of two academic years. A pupil who first enrolls in grade 12 may not enroll in post-secondary courses under this section for secondary credit for more than the equivalent of one academic year. If a pupil in grade 11 or 12 first enrolls in a post-secondary course for secondary credit during the school year, the time of participation shall be reduced proportionately. *A pupil who has graduated from high school cannot participate in a program under this section. A pupil who has completed course requirements for graduation but who has not received a diploma may participate in the program under this section.*

Sec. 9. Minnesota Statutes 1988, section 123.3514, subdivision 5, is amended to read:

Subd. 5. [CREDITS.] A pupil may enroll in a course under this section for either secondary credit or post-secondary credit. At the time a pupil enrolls in a course, the pupil shall designate whether the course is for secondary or post-secondary credit. A pupil taking several courses may designate some for secondary credit and some for post-secondary credit. *A pupil must not audit a course under this section.*

A school district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. *Nine quarter or six semester college credits equal at least one full year of*

*high school credit. Fewer college credits may be prorated.* A school district shall also grant academic credit to a pupil enrolled in a course for post-secondary credit if secondary credit is requested by a pupil. If no comparable course is offered by the district, *the district shall, as soon as possible, notify* the state board of education, *which* shall determine the number of credits that shall be granted to a pupil who successfully completes a course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the school board's decision to the state board of education. The state board's decision regarding the number of credits shall be final.

The secondary credits granted to a pupil shall be counted toward the graduation requirements and subject area requirements of the school district. Evidence of successful completion of each course and secondary credits granted shall be included in the pupil's secondary school record. *A pupil must provide the school with a copy of the pupil's grade in each course taken for secondary credit under this section.* Upon the request of a pupil, the pupil's secondary school record shall also include evidence of successful completion and credits granted for a course taken for post-secondary credit. In either case, the record shall indicate that the credits were earned at a post-secondary institution.

If a pupil enrolls in a post-secondary institution after leaving secondary school, the post-secondary institution shall award post-secondary credit for any course successfully completed for secondary credit at that institution. Other post-secondary institutions may award, after a pupil leaves secondary school, post-secondary credit for any courses successfully completed under this section. An institution may not charge a pupil for the award of credit.

Sec. 10. Minnesota Statutes 1988, section 123.3514, subdivision 7, is amended to read:

Subd. 7. [FEES; TEXTBOOKS; MATERIALS.] A post-secondary institution that receives reimbursement for a pupil under subdivision 6 may not charge that pupil for fees, textbooks, materials, or other necessary costs of the course or program in which the pupil is enrolled if the charge would be prohibited under section 120.74, except for equipment purchased by the pupil that becomes the property of the pupil. *An institution may require the pupil to pay for fees, textbooks, and materials for a course taken for post-secondary credit.*

Sec. 11. Minnesota Statutes 1988, section 123.3514, is amended by adding a subdivision to read:

*Subd. 7a.* [TEXTBOOKS; MATERIALS.] *All textbooks and equipment provided to a pupil, and paid for under subdivision 6, are the property of the pupil's school district of residence. Each pupil is required to return all textbooks and equipment to the school district after the course has ended.*

Sec. 12. Minnesota Statutes 1988, section 123.3514, subdivision 10, is amended to read:

Subd. 10. [LIMIT; STATE OBLIGATION.] The provisions of subdivisions 6, 7, 8, and 9 shall not apply for any post-secondary courses in which a pupil is enrolled in addition to being enrolled full time in that pupil's district or for any post-secondary course in which a pupil is enrolled for post-secondary credit. *The pupil is enrolled full time if the pupil attends*

*credit-bearing classes in the high school or high school program for all of the available hours of instruction.*

Sec. 13. [126.1995] [SAFETY REQUIREMENT GUIDELINES.]

*The department of education, in cooperation with the Minnesota fire marshal's division, shall develop guidelines for school lab safety. The guidelines shall include a list of safety requirements and an explanation of the minimum state and national laws, codes, and standards affecting school lab safety the Minnesota fire marshal considers necessary for schools to implement. The district superintendent must ensure that every school lab within the district complies with the school lab safety requirements. Lack of funding is not an excuse for noncompliance.*

Sec. 14. Minnesota Statutes 1988, section 126.22, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE PUPILS.] The following pupils are eligible to participate in the high school graduation incentives program:

(a) any pupil who is between the ages of 12 and 16 and who:

(1) is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test; or

(2) is at least one year behind in obtaining credits for graduation; or

(3) is pregnant or is a parent; or

(4) has been assessed as chemically dependent; or

(5) has been ~~absent from attendance at school without lawful excuse for more than 15 consecutive school days in the preceding or current school year~~ *excluded or expelled according to sections 127.26 to 127.39; or*

*(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 126.23;*

(b) any pupil who is between the ages of 16 and 19 who is attending school, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(c) any person between 16 and 21 years of age who has not attended a high school program for at least 15 consecutive school days, excluding those days when school is not in session, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, *or is pregnant or is a parent,* or has been assessed as chemically dependent; or

(d) any person who is at least 21 years of age and who:

(1) has received less than 14 years of public or nonpublic education, beginning at age 5;

(2) has already completed the studies ordinarily required in the 10th grade but has not completed the requirements for a high school diploma or the equivalent; and

(3) at the time of application, (i) is eligible for unemployment compensation benefits or has exhausted the benefits, (ii) is eligible for or is receiving

income maintenance and support services, as defined in section 268.0111, subdivision 5, or (iii) is eligible for services under the displaced homemaker program, state wage-subsidy program, or any programs under the federal Jobs Training Partnership Act or its successor.

Notwithstanding section 127.27, subdivision 7, the provisions of section 127.29, subdivision 1, do not apply to pupils age 17 and older who participate in the high school graduation incentives program.

Sec. 15. Minnesota Statutes 1988, section 126.67, subdivision 8, is amended to read:

Subd. 8. [CAREER INFORMATION; APPROPRIATION.] The department of education may provide career information to school districts and *other* educational ~~systems~~ *organizations, employment and training services, human service agencies, libraries, and families*. The department ~~may~~ *shall* collect ~~reasonable~~ fees ~~for subscriptions to~~ *necessary to recover all expenditures related to the operation of* the Minnesota career information service. *Grants may be accepted and used for the improvement or operation of the program.*

Sec. 16. Minnesota Statutes 1988, section 129.121, is amended by adding a subdivision to read:

*Subd. 7. The Minnesota state high school league shall establish, conduct and regulate championship high school tournament activities. The league shall determine the number of classes in all interscholastic athletic activities under its jurisdiction. The league shall adopt league rules and regulations governing the athletic participation of pupils attending school in a nonresident district under section 120.062.*

*Notwithstanding the date and time of day of final enactment, this section supersedes any inconsistent provision of H.F. 372.*

Sec. 17. Minnesota Statutes 1988, section 136D.22, subdivision 1, is amended to read:

Subdivision 1. [BOARD.] The agreement ~~may~~ *shall* provide for a joint school board ~~which shall represent~~ *representing* the parties to the agreement~~, and~~. *The agreement* shall specify the name of the board, the number and manner of election or appointment of its members, their terms and qualifications, and other necessary and desirable provisions~~; provided, that~~. Each member of the board shall be a ~~voter of one~~ *school board member* of ~~the~~ *a* school ~~districts which~~ *district that* is a party to the agreement.

Sec. 18. Minnesota Statutes 1988, section 136D.72, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The district shall be operated by a school board of not less than six nor more than 12 members ~~which~~. *The board* shall consist of at least one member from each of the school districts within the special intermediate school district ~~created~~. Board members shall be ~~residents of the respective school districts represented, may be~~ members of the school boards of the respective school districts and shall be appointed by their respective school boards. Members ~~so appointed~~ shall serve at the pleasure of their respective school ~~districts~~ *boards* and may be subject to recall by a majority vote of the ~~participating~~ school ~~district~~ board. They shall report at least quarterly to their ~~appointing~~ boards on the activities of the intermediate district ~~and shall attend no less than one meeting of their respective appointing boards each month~~.

Sec. 19. Minnesota Statutes 1988, section 136D.82, subdivision 1, is amended to read:

Subdivision 1. [BOARD.] The agreement ~~may~~ *shall* provide for a joint school board ~~which shall represent~~ *representing* the parties to the agreement~~, and~~. *The agreement* shall specify the name of the board, the number and manner of election or appointment of its members, their terms and qualifications, and other necessary and desirable provisions~~; provided, that~~. Each member of the board shall be a ~~voter of one~~ *school board member* of ~~the~~ *a* school ~~districts which~~ *district that* is a party to the agreement.

Sec. 20. Minnesota Statutes 1988, section 354.094, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT CONTRIBUTIONS.] A member granted an extended leave of absence pursuant to section 125.60 or 136.88~~, except as provided in subdivision 1a or 1b,~~ may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. ~~Except as provided in subdivision 1a or 1b,~~ The state shall not pay employer contributions into the fund for any year for which a member is on extended leave. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include six percent interest from June 30 through the end of the month in which payment is received.

Sec. 21. Minnesota Statutes 1988, section 354.094, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP; RETENTION.] Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to ~~subdivisions~~ *subdivision* 1 ~~and 1a~~ shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if the member had continued to teach in the district, the community college system or the state university system.

Sec. 22. Minnesota Statutes 1988, section 354.66, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary in this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, ~~except as provided in subdivision 4a,~~ prior to June 30 each year, or within 30 days after notification by the association of the amount due,

whichever is later, the member and the employing board make that portion of the required employer contribution to the retirement fund, in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The employing unit shall make that portion of the required employer contributions to the retirement fund on behalf of the teacher that is based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivision 3. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

Sec. 23. Minnesota Statutes 1988, section 354A.091, subdivision 1, is amended to read:

Subdivision 1. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary of this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit~~, except as provided in subdivision 1a or 1b,~~ an elementary, secondary or technical institute teacher in the public schools of a city of the first class who is granted an extended leave of absence pursuant to section 125.60, may pay employee contributions to the applicable association and shall be entitled to receive allowable service credit in that association for each year of leave, provided the member and the employing board make the required employer contributions, in any proportion they may agree upon, to that association during the period of leave which shall not exceed five years. ~~Except as provided in subdivision 1a or 1b~~ The state shall not make an employer contribution on behalf of the teacher. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12 as applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the leave. Payment of the employee and employer contributions authorized pursuant to this section shall be made on or before June 30 of the fiscal year for which service credit is to be received. No allowable service with respect to a year of extended leave of absence shall be credited to a teacher until payment of the required employee and employer contributions has been received by the association.

Sec. 24. Minnesota Statutes 1988, section 354A.091, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP RETENTION.] A teacher on extended leave pursuant to section 125.60 whose employee and employer contributions are made to the applicable teachers retirement fund association pursuant to ~~subdivisions~~ *subdivision* 1 ~~and 1a~~ shall retain membership in the association for each year during which the contributions are made, under the same terms and conditions as if the teacher had continued to teach in the district.

Sec. 25. Minnesota Statutes 1988, section 354A.094, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT CONTRIBUTIONS.] Notwithstanding any provision to the contrary in this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the applicable association during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, ~~except as provided in subdivision 4a,~~ prior to June 30 each year the member and the employing board make that portion of the required employer contribution to the applicable association in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for services rendered in the part-time assignment. The employer contributions to the applicable association on behalf of the teacher shall be based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivisions 1 and 5. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12. Full membership, accrual of allowable service credit and employee contributions for part-time teaching service by a teacher pursuant to this section and section 354.66 shall not continue for a period longer than ten years.

Sec. 26. Minnesota Statutes 1988, section 363.01, is amended by adding a subdivision to read:

*Subd. 41.* [BUSINESS.] *The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.*

Sec. 27. Minnesota Statutes 1988, section 363.073, subdivision 1, is amended to read:

Subdivision 1. [SCOPE OF APPLICATION.] No department or agency of the state shall ~~receive, enter into, or~~ accept any bid or proposal for a contract ~~nor~~ *or agreement or* execute any contract *or agreement* for goods~~,~~ *or* services~~, or the performance of any function, or any agreement to transfer funds for any reason~~ in excess of $50,000 with any ~~person~~ *business* having more than 20 full-time employees ~~in Minnesota~~ at any time during the previous 12 months, unless the ~~person~~ *firm or business* has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a ~~person~~ *firm or business* has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years. *A municipality as defined in section 466.01, subdivision 1, that receives state funds for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the disabled and submit the plan to the commissioner of human rights.*

Sec. 28. Minnesota Statutes 1988, section 422A.101, subdivision 2, is amended to read:

Subd. 2. [CONTRIBUTIONS BY OR FOR CITY-OWNED PUBLIC UTILITIES, IMPROVEMENTS, OR MUNICIPAL ACTIVITIES.] Contributions by or for any city-owned public utility, improvement project and other municipal activities supported in whole or in part by revenues other than real estate taxes, any public corporation, any employing unit of metropolitan government, special school district No. 1 or Hennepin county, on account of any employee covered by the fund shall be calculated as follows:

(a) a regular employer contribution of an amount equal to the percentage rounded to the nearest two decimal places of the salaries and wages of all employees of the employing unit covered by the retirement fund which equals the difference between the level normal cost plus administrative cost reported in the annual actuarial valuation prepared by the commission-retained actuary and the employee contributions provided for in section 422A.10;

(b) an additional employer contribution of an amount equal to the percent specified in section 353.27, subdivision 3a, clause (a), multiplied by the salaries and wages of all employees of the employing unit covered by the retirement fund;

(c) a proportional share of an additional employer amortization contribution of an amount equal to $3,900,000 annually until June 30, 2017, based upon the share of the fund's unfunded actuarial accrued liability attributed to the employer as disclosed in the annual actuarial valuation prepared by the commission-retained actuary.

The city council or any board or commission may, by proper action, provide for the inclusion of the cost of the retirement contributions for employees of any city-owned public utility or for persons employed in any improvement project or other municipal activity supported in whole or in part by revenues other than taxes who are covered by the retirement fund in the cost of operating the utility, improvement project or municipal activity. The cost of retirement contributions for these employees shall be determined by the retirement board and the respective governing bodies having jurisdiction over the financing of these operating costs.

The cost of the employer contributions on behalf of employees of special school district No. 1 who are covered by the retirement fund shall be the obligation of the school district. Contributions by the school district to the retirement fund or any other public pension or retirement fund of which its employees are members must be remitted to the fund each month. An amount due and not transmitted begins to accrue interest at the rate of six percent compounded annually 15 days after the date due. ~~If the amount due plus interest is not paid 30 days after interest begins to accrue, a penalty equal to ten percent of the amount due is added, and interest then accrues on the penalty as well as the amount originally due.~~ The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by the school district, which shall be submitted prior to September 15. Contributions by the school district shall be made at times designated by the retirement board. The school district may levy for its contribution to the retirement fund only to the extent permitted pursuant to section 275.125, subdivision 6a.

The cost of the employer contributions on behalf of elective officers or other employees of Hennepin county who are covered by the retirement fund pursuant to section 422A.09, subdivision 3, clause (2), 422A.22, subdivision 2, or 488A.115, or Laws 1973, chapter 380, section 3, Laws

1975, chapter 402, section 2, or any other applicable law shall be the obligation of Hennepin county. The retirement board shall prepare an itemized statement of the financial requirements of the fund payable by Hennepin county, which shall be submitted prior to September 15. Contributions by Hennepin county shall be made at times designated by the retirement board. Hennepin county may levy for its contribution to the retirement fund.

Sec. 29. Minnesota Statutes 1988, section 471.38, subdivision 3, is amended to read:

Subd. 3. [ELECTRONIC FUNDS TRANSFER.] Electronic funds transfer is the process of value exchange via mechanical means without the use of checks, drafts or similar negotiable instruments. A school district may make an electronic funds transfer *for the following:*

*(1)* for a claim for a payment from an imprest payroll bank account or investment of excess money*;*

*(2) for a payment of tax or aid anticipation certificates;*

*(3) for a payment of contributions to pension or retirement fund;*

*(4) for vendor payments;* and

*(5)* for payment of bond principal, bond interest and a fiscal agent service charge from the debt redemption fund. ~~This~~

*Subd. 3a.* [SCHOOL DISTRICT ELIGIBILITY.] *The* authorization *in subdivision 3* extends only to a school district ~~which~~ *that* has enacted all of the following policy controls:

(a) The school board shall annually delegate the authority to make electronic funds transfers to a designated business administrator;

(b) The dispersing bank shall keep on file a certified copy of the delegation of authority;

(c) The initiator of the electronic transfer shall be identified;

(d) The initiator shall document the request and obtain an approval from the designated business administrator before initiating the transfer;

(e) A written confirmation of the transaction shall be made no later than one business day after the transaction and shall be used in lieu of a check, order check or warrant required to support the transaction;

(f) A list of all transactions made by electronic funds transfer shall be submitted to the school board at its next regular meeting after the transaction.

Sec. 30. [STAFF EXCHANGE PROGRAM.]

*Subdivision 1.* [ESTABLISHMENT.] *A staff exchange program for the 1989-1990 and 1990-1991 school years is established to allow local school districts to arrange temporary and voluntary exchanges between members of their kindergarten through grade 12 instructional and administrative staffs. The purpose of the program is to provide participants with an understanding of the educational concerns of other local school districts, including concerns of class organization, curriculum development, instructional practices, and characteristics of the student population.*

*The educational needs and interests of the host school district and the training, experience, and interests of the participants shall determine the*

*assignment of the participants in the host district. Participants may teach courses, provide counseling and tutorial services, work with teachers to better prepare students for future educational experiences, serve an underserved population in the district, or assist with administrative functions. The assignments participants perform for the host district must be comparable to the assignments the participants perform for the district employing the participants. Participation in the exchange program need not be limited to one school or one school district and may involve other education organizations including education districts and ECSUs.*

*Subd. 2.* [PROGRAM REQUIREMENTS.] *All staff exchanges made under this section are subject to the requirements in this subdivision.*

*(a) A school district employing a participating staff member must not adversely affect the staff member's salary, seniority, or other employment benefits, or otherwise penalize the staff member for participating in the program.*

*(b) Upon completion or termination of an exchange, a school district employing a participating staff member must permit the staff member to return to the same assignment the staff member performed in the district before the exchange, if available, or, if not, a similar assignment.*

*(c) A school district employing a participating staff member must continue to provide the staff member's salary and other employment benefits during the period of the exchange.*

*(d) A participant must be licensed and tenured.*

*(e) Participation in the program must be voluntary.*

*(f) The length of participation in the program must be no less than one-half of a school year and no more than one school year, and any premature termination of participation must be upon the mutual agreement of the participant and the participating school districts.*

*(g) A participant is responsible for transportation to and from the host school district.*

*This subdivision does not abrogate or change rights of staff members participating in the staff exchange program or the terms of an agreement between the exclusive representative of the school district employees and the school district. Participating school districts may enter into supplementary agreements with the exclusive representative of the school district employees to accomplish the purpose of this section.*

*Subd. 3.* [APPLICATION PROCEDURES.] *The school board of a school district must decide by resolution to participate in the staff exchange program. A staff member wishing to participate in the exchange program must submit an application to the school district employing the staff member. The district must, in a timely and appropriate manner, provide to the exclusive bargaining representatives of teachers in the state the number and names of prospective participants within the district, the assignments available within the district, and the length of time for each exchange. The exclusive bargaining representatives are requested to cooperatively participate in the coordination of exchanges to facilitate exchanges across all geographical regions of the state. Prospective participants must contact teachers and districts with whom they are interested in making an exchange. The prospective participants must make all arrangements to accomplish their exchange and the superintendents of the participating districts must*

*approve the arrangements for the exchange in writing.*

*Subd. 4.* [REPORT.] *By January 1, 1991, the school districts participating in the staff exchange program shall report to the commissioner of education on the number and location of staff members participating in the exchange, the assignments of the participants, and other matters of interest, including the advisability of continuing the exchange.*

Sec. 31. [APPLICABILITY.]

*Section 4 applies to rules for which the intention to adopt rules is published in the State Register after August 1, 1989.*

Sec. 32. [LAB SAFETY TIMELINES.]

*The state department of education shall send the guidelines on school lab safety to district superintendents before September 1, 1989. Each district superintendent must inform the department by January 1, 1990, of its efforts to comply with the safety requirements.*

Sec. 33. [REPEALER.]

*Minnesota Statutes 1988, section 120.062, subdivision 8, is repealed effective for the 1989-1990 school year.*

Sec. 34. [REPEALER.]

*Minnesota Statutes 1988, sections 120.05, subdivision 1; 120.13; 120.15; 120.16; 120.77; 121.09; 121.12; 121.151; 121.35, subdivision 5; 121.496, subdivision 1; 121.83; 121.84; 121.843; 121.844; 121.845; 121.86; 121.882, subdivision 10; 121.902, subdivision 2; 121.9121, subdivision 6; 121.914, subdivisions 9 and 10; 122.86; 122.87; 122.88; 123.3511; 123.3512; 123.581, subdivisions 1 and 6; 123.60; 123.601; 123.68; 124.12, subdivision 1; 124.2138, subdivisions 3 and 4; 124.496; 124A.27, subdivision 7; 125.241, subdivision 3; 125.60, subdivision 7; 126.03; 126.07; 126.10; 126.11; 126.39, subdivision 11; 126.52, subdivision 11; 126.70, subdivision 3; 126.80; 275.128; and Laws 1988, chapter 718, article 7, section 61, are repealed July 1, 1989.*

Sec. 35. [EFFECTIVE DATE.]

*Sections 17, 18, and 19 are effective July 1, 1992. Section 28 is effective retroactively to May 7, 1988.*

*Section 30 is effective for the 1989-1990 school year.*

*Sections 1 and 3 are effective for the 1990-1991 school year and thereafter.*

ARTICLE 10

LIBRARIES

Section 1. Minnesota Statutes 1988, section 134.31, is amended by adding a subdivision to read:

*Subd. 5.* [ADVISORY COMMITTEE.] *The commissioner shall appoint an advisory committee of five members to advise the staff of the Minnesota library for the blind and physically handicapped on long-range plans and library services. Members shall be people who use the library. Section 15.059 governs this committee.*

Sec. 2. Minnesota Statutes 1988, section 134.34, subdivision 2, is amended to read:

Subd. 2. [REQUIRED INCREASES; LIMIT.] Notwithstanding the provisions of section 134.33 and subdivision 1 ~~of this section~~, after the second year of participation by a city or county, the dollar amount of the minimum level of support for that city or county shall not be required to increase by more than ten percent over the dollar amount of the minimum level of support required of it in the previous year. ~~If a participating city or county which has been providing for public library service support in an amount equivalent to .67 mill times the gross tax capacity of the taxable property of that city or county for the year preceding that calendar year would be required to increase the dollar amount of such support by more than ten percent to reach the equivalent of .4 mill times the adjusted gross tax capacity of the taxable property of that participating city or county as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1, it shall only be required to increase the dollar amount of such support by ten percent per year until such time as it reaches an amount equivalent to .4 mill times the adjusted gross tax capacity of that taxable property as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1.~~

Sec. 3. Minnesota Statutes 1988, section 134.34, subdivision 3, is amended to read:

Subd. 3. [REGIONAL DESIGNATION.] Regional library basic system support grants shall be made only to those regional public library systems officially designated by the state board of education as the appropriate agency to strengthen, improve and promote public library services in the participating areas. The state board of education shall designate no more than one such regional public library system located entirely within any single development region existing under sections 462.381 to ~~462.396~~ *462.398* or chapter 473.

Sec. 4. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [BASIC SUPPORT GRANTS.] *For basic support grants according to Minnesota Statutes, sections 134.32 to 134.35:*

*$5,801,000 . . . . . 1990*

*$6,093,000 . . . . . 1991*

*The 1990 appropriation includes $747,000 for 1989 and $5,054,000 for 1990.*

*The 1991 appropriation includes $892,000 for 1990 and $5,201,000 for 1991.*

*Subd. 3.* [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] *For grants according to Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:*

*$247,000 . . . . . 1990*

*$256,000 . . . . . 1991*

*The 1990 appropriation includes $34,000 for 1989 and $213,000 for 1990.*

*The 1991 appropriation includes $38,000 for 1990 and $218,000 for 1991.*

*Subd. 4.* [STATE AGENCY ON-LINE SYSTEM.] *For the ongoing cost of operating a computer library catalog system in state agency libraries:*

*$43,000 . . . . . 1990*

*$43,000 . . . . . 1991*

*Subd. 5.* [MATERIALS FOR LIBRARIANS.] *To update materials on library information and services available to librarians through the department of education:*

*$20,000 . . . . . 1990*

*This appropriation is available until June 30, 1991.*

*Subd. 6.* [AUTOMATED LIBRARY SYSTEM.] *For a computer system to support operations of the Minnesota library for the blind and physically handicapped and for an advisory committee:*

*$222,000 . . . . . 1990*

*$21,000 . . . . . 1991*

*Up to $4,000 each year may be used for the advisory committee for the Minnesota library for the blind and physically handicapped.*

Sec. 5. [REPEALERS.]

*Subdivision 1.* [JULY 1, 1989.] *Minnesota Statutes, section 134.34, subdivision 5, is repealed July 1, 1989.*

*Subd. 2.* [JULY 1, 1991.] *Minnesota Statutes, section 134.33, subdivision 1, is repealed July 1, 1991.*

ARTICLE 11

EDUCATION AGENCY SERVICES

Section 1. Minnesota Statutes 1988, section 121.612, is amended to read:

121.612 [~~CITATION~~ *MINNESOTA ACADEMIC EXCELLENCE FOUNDATION.*]

Subdivision 1. [CITATION.] This section may be cited as the "Minnesota academic excellence act."

Subd. ~~1a~~ *2.* [CREATION OF FOUNDATION.] There is created the Minnesota academic excellence foundation. The purpose of the foundation shall be to promote academic excellence in Minnesota public schools through ~~a~~ public-private ~~partnership~~ *partnerships*. The foundation shall be a nonprofit organization. *The board of directors of the foundation and foundation activities are under the direction of the state board of education.*

Subd. ~~2~~ *3.* [BOARD OF DIRECTORS.] The board of directors of the foundation shall consist of ~~the governor or the governor's designee; the chairs of the education committee and education finance division in the house of representatives and the chairs of the education committee and education subcommittee on education aids in the senate; a minority member of the house of representatives to be appointed by the house minority leader; a minority member of the senate, to be appointed by the senate minority leader;~~ the commissioner of education~~;~~, *a member of the state board of education selected by the state board who shall serve as chair* and 15

members to be appointed by the governor. Of the 15 members appointed by the governor, six shall represent various education groups and nine shall represent various business groups. ~~The board of directors shall meet as soon as possible after the effective date of this section.~~ The commissioner of education shall serve as secretary for the board of directors and provide administrative support to the foundation. *An executive committee of the foundation board composed of the board officers and chairs of board committees, may only advise and make recommendations to the foundation board.*

Subd. ~~3~~ *4.* [FOUNDATION PROGRAMS.] The foundation ~~shall plan for~~ *may develop* programs ~~which~~ *that* advance the concept of educational excellence. These may include, but are not limited to:

(a) recognition programs and awards for students demonstrating academic excellence;

(b) summer institute programs for students with special talents;

(c) recognition programs for teachers, administrators, and others who contribute to academic excellence;

(d) summer mentorship programs with business and industry for students with special career interests and high academic achievements; ~~and~~

(e) governor's awards ceremonies to promote academic competition; *and*

*(f) an academic league to provide organized challenges requiring cooperation and competition for public and nonpublic pupils in elementary and secondary schools.*

To the extent possible, the foundation shall make these programs available to students in all parts of the state.

~~Subd. 3a. [ACADEMIC LEAGUE PLANS.] The academic excellence foundation shall develop a plan for an academic league to promote academic excellence through organized challenges requiring both cooperation and competition for public and nonpublic pupils in elementary and secondary schools. The foundation shall develop the plan in consultation with administrators of existing programs of academic competition and cooperation, the Minnesota state high school league, and the Minnesota association of secondary school principals. The foundation shall submit the plans to the education committees of the legislature by January 15, 1989.~~

*Subd. 5.* [POWERS AND DUTIES.] *The foundation may:*

*(1) establish and collect membership fees;*

*(2) publish brochures or booklets relating to the purposes of the foundation and collect reasonable fees for the publications;*

*(3) receive money and grants from nonstate sources for the purposes of the foundation;*

*(4) contract with consultants; and*

*(5) expend money for awards and other forms of recognition and appreciation.*

*Subd. 6.* [CONTRACTS.] *The foundation board shall review and approve each contract of the board. Each contract of the foundation board shall be subject to the same review and approval procedures as a contract of the state board of education.*

*Subd. 7.* [FOUNDATION STAFF.] *The state board shall appoint the executive director and other staff who shall perform duties and have responsibilities solely related to the foundation.*

Subd. 4 *8.* [PRIVATE FUNDING.] The foundation shall seek private resources to supplement the available public money. Individuals, businesses, and other organizations may contribute to the foundation in any manner specified by the board of directors. All money received shall be administered by the board of directors.

Subd. ~~5~~ *9.* [REPORT.] The board of directors of the foundation shall submit an annual report to the education committees of the legislature on the progress of its activities ~~made pursuant to the provisions of this section~~. The annual report shall contain a financial report for the preceding year, including all receipts and expenditures of the foundation.

~~Subd. 6. [FOUNDATION PUBLICATIONS.] The foundation may publish brochures or booklets relating to the purposes of the foundation. The foundation may collect reasonable fees for the publications.~~

Subd. ~~7~~ *10.* [APPROPRIATION.] There is annually appropriated to the academic excellence foundation ~~any and~~ all amounts received by the foundation pursuant to ~~subdivision 6~~ *this section*.

Sec. 2. Minnesota Statutes 1988, section 121.931, subdivision 3, is amended to read:

Subd. 3. [SYSTEMS ARCHITECTURE PLAN.] The state board, with the advice and assistance of the ESV computer council, shall develop a systems architecture plan for providing administrative data processing to school districts, the department of education, and the legislature. In developing the plan, the state board shall consider at least the following: user needs; systems design factors; telecommunication requirements; computer hardware technology; and alternative hardware purchase and lease arrangements. ~~The plan shall be completed by September 1, 1981.~~

Sec. 3. Minnesota Statutes 1988, section 121.931, subdivision 4, is amended to read:

Subd. 4. [LONG-RANGE PLAN.] The state board, with the advice and assistance of the ESV computer council *and the information policy office*, shall develop a long-range plan for providing administrative data processing to ~~elementary, secondary, and technical institute~~ *school* districts, the department of education, and the legislature. In developing the plan, the state board shall consider at least the following: desirable major enhancements to the ESV-IS and SDE-IS; new system development proposals; new or modified approaches to provide support services to districts; the responsibility of regional management information centers to provide reports to the department on behalf of affiliated districts; and related development and implementation time schedules. The long-range plan shall address the feasibility and practicability of utilizing microcomputers, minicomputers, and larger computer systems. ~~The preliminary plan shall be prepared by November 1, 1981, and the plan shall be completed by January 1, 1982.~~ The plan shall be updated by September 15 of each even-numbered year. The long-range plan shall consist of one document and shall incorporate the systems architecture plan and all relevant portions of previous documents which have been referred to as the state computing plan.

Sec. 4. Minnesota Statutes 1988, section 121.931, subdivision 7, is

amended to read:

Subd. 7. [APPROVAL POWERS.] The state board, with the advice and assistance of the ESV computer council *and the information policy office of the department of administration*, shall approve or disapprove the following, according to the criteria in section 121.937 and rules adopted pursuant to subdivision 8:

(a) the creation of regional management information centers pursuant to section 121.935;

(b) the transfer by a district of its affiliation from one regional management information center to another;

(c) the use by a district of a management information system other than the ESV-IS subsystem through the regional management information center or a state board approved alternative system pursuant to section 121.936, subdivisions 2 to 4; and

(d) annual and biennial plans and budgets submitted by regional management information centers pursuant to section 121.935, subdivisions 3 and 4.

Sec. 5. Minnesota Statutes 1988, section 121.934, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The council shall be composed of:

(a) ~~four~~ *six* representatives of school districts, including one school district administrator from a rural school district, one school district administrator from an urban school district, one school board member from a rural school district, and one school board member from an urban school district, *one teacher from a rural school district, and one teacher from an urban school district*;

(b) three persons employed in management positions in the private sector, at least two of whom are data processing managers or hold an equivalent position in the private sector;

(c) three persons employed in management positions in the public sector other than elementary, secondary, or vocational education, at least two of whom are data processing managers or hold an equivalent position in the public sector;

(d) ~~one person from the general public;~~

~~(e)~~ one person representing post-secondary vocational technical education; and

~~(f)~~ *(e)* one person from the department of education.

Members selected pursuant to clauses (b) and (c) shall not be employees or board members of ~~local~~ school districts or the department of education. The council shall include at least one resident of each congressional district.

Sec. 6. Minnesota Statutes 1988, section 121.935, subdivision 6, is amended to read:

Subd. 6. [FEES.] Regional management information centers may charge fees to affiliated districts for the cost of services provided to the district and the district's proportionate share of outstanding regional debt. If a district uses a state approved alternative finance system for processing its detailed transactions or transfers to another region, the district is liable for

its contracted proportionate share of the outstanding regional debt. The district is not liable for any additional outstanding regional debt that occurs after written notice is given to transfer or use an alternative finance system. ~~In no event shall the annual fee of a district participating in a state pilot program of an alternative financial management information system exceed the annual fee chargeable to the district in the absence of the pilot program.~~ *A regional management information center must not charge a district for transferring the district's summary financial data and essential data elements to the state. The regional management information center may charge the district for any service it provides to, or performs on behalf of, a district to render the data in the proper format for reporting to the state.*

Sec. 7. Minnesota Statutes 1988, section 121.936, subdivision 4a, is amended to read:

Subd. 4a. ~~By July 1, 1984,~~ The department of education shall develop and implement an alternative reporting system for submission of financial data in summary form. This system shall accommodate the use of a microcomputer finance system to be developed and maintained by the department of education. The alternative reporting system must comply with sections 121.90 to 121.917. The provisions of this subdivision shall not be construed to require the department to purchase computer hardware nor to prohibit the department from purchasing services from any regional management information center or the Minnesota educational computing consortium.

Sec. 8. Minnesota Statutes 1988, section 123.58, subdivision 9, is amended to read:

Subd. 9. [FINANCIAL SUPPORT FOR THE EDUCATIONAL COOPERATIVE SERVICE UNITS.] (a) Financial support for ECSU programs and services shall be provided by participating local school districts and nonpublic school administrative units with private, state and federal financial support supplementing as available. The ECSU board of directors may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district and nonpublic school administrative unit its proportionate share of any and all expenses. This share shall be based upon the extent of participation by each district or nonpublic school administrative unit and shall be in the form of a service fee. Each participating district and nonpublic school administrative unit shall remit its assessment to the ECSU board as provided in the ECSU bylaws. The assessments shall be paid within the maximum levy limitations of each participating district. No participating school district or nonpublic school administrative unit shall have any additional liability for the debts or obligations of the ECSU except that assessment which has been certified as its proportionate share or any other liability the school district or nonpublic school administrative unit agrees to assume.

(b) Any property acquired by the ECSU board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state or political subdivision thereof. *If the ECSU is dissolved, its property must be distributed to the member public school districts at the time of the dissolution.*

(c) A school district or nonpublic school administrative unit may elect to withdraw from participation in the ECSU by a majority vote of its full board membership and upon compliance with the applicable withdrawal

provisions of the ECSU organizational agreement. Upon receipt of the withdrawal resolution reciting the necessary facts, the ECSU board shall file a certified copy with the state board of education. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal at least six months prior to June 30. Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing school district or nonpublic school administrative unit for the ECSU shall be paid to the ECSU board.

(d) The ECSU is a public corporation and agency and its board of directors may make application for, accept and expend private, state and federal funds that are available for programs of educational benefit approved by the state board of education in accordance with rules adopted by the state board of education pursuant to chapter 14. The state board of education shall not distribute special state aid or federal aid directly to an ECSU in lieu of distribution to a school district within the ECSU which would otherwise qualify for and be entitled to this aid without the consent of the school board of that district.

*(e) The ECSU is a public corporation and agency and as such, no earnings or interests of the ECSU may inure to the benefit of an individual or private entity.*

Sec. 9. Minnesota Statutes 1988, section 126.56, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE ~~PROGRAMS~~ *INSTITUTIONS*.] A scholarship may be used only ~~for an eligible program. An eligible program shall be approved by the state board of education. An eligible program shall be sponsored by~~ *at an eligible institution. A Minnesota public post-secondary institution is an eligible institution. A private* post-secondary institution ~~that~~ *is eligible if it*:

(1) is accredited by the North Central Association of Colleges;

(2) offers ~~at least~~ an associate or baccalaureate degree program approved under section 136A.65, subdivision 1; and

(3) is located in Minnesota.

~~An eligible program shall, as its primary purpose, provide academic instruction for student enrichment in curricular areas including, but not limited to, communications, humanities, social studies, social science, science, mathematics, art, or foreign language. The program shall not be offered for credit to post-secondary students. It shall not provide remedial instruction. Additional requirements for eligibility may be established by the state board of education and the higher education coordinating board.~~

Sec. 10. Minnesota Statutes 1988, section 126.56, is amended by adding a subdivision to read:

*Subd. 4a.* [ELIGIBLE PROGRAMS.] *A scholarship may be used only for an eligible program. To be eligible, a program must:*

*(1) provide, as its primary purpose, academic instruction for student enrichment in curricular areas including, but not limited to, communications, humanities, social studies, social science, science, mathematics, art, or foreign languages;*

*(2) not be offered for credit to post-secondary students;*

*(3) not provide remedial instruction;*

*(4) meet any other program requirements established by the state board of education and the higher education coordinating board; and*

*(5) be approved by the state board of education.*

Sec. 11. [129B.481] [TEACHER CENTER GRANTS.]

*Subdivision 1.* [DEFINITION.] *For the purposes of this section, "teacher" has the meaning given it in section 179A.03, subdivision 18.*

*Subd. 2.* [ESTABLISHMENT.] *A teacher center may be established by one or more school boards and the exclusive representatives of the teachers. The teacher center shall serve at least ten districts or 3,000 teachers.*

*Subd. 3.* [POLICY BOARD MEMBERSHIP.] *Representatives of exclusive representatives and representatives of the school boards shall mutually determine the composition of the policy board according to the guidelines in this subdivision. A majority of the policy board must be teachers. The number of policy board members from each participating district must be in proportion to the number of teachers in each district. The board shall be composed of elementary teachers, secondary teachers, and other teachers, parents, and representatives of school boards, post-secondary education, business, and labor. At least one teacher from each participating district shall be a member of the board.*

*Subd. 4.* [BOARD POWERS AND DUTIES.] *The board shall develop policy, designate a fiscal agent, adopt a budget, expend funds to accomplish the purposes of the center, contract for technical and other assistance, and perform other managerial or supervisory activities consistent with the rules of the state board of education. The board may employ staff or contract with consultants for services.*

*Subd. 5.* [CENTER FUNCTIONS.] *A teacher center shall perform functions according to this subdivision. The center shall assist teachers, diagnose learning needs, experiment with the use of multiple instructional approaches, assess pupil outcomes, assess staff development needs and plans, and teach school personnel about effective pedagogical approaches. The center shall develop and produce curricula and curricular materials designed to meet the educational needs of pupils being served, by applying educational research and new and improved methods, practices, and techniques. The center shall provide programs to improve the skills of teachers to meet the special educational needs of pupils. The center shall provide programs to familiarize teachers with developments in curriculum formulation and educational research, including how research can be used to improve teaching skills. The center shall facilitate sharing of resources, ideas, methods, and approaches directly related to classroom instruction and improve teachers' familiarity with current teaching materials and products for use in their classrooms. The center shall provide in-service programs.*

*Subd. 6.* [TASK FORCE.] *An advisory task force is established to assist the board of teaching in various aspects of teacher centers. The advisory task force consists of 14 persons appointed by the board of teaching as follows: (1) two elementary, two secondary, and one special area teacher recommended by the Minnesota federation of teachers; (2) two elementary,*

*two secondary, and one special area teacher recommended by the Minnesota education association; (3) one member recommended by the Minnesota school boards association; (4) one member representing the faculty of post-secondary colleges of education recommended by the higher education coordinating board; (5) one member recommended by the commissioner of education; and (6) one member recommended by the state board of education.*

*Subd. 7.* [GRANT APPLICATIONS AND AWARDS.] *The board of teaching, through the advisory task force, shall prescribe the form and manner of applications for grants for teacher centers. Each application must include the approval of the teachers' exclusive representatives and the school boards of all participating districts.*

*Upon approval of an application by the advisory task force, the board of teaching shall award a planning grant of not more than $75,000 for a teacher center. The grant shall be used to develop a final plan of operation for a teacher center. The advisory task force shall recommend the amount of a planning grant based on the number of teachers to be served by the center.*

*Each grant recipient shall provide information to the board of teaching about how the proceeds of the grant were used.*

Sec. 12. [LOANS TO ECSUs.]

*Subdivision 1.* [ACCOUNT ESTABLISHED.] *During the biennium, an account in the state treasury shall be established to loan money to an educational cooperative service unit to the extent a loan is necessary to meet cash flow needs.*

*Subd. 2.* [LOANS AND REPAYMENT.] *The commissioner of education, in consultation with the commissioner of finance, shall establish criteria for determining cash flow needs and conditions and procedures for a loan. The commissioner of education, in consultation with the commissioner of finance, shall approve or disapprove each loan application according to the demonstrated need of the ECSU. An ECSU shall repay the loan, with interest at the average monthly rate on invested treasurer's cash, by June 30 of the fiscal year in which the money was loaned. If the ECSU does not repay the loan according to the terms of the loan, the commissioner of education shall withhold state payments to the ECSU and aid to the school districts that are members of the ECSU, in proportion to the number of pupil units in each district, in an amount equal to the outstanding loan amount.*

Sec. 13. [APPROPRIATION.]

*Subdivision 1.* [HIGHER EDUCATION COORDINATING BOARD.] *The sums indicated in this section are appropriated from the general fund to the higher education coordinating board for the fiscal years designated.*

*Subd. 2.* [SUMMER PROGRAM SCHOLARSHIPS.] *To the higher education coordinating board, for scholarship awards for summer programs according to Minnesota Statutes, section 126.56:*

*$214,000 . . . . . 1990,*

*$214,000 . . . . . 1991.*

*Of this appropriation, any amount required by the higher education coordinating board may be used for the board's costs of administering the program.*

Sec. 14. [APPROPRIATIONS.]

*Subdivision 1.* [BOARD OF TEACHING.] *The sums indicated in this section are appropriated from the general fund to the board of teaching for the fiscal years designated. Any unexpended balance from the appropriations in this section in the first year does not cancel and is available for the second year.*

*Subd. 2.* [TEACHER CENTER GRANTS.] *To the board of teaching for grants to teacher centers according to section 11:*

*$150,000 . . . . . 1990*

*$150,000 . . . . . 1991*

*A grant must be awarded to each existing teacher center under Laws 1987, chapter 398, article 8, section 43.*

Sec. 15. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.*

*Subd. 2.* [TEACHER MENTORSHIP.] *For grants to develop mentoring programs in school districts according to Minnesota Statutes, section 125.231:*

*$250,000 . . . . . 1990*

*$250,000 . . . . . 1991*

*Any unexpended balance in the first year does not cancel and is available for the second year.*

*Subd. 3.* [ADMINISTRATOR'S ACADEMY.] *For the administrator's academy:*

*$168,000 . . . . . 1990*

*$168,000 . . . . . 1991*

*$24,000 must be used each year for the school management assessment center at the University of Minnesota.*

*Subd. 4.* [OFFICE ON TRANSITION SERVICES.] *For the interagency office on transition services according to Minnesota Statutes, section 120.183:*

*$80,000 . . . . . 1990*

*$80,000 . . . . . 1991*

*Subd. 5.* [EDUCATIONAL COOPERATIVE SERVICE UNITS.] *For educational cooperative service units:*

*$749,000 . . . . . 1990*

*$749,000 . . . . . 1991*

*The 1990 appropriation includes $113,000 for 1989 and $636,000 for 1990.*

*The 1991 appropriation includes $113,000 for 1990 and $636,000 for 1991.*

*Money from this appropriation may be transmitted to ECSU boards of directors for general operations in amounts of up to $68,000 per ECSU for each fiscal year. The ECSU whose boundaries coincide with the boundaries of development region 11 and the ECSU whose boundaries encompass*

*development regions six and eight may receive up to $136,000 for each fiscal year.*

*Before releasing money to the ECSUs, the department of education shall assure that the annual plan of each ECSU explicitly addresses the specific educational services that can be better provided by an ECSU than by a member district. The annual plan must include methods to increase direct services to school districts in cooperation with the state department of education. The department may withhold all or a portion of the money for an ECSU if the department determines that the ECSU has not been providing services according to its annual plan.*

*Subd. 6.* [MANAGEMENT INFORMATION CENTERS.] *For management information centers according to Minnesota Statutes, section 121.935, subdivision 5:*

*$3,411,000 . . . . . 1990*

*$3,411,000 . . . . . 1991*

*Subd. 7.* [LEGISLATIVE COMMISSION ON PUBLIC EDUCATION.] *To the legislative commission on public education:*

*$250,000 . . . . . 1990.*

*The appropriation for fiscal year 1990 does not cancel and is available until June 30, 1991.*

*Subd. 8.* [STATE PER ASSISTANCE.] *For state assistance for planning, evaluating, and reporting:*

*$601,000 . . . . . 1990*

*$601,000 . . . . . 1991*

*At least $45,000 each year shall be used for assisting districts with the assurance of mastery program.*

*Subd. 9.* [EDUCATIONAL EFFECTIVENESS.] *For educational effectiveness programs according to Minnesota Statutes, sections 121.608 and 121.609:*

*$600,000 . . . . . 1990*

*$600,000 . . . . . 1991*

*Subd. 10.* [CURRICULUM AND TECHNOLOGY INTEGRATION.] *For curriculum and technology services:*

*$600,000 . . . . . 1990,*

*$600,000 . . . . . 1991.*

*Up to $355,000 each year shall be used for courseware integration centers.*

*Up to $215,000 each year shall be used for technology services.*

*Up to $30,000 each year may be used for disseminating information about technology innovations identified in the technology demonstration sites.*

*Subd. 11.* [ARTS PLANNING PROGRAM ASSISTANCE.] *For technical assistance for the comprehensive arts planning program according to Minnesota Statutes, section 129B.21:*

*$38,000 . . . . . 1990,*

*$38,000 . . . . . 1991.*

*The appropriation for 1990 does not cancel but is available for fiscal year 1991.*

*Subd. 12.* [ACADEMIC EXCELLENCE FOUNDATION.] *For the academic excellence foundation according to Minnesota Statutes, section 121.612:*

*$160,000 . . . . . 1990*

*$160,000 . . . . . 1991*

*Up to $50,000 each year is contingent upon the department's receipt of $1 from private sources for each $1 of the appropriation. The commissioner of education must certify receipt of the private matching funds.*

*Subd. 13.* [HEALTH AND WELLNESS CURRICULUM.] *For the development and dissemination of the comprehensive health and wellness curriculum:*

*$30,000 . . . . . 1990*

*The appropriation is available until June 30, 1991.*

*Subd. 14.* [ECSU LOANS.] *For loans to ECSUs:*

*$500,000 . . . . . 1990*

*$500,000 . . . . . 1991*

*It is anticipated that loans of not more than the amount appropriated will be repaid or otherwise recovered by June 30 each fiscal year.*

Sec. 16. [APPROPRIATION.]

*Subdivision 1.* [STATE UNIVERSITY BOARD.] *The sums indicated in this section are appropriated from the general fund to the state university board for the fiscal years designated.*

*Subd. 2.* [FACULTY EXCHANGE.] *For expenses incurred by elementary and secondary teachers participating in the faculty education exchange:*

*$25,000 . . . . . 1990*

*The appropriation is available until June 30, 1991.*

Sec. 17. [APPROPRIATION.]

*Subdivision 1.* [BOARD OF REGENTS.] *The sums indicated in this section are appropriated from the general fund to the board of regents of the University of Minnesota for the fiscal years designated.*

*Subd. 2.* [FACULTY EXCHANGE.] *For expenses incurred by elementary and secondary teachers participating in the faculty education exchange:*

*$25,000 . . . . . 1990*

*The appropriation is available until June 30, 1991.*

Sec. 18. [REPEALER.]

*Minnesota Statutes 1988, section 126.81, is repealed. Laws 1988, chapter 718, article 5, section 4, is repealed.*

Sec. 19. [EFFECTIVE DATE.]

*Section 5 is effective the day following final enactment. The changes in*

*the composition of the ESV computer council shall occur as vacancies occur or the terms of members expire.*

ARTICLE 12

STATE AGENCIES'

APPROPRIATIONS FOR EDUCATION

Section 1. Minnesota Statutes 1988, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; jobs and training; education; employee relations; trade and economic development; finance; health; human rights; labor and industry; natural resources; office of administrative hearings; public safety; public service; human services; revenue; transportation; and veterans affairs; the housing finance, state planning, and pollution control agencies; the state board of investment; the waste management board; the offices of the secretary of state, state auditor, and state treasurer; the state board of vocational technical education; the ~~school and resource~~ *Minnesota* center for ~~the~~ arts *education*; and the Minnesota zoological board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Sec. 2. Minnesota Statutes 1988, section 128A.09, is amended to read:

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

Subdivision 1. [~~DEPOSIT; CREDIT~~ *RENTAL INCOME; APPROPRIATION.*] ~~Fees and~~ Rental income, excluding rent for land and living residences, ~~collected by the academies for services, seminars, and conferences~~ must be deposited in the state treasury and credited to ~~the~~ *a* revolving fund of the academies. *Money in the revolving fund for rental income is annually appropriated to the academies for staff development purposes. Payment*

*from the revolving fund for rental income may be made only according to vouchers authorized by the administrator of the academies.*

Subd. 2. [~~ADMINISTRATOR'S VOUCHERS~~ *FEES; APPROPRIATION.*] ~~Payment may be made from the revolving fund only according to vouchers authorized by the administrator of the academies.~~ *Income from fees for conferences, seminars, nondistrict technical assistance, and production of instructionally-related materials must be deposited in the state treasury and credited to a revolving fund of the academies.* Money in the revolving fund *for fees from conferences, seminars, nondistrict technical assistance, and production of instructionally-related materials* is annually appropriated to the academies to defray expenses of the ~~services~~ *conferences*, seminars, *technical assistance,* and ~~conferences~~ *production of materials. Payment from the revolving fund for conferences and other fees may be made only according to vouchers authorized by the administrator of the academies.*

Sec. 3. Minnesota Statutes 1988, section 129C.10, is amended to read:

129C.10 [MINNESOTA ~~SCHOOL AND RESOURCE~~ CENTER FOR ~~THE~~ ARTS *EDUCATION.*]

Subdivision 1. [GOVERNANCE.] The board of the Minnesota ~~school and resource~~ center for ~~the~~ arts *education* shall consist of 15 persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. At least one member must be appointed from each congressional district.

Subd. 2. [TERMS, COMPENSATION, AND OTHER.] The membership terms, compensation, removal of members, and filling of vacancies shall be as provided for in section 15.0575. A member may serve not more than two consecutive terms.

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota ~~school and resource~~ center for ~~the~~ arts *education* and all its real and personal property. The powers shall include, but are not limited to, those listed in this subdivision.

(b) The board may employ and discharge necessary employees, and contract for other services to ensure the efficient operation of the ~~school and resource~~ center *for arts education.*

(c) *The board may receive and award grants.* The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance.

(d) The board may establish or coordinate evening, continuing education, extension, and summer programs ~~through the resource center~~ for teachers and pupils.

(e) The board may identify pupils in grades 9 to 12 who have artistic talent, either demonstrated or potential, in dance, literary arts, media arts, music, theater, and visual arts, or in more than one art form.

(f) The board shall educate pupils with artistic talent by providing:

(1) a pilot interdisciplinary academic and arts program for pupils in the 11th and 12th grades, beginning with 135 pupils in the 11th grade in

September 1989, and 135 pupils in the 11th grade and 135 pupils in the 12th grade in September 1990;

(2) intensive arts seminars for one or two weeks for ~~9th and 10th grade~~ pupils *in grades 9 to 12*;

(3) summer arts institutes for pupils in grades 9 to 12;

(4) artist mentor and extension programs in regional sites; and

(5) teacher education programs for indirect curriculum delivery.

(g) The board may determine the location for the Minnesota ~~school and resource~~ center for ~~the~~ arts *education* and any additional facilities related to the ~~school~~ *center*, including the authority to lease a temporary facility.

(h) The board must plan for the enrollment of pupils on an equal basis from each congressional district.

(i) The board may establish task forces as needed to advise the board on policies and issues. The task forces expire as provided in section 15.059, subdivision 6.

(j) The board may request the commissioner of education for assistance and services.

(k) The board may enter into contracts with other public and private agencies and institutions for residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.

(l) The board may provide or contract for services and programs by and for the ~~arts high school~~ *center for arts education*, including a ~~school~~ store, operating in connection with the ~~school~~ *center*; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the ~~arts high school~~ *center*.

(m) The board may provide for transportation of pupils to and from the ~~school and resource~~ center for ~~the~~ arts *education* for all or part of the school year, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase and furnish gasoline to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the ~~school and resource~~ center for ~~the~~ arts *education*. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and any other related matter is within the sole discretion, control, and management of the board.

(n) The board may provide room and board for its pupils.

(o) The board may establish and set fees for services and programs without regard to chapter 14. If the board sets fees not authorized or

prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1.

Subd. 3a. [~~ARTS HIGH SCHOOL~~ *CENTER* FUND APPROPRIATION.] There is established in the state treasury ~~an~~ *a center for* arts ~~high school~~ *education* fund. All money collected by the board shall be deposited in the fund. Money in the fund, including interest earned, is annually appropriated to the board for the operation of its services and programs.

Subd. 4. [EMPLOYEES.] (a) (1) The board shall appoint a director of the ~~school and resource~~ center for ~~the~~ arts *education* who shall serve in the unclassified service.

(2) The board shall employ, upon recommendation of the director, a coordinator of ~~the~~ resource ~~center~~ *programs* who shall serve in the unclassified service.

(3) The board shall employ, upon recommendation of the director, up to six department chairs who shall serve in the unclassified service. The chairs shall be licensed teachers unless no licensure exists for the subject area or discipline for which the chair is hired.

(4) The board may employ other necessary employees, upon recommendation of the director.

(5) The board shall employ, upon recommendation of the director, an executive secretary for the director, who shall serve in the unclassified service.

(b) The employees hired under this subdivision and other necessary employees hired by the board shall be state employees in the executive branch.

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] (a) The board may adopt rules for admission to and discharge from the ~~school~~ *full-time programs for talented pupils* and rules regarding the operation of the ~~school and resource~~ center, including transportation of its pupils. Rules covering admission ~~and discharge~~ are governed by chapter 14. *Rules covering discharge from the full-time program for talented pupils must be consistent with sections 127.26 to 127.39, the pupil fair dismissal act.* Rules regarding *discharge and* the operation of the ~~school~~ *center* are not governed by chapter 14.

(b) Proceedings concerning *the full-time program for talented pupils, including* admission ~~to or~~, discharge ~~from the school~~, a pupil's program ~~at the school~~, and a pupil's progress ~~at the school~~, are governed by the rules adopted by the board and are not contested cases governed by chapter 14.

Subd. 5. [RESOURCE ~~CENTER~~ *PROGRAMS.*] ~~The~~ Resource ~~center shall offer~~ programs ~~that are~~ *must be* directed at improving arts education in elementary and secondary schools throughout the state. The programs offered shall include at least summer institutes offered to pupils in various regions of the state, in-service workshops for teachers, and leadership development programs for teachers. The board shall establish a resource ~~center~~ *programs* advisory council composed of elementary and secondary arts educators, representatives from post-secondary educational institutions, department of education, state arts board, regional arts councils, educational cooperative service units, school district administrators, parents, and other organizations involved in arts education. The advisory council shall include representatives from a variety of arts disciplines and from various

areas of the state. The advisory council shall advise the board about the ~~activities of the center~~ *resource programs*. ~~Programs offered through the~~ Resource ~~center~~ *programs* shall promote and develop arts education ~~programs~~ offered by school districts and arts organizations and shall assist school districts and arts organizations in developing innovative ~~programs~~ *programming*. The board may contract with arts organizations to provide *resource* programs ~~through the resource center~~. The advisory council shall advise the board on contracts and ~~programs~~ *grants* related to the operation of ~~the~~ resource ~~center~~ *programs*.

Subd. 6. [PUBLIC POST-SECONDARY INSTITUTIONS; PROVIDING SPACE.] Public post-secondary institutions shall provide space for programs offered by the Minnesota ~~school and resource~~ center for ~~the~~ arts *education* at no cost to the ~~Minnesota school and resource~~ center ~~for the arts~~ to the extent that space is available at the public post-secondary institutions.

Sec. 4. Minnesota Statutes 1988, section 141.25, subdivision 8, is amended to read:

Subd. 8. [FEES AND TERMS OF LICENSE.] (a) Applications for initial license under sections 141.21 to 141.36 shall be accompanied by ~~$440~~ *$510* as a nonrefundable application fee.

(b) All licenses shall expire on December 31 of each year. Each renewal application shall be accompanied by a nonrefundable renewal fee of ~~$330~~ *$380*.

(c) Application for renewal of license shall be made on or before October 1 of each calendar year. Each renewal form shall be supplied by the commissioner. It shall not be necessary for an applicant to supply all information required in the initial application at the time of renewal unless requested by the commissioner.

Sec. 5. Minnesota Statutes 1988, section 141.26, subdivision 5, is amended to read:

Subd. 5. [FEE.] The initial and renewal application for each permit shall be accompanied by a nonrefundable fee of ~~$165~~ *$190*.

Sec. 6. Minnesota Statutes 1988, section 297A.25, subdivision 11, is amended to read:

Subd. 11. [SALES TO GOVERNMENT.] The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities, the University of Minnesota, state universities, community colleges, technical institutes, state academies, *the Minnesota center for arts education*, and political subdivisions of the state are exempt. Sales exempted by this subdivision include sales under section 297A.01, subdivision 3, clause (f). This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.

Sec. 7. [INSTRUCTION TO REVISOR.]

*The revisor of statutes is requested to change the name of Minnesota Statutes, chapter 129C, from "Minnesota School and Resource Center for the Arts" to "Minnesota Center for Arts Education."*

Sec. 8. [MAGNET ARTS PROGRAMS.]

*The center shall identify at least one school district in each congressional district with the interest and potential to offer magnet arts programs using the curriculum developed by the Minnesota center for arts education. A report on legislative action needed to implement magnet arts programs shall be submitted to the education committees of the legislature by February 1, 1990.*

Sec. 9. [APPROPRIATIONS.]

*Subdivision 1.* [DEPARTMENT OF EDUCATION.] *The sums indicated in this section are appropriated from the general fund, unless otherwise indicated, to the department of education for the fiscal years designated.*

*The amounts that may be spent for each program are specified in the following subdivisions.*

*The approved complement is:*

| | *1990* | *1991* |
|---|---|---|
| *General Fund* | *262.5* | *262.5* |
| *Federal* | *128.4* | *129.4* |
| *Other* | *28.1* | *28.1* |
| *Total* | *419.0* | *420.0* |

*The commissioner of education, with the approval of the commissioner of finance, may transfer unencumbered balances among the programs during the biennium. Transfers must be reported immediately to the house education finance division and the senate education funding division. During the biennium, the commissioner may transfer money among the various objects of expenditure categories and activities within each program, unless restricted by executive order.*

*The commissioner of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The commissioner must report material changes to the*

*house education finance division and the senate education funding division.*

*Subd. 2.* [EDUCATIONAL SERVICES.]

*$8,302,000 . . . . . 1990*

*$7,571,000 . . . . . 1991*

*$21,000 each year is from the trunk highway fund.*

*$100,000 each year is from the alcohol-impaired driver education account in the special revenue fund.*

*The federal complement of the community education section is increased by 3.0.*

*The base in the learner support section is reduced by $691,000 in 1991.*

*$1,191,000 in 1990 and $500,000 in 1991 are for the learner support section. Any unexpended balance remaining in the first year is available for the second year. For the purpose of developing the fiscal years 1992-1993 biennial budget, the base for the learner support section is $220,000 each year plus allowable statewide department of finance base adjustments.*

*The state complement in the institutional approval section is increased by 1.0.*

*The state complement in the equal opportunities section is increased by 1.0.*

*The state complement of the Indian education section is increased by 4.0.*

*$47,000 is added to the vocational student organization base in 1990 only.*

*The state complement of the assessment and program evaluation section is increased by 4.5. $495,000 each year is for 2.0 of the 4.5 complement and for continued development of the assessment item bank and for technical assistance to districts in the use of assessment measures including the item bank.*

*One complement in the curriculum services section is transferred from the public health fund to the general fund.*

*$450,000 each year may be used for the identification and integration of learner outcomes. Of these amounts, $175,000 in fiscal year 1990 is for the identification and development of vocational career learner outcomes.*

*The federal complement of the curriculum services section is increased by 2.0.*

*The federal complement of the special education section is increased by 1.0 in 1991.*

*The state complement includes 1.0 for the office of educational leadership and the federal complement includes 3.0 for the office of educational leadership.*

*Subd. 3.* [ADMINISTRATION AND FINANCIAL SERVICES.]

*$8,851,700 . . . . . 1990*

*$8,906,700 . . . . . 1991*

*The state complement of the education finance and analysis section is increased by 2.0 for processing pupil enrollment transfers. The base in the education finance and analysis section is reduced by $30,000 each year for program cost analysis.*

*School districts shall report information on salary schedules to the department of education in a manner prescribed by the department.*

*$25,000 each year is for the development and distribution of training videos for school bus drivers.*

*The state complement of the education data systems section is increased by 6.0.*

*$1,267,000 in 1990 and $1,420,000 in 1991 are for the education data systems section. $15,000 each year of these amounts are for the expenses of the ESV computer council. Any unexpended balance remaining in the first year does not cancel and is available for the second year.*

*The ESV computer council shall study and evaluate the current structure of regional management information centers. The study shall include at least the following:*

*(1) the number and location of regional data processing centers;*

*(2) the number, location, and administrative structure of regional service centers;*

*(3) the relationship of regional computing centers to the departments of administration and education;*

*(4) the administrative relationship of regional processing or service centers to other regional administrative units, including educational cooperative service units;*

*(5) the relationship of the development of regional processing to state telecommunications networks; and*

*(6) other administrative or related issues, as determined by the council.*

*The council shall report to the education committees of the legislature by February 1, 1990, its recommendations for changes. The report shall also include recommendations about the role of the council in implementing the recommendations.*

*$50,000 in 1990 is for the ESV computer council to contract with the information policy office in the department of administration for this study.*

*The child nutrition section is reduced by $30,000 each year.*

*$14,000 each year is for internal auditing of the department. The auditing shall include analysis of the payment of credits and aids by the department to school districts.*

*The commissioner shall maintain no more than six total complement in the categories of commissioner, deputy commissioner, assistant commissioner, assistant to the commissioner, or executive assistant.*

*$50,000 in 1990 is for development of an information management policy within the department of education to analyze the purpose and use of the integrated data base and other data gathered by the department from school districts. The policy shall consider uses of the information by the department of education, other state departments, the public, and the legislature. The department may contract with an independent consultant to design an information management policy.*

*The state complement for the administrative support section is increased by 2.5 including 0.5 for affirmative action and 2.0 for publications.*

*The state complement of the Minnesota academic excellence foundation is increased by 0.5.*

*$168,000 each year is for the state board of education. The state complement for the state board is increased by 1.0.*

*$179,700 in fiscal year 1990 and $179,700 in fiscal year 1991 are for expenses incurred for litigation of a challenge to the constitutionality of the education financing system. Any unencumbered balances must not be transferred to other programs.*

Sec. 10. [FARIBAULT ACADEMIES APPROPRIATION.]

*The sums indicated in this section are appropriated to the department of*

*education for the Faribault Academies:*

*$7,139,000 . . . . . 1990*

*$7,139,000 . . . . . 1991*

*$115,000 each year is for an extended year program.*

*$16,000 each year is for the resource center.*

*Any unexpended balance in the first year does not cancel and is available for the second year.*

*The approved complement is:*

| | *1990* | *1991* |
|---|---|---|
| *General fund* | *185.6* | *185.6* |
| *Federal* | *8.0* | *8.0* |
| *Total* | *193.6* | *193.6* |

*The state board of education, with the approval of the commissioner of finance, may transfer complement among funds if necessary. The state board must report material changes to the house education finance division and the senate education funding division.*

Sec. 11. MINNESOTA CENTER FOR ARTS EDUCATION

| | | | |
|---|---|---|---|
| Total Appropriations | | | $ 5,800,000 $ 6,200,000 |
| Approved Complement - | 1990 | 1991 | |
| General Fund - | 39.0 | 49.0 | |
| Total - | 39.0 | 49.0 | |

*The state complement for the Minnesota center for arts education is increased by 18.0 for the first year and 28.0 the second year.*

*Any unexpended balance from the appropriation in this section in 1990 does not cancel but is available in 1991.*

ARTICLE 13

TECHNICAL CHANGES

FOR SCHOOL DISTRICT PROPERTY TAXES

Section 1. Minnesota Statutes 1988, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED GROSS TAX CAPACITY.] (a) [COMPUTATION.] The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures ~~referenced~~ in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized gross tax capacity *and an aggregate equalized net tax capacity* for the various ~~strata~~ *classes* of taxable property in each school district, which tax capacity shall be designated as the adjusted gross tax capacity *and the adjusted net tax capacity, respectively*. The department of revenue ~~shall take such steps as are necessary in the performance of that duty and~~ may incur ~~such~~ *the* expense ~~as is~~ necessary

~~therefor~~ *to make the determinations*. The commissioner of revenue ~~is authorized to~~ *may* reimburse any county or governmental official for requested services performed in ascertaining ~~such~~ *the* adjusted gross tax capacity *and the adjusted net tax capacity*. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted gross tax capacities *and adjusted net tax capacities*. On or before June 15~~,~~ annually, the department of revenue shall file its final report on the *adjusted* gross tax capacities *and adjusted net tax capacities* established by the previous year's assessment with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of ~~mill~~ *tax capacity* rates. A copy of the ~~adjusted gross tax capacity~~ *report* so filed shall be ~~forthwith~~ mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which each district is located.

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for ~~proper~~ execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. ~~By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.~~

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted gross tax capacity *and adjusted net tax capacity* of agricultural lands for the calculation of ~~1987~~ adjusted gross tax capacities and ~~thereafter~~ *adjusted net tax capacities*, the market value of agricultural lands shall be the price for which the property would sell in an arms length transaction.

Sec. 2. Minnesota Statutes 1988, section 124.38, subdivision 7, is amended to read:

Subd. 7. [MAXIMUM EFFORT DEBT SERVICE LEVY.] "Maximum effort debt service levy" means the lesser of:

(1) A levy in whichever of the following amounts is applicable:

(a) In any school district granted a debt service loan after July 31, 1981 or granted a capital loan which is approved after July 31, 1981, a levy in a total dollar amount computed as ~~16 mills~~ *a gross tax capacity rate of 13.08 percent* on the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 16.27 percent on the adjusted net tax capacity for taxes payable in 1991 and thereafter*;

(b) In any school district granted a debt service loan before August 1, 1981 or granted a capital loan which was approved before August 1, 1981, a levy in a total dollar amount computed as ~~15 mills~~ *a gross tax capacity rate of 12.26 percent* on the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 15.26 percent on the net tax capacity for taxes payable in 1991 and thereafter*, until and unless the district receives an additional loan; or

(2) A levy in whichever of the following amounts is applicable:

(a) In any school district which received a debt service or capital loan from the state before January 1, 1965, a levy in a total dollar amount computed as 4.10 mills on the market value in each year, unless the district applies or has applied for an additional loan subsequent to January 1, 1965, or issues or has issued bonds on the public market, other than bonds refunding state loans, subsequent to January 1, 1967;

(b) In any school district granted a debt service or capital loan between January 1, 1965, and July 1, 1969, a levy in a total dollar amount computed as 5-1/2 mills on the market value in each year, until and unless the district receives an additional loan;

(c) In any school district granted a debt service or capital loan between July 1, 1969 and July 1, 1975, a levy in a total dollar amount computed as 6.3 mills on market value in each year until and unless the district has received an additional loan;

(d) In any school district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted; provided, that the school board in any district affected by the provisions of clause (2)(d) may elect instead to determine the amount of its levy according to the provisions of clause (1); provided further that if a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of clause (2)(d), the liability of the district for the amount of the difference between the amount it levied under clause (2)(d) and the amount it would have levied under clause (1), and for interest on the amount of that difference, shall not be satisfied and discharged pursuant to section 124.43, subdivision 4.

Sec. 3. Minnesota Statutes 1988, section 124.43, subdivision 1, is amended to read:

Subdivision 1. [REVIEW BY COMMISSIONER.] (a) The commissioner may, after review and a favorable recommendation by the state board of education, recommend to the legislature capital loans to school districts. Proceeds of the loans shall be used only for sites for school buildings and for acquiring, bettering, furnishing, or equipping school buildings under contracts to be entered into within 12 months from and after the date on which each loan is granted.

(b) Any school board that intends to submit an application for a capital loan shall submit a proposal to the commissioner for review and comment pursuant to section 121.15 by September 1 of any year, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to construct the

facility. The state board shall not make a favorable recommendation on an application for a capital loan for any facility unless:

(1) the facility receives a positive review and comment pursuant to section 121.15; and

(2) the state board determines that

(A) the facilities are needed to replace facilities dangerous to the health and safety of pupils, or to provide for pupils for whom no adequate facilities exist;

(B) the facilities could not be made available through dissolution and attachment of the district to another district or through pairing, interdistrict cooperation, or consolidation with another district, or through the purchase or lease of facilities from existing institutions within the area. The preference of the school district regarding reorganization shall not be a criterion used by the state board in determining whether the facilities could be made available through reorganization;

(C) the facilities are comparable in size and quality to facilities recently constructed in other districts of similar enrollment; and

(D) the district's need for the facilities is comparable to needs that comparable districts are meeting through local bond issues.

The state board may recommend that the loan be approved in a reduced amount in order to meet the foregoing criteria. If the state board recommends that a loan not be approved, the commissioner shall not recommend approval of the loan. If the state board recommends that the loan be approved in a reduced amount, the commissioner shall not recommend approval of a loan larger than that recommended by the state board.

(c) As part of reviewing an application for a capital loan, the commissioner of education shall prepare estimated yearly repayments by the school district and the estimated amount of principal and interest that may be forgiven after the term of the loan. These estimates shall assume no growth in gross tax capacity over the term of the loan, shall assume a levy equal to ~~16 mills~~ *a gross tax capacity rate of 13.08 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 16.27 percent for taxes payable in 1991 and thereafter*, and shall be prepared using a methodology approved by the commissioner of finance. The commissioner of education shall use a discount factor provided by the commissioner of finance in determining the present value of the estimated amount of interest and principal which may be forgiven after the term of the loan.

(d) No loan shall be recommended for approval for any district exceeding an amount computed as follows:

(1) The amount requested by the district under subdivision 2;

(2) Plus the aggregate principal amount of general obligation bonds of the district outstanding on June 30 of the year following the year the application was received, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or ~~24 percent of the adjusted gross tax capacity,~~ *the following amount:*

*(i) for the period October 1, 1988, to September 30, 1989, 197 percent of its adjusted gross tax capacity,*

*(ii) for any 12-month period beginning October 1 of any year after 1988, 245 percent of its adjusted net tax capacity as most recently determined,* whichever is less;

(3) Less the maximum net debt permissible for the district on December 1 of the year the application is received, under the limitation in section 475.53, subdivision 4, or ~~24 percent of the most recent adjusted gross tax capacity available at the time of application.~~ *the following amount:*

*(i) for the period October 1, 1988, to September 30, 1989, 197 percent of its adjusted gross tax capacity,*

*(ii) for any 12-month period beginning October 1 of any year after 1988, 245 percent of its adjusted net tax capacity as most recently determined,* whichever is less; and

(4) Less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted, as estimated in accordance with subdivision 4, provided that the loan may be approved in an amount computed as provided in clauses (1) to (3), subject to subsequent reduction in accordance with this clause.

Sec. 4. Minnesota Statutes 1988, section 124.82, subdivision 3, is amended to read:

Subd. 3. [FACILITIES DOWN PAYMENT LEVY REFERENDUM.] A district may levy the tax capacity rate approved by a majority of the electors voting on the question to provide funds for a down payment for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the school board. A referendum for a project not receiving a positive review and comment by the commissioner under section 121.15 must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the down payment levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner of education, state the maximum amount of the down payment levy ~~in mills~~ *as a percentage of net tax capacity*, state the amount that will be raised by that tax capacity rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the down payment levy proposed by the board of . . . . . School District No. . . . . be approved?"

If approved, the amount provided by the approved tax capacity rate applied

to ~~each year's gross~~ *the net* tax capacity *for the year preceding the year the levy is certified* may be certified for the number of years approved.

In the event a conjunctive question proposes to authorize both the down payment levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of education of the results of the referendum.

Sec. 5. Minnesota Statutes 1988, section 134.33, subdivision 1, is amended to read:

Subdivision 1. An establishment grant as described in section 134.32, subdivision 2, shall be made to any regional public library system for the first two state fiscal years after a board of county commissioners has contracted to join that system and has agreed that the county will provide the levels of support for public library service specified in this section. In ~~the first year of participation~~ *1990*, the county shall provide an amount of support equivalent to ~~.3 mill times~~ *0.25 percent of* the adjusted gross tax capacity of the taxable property of the county as determined by the commissioner of revenue for the second year preceding that calendar year or two-thirds of the per capita amount established under the provisions of section 134.34, subdivision 1, whichever amount is less. In ~~the second year of participation~~ *1991* and in each year thereafter, the county shall provide an amount of support equivalent to ~~.4 mill times~~ *0.41 percent of* the adjusted ~~gross~~ *net* tax capacity of the taxable property of the county as determined by the commissioner of revenue for the second year preceding that calendar year or the per capita amount established under the provisions of section 134.34, subdivision 1, whichever is less. The minimum level of support shall be certified annually to the county by the department of education. In no event shall the department of education require any county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for an establishment grant. This section shall not be construed to prohibit any county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 6. Minnesota Statutes 1988, section 134.34, subdivision 1, is amended to read:

Subdivision 1. [LOCAL SUPPORT LEVELS.] A regional library basic system support grant shall be made to any regional public library system where there are at least three participating counties and where each participating city and county, except in the first year of participation as provided in section 134.33, is providing for public library service support the lesser of (a) an amount equivalent to ~~.4 mill times~~ *0.33 percent of* the adjusted gross tax capacity of the taxable property of that city or county, as determined by the commissioner of revenue for the second year preceding that calendar year *in 1990 and an amount equivalent to .41 percent of the net tax capacity of the taxable property of that city or county, as determined by the commissioner of revenue for the second year preceding that calendar year in 1991 and later years* or (b) a per capita amount calculated under the provisions of this subdivision. The per capita amount is established for calendar year ~~1980~~ *1990* as ~~$3~~ *$3.62*. In succeeding calendar years, the per capita amount shall be increased by a percentage equal to one-half of the percentage by which the total state adjusted ~~gross~~ *net* tax capacity of property as determined by the commissioner of revenue for the second year preceding that calendar year

increases over that total adjusted ~~gross~~ *net* tax capacity for the third year preceding that calendar year. The minimum level of support shall be certified annually to the participating cities and counties by the department of education. A city which is a part of a regional public library system shall not be required to provide this level of support if the property of that city is already taxable by the county for the support of that regional public library system. In no event shall the department of education require any city or county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for a regional library basic system support grant. This section shall not be construed to prohibit a city or county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 7. Minnesota Statutes 1988, section 273.1102, subdivision 3, is amended to read:

Subd. 3. [1988 ADJUSTMENT.] ~~For~~ School ~~districts~~ *district* levy limitations or authorities expressed in terms of mills and adjusted assessed value~~, their levy limitations~~ *in any special law that is not codified in Minnesota Statutes* shall be converted by the department of education to ~~"~~equalized *gross* tax capacity rates~~."~~ *for taxes payable in 1989 and 1990 and equalized net tax capacity rates for taxes payable in 1991 and thereafter.* For purposes of this calculation, the 1987 adjusted assessed values of the district shall be converted to "adjusted gross tax capacities" by multiplying the equalized market values by class of property by the gross tax capacity rates provided in section 273.13. Each county assessor and the city assessors of Minneapolis, Duluth, and St. Cloud shall furnish the commissioner of revenue the 1987 market value for taxes payable in 1988 for any new classes of property established in this article. The commissioner shall use those values, and estimate values where needed, in developing the 1987 tax capacity for each school district under this section. The requirements of section 124.2131, subdivisions 1, paragraph (c), and 2 and 3, shall remain in effect.

Sec. 8. Minnesota Statutes 1988, section 275.011, subdivision 1, is amended to read:

Subdivision 1. The property tax levied for any purpose *under a special law that is not codified in Minnesota Statutes or a city charter provision and that is* subject to a mill rate limitation imposed by ~~statute or~~ *the* special law, excluding levies subject to mill rate limitations that use adjusted assessed values determined by the commissioner of revenue under section 124.2131, must not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of the applicable mill rate limitation imposed by statute or special law multiplied by the total assessed valuation of all taxable property subject to the tax as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the property tax levy limitation for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property subject to the tax divided by the assessment year 1987 total market valuation of all taxable property subject to the tax; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the property tax levy limitation for the previous year determined pursuant to this

subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property subject to the tax for the current assessment year divided by the total market valuation of all taxable property subject to the tax for the previous assessment year.

For the purpose of determining the property tax levy limitation for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property subject to the tax without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Sec. 9. Minnesota Statutes 1988, section 275.125, subdivision 6e, is amended to read:

Subd. 6e. [DESEGREGATION LEVY.] Each year, *independent* school district No. 625, St. Paul, may levy an amount not to exceed ~~one mill~~ *a gross tax capacity rate of .80 percent* times the adjusted gross tax capacity *of the district for taxes payable in 1990 or a net tax capacity rate of 1.0 percent times the adjusted net tax capacity* of the district *for taxes payable in 1991 and thereafter*. Notwithstanding section 121.904, the entire amount of this levy shall be recognized as revenue for the fiscal year in which the levy is certified. This levy shall not be considered in computing the aid reduction under section 124.155.

Sec. 10. Minnesota Statutes 1988, section 275.125, subdivision 6h, is amended to read:

Subd. 6h. [MINNEAPOLIS HEALTH INSURANCE SUBSIDY LEVY.] Each year special school district No. 1, Minneapolis, may make an additional levy not to exceed the amount raised by ~~.1 mill~~ *a gross tax capacity rate of .08 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of .11 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of the property in the district for the preceding year. ~~In addition, in 1987 the district may levy an amount not to exceed the amount raised by .1 mill times the adjusted gross tax capacity of the property in the district for the preceding year for health insurance subsidies for fiscal year 1988.~~ The proceeds may be used only to subsidize health insurance costs for eligible teachers as provided in this section.

"Eligible teacher" means a retired teacher who was a basic member of the Minneapolis teachers retirement fund association, who retired before May 1, 1974, and who is not eligible to receive the hospital insurance benefits of the federal Medicare program of the Social Security Act without payment of a monthly premium. The district shall notify eligible teachers that a subsidy is available. An eligible teacher may submit to the school district a copy of receipts for health insurance premiums paid during the previous 12-month period. The school district shall disburse the health insurance premium subsidy to each eligible teacher in a timely and efficient manner. An eligible teacher may receive a subsidy up to an amount equal to the lesser of 90 percent of the cost of the eligible teacher's health insurance or up to 90 percent of the cost of the number two qualified plan of health coverage for individual policies made available by the Minnesota comprehensive health association under chapter 62E.

If funds remaining from the previous year's health insurance subsidy levy, minus the previous year's required subsidy amount, are sufficient to pay the estimated current year subsidy, the levy must be discontinued until the

remaining funds are estimated by the school board to be insufficient to pay the subsidy.

Sec. 11. Minnesota Statutes 1988, section 275.125, subdivision 6i, is amended to read:

Subd. 6i. [RULE COMPLIANCE LEVY.] Each year a district that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0200 to 3535.2200, may levy an amount not to exceed ~~one mill~~ *a gross tax capacity rate of .80 percent* times the adjusted gross tax capacity *of the district for taxes payable in 1990 or a net tax capacity rate of 1.0 percent times the adjusted net tax capacity* of the district *for taxes payable in 1991 and thereafter*. Independent school district No. 625, St. Paul, may levy according to this subdivision and subdivision 6e. Notwithstanding section 121.904, the entire amount of this levy shall be recognized as revenue for the fiscal year in which the levy is certified. This levy shall not be considered in computing the aid reduction under section 124.155.

Sec. 12. Minnesota Statutes 1988, section 275.125, subdivision 8b, is amended to read:

Subd. 8b. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] A district may levy for its early childhood family education program. The amount levied shall not exceed the lesser of:

(a) ~~.5 mill~~ *a gross tax capacity rate of .4 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of .49 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of the district for the year preceding the year the levy is certified, or

(b) the maximum revenue as defined in section 124.2711, subdivision 1, for the school year for which the levy is attributable.

Sec. 13. Minnesota Statutes 1988, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections 298.018; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; and any law imposing a tax upon severed mineral values, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and chapters 124 and 124A by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under Minnesota Statutes 1986, sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12,

subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and Minnesota Statutes 1986, sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, for levies certified in 1986.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.23, to an amount less than the amount raised by a levy of ~~12.5 mills~~ *a gross tax capacity rate of 10.22 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 12.71 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of that district for the preceding year as determined by the commissioner. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2, shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by section 124.244, subdivision 2, and subdivisions 11c, 12, and 12a, and the community education levy authorized by subdivisions 8 and 8b, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to section 124.244, subdivision 2, and subdivisions 11c, 12, and 12a, and for community education pursuant to subdivisions 8 and 8b. The reduction of the capital expenditure levy and the community education levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections 298.018; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values; and not deducted from general education aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year, the amount required to be subtracted from the previous fiscal year's general education aid pursuant to section 124A.035, subdivision 5, which is in excess of the general education aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 14. Minnesota Statutes 1988, section 275.125, subdivision 9a, is amended to read:

Subd. 9a. [STATUTORY OPERATING DEBT LEVY.] (1) In ~~1978 and~~ each year ~~thereafter~~ in which so required by this subdivision, a district shall make an additional levy to eliminate its statutory operating debt, determined as of June 30, 1977 and certified and adjusted by the commissioner. This levy shall not be made in more than 20 successive years and each year before it is made, it must be approved by the commissioner and the approval shall specify its amount. This levy shall ~~in each year~~ be an amount which is equal to the amount raised by a levy of ~~1.5 mills~~ *a gross tax capacity rate of 1.20 percent* times the adjusted gross tax capacity *of the district for the preceding year for taxes payable in 1990 or a net tax capacity rate of 1.50 percent times the adjusted net tax capacity* of the district for the preceding year *for taxes payable in 1991 and thereafter*; provided that in the last year in which

the district is required to make this levy, it shall levy an amount not to exceed the amount raised by a levy of ~~1.5 mills~~ *a gross tax capacity rate of 1.20 percent* times the adjusted gross tax capacity of the district *for the preceding year for taxes payable in 1990 or a net tax capacity rate of 1.50 percent times the adjusted net tax capacity of the district* for the preceding year *for taxes payable in 1991 and thereafter*. When the sum of the cumulative levies made pursuant to this subdivision and transfers made according to section 121.912, subdivision 4 equals an amount equal to the statutory operating debt of the district, the levy shall be discontinued.

(2) The district shall establish a special account in the general fund which shall be designated "appropriated fund balance reserve account for purposes of reducing statutory operating debt" on its books and records. This account shall reflect the levy authorized pursuant to this subdivision. The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district which is required to levy pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivision 2 in that same year.

(4) Each district shall make permanent fund balance transfers so that the total statutory operating debt of the district is reflected in the general fund as of June 30, 1977.

Sec. 15. Minnesota Statutes 1988, section 275.125, subdivision 9b, is amended to read:

Subd. 9b. [OPERATING DEBT LEVY.] (1) Each year, a district may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the district, determined as of June 30, 1983, and certified and adjusted by the commissioner. This levy may in each year be an amount not to exceed the amount raised by a levy of ~~1.5 mills~~ *a gross tax capacity rate of 1.20 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 1.50 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of the district for the preceding year as determined by the commissioner. However, the total amount of this levy for all years it is made shall not exceed the lesser of (a) the amount of the deficit in the net unappropriated operating funds of the district as of June 30, 1983, or (b) the amount of the aid reduction, according to Laws 1981, Third Special Session chapter 2, article 2, section 2, but excluding clauses (l), (m), (n), (o), and (p), and Laws 1982, Third Special Session chapter 1, article 3, section 6, to the district in fiscal year 1983. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivisions 2 and 2a, in that same year.

Sec. 16. Minnesota Statutes 1988, section 275.125, subdivision 9c, is amended to read:

Subd. 9c. [1985 OPERATING DEBT LEVY.] (1) Each year, a district may

levy to eliminate a deficit in the net unappropriated balance in the general fund of the district, determined as of June 30, 1985, and certified and adjusted by the commissioner. Each year this levy may be an amount not to exceed the amount raised by a levy of ~~1.5 mills~~ *a gross tax capacity rate of 1.20 percent* times the adjusted gross tax capacity *for taxes payable in 1990 or a net tax capacity rate of 1.50 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of the district for the preceding year. However, the total amount of this levy for all years it is made shall not exceed the amount of the deficit in the net unappropriated balance in the general fund of the district as of June 30, 1985. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) A district, if eligible, may levy under this subdivision or subdivision 9b but not both.

(3) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(4) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivision 2 in that same year.

Sec. 17. Minnesota Statutes 1988, section 275.125, subdivision 14a, is amended to read:

Subd. 14a. [LEVY FOR LOCAL SHARE OF TECHNICAL INSTITUTE CONSTRUCTION.] (a) The definitions in section 136C.02 apply to this subdivision.

(b) A district maintaining a technical institute may levy for its local share of the cost of construction of facilities for the technical institute as provided in this subdivision.

(c) The construction must be authorized by a specific legislative act pursuant to section 136C.07, subdivision 5, after January 1, 1980. The specific legislative act must require that part of the cost of construction for post-secondary vocational purposes shall be financed by the state and that part of the cost of construction for post-secondary vocational purposes shall be financed by the school district operating the technical institute.

(d) The district may levy an amount equal to the local share of the cost of construction for post-secondary vocational purposes, minus the amount of any unappropriated net balance in the district's post-secondary vocational technical building construction fund. A district may levy the total amount authorized by this subdivision in one year, or a proportionate amount of the total authorized amount each year for up to three successive years.

(e) By the July 1 before a district certifies the first levy pursuant to this subdivision for the local share of any construction project, at least three weeks published notice of the proposed levy shall be given in the legal newspaper with the largest circulation in the district. The notice shall state the purpose of the proposed levy, the duration of the proposed levy and the amount of the proposed levy in dollars and ~~mills~~ *in terms of the tax capacity rate*. Upon petition within 20 days after the notice of the greater of (a) 50 voters, or (b) 15 percent of the number of voters who voted in the district at the most recent regular school board election, the board shall call a referendum on the proposed levy. The referendum shall be held on a date set by the school board,

but no later than the August 20 before the levy is certified. The question on the ballot shall state the amount of the proposed levy in ~~mills on the district's adjusted gross tax capacity~~ *terms of the tax capacity rate* and in dollars in the first year of the proposed levy.

(f) For the purposes of this subdivision, "construction" includes the acquisition and betterment of land, buildings and capital improvements for technical institutes.

(g) A district may not levy for the cost of a construction project pursuant to this subdivision if it issues any bonds to finance any costs of the project.

Sec. 18. Laws 1965, chapter 705, as amended by Laws 1975, chapter 261, section 4, and Laws 1980, chapter 609, article 6, section 37, is amended to read:

Sec. 6. The school board, for the purpose of providing moneys for the payment of its severance pay obligations under a plan approved by resolution of the district, in addition to all other powers possessed by the school district and in addition to and in excess of any existing limitation upon the amount it is otherwise authorized by law to levy as taxes, is authorized to levy taxes annually not exceeding in any one year an amount equal to ~~two tenths of one mill upon each dollar of the assessed valuation thereof~~ *a gross tax capacity rate of .17 percent for taxes payable in 1990 or a net tax capacity rate of .21 percent for taxes payable in 1991 and thereafter* upon all taxable property within the school district which taxes as levied shall be spread upon the tax rolls, and all corrections thereof shall be held by the school district, and allocated therefor to be disbursed and expended by the school district in payment of any public school severance pay obligations and for no other purpose. Disbursements and expenditures previously authorized on behalf of the school district for payment of severance pay obligations shall not be deemed to constitute any part of the cost of the operation and maintenance of the school district within the meaning of any statutory limitation of any school district expenditures.

The amount of such severance pay allowable or to become payable in respect of any such employment or to any such employee shall not exceed the amount permitted by Minnesota Statutes, Section 465.72.

Sec. 19. Laws 1976, chapter 20, section 4, is amended to read:

Sec. 4. [EXCESS LEVY.] In addition to all other levies permitted by law, in 1976 and each year thereafter, Independent School District No. 625 shall make an additional levy to eliminate its statutory operating debt for the school year ending June 30, 1976 as certified by the legislative auditor pursuant to section 3. Each year the commissioner of education shall certify to the county auditor and Independent School District No. 625 the correct amount of this levy. This levy shall in each year be an amount which is equal to the amount raised by a levy of ~~1.5 mills~~ *a gross tax capacity rate of 1.20 percent* times the adjusted ~~assessed valuation~~ *gross tax capacity for taxes payable in 1990 or a net tax capacity rate of 1.50 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter* of the district for the preceding year as determined by the equalization aid review committee, less any amount necessary for the payment of principal and interest on bonds sold pursuant to section 1. When the cumulative receipts from the levies made pursuant to this section and the earnings in the reserve account established under section 5 equal an amount equal to the statutory operating debt, the levy shall be discontinued.

Sec. 20. Laws 1988, chapter 719, article 5, section 84, is amended to read:

Sec. 84. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall change the words "assessed value" or "assessed valuation" wherever they appear in Minnesota Statutes to "gross tax capacity" in Minnesota Statutes 1988 and "net tax capacity" in Minnesota Statutes 1989 Supplement and subsequent editions of the statutes except section 275.011, *and except in sections of Minnesota Statutes amended in this act.* The revisor of statutes shall change the words "mill rate" wherever they appear in Minnesota Statutes to "tax capacity rate" in Minnesota Statutes 1988 and subsequent editions of the statutes except section 275.011.

Sec. 21. [EFFECTIVE DATE.]

*Sections 1 to 20 are effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to education; providing for general education revenue, transportation, special programs, community education, school facilities and equipment, education organization and cooperation, access to education excellence, school breakfast programs, sexual harassment and violence policies, libraries, state education agencies, education agency services, Faribault academies, center for arts education, providing for limits on open enrollment; appropriating money; amending Minnesota Statutes 1988, sections 16A.1541; 16B.60, subdivision 6; 43A.08, subdivision 1a; 120.06, by adding a subdivision; 120.062, subdivisions 4, 5, and 6; 120.17, subdivisions 3, 3b, and 11a; 121.11, subdivisions 7, 12, and 14; 121.15, subdivision 2; 121.612; 121.88, subdivisions 8, 9, and 10; 121.882, subdivision 2; 121.904, subdivision 4a, and by adding a subdivision; 121.908, subdivision 5; 121.912, by adding a subdivision; 121.931, subdivisions 3, 4, and 7; 121.934, subdivision 2; 121.935, subdivision 6; 121.936, subdivision 4a; 122.23, by adding a subdivision; 122.41; 122.43, subdivision 1; 122.532, subdivisions 3 and 4, and by adding a subdivision; 122.541; 122.91, subdivisions 1, 3, 5, and by adding subdivisions; 122.92; 122.93, subdivision 2, and by adding subdivisions; 122.94, subdivision 1, and by adding a subdivision; 122.95, subdivision 2, and by adding a subdivision; 123.33, subdivision 7; 123.3514, subdivisions 4c, 5, 7, 10, and by adding a subdivision; 123.36, subdivisions 1 and 13, as amended; 123.39, by adding a subdivision; 123.58, subdivisions 4 and 9; 124.155, subdivisions 1 and 2; 124.19, subdivision 5, and by adding a subdivision; 124.195, subdivisions 8 and 9; 124.2131, subdivision 1; 124.223; 124.225; 124.243, subdivisions 2, 3, and by adding a subdivision; 124.244, subdivisions 1 and 2; 124.245, subdivision 3b; 124.252, subdivision 3; 124.26, subdivisions 1c and 7, and by adding a subdivision; 124.2711, subdivision 1 and 3; 124.2721; 124.273, subdivisions 4 and 5; 124.32, subdivision 1b; 124.38, subdivision 7; 124.43, subdivision 1; 124.494, subdivision 2; 124.573, subdivisions 2 and 2b, and by adding subdivisions; 124.574, subdivisions 2b, 4, and 5; 124.575, subdivisions 2 and 3, and by adding a subdivision; 124.82, subdivision 3; 124.83, subdivisions 3, 4, and 6; 124A.03, subdivision 2; 124A.036, by adding a subdivision; 124A.22, subdivisions 1, 2, 5, 6, 8, and 9, and by adding subdivisions; 124A.23, subdivision 1; 124A.28, subdivision 1; 124A.29; 126.151, subdivision 2; 126.22, subdivisions 2 and 3, and by adding a subdivision; 126.23; 126.56, subdivision 4, and by adding a subdivision; 126.661, by adding a subdivision; 126.663, subdivisions 2 and 3; 126.67, subdivisions 5 and 8; 128A.09; 129.121, by adding subdivisions; 129B.41; 129B.42; 129B.44; 129B.45; 129B.46; 129C.10; 134.31, by adding a subdivision;

134.33, subdivision 1; 134.34, subdivisions 1, 2, and 3; 136D.22, subdivision 1; 136D.27, subdivision 1; 136D.72, subdivision 1; 136D.74, subdivision 2; 136D.82, subdivision 1; 136D.87, subdivision 1; 141.25, subdivision 8; 141.26, subdivision 5; 171.29, subdivision 2; 273.1102, subdivision 3; 273.1398, subdivision 6; 275.011, subdivision 1; 275.125, subdivisions 5, 5b, 5c, 5e, 6e, 6h, 6i, 8b, 8e, 9, 9a, 9b, 9c, 11d, 14a, and by adding a subdivision; 275.14; 297A.25, subdivision 11; 326.03, subdivision 2; 354.094, subdivision 1 and 2; 354.66, subdivision 4; 354A.091, subdivision 1 and 2; 354A.094, subdivision 4; 363.01, by adding a subdivision; 363.06, subdivision 3; 363.073, subdivision 1; 422A.101, subdivision 2; 465.71; 471.38, subdivision 3; Laws 1959, chapter 462, section 3, subdivision 10, as amended; Laws 1965, chapter 705, as amended; Laws 1976, chapter 20, section 4; Laws 1988, chapter 719, article 5, section 84; proposing coding for new law in Minnesota Statutes, chapters 121; 122; 123; 124; 124A; 126; 127; 129B; repealing Minnesota Statutes 1988, sections 120.05, subdivision 1; 120.062, subdivision 8; 120.13; 120.15; 120.16; 120.77; 121.09; 121.12; 121.151; 121.35, subdivision 5; 121.496, subdivision 1; 121.83; 121.84; 121.843; 121.844; 121.845; 121.86; 121.882, subdivision 10; 121.902, subdivision 2; 121.9121, subdivision 6; 121.914, subdivisions 9 and 10; 122.86; 122.87; 122.88; 122.96; 123.3511; 123.3512; 123.581, subdivisions 1 and 6; 123.60; 123.601; 123.68; 123.702; 123.703; 123.704; 123.705; 124.12, subdivision 1; 124.2138, subdivisions 3 and 4; 124.217; 124.243, subdivision 4; 124.271, subdivisions 2b, 3, 4, and 7; 124.496; 124A.27, subdivision 7; 125.241, subdivision 3; 125.60, subdivision 7; 126.03; 126.07; 126.10; 126.11; 126.39, subdivision 11; 126.52, subdivision 11; 126.70, subdivision 3; 126.80; 126.81; 129B.11; 129B.47; 129B.48; 134.33, subdivision 1; 134.34, subdivision 5; 275.125, subdivisions 6f and 8; and 275.128; and Laws 1988, chapter 718, article 5, section 4; and article 7, section 61."

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

House Conferees: (Signed) Ken Nelson, Bob McEachern, Kathleen Vellenga, Jerry J. Bauerly, Dennis Ozment

Senate Conferees: (Signed) Randolph W. Peterson, Donna C. Peterson, James Pehler, Gary M. DeCramer, Jerome M. Hughes

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 654 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 654 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 51 and nays 15, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Knaak | Moe, R.D. | Schmitz |
| Anderson | Dicklich | Kroening | Morse | Solon |
| Beckman | Diessner | Laidig | Pariseau | Spear |
| Berglin | Frank | Langseth | Pehler | Stumpf |
| Bernhagen | Frederick | Lantry | Peterson, D.C. | Taylor |
| Bertram | Frederickson, D.J. | Larson | Peterson, R.W. | Vickerman |
| Brandl | Frederickson, D.R. | Lessard | Piper | Waldorf |
| Brataas | Freeman | Luther | Pogemiller | |
| Chmielewski | Hughes | Marty | Purfeerst | |
| Cohen | Johnson, D.E. | Mehrkens | Reichgott | |
| Davis | Johnson, D.J. | Moe, D.M. | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Belanger | Dahl | McGowan | Metzen | Ramstad |
| Benson | Gustafson | McQuaid | Novak | Renneke |
| Berg | Knutson | Merriam | Olson | Storm |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 143, 631 and 431.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 530, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 530: A bill for an act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivisions 1a and 4; 473.823, subdivisions 3

and 6; 473.831, subdivision 2; 473.833, subdivision 2a; 473.840, subdivision 2; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1988, sections 115A.98; 115B.29, subdivision 2; 473.149, subdivision 2b; 473.803, subdivision 1a; and 473.806.

Senate File No. 530 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 522, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 522: A bill for an act relating to housing; authorizing the establishment of affordable housing programs under the administration of the Minnesota housing finance agency; establishing a neighborhood preservation program; revising certain tenant damage provisions in landlord-tenant actions; regulating tenant screening services; establishing a rent escrow system; providing mandatory building repair fines; authorizing a housing calendar consolidation pilot project in Hennepin and Ramsey counties; requiring housing impact statements; revising certain housing receivership provisions; providing a limited right of entry to secure vacant or unoccupied buildings; providing for city housing rehabilitation loan programs; establishing the community and neighborhood development organization program; establishing a child development program; authorizing a neighborhood revitalization program; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 4.071; 282.01, subdivision 1; 462A.03, by adding a subdivision; 462A.05, subdivision 27, and by adding subdivisions; 462A.21, subdivisions 4k, 12, and by adding subdivisions; 462C.02, by adding subdivisions; 462C.05, by adding a subdivision; 463.15, subdivisions 3 and 4; 463.16; 463.161; 463.17; 463.20; 463.21; 463.22; 469.012, subdivision 1; 504.255; 504.26; 566.17; 566.175, subdivision 1; 566.29, subdivisions 1, 4, and by adding subdivisions; 582.03; Laws 1971, chapter 333, as amended, by adding a section; Laws 1974, chapters 285, sections 2, 3, 4, and by adding a section; and 475, by adding a section; proposing coding for new law in Minnesota Statutes, chapters 16B; 116J; 129A; 145; 268; 363; 412; 462A; 469; 471; 504; 566; and 582; repealing Laws 1974, chapter 351, sections 1 to 4, as amended; Laws 1975, chapter 260, sections 1 to 5; and Laws 1987, chapters 384, article 3, section 22; and 386, article 6, sections 4 to 11.

Senate File No. 522 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1150:

H.F. No. 1150: A bill for an act relating to the collection, access to, and dissemination of data; proposing classifications of data as private, confidential, nonpublic, and protected nonpublic; regulating classification of and access to certain data and meetings; clarifying classification of data; establishing an internal audit function with access to state agency data; clarifying what data on juveniles may be made available to the public; amending Minnesota Statutes 1988, sections 13.02, subdivision 9; 13.10, subdivision 1; 13.32, subdivisions 3 and 5; 13.41, by adding a subdivision; 13.46, subdivision 8; 13.64; 13.82, subdivisions 8 and 10; 16A.055, subdivision 1; 144.581, by adding a subdivision; 245.94, subdivision 1; 260.161, subdivision 3; and 340A.503, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Pugh, Wynia and Ogren have been appointed as such committee on the part of the House.

House File No. 1150 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1150, 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 File, herewith transmitted: H.F. No. 1396.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of First Reading of House Bills.

## FIRST READING OF HOUSE BILLS

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

H.F. No. 1396: A bill for an act relating to natural resources; promoting

Minnesota horticultural peat; appropriating money.

Referred to the Committee on Finance.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1155, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1155 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1155

A bill for an act relating to insurance; life and health; regulating policy and contract provisions, coverages, certain cost-containment mechanisms, cancellations and nonrenewals, trade and marketing practices, and remedies in these and other lines; making technical changes; amending Minnesota Statutes 1988, sections 45.025, subdivision 8; 45.027, subdivision 7; 45.028, subdivision 1; 61A.011, subdivision 1; 61A.092, subdivision 3; 61B.03, subdivision 6; 62A.01; 62A.041; 62A.08; 62A.09; 62A.15, subdivision 3a; 62A.17, subdivision 2; 62A.46, by adding a subdivision; 62A.48, subdivision 1; 62B.01; 62B.04, subdivision 1; 62D.12, by adding a subdivision; 62E.06, subdivision 1; 72A.20, subdivision 15, and by adding subdivisions; 72A.325; and 149.11; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 65A; and 72A; repealing Minnesota Statutes 1988, sections 60A.23, subdivision 7; and 72A.13, subdivision 2.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1155, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1155 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 45.025, subdivision 8, is amended to read:

Subd. 8. [CIVIL REMEDY.] A person violating this section is liable to

a purchaser of the investment product. The purchaser may sue either in equity for rescission upon tender of the investment product or at law for damages if the purchaser no longer owns the investment product. In an action for rescission, the purchaser is entitled to recover the consideration paid for the investment product, together with interest at the legal rate, costs, and reasonable attorney fees, less the amount of any income received on the investment product. In an action at law, damages are the consideration paid for the investment product together with interest at the legal rate to the date of disposition, costs, and reasonable attorney fees, less the value of the investment product at the date of disposition. *Subject to the exceptions in subdivision 3,* if the advertisement advertises an investment product whose interest rate varies according to the earnings or income of the issuer and if the advertisement projects the accumulated earnings for a period longer than one year, the issuer and agent are jointly and severally liable to the purchaser for the difference in the principal and interest received by the purchaser and the principal and interest as projected in the advertisement.

Sec. 2. Minnesota Statutes 1988, section 45.027, subdivision 7, is amended to read:

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to chapters 45 to 83, *155A,* 309, or 332, or censure that person if the commissioner finds that:

(1) the order is in the public interest; ~~or~~ *and*

(2) the person has violated chapters 45 to 83, *155A,* 309, or 332.

Sec. 3. Minnesota Statutes 1988, section 45.028, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] *(a)* When a person, including any nonresident of this state, engages in conduct prohibited or made actionable by chapters 45 to 83, *155A,* 309, and 332, or any rule or order under those chapters, and the person has not filed a consent to service of process under chapters 45 to 83, *155A,* 309, and 332, that conduct is equivalent to an appointment of the commissioner as the person's attorney to receive service of process in any noncriminal suit, action, or proceeding against the person which is based on that conduct and is brought under chapters 45 to 83, *155A,* 309, and 332, or any rule or order under those chapters.

*(b) Subdivision 2 also applies in all other cases under chapters 45 to 83, 155A, 309, and 332, or any rule or order under those chapters, in which a person, including a nonresident of this state, has filed a consent to service of process. This paragraph supersedes any inconsistent provision of law.*

Sec. 4. Minnesota Statutes 1988, section 61A.011, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any other provision of law when any insurer, *including a fraternal benefit society,* admitted to transact life insurance in this state pays the proceeds of or payments under any policy of life insurance, individual or group, such insurer shall pay interest at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer, computed from the insured's death until the date of payment, on any such proceeds or payments payable to a beneficiary

residing in this state, or to a beneficiary under a policy issued in this state or to a beneficiary under a policy insuring a person resident in this state at the time of death. If the insurer has no established current rate of interest for death proceeds left on deposit with the insurer, then the rate of interest to be paid under this subdivision shall be the rate of interest charged by the insurer to policy holders for loans under the insurer's policies.

Sec. 5. Minnesota Statutes 1988, section 61A.09, is amended by adding a subdivision to read:

*Subd. 3. Group life insurance policies may be issued to cover groups of not less than ten debtors of a creditor written under a master policy issued to a creditor to insure its debtors in connection with real estate mortgage loans, in an amount not to exceed the actual or scheduled amount of their indebtedness. Each application for group mortgage insurance offered prior to or at the time of loan closing shall contain a clear and conspicuous notice that the insurance is optional and is not a condition for obtaining the loan. Each person insured under a group insurance policy issued under this subdivision shall be furnished a certificate of insurance which conforms to the requirements of section 62B.06, subdivision 2, and which includes a conversion privilege permitting an insured debtor to convert, without evidence of insurability, to an individual policy of decreasing term insurance within 30 days of the date the insured debtor's group coverage is terminated for any reason other than the nonpayment of premiums. The initial amount of coverage under the individual policy shall be an amount equal to the amount of coverage terminated under the group policy and shall decrease over a term that corresponds with the scheduled term of the insured debtor's mortgage loan. The premium for the individual policy shall be the same premium the insured debtor was paying under the group policy.*

Sec. 6. Minnesota Statutes 1988, section 61A.092, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF OPTIONS.] Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee of:

(1) the employee's right to elect to continue the coverage;

(2) the amount the employee must pay monthly to the employer to retain the coverage;

(3) the manner in which and the office of the employer to which the payment to the employer must be made; and

(4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice must be in writing and sent by first class ~~certified~~ mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated

or laid off employee, the law authorizes you to maintain your group insurance benefits for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of $ . . . . . at . . . . . by the . . . . . of each month."

Sec. 7. Minnesota Statutes 1988, section 61B.03, subdivision 6, is amended to read:

Subd. 6. [COVERED POLICY.] "Covered policy" means any policy or contract *owned by a Minnesota resident* to which sections 61B.01 to 61B.16 apply, as provided in section 61B.02.

Sec. 8. Minnesota Statutes 1988, section 62A.01, is amended to read:

62A.01 [POLICY OF ACCIDENT AND SICKNESS INSURANCE ~~DEFINED~~.]

*Subdivision 1.* [DEFINITION.] The term "policy of accident and sickness insurance" as used herein includes any policy covering the kind of insurance described in section 60A.06, subdivision 1, clause (5)(a).

*Subd. 2.* [EQUAL PROTECTION.] *A certificate of insurance or similar evidence of coverage issued to a Minnesota resident shall provide coverage for all benefits required to be covered in group policies in Minnesota by chapters 62A and 62E.*

*This subdivision supersedes any inconsistent provision of chapters 62A and 62E.*

*A policy of accident and sickness insurance that is issued or delivered in this state and that covers a person residing in another state may provide coverage or contain provisions that are less favorable to that person than required by chapters 62A and 62E. Less favorable coverages or provisions must meet the requirements that the state in which the person resides would have required had the policy been issued or delivered in that state.*

*Subd. 3.* [EXCLUSIONS.] *Subdivision 2 does not apply to certificates issued in regard to a master policy issued outside the state of Minnesota if all of the following are true:*

*(1) the policyholder or certificate holder exists primarily for purposes other than to obtain insurance;*

*(2) the policyholder or certificate holder is not a Minnesota corporation and does not have its principal office in Minnesota;*

*(3) the policy or certificate covers fewer than 25 employees who are residents of Minnesota and the Minnesota employees represent less than 25 percent of all covered employees; and*

*(4) on request of the commissioner, the issuer files with the commissioner a copy of the policy and a copy of each form of certificate.*

*This subdivision applies to employers who are not corporations if they are policyholders or certificate holders providing coverage to employees through the certificate or policy.*

*Subd. 4.* [APPLICATION OF OTHER LAWS.] *Section 60A.08, subdivision 4, shall not be construed as requiring a certificate of insurance or similar evidence of insurance that meets the conditions of subdivision 3 to comply with chapter 62A or 62E.*

Sec. 9. Minnesota Statutes 1988, section 62A.041, is amended to read:

62A.041 [MATERNITY BENEFITS.]

*Subdivision 1.* [DISCRIMINATION PROHIBITED AGAINST UNMARRIED WOMEN.] Each group policy of accident and health insurance and each group health maintenance contract shall provide the same coverage for maternity benefits to unmarried women and minor female dependents that it provides to married women including the wives of employees choosing dependent family coverage. If an unmarried insured or an unmarried enrollee is a parent of a dependent child, each group policy and each group contract shall provide the same coverage for that child as that provided for the child of a married employee choosing dependent family coverage if the insured or the enrollee elects dependent family coverage.

Each individual policy of accident and health insurance and each individual health maintenance contract shall provide the same coverage for maternity benefits to unmarried women and minor female dependents as that provided for married women. If an unmarried insured or an unmarried enrollee is a parent of a dependent child, each individual policy and each individual contract shall also provide the same coverage for that child as that provided for the child of a married insured or a married enrollee choosing dependent family coverage if the insured or the enrollee elects dependent family coverage.

*Subd. 2.* [LIMITATION ON COVERAGE PROHIBITED.] *Each group policy of accident and health insurance,* except for policies which only provide coverage for specified diseases, *or* each group subscriber contract of accident and health insurance or health maintenance contract, issued or renewed after August 1, 1987, shall include maternity benefits in the same manner as any other illness covered under the policy or contract.

*Subd. 3.* [ABORTION.] For the purposes of this section, the term "maternity benefits" shall not include elective, induced abortion whether performed in a hospital, other abortion facility, or the office of a physician.

This section applies to policies and contracts issued, delivered, or renewed after August 1, 1985, that cover Minnesota residents.

Sec. 10. [62A.049] [LIMITATION ON PREAUTHORIZATIONS.]

*No policy of accident and sickness insurance or group subscriber contract regulated under chapter 62C issued or renewed in this state may contain a provision that makes an insured person ineligible to receive full benefits because of the insured's failure to obtain preauthorization, if that failure occurs because of the need for emergency confinement or emergency treatment. The insured or an authorized representative of the insured shall notify the insurer as soon after the beginning of emergency confinement or emergency treatment as reasonably possible. However, to the extent that the insurer suffers actual prejudice caused by the failure to obtain preauthorization, the insured may be denied all or part of the insured's benefits. This provision does not apply to admissions for treatment of chemical dependency and nervous and mental disorders.*

Sec. 11. Minnesota Statutes 1988, section 62A.08, is amended to read:

62A.08 [COVERAGE OF POLICY, CONTINUANCE IN FORCE.]

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted

by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, ~~the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.~~ *the policy would not have been issued, the insurer may, within 90 days of discovering the misstatement, limit its liability to a refund of all premiums paid. In all other instances the insurer may either adjust the premium to reflect the actual age of the insured or adjust the benefits to reflect the actual age and the premium.*

Sec. 12. Minnesota Statutes 1988, section 62A.09, is amended to read:

62A.09 [LIMITATION.]

Nothing in sections 62A.01 ~~to~~, *62A.02, 62A.03, 62A.04, 62A.05, 62A.06, 62A.07, and* 62A.08 shall apply to or affect:

(1) any policy of workers' compensation insurance or any policy of casualty or fire and allied lines insurance with or without supplementary coverage therein; or

(2) any policy or contract of reinsurance; or

(3) any ~~blanket or~~ group policy of insurance, *except when specifically referred to*; or

(4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

Sec. 13. Minnesota Statutes 1988, section 62A.15, subdivision 3a, is amended to read:

Subd. 3a. [NURSING SERVICES.] All benefits provided by a policy or contract referred to in subdivision 1, relating to expenses incurred for medical treatment or services of a duly licensed physician must include services provided by a registered nurse who is licensed pursuant to section 148.171 and who is certified by the profession to engage in advanced nursing practice. "Advanced nursing practice" means the performance of health services by professional nurses who have gained additional knowledge and skills through an organized program of study and clinical experience preparing nurses for advanced practice roles as nurse anesthetists, nurse midwives, nurse practitioners, or clinical specialists in psychiatric or mental health nursing. The program of study must be beyond the education required for registered nurse licensure and must meet criteria established by the professional nursing organization having authority to certify the registered nurse in advanced nursing practice~~, and appear on a list established and maintained by the board of nursing through rulemaking~~. *For the purposes of this subdivision, the board of nursing shall, by rule, adopt a list of professional nursing organizations which have the authority to certify nurses in advanced nursing practice.*

This subdivision is intended to provide payment of benefits for treatment and services by a licensed registered nurse certified in advanced nursing practice as defined in this subdivision and is not intended to add to the benefits provided for in these policies or contracts.

Sec. 14. Minnesota Statutes 1988, section 62A.15, subdivision 4, is amended to read:

Subd. 4. [DENIAL OF BENEFITS.] (a) No carrier referred to in subdivision 1 may, in the payment of claims to employees in this state, deny benefits payable for services covered by the policy or contract if the services are lawfully performed by a licensed chiropractor, licensed optometrist, or a registered nurse meeting the requirements of subdivision 3a.

(b) When carriers referred to in subdivision 1 make claim determinations concerning the appropriateness, quality, or utilization of chiropractic health care for Minnesotans, any of these determinations that are made by health care professionals must be made by, or under the direction of, or subject to the review of *licensed* doctors of chiropractic ~~licensed under the provisions of sections 148.01 to 148.104~~.

Sec. 15. Minnesota Statutes 1988, section 62A.152, subdivision 2, is amended to read:

Subd. 2. [MINIMUM BENEFITS.] (a) All group policies and all group subscriber contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage on the same basis as coverage for other benefits for at least 80 percent of the cost of the usual and customary charges of the first ten hours of treatment incurred over a 12-month benefit period, for mental or nervous disorder consultation, diagnosis and treatment services delivered while the insured person is not a bed patient in a hospital, and at least 75 percent of the cost of the usual and customary charges for any additional hours of treatment during the same 12-month benefit period for serious or persistent mental or nervous disorders, if the services are furnished by (1) a licensed or accredited hospital, (2) a community mental health center or mental health clinic approved or licensed by the commissioner of human services or other authorized state agency, ~~or~~ (3) *a licensed psychologist licensed under the provisions of sections 148.88 to 148.98, (4)* a licensed consulting psychologist licensed under the provisions of sections 148.88 to 148.98, or *(5)* a psychiatrist licensed under chapter 147. Prior authorization from an accident and health insurance company, or a nonprofit health service corporation, shall be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may be limited to a maximum of 30 visit hours during any 12-month benefit period.

(b) For purposes of this section, covered treatment for a minor includes treatment for the family if family therapy is recommended by a provider listed in paragraph (a)~~, item (1), (2), or (3)~~. For purposes of determining benefits under this section, "hours of treatment" means treatment rendered on an individual or single-family basis. If treatment is rendered on a group basis, the hours of covered group treatment must be provided at a ratio of no less than two group treatment sessions to one individual treatment hour.

Sec. 16. Minnesota Statutes 1988, section 62A.152, subdivision 3, is amended to read:

Subd. 3. [PROVIDER DISCRIMINATION PROHIBITED.] All group policies and group subscriber contracts that provide benefits for mental or nervous disorder treatments in a hospital must provide direct reimbursement for those services if performed by a *licensed psychologist or a* licensed consulting psychologist to the extent that the services and treatment are within the scope of *licensed psychologist or* licensed consulting psychologist licensure. The order of the physician requesting the services of the *licensed psychologist or* licensed consulting psychologist may be required to be submitted with the claim for payment.

This subdivision is intended to provide payment of benefits for mental or nervous disorder treatments performed by a *licensed psychologist or a* licensed consulting psychologist in a hospital and is not intended to change or add benefits for those services provided in policies or contracts to which this subdivision applies.

Sec. 17. Minnesota Statutes 1988, section 62A.17, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITY OF EMPLOYEE.] Every covered employee electing to continue coverage shall pay the former employer, on a monthly basis, the cost of the continued coverage. If the policy, contract, or health care plan is administered by a trust, every covered employee electing to continue coverage shall pay the trust the cost of continued coverage according to the eligibility rules established by the trust. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for similarly situated employees with respect to whom neither termination nor layoff has occurred, without regard to whether such cost is paid by the employer or employee. The employee shall be eligible to continue the coverage until the employee becomes covered under another group health plan, or for a period of 18 months after the termination of or lay off from employment, whichever is shorter. *If the employee becomes covered under another group policy, contract, or health plan and the new group policy, contract, or health plan contains any preexisting condition limitations, the employee may, subject to the 18-month maximum continuation limit, continue coverage with the former employer until the preexisting condition limitations have been satisfied. The new policy, contract, or health plan is primary except as to the preexisting condition. In the case of a newborn child who is a dependent of the employee, the new policy, contract, or health plan is primary upon the date of birth of the child, regardless of which policy, contract, or health plan coverage is deemed primary for the mother of the child.*

Sec. 18. Minnesota Statutes 1988, section 62A.46, is amended by adding a subdivision to read:

*Subd. 12.* [HOMEBOUND OR HOUSE CONFINED.] *"Homebound or house confined" means that a person is physically unable to leave the home without another person's aid because the person has lost the capacity of independent transportation or is disoriented.*

Sec. 19. Minnesota Statutes 1988, section 62A.48, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state,

unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 62A.46 to 62A.56. A long-term care policy must cover medically prescribed long-term care in nursing facilities and at least the medically prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage under a long-term care policy AA must include: a maximum lifetime benefit limit of at least $100,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums~~, and a requirement of prior hospitalization for up to one day may be imposed only for long-term care in a nursing facility~~. Coverage under a long-term care policy A must include: a maximum lifetime benefit limit of at least $50,000 for services, *and* nursing facility and home care coverages must not be subject to separate lifetime maximums~~, and a requirement of prior hospitalization for up to three days may be imposed for long-term care in a nursing facility or home care services. If long-term care policies require the policyholder to be admitted to a nursing facility or begin home care services within a specified period after discharge from a hospital, that period may be no less than 30 days~~. *Prior hospitalization may not be required under a long-term care policy.*

Coverage under either policy designation must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage. Coverage under either policy designation may include a waiting period of up to 90 days before benefits are paid, but there must be no more than one waiting period per benefit period. No policy may exclude coverage for mental or nervous disorders which have a demonstrable organic cause, such as Alzheimer's and related dementias. No policy may require the insured to ~~meet a prior hospitalization test more than once during a single benefit period~~ *be homebound or house confined to receive home care services*. The policy must include a provision that the plan will not be canceled or renewal refused except on the grounds of nonpayment of the premium, provided that the insurer may change the premium rate on a class basis on any policy anniversary date. A provision that the policyholder may elect to have the premium paid in full at age 65 by payment of a higher premium up to age 65 may be offered. A provision that the premium would be waived during any period in which benefits are being paid to the insured during confinement in a nursing facility must be included. A nongroup policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

Sec. 20. [62A.60] [RETROACTIVE DENIAL OF EXPENSES.]

*In cases where the subscriber or insured is liable for costs beyond applicable copayments or deductibles, no insurer may retroactively deny payment to a person who is covered when the services are provided for health care services that are otherwise covered, if the insurer or its representative failed to provide prior or concurrent review or authorization for the expenses when required to do so under the policy, plan, or certificate. If prior or concurrent review or authorization was provided by the insurer or its representative, the insurer may not deny payment for the authorized service or time period except in cases where fraud or substantive misrepresentation occurred.*

Sec. 21. Minnesota Statutes 1988, section 62B.01, is amended to read:

62B.01 [SCOPE.]

All life insurance and accident and health insurance in connection with loan or other credit transactions shall be subject to the provisions of sections 62B.01 to 62B.14, except ~~insurance in connection with a loan or other credit transaction of more than five years duration~~ *mortgage life, mortgage accidental death, and mortgage disability insurance*. Insurance shall not be subject to the provisions of sections 62B.01 to 62B.14 where its issuance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor. Credit life and accident and health insurance provided at no additional cost to the borrower shall not be subject to the provisions of sections 62B.01 to 62B.14.

Sec. 22. Minnesota Statutes 1988, section 62B.04, subdivision 1, is amended to read:

Subdivision 1. [CREDIT LIFE INSURANCE.] (1) The initial amount of credit life insurance shall not exceed the ~~total~~ amount *of principal* repayable under the contract of indebtedness. Thereafter, if the indebtedness is repayable in substantially equal installments *according to a predetermined schedule*, the amount of insurance shall not exceed the scheduled or actual amount of indebtedness, whichever is greater.

*(2) Notwithstanding clause (1), the amount of credit life insurance written in connection with credit transactions repayable over a specified term exceeding 63 months shall not exceed: (i) the actual amount of unpaid indebtedness as it exists from time to time; or (ii) where an indebtedness is repayable in substantially equal installments according to a predetermined schedule, the scheduled amount of unpaid indebtedness, less any unearned interest or finance charges, plus an amount equal to two monthly payments.*

*(3)* Notwithstanding ~~clause~~ *clauses* (1) *and (2)*, insurance on educational, agricultural and horticultural credit transaction commitments may be written on a nondecreasing or level term plan for the amount of the loan commitment.

Sec. 23. Minnesota Statutes 1988, section 62D.12, is amended by adding a subdivision to read:

*Subd. 1a.* [SWING-OUT PRODUCTS.] *Notwithstanding subdivision 1, nothing in sections 10, 20, and 27 applies to a commercial health policy issued under this chapter as a companion to a health maintenance contract.*

Sec. 24. Minnesota Statutes 1988, section 62E.06, subdivision 1, is amended to read:

Subdivision 1. [NUMBER THREE PLAN.] A plan of health coverage shall be certified as a number three qualified plan if it otherwise meets the requirements established by chapters 62A and 62C, and the other laws of this state, whether or not the policy is issued in Minnesota, and meets or exceeds the following minimum standards:

(a) The minimum benefits for a covered individual shall, subject to the other provisions of this subdivision, be equal to at least 80 percent of the cost of covered services in excess of an annual deductible which does not exceed $150 per person. The coverage shall include a limitation of $3,000 per person on total annual out-of-pocket expenses for services covered under this subdivision. The coverage shall be subject to a maximum lifetime benefit of not less than $500,000.

The $3,000 limitation on total annual out-of-pocket expenses and the

$500,000 maximum lifetime benefit shall not be subject to change or substitution by use of an actuarially equivalent benefit.

(b) Covered expenses shall be the usual and customary charges for the following services and articles when prescribed by a physician:

(1) hospital services;

(2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a physician or at the physician's direction;

(3) drugs requiring a physician's prescription;

(4) services of a nursing home for not more than 120 days in a year if the services would qualify as reimbursable services under Medicare;

(5) services of a home health agency if the services would qualify as reimbursable services under Medicare;

(6) use of radium or other radioactive materials;

(7) oxygen;

(8) anesthetics;

(9) prostheses other than dental but including scalp hair prostheses worn for hair loss suffered as a result of alopecia areata;

(10) rental or purchase, as appropriate, of durable medical equipment other than eyeglasses and hearing aids;

(11) diagnostic X-rays and laboratory tests;

(12) oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

(13) services of a physical therapist;

(14) transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition; or a reasonable mileage rate for transportation to a kidney dialysis center for treatment; and

(15) services of an occupational therapist.

(c) Covered expenses for the services and articles specified in this subdivision do not include the following:

(1) any charge for care for injury or disease either (i) arising out of an injury in the course of employment and subject to a workers' compensation or similar law, (ii) for which benefits are payable without regard to fault under coverage statutorily required to be contained in any motor vehicle, or other liability insurance policy or equivalent self-insurance, or (iii) for which benefits are payable under another policy of accident and health insurance, Medicare or any other governmental program except as otherwise provided by ~~law~~ *section 62A.04, subdivision 3, clause (4)*;

(2) any charge for treatment for cosmetic purposes other than for reconstructive surgery when such service is incidental to or follows surgery resulting from injury, sickness, or other diseases of the involved part or when such service is performed on a covered dependent child because of congenital disease or anomaly which has resulted in a functional defect as determined

by the attending physician;

(3) care which is primarily for custodial or domiciliary purposes which would not qualify as eligible services under Medicare;

(4) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician, provided, however, that if the institution does not have semiprivate rooms, its most common semiprivate room charge shall be considered to be 90 percent of its lowest private room charge;

(5) that part of any charge for services or articles rendered or prescribed by a physician, dentist, or other health care personnel which exceeds the prevailing charge in the locality where the service is provided; and

(6) any charge for services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles.

(d) The minimum benefits for a qualified plan shall include, in addition to those benefits specified in clauses (a) and (e), benefits for well baby care, effective July 1, 1980, subject to applicable deductibles, coinsurance provisions, and maximum lifetime benefit limitations.

(e) Effective July 1, 1979, the minimum benefits of a qualified plan shall include, in addition to those benefits specified in clause (a), a second opinion from a physician on all surgical procedures expected to cost a total of $500 or more in physician, laboratory, and hospital fees, provided that the coverage need not include the repetition of any diagnostic tests.

(f) Effective August 1, 1985, the minimum benefits of a qualified plan must include, in addition to the benefits specified in clauses (a), (d), and (e), coverage for special dietary treatment for phenylketonuria when recommended by a physician.

(g) Outpatient mental health coverage is subject to section 62A.152, subdivision 2.

Sec. 25. [65A.061] [CREDITORS LIMITED TO EXISTING INSURANCE.]

*When a creditor requires a debtor to provide insurance on real or personal property security against reasonable risks of loss, damage, or destruction, no insurance shall be sold or placed by or through the creditor if the debtor provides the creditor with a loss payable through existing policies of insurance that the debtor owns or controls. This section does not apply if the existing insurance is in an amount less than the amount of indebtedness to be secured on the real or personal property.*

*This section does not prevent the disapproval of the insurer or a policy of insurance where there are reasonable grounds for believing that the insurer is insolvent or that the insurance is unsatisfactory as to placement with an unauthorized insurer, adequacy of the coverage, adequacy of the insurer to assume the risk to be insured, the assessment features to which the policy is subject, or other grounds that are based on the nature of the coverage and that are not arbitrary, unreasonable or discriminatory. This section does not prevent a mortgage lender or mortgage servicer from requiring that a policy of insurance or renewal of the policy be in conformance with standards of the Federal National Mortgage Association or the Federal Home*

*Loan Mortgage Corporation, nor does this section forbid the securing of a policy of insurance or a renewal of the policy at the request of the borrower or because of the borrower's failure to furnish the necessary insurance or renewal.*

*This section supersedes any inconsistent provision of law to the contrary.*

Sec. 26. Minnesota Statutes 1988, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. *Except as otherwise provided in section 72A.327,* the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of $5,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 27. Minnesota Statutes 1988, section 72A.20, is amended by adding a subdivision to read:

*Subd. 4a.* [STANDARDS FOR PREAUTHORIZATION APPROVAL.] *If a policy of accident and sickness insurance or a subscriber contract requires preauthorization approval for any nonemergency services or benefits, the decision to approve or disapprove the requested services or benefits must be communicated to the insured or the insured's health care provider within ten business days of the preauthorization request provided that all information reasonably necessary to make a decision on the request has been made available to the insurer.*

Sec. 28. Minnesota Statutes 1988, section 72A.20, subdivision 15, is amended to read:

Subd. 15. [PRACTICES NOT HELD TO BE DISCRIMINATION OR REBATES.] Nothing in subdivision 8, 9, or 10, or in section 72A.12, subdivisions 3 and 4, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of any contract of life insurance or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) in the case of life insurance policies issued on the industrial debit plan, making allowance, to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer, in an amount which fairly represents the saving in collection expense;

(3) readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) in the case of an individual or group health insurance policy, the payment of differing amounts of reimbursement to insureds who elect to receive health care goods or services from providers designated by the insurer, provided that each insurer shall on or before August 1 of each year file with the commissioner summary data regarding the financial reimbursement offered to providers so designated.

Any insurer which proposes to offer an arrangement authorized under this clause shall disclose prior to its initial offering and on or before August 1 of each year thereafter as a supplement to its annual statement submitted to the commissioner pursuant to section 60A.13, subdivision 1, the following information:

(a) the name which the arrangement intends to use and its business address;

(b) the name, address, and nature of any separate organization which administers the arrangement on the behalf of the insurers; and

(c) the names and addresses of all providers designated by the insurer under this clause and the terms of the agreements with designated health care providers.

The commissioner shall maintain a record of arrangements proposed under this clause, including a record of any complaints submitted relative to the arrangements.

*If the commissioner requests copies of contracts with a provider under this clause and the provider requests a determination, all information contained in the contracts that the commissioner determines may place the provider or health care plan at a competitive disadvantage is nonpublic data.*

Sec. 29. Minnesota Statutes 1988, section 72A.20, is amended by adding a subdivision to read:

*Subd. 20.* [CANCELLATIONS AND NONRENEWALS.] *No insurer shall cancel or fail to renew an individual life or individual health policy or an individual nonprofit health service plan subscriber contract for nonpayment of premium unless it mails or delivers to the named insured, at the address shown on the policy or subscriber contract at least 30 days before lapse, final notice of the cancellation or nonrenewal and the effective date of the cancellation or nonrenewal.*

*If the named insured is not the policy or subscriber contract owner, the notice required by this subdivision must be sent to the insured's last known address, if any, and to the owner's last known address.*

*Proof of mailing of the notice of lapse for failure to pay the premium before the expiration of the grace period is sufficient proof that notice required in this subdivision has been given.*

*This subdivision does not apply to a life or health insurance policy or contract upon which premiums are paid at a monthly interval or less and that contains any grace period required by statute for the payment of premiums during which time the insurance continues in force.*

Sec. 30. Minnesota Statutes 1988, section 72A.20, is amended by adding a subdivision to read:

*Subd. 21.* [USE OF STATEMENTS OF A MINOR.] *No statement of a minor or information obtained by an insurer or a representative of an insurer from a minor may be used in any manner in regard to a claim unless the parent or guardian of the minor has granted permission for the minor to be interviewed or the minor's statement to be taken.*

Sec. 31. Minnesota Statutes 1988, section 72A.20, is amended by adding a subdivision to read:

*Subd. 22.* [LOSS EXPERIENCE.] *An insurer shall without cost to the insured provide an insured with the loss or claims experience of that insured*

*for the current policy period and for the two policy periods preceding the current one for which the insurer has provided coverage, within 30 days of a request for the information by the policyholder. The insurer shall not be responsible for providing information without cost more often than once in a 12-month period. The insurer is not required to provide the information if the policy covers the employee of more than one employer and the information is not maintained separately for each employer and not all employers request the data.*

*An insurer, health maintenance organization, or a third-party administrator may not request more than three years of loss or claims experience as a condition of submitting an application or providing coverage.*

*This subdivision does not apply to individual life and health insurance policies or personal automobile or homeowner's insurance policies.*

Sec. 32. Minnesota Statutes 1988, section 72A.20, is amended by adding a subdivision to read:

*Subd. 23.* [SOLICITATIONS AND SALES OF INSURANCE PRODUCTS TO BORROWERS.] *(a) A loan officer, a loan representative, or other person involved in taking or processing a loan may not solicit an insurance product, except for credit life and disability or mortgage life, mortgage accidental death, or mortgage disability, and except for life insurance when offered in lieu of credit life insurance, from the completion of the initial loan application, as defined in the federal Equal Credit Opportunity Act, United States Code, title 15, sections 1691 to 1691f, and any regulations adopted under those sections, until after the closing of the loan transaction.*

*(b) This subdivision applies only to loan transactions covered by the federal Truth-in-Lending Act, United States Code, title 15, sections 1601 to 1666j, and any regulations adopted under those sections.*

*(c) This subdivision does not apply to sales of title insurance, homeowner's insurance, a package homeowner's-automobile insurance product, automobile insurance, or a similar insurance product, required to perfect title to, or protect, property for which a security interest will be taken if the product is required as a condition of the loan.*

*(d) Nothing in this subdivision prohibits the solicitation or sale of any insurance product by means of mass communication.*

Sec. 33. [72A.205] [PROHIBITED PROVISIONS AND COVERAGES.]

*No policy of insurance paying a death benefit that returns premiums or premiums plus interest, or multiples of less than four times the premiums or premiums plus interest, in lieu of benefits may be issued in this state. This section does not prohibit the return of premiums or premiums plus interest in connection with a voluntary or judicially ordered rescission of the policy, nor in accordance with the terms of exclusions from coverage for suicides, aviation, or war risk.*

Sec. 34. [72A.327] [HEALTH CLAIMS; RIGHTS OF APPEAL.]

*(a) An insured whose claim for medical benefits under chapter 65B is denied because the treatment or services for which the claim is made is claimed to be experimental, investigative, not medically necessary, or otherwise not generally accepted by licensed health care providers and for which the insured has financial responsibility in excess of applicable copayments and deductibles may appeal the denial to the commissioner.*

*(b) This section does not apply to claims for health benefits which have been arbitrated under section 65B.525, subdivision 1.*

*(c) A three-member panel shall review the denial of the claim and report to the commissioner. The commissioner shall establish a list of qualified individuals who are eligible to serve on the panel. In establishing the list, the commissioner shall consult with representatives of the contributing members as defined in section 65B.01, subdivision 2, and professional societies. Each panel must include: one person with medical expertise as identified by the contributing members; one person with medical expertise as identified by the professional societies; and one public member. The commissioner, upon initiation of an arbitration, shall select from each list three potential arbitrators and shall notify the issuer and the claimant of the selection. Each party shall strike one of the potential arbitrators and an arbitrator shall be selected by the commissioner from the remaining names of potential arbitrators if more than one potential arbitrator is left. In the event of multiparty arbitration, the commissioner may increase the number of potential arbitrators and divide the strikes so as to afford an equal number of strikes to each adverse interest. If the selected arbitrator is unable or unwilling to serve for any reason, the commissioner may appoint an arbitrator, which will be subject to challenge only for cause. The party that denied the coverage has the burden of proving that the services or treatment are experimental, investigative, not medically necessary, or not generally accepted by licensed health care professionals. In determining whether the burden has been met, the panel may consider expert testimony, medical literature, and any other relevant sources. If the party fails to sustain its burden, the commissioner may order the immediate payment of the claim. All proceedings of the panel and any documents received or developed by the review process are nonpublic.*

*(d) A person aggrieved by an order under this section may appeal the order. The appeal shall be pursuant to section 65B.525 where appropriate, or to the district court for a trial de novo, in all other cases. In nonemergency situations, if the insurer has an internal grievance or appeal process, the insured must exhaust that process before the external appeal. In no event shall the internal grievance process exceed the time limits described in section 72A.201, subdivision 4a.*

*(e) If prior authorization is required before services or treatment can be rendered, an appeal of the denial of prior authorization may be made as provided in this section.*

*(f) The commissioner shall adopt procedural rules for the conduct of appeals.*

*(g) The permanent rulemaking authority granted in this section is effective the day following final enactment of the section regardless of the actual effective date of the section.*

Sec. 35. Minnesota Statutes 1988, section 149.11, is amended to read:

149.11 [PREARRANGED FUNERAL PLANS; CONTRACTS; TRUST FUNDS.]

(a) When prior to the death of any person, that person or another enters into any transaction, makes a contract, or any series or combination of transactions or contracts with another person, partnership, association or corporation, other than an insurance company licensed to do business in the state of Minnesota, by the terms of which, certain personal property

related to the funeral services or the burial, cremation, or other disposition of human remains will be used upon the death of the person for whom the property is to be used, or when the professional services of a funeral director or embalmer will then be furnished, or both, then the total of all money paid by the terms of the transaction, contract or series or combination of transactions or contracts shall be held in trust for the purpose for which it has been paid until the death of the person for whose benefit the money was paid, or refunded to the person who made the payment or payments, upon demand. *A prearranged funeral or burial contract buyer may, at the buyer's option, declare the funeral or burial trust to be irrevocable up to an amount equivalent to the current allowable supplemental security income asset exclusion used for determining eligibility for public assistance. The contract buyer may, at the buyer's option, also declare the interest to be irrevocable to the extent permitted by federal laws and rules governing public assistance. The buyer of either a revocable or an irrevocable prearranged funeral or burial contract retains the right to designate as trustee a different funeral establishment at any time before the death of the person for whose benefit the money was paid. Upon the death of that person, the next of kin or other legal representative of that person's estate retains the right to designate as trustee a different funeral establishment.* Accruals of interest or dividends declared upon the sum of money held in trust are subject to the same trust. The person, partnership, association or corporation holding the money in trust shall inform the person on whose behalf the money is held that all money paid plus all accrued earnings will be held in trust until the death of that person or until a request for a refund is made if made prior to death, *except for a prearranged funeral or burial trust declared irrevocable by the buyer under this section.* The location of the trust account including the name and address of the institution in which the money is being held and any identifying account numbers, and any subsequent changes in that information must be disclosed in writing to the person on whose behalf the money is being held, at the time the funds are deposited into the trust account and at the time of any subsequent changes in the information. The personal property shall include but not be limited to a casket, burial vault not interred in a grave, combination casket-vault or other receptacle not described in paragraph (b) for the internment, entombment, cremation, or other disposition of human remains.

(b) Nothing in this section shall prevent the sale and delivery of cemetery lots, graves, burial vaults preinterred in a grave, cremation urns, crypt spaces, niches, or grave or lot markers or monuments before their use is required. Nothing in this section prevents the preconstruction sale of crypt spaces to be permanently installed except that any seller of mausoleum space or columbarium space, selling burial space in a mausoleum or columbarium that is not completely constructed and usable, must comply with section 306.90.

(c) It is the intent of the legislature that the provisions of this section shall be construed as a limitation upon the manner in which a person or legal entity is permitted to accept funds in prepayment of funeral services to be performed in the future or in prepayment of funeral or burial goods to be used in connection with the funeral or final disposition of human remains. It is further intended to allow members of the public to arrange and pay for funerals, final dispositions, funeral services, and funeral and burial goods for themselves and their families in advance of need while at the same time providing all possible safeguards so that the prepaid funds cannot be dissipated, whether intentionally or not, so as to be available for

the payment of the services and goods selected.

Sec. 36. [REVISOR'S INSTRUCTION.]

*The revisor of statutes shall, as part of the regular process of statutory revision, prepare a bill for introduction that amends Minnesota Statutes to reflect the intent of the legislature as expressed in section 3 to make uniform the service of process provisions in Minnesota Statutes, chapters 45 to 83, 155A, 309, and 332.*

Sec. 37. [REPEALER.]

*Minnesota Statutes 1988, sections 60A.23, subdivision 7; and 72A.13, subdivision 2, are repealed.*

Sec. 38. [EFFECTIVE DATE.]

*Sections 1 to 3, 5, 6, 8, 9, 11 to 14, 18, 23 to 25, 28, 30, 32, 33, 36, and 37 are effective the day following final enactment. Sections 4, 7, 10, 17, 20, 27, 29, 31, and 35 are effective August 1, 1989. Sections 15, 16, 19, 21, and 22 are effective for policies, plans, or contracts issued or renewed on or after August 1, 1989.*

*Sections 26 and 34 are effective January 1, 1990."*

Delete the title and insert:

"A bill for an act relating to insurance; life and health; regulating policy and contract provisions, coverages, certain cost-containment mechanisms, cancellations and nonrenewals, trade and marketing practices, and remedies in these and other lines; making technical changes; amending Minnesota Statutes 1988, sections 45.025, subdivision 8; 45.027, subdivision 7; 45.028, subdivision 1; 61A.011, subdivision 1; 61A.09, by adding a subdivision; 61A.092, subdivision 3; 61B.03, subdivision 6; 62A.01; 62A.041; 62A.08; 62A.09; 62A.15, subdivisions 3a and 4; 62A.152, subdivisions 2 and 3; 62A.17, subdivision 2; 62A.46, by adding a subdivision; 62A.48, subdivision 1; 62B.01; 62B.04, subdivision 1; 62D.12, by adding a subdivision; 62E.06, subdivision 1; 65B.525, subdivision 1; 72A.20, subdivision 15, and by adding subdivisions; and 149.11; proposing coding for new law in Minnesota Statutes, chapters 62A; 65A; and 72A; repealing Minnesota Statutes 1988, sections 60A.23, subdivision 7; and 72A.13, subdivision 2."

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

House Conferees: (Signed) Wesley J. "Wes" Skoglund, Jerry Knickerbocker, Linda Scheid

Senate Conferees: (Signed) Donna C. Peterson, Sam G. Solon, Mel Frederick

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1155 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1155 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## RECESS

Without objection, the Senate recessed subject to the call of the President.

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. 1150: Messrs. Peterson, R.W.; Merriam and Knaak.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 333, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 333 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 333

A bill for an act relating to recreational vehicles; regulating all-terrain vehicles; setting fees; revising liability provisions regarding county administered lands, recreational areas and the Minnesota zoological garden; imposing a penalty; amending Minnesota Statutes 1988, sections 3.736, subdivision 3; 84.92, subdivision 1, and by adding subdivisions; 84.922, subdivisions 1 and 5, and by adding subdivisions; 84.924, subdivision 3; 84.9256, subdivisions 1, 2, and 3; 84.928, subdivisions 1, 2, and 6; 84.929;

169.02, subdivision 1; and 171.03; repealing Minnesota Statutes 1988, sections 84.922, subdivision 8; 84.925, subdivision 2; 84.928, subdivision 7; and 466.03, by adding a subdivision.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 333, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 333 be further amended as follows:

Page 2, line 15, reinstate "~~incurred by a user~~"

Page 2, lines 24 to 27, delete the new language

Page 3, after line 23, insert:

"Sec. 2. Minnesota Statutes 1988, section 84.87, subdivision 1, is amended to read:

Subdivision 1. [OPERATION ON STREETS AND HIGHWAYS.] (a) No person shall operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any trunk, county state aid, or county highway in this state and, in the case of a divided trunk or county highway, on the right-of-way between the opposing lanes of traffic, except as provided in sections 84.81 to 84.90. No person shall operate a snowmobile within the right-of-way of any trunk, county state aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of such right-of-way and in the same direction as the highway traffic on the nearest lane of the roadway adjacent thereto. No snowmobile shall be operated at any time within the right-of-way of any interstate highway or freeway within this state.

(b) A snowmobile may make a direct crossing of a street or highway at any hour of the day provided:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and

(2) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and

(3) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway; and

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on; and

(6) A snowmobile may be operated upon a bridge, other than a bridge that is part of the main traveled lanes of an interstate highway, when required for the purpose of avoiding obstructions to travel when no other method of

avoidance is possible; provided the snowmobile is operated in the extreme right-hand lane, the entrance to the roadway is made within 100 feet of the bridge and the crossing is made without undue delay.

(c) No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one headlamp, one tail lamp, each of minimum candlepower as prescribed by rules of the commissioner, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes each of which shall conform to standards prescribed by rule of the commissioner pursuant to the authority vested in the commissioner by section 84.86, and each of which shall be subject to approval of the commissioner of public safety.

(d) A snowmobile may be operated upon a public street or highway other than as provided by clause (b) in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

(e) All provisions of chapter 169 shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application. *Section 169.09 applies to the operation of snowmobiles anywhere in the state or on the ice of any boundary water of the state.*

(f) Any sled, trailer, or other device being towed by a snowmobile must be equipped with reflective materials as required by rule of the commissioner."

Page 4, delete lines 5 to 8 and insert "*in agriculturally related activities or harvesting of wood for commercial or firewood purposes by any person.*"

Pages 6 and 7, delete section 13 and insert:

"Sec. 14. Minnesota Statutes 1988, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a) ~~Despite section 84.928 to the contrary,~~ *Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.*

*(b)* A person under 12 years of age shall not:

*(1)* make a direct crossing of ~~a trunk, county state-aid, or county highway as the operator of an all-terrain vehicle, or operate the vehicle upon a street or highway within a municipality~~ *a public road right-of-way;*

*(2) operate an all-terrain vehicle on a public road right-of-way in the state; or*

*(3) operate an all-terrain vehicle on public lands or waters.*

~~(b)~~ *(c) Except for public road rights-of-way of interstate highways,* a person 12 years of age but less than ~~14~~ *16* years may make a direct crossing of *a public road right-of-way of* a trunk, county state-aid, or county highway *or operate on public lands and waters,* only if that person possesses a valid all-terrain vehicle safety certificate *issued by the commissioner* and is accompanied *on another all-terrain vehicle* by a person ~~over~~ 18 years of age or ~~holding~~ *older who holds* a valid driver's license. ~~A person under the age of 14 years shall not operate an all-terrain vehicle on public land or water under the jurisdiction of the commissioner unless accompanied by~~

~~one of the following listed persons on the same vehicle, if designed for more than one person, or an accompanying all-terrain vehicle: the person's parent, legal guardian, or other person 18 years of age or older or holding a valid driver's license.~~

~~However, a person 12 years of age or older may operate an all-terrain vehicle on public lands and waters under the jurisdiction of the commissioner if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner.~~

~~(c) A person 14 years of age or older, but less than 16 years of age, may make a direct crossing of a trunk, county state-aid, or county highway only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner or a valid motor vehicle operator's license.~~

*(d) All-terrain vehicle safety certificates issued by the commissioner to persons 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity."*

Page 12, after line 24, insert:

"Sec. 22. Minnesota Statutes 1988, section 169.223, is amended to read:

169.223 [MOTORIZED BICYCLES.]

Subdivision 1. Except as otherwise provided in this section, section 169.974 relating to motorcycles is applicable to motorized bicycles, except that:

*(1) protective headgear includes headgear that meets the American National Standard for Protective Headgear for Bicyclists, ANSI Z90.4-1984, approved by the American National Standards Institute, Inc.;*

*(2) a motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles, may be operated during nighttime hours;*

*(3) protective headgear is not required for operators 18 years of age or older; and*

*(4)* the provisions of section 169.222 governing the parking of bicycles apply to motorized bicycles.

Subd. 2. ~~Motorized bicycles shall not be operated on any bicycle way or bicycle lane, as those terms are defined in section 160.263.~~ A motorized bicycle may be operated under either a driver's license or a motorized bicycle permit issued under section 171.02, subdivision 3. A person under the age of 16 operating a motorized bicycle under a motorized bicycle permit is subject to the restrictions imposed by section 169.974, subdivision 2, on operation of a motorcycle under a two-wheel instruction permit, *except that:*

*(1) a parent or guardian of an operator under the age of 16 may also ride on the motorized bicycle as a passenger or operator, if the motorized bicycle is equipped with a seat and foot rests for a second passenger;*

*(2) a motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles, may be operated during nighttime hours;*

*(3) protective headgear includes headgear described in subdivision 1; and*

*(4) protective headgear is required only until the operator reaches the age of 18 years.*

Subd. 3. No person shall operate a motorized bicycle upon a sidewalk at any time, except when such operation is necessary for the most direct access to a roadway from a driveway, alley or building. No person shall operate a motorized bicycle that is carrying any person other than the operator, *except as allowed under subdivision 2.*

Subd. 4. The provisions of section 169.974, subdivision 5, clause (i), apply to motorized bicycles that are equipped with headlights. After June 1, 1987, a new motorized bicycle sold or offered for sale in Minnesota must be equipped with a headlight.

Subd. 5. ~~When operated within a statutory or home rule charter city, a motorized bicycle is entitled to the full use of a traffic lane. No motor vehicle shall be driven or operated in a way that deprives a motorized bicycle of the full use of a traffic lane. When operated on a highway that is not within a statutory or home rule charter city, a motorized bicycle shall be operated on the paved portion of the shoulder, or, if the shoulder is not paved, as near as is practicable to the right-hand side of the roadway.~~ *(a) A person operating a motorized bicycle on a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway except in one of the following situations:*

*(1) when overtaking and passing another vehicle proceeding in the same direction;*

*(2) when preparing for a left turn at an intersection or into a private road or driveway; or*

*(3) when reasonably necessary to avoid conditions, including fixed or moving objects, vehicles, pedestrians, animals, surface hazards, or narrow width lanes, that make it unsafe to continue along the right-hand curb or edge.*

*(b) Persons operating motorized bicycles on a roadway may not ride more than two abreast and may not impede the normal and reasonable movement of traffic. On a laned roadway, a person operating a motorized bicycle shall ride within a single lane.*

*(c)* This section does not permit the operation of a motorized bicycle on a ~~bikeway or other~~ *bicycle path or bicycle* lane that is reserved for the exclusive use of nonmotorized traffic."

Page 13, after line 28, insert:

"Sec. 25. [EVALUATION OF FAMILY USE.]

*The commissioner of natural resources shall evaluate family all-terrain vehicle use, including all-terrain vehicle use by persons under 12 years of age on public lands or waters. Recommendations concerning the use of all-terrain vehicles by persons under 12 years of age must be made by the commissioner to the natural resources committees of the house and senate by January 1, 1990. The recommendations may include any additional restrictions that the commissioner deems necessary to ensure the safety of all-terrain vehicle operators under 12 years of age. Before making any recommendations, the commissioner must solicit and consider public comments and hold any necessary public meetings.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after "vehicles" insert ", snowmobiles, and motorized bicycles"

Page 1, line 6, after the first semicolon insert "requiring evaluation and recommendations to the legislature concerning family use of all-terrain vehicles;"

Page 1, line 7, after the semicolon insert "84.87, subdivision 1;"

Page 1, line 12, after the first semicolon insert "169.223;"

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

House Conferees: (Signed) Joseph R. Begich, Thomas W. Pugh, Gary L. Schafer

Senate Conferees: (Signed) Jim Vickerman, Randolph W. Peterson, Fritz Knaak

Mr. Vickerman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 333 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 333 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 723, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 723 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 723

A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 198.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 723, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 723 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 256B.056, is amended by adding a subdivision to read:

*Subd. 3a.* [ASSET LIMITATIONS FOR VETERANS.] *(a) Notwithstanding subdivision 3, the income and asset limitations for a veteran who is otherwise eligible for medical assistance are the income and asset limitations established by the board of directors of the Minnesota nursing homes for veterans applying for admission to a veterans home. The provisions concerning transfers of property in section 256B.17 do not apply to a veteran. For purposes of this subdivision, "veteran" has the meaning given in section 197.447.*

*(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).*

Sec. 2. [VETERANS HOMES SITING STUDY.]

*Subdivision 1.* [STUDY AUTHORIZED.] *The commissioner of administration, in cooperation with the veterans home board of directors and the interagency board for quality assurance, must, by February 1, 1990, complete a study that will assist the legislature to determine:*

*(1) if additional veterans homes should be established in any health systems agencies regions of the state not currently served by a veterans home; and*

*(2) in which communities homes should be sited if the study determines additional homes are necessary.*

*Subd. 2.* [NEED FOR ADDITIONAL VETERANS HOMES.] *In analyzing whether additional veterans homes should be established in the state, the study should consider the following factors:*

*(1) the number of veterans that are projected to need nursing home care in the state and in each health systems agencies region of the state;*

*(2) the availability and feasibility of other long-term care alternatives for veterans;*

*(3) the impact of additional veterans homes on existing community nursing homes;*

*(4) the availability of federal funding for construction and operation of additional veterans homes and the impact of other federal regulations;*

*(5) the overall cost to the state of a veterans home in each studied health systems agencies region; and*

*(6) the veterans home board of directors' long-term plan for veterans health care.*

*Based on these factors, the study shall recommend in which health systems agencies regions of the state, if any, not currently served by a veterans home, additional veterans homes should be established.*

*Subd. 3.* [ANALYSIS OF SITING ALTERNATIVES.] *If the commissioner of administration recommends that additional veterans homes should be established in one or more health systems agencies regions of the state not currently serviced by a veterans nursing care facility, the study must analyze various potential sites for veterans homes based on the following factors:*

*(1) proximity to a veterans administration medical center;*

*(2) proximity to other medical services in the community;*

*(3) availability of staff to operate a home;*

*(4) construction costs;*

*(5) operating costs through the first full year of operation;*

*(6) local financial contributions toward construction costs through the first full year of operation;*

*(7) physical features of a site;*

*(8) the number of veterans needing nursing care in the area; and*

*(9) availability of shared services with state operated human services facilities.*

*The commissioner shall allow a local community in an affected health systems agencies region to submit a proposal for veterans nursing care facilities, unless the community is in region 2, 5, or 6. No one of the factors listed in this subdivision may be an overriding factor in the analysis or recommendation of siting alternatives. The study must recommend, in rank order within each affected health systems agencies region, sites for new veterans nursing care facilities. Two or more contiguous health systems agencies regions may be combined for study and recommendation purposes. Previously studied communities in health systems agencies region 3 must be included in this study.*

Sec. 3. [VETERANS HOME; LUVERNE.]

*Subdivision 1. The legislature has reviewed department of administration study and report of February 1989, and has determined that the Minnesota veterans home board shall establish a veterans nursing care facility in Luverne to provide at least 60 beds for skilled nursing care to health systems agencies region 6 in conformance with licensing rules of the department*

*of health.*

*Subd. 2.* [FUNDING.] *The home must be purchased and built with funds, 65 percent of which must be provided by the federal government, and 35 percent by other nonstate sources, including local units of government, veterans organizations, and corporations or other business entities. Contracts made by the board for the purposes of this section are subject to chapter 16B.*

*Subd. 3.* [LACK OF FEDERAL FUNDING.] *If the funds to be provided by the federal government are not approved by December 1, 1989, the future authorization of the siting of a veterans nursing care facility in Luverne must be considered in the study provided by section 3. If the need for a veterans home is found to exist in southwest Minnesota, the site of the home must be in Luverne.*

Sec. 4. [APPROPRIATION.]

*$200,000 is appropriated from the general fund to the commissioner of administration to conduct the study required by section 2.*

Sec. 5. [EFFECTIVE DATE.]

*Sections 1 to 3 are effective the day following final enactment. Section 4 is effective July 1, 1989.*"

Delete the title and insert:

"A bill for an act relating to veterans; changing medical assistance income and asset limitations for veterans in community nursing homes to conform with those used for the veterans nursing homes; authorizing the commissioner of administration to conduct a study of the need for additional veterans homes in the state; establishing a veterans home in Luverne; appropriating money; amending Minnesota Statutes 1988, section 256B.056, by adding a subdivision."

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

House Conferees: (Signed) Andy Steensma, Lee Greenfield, Bob Anderson, Dick Kostohryz, Joe Quinn

Senate Conferees: (Signed) Keith Langseth, Gary M. DeCramer, Jim Vickerman, Cal Larson, Joe Bertram, Sr.

Mr. Langseth moved that the foregoing recommendations and Conference Committee Report on H.F. No. 723 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 723 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 702, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 702 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON 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.

May 17, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 702, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 702 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 169.91, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO APPEAR.] When a person is arrested for any violation of any law or ordinance relating to motor vehicles, their registration or their operation, or the use of the highways, the arresting officer shall prepare a written notice to appear in court. This place must be before a judge within the county in which the offense charged is alleged to have been committed who has jurisdiction and is nearest or most accessible with

reference to the place of arrest. *If the offense is a petty misdemeanor, the notice to appear must include a statement that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.*

Sec. 2. Minnesota Statutes 1988, section 169.99, subdivision 1, is amended to read:

Subdivision 1. *(a)* Except as provided in subdivision 3, there shall be a uniform ticket issued throughout the state by the police and peace officers or by any other person for violations of this chapter and ordinances in conformity thereto. Such uniform traffic ticket shall be in the form and have the effect of a summons and complaint. *Except as provided in paragraph (b),* the uniform ticket shall state that if the defendant fails to appear in court in response to the ticket, an arrest warrant may be issued. The uniform traffic ticket shall consist of four parts, on paper sensitized so that copies may be made without the use of carbon paper, as follows:

(1) the complaint, with reverse side for officer's notes for testifying in court, driver's past record, and court's action, printed on white paper;

(2) the abstract of court record for the department of public safety, which shall be a copy of the complaint with the certificate of conviction on the reverse side, printed on yellow paper;

(3) the police record, which shall be a copy of the complaint and of the reverse side of copy (1), printed on pink paper;

(4) the summons, with, on the reverse side, such information as the court may wish to give concerning the traffic violations bureau, and a plea of guilty and waiver, printed on off-white tag stock.

*(b) If the offense is a petty misdemeanor, the uniform ticket must state that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.*

Sec. 3. Minnesota Statutes 1988, section 169.99, subdivision 3, is amended to read:

Subd. 3. Any city of the first class, through its governing body, may alter by deletion or addition the uniform traffic ticket in such manner as it deems advisable for use in such city, *provided that it includes the notice required by subdivision 1, paragraph (b).* In respect to any public corporation organized and existing pursuant to sections 473.601 to 473.679, whose ordinances and regulations for the control of traffic are enforced through prosecution in the municipal court of one or the other of the cities of the first class included within such public corporation, the traffic ticket used in such enforcement shall conform to that used by the city of the first class in whose municipal court its ordinances and regulations are enforced, except as to color and as to information uniquely applying to such public corporation and to its ordinances and regulations.

Sec. 4. Minnesota Statutes 1988, section 609.49, is amended to read:

609.49 [RELEASE, FAILURE TO APPEAR.]

*Subdivision 1.* [FELONY OFFENDERS.] ~~Whoever, being~~ *A person* charged with or convicted of a felony and ~~held in lawful custody therefor, is~~ released from custody, with or without bail or recognizance, on condition that the releasee personally appear when required with respect to ~~such~~ *the* charge

or conviction, ~~and~~ *who* intentionally fails~~, without lawful excuse,~~ to ~~so~~ appear when required ~~or surrender within three days thereafter~~ *after having been notified that a failure to appear for a court appearance is a criminal offense, is guilty of a crime for failure to appear and* may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

*Subd. 2.* [GROSS MISDEMEANOR AND MISDEMEANOR OFFENDERS.] *A person charged with a gross misdemeanor or misdemeanor who intentionally fails to appear in court for trial on the charge after having been notified that a failure to appear for a court appearance is a criminal offense, is guilty of a misdemeanor.*

*Subd. 3.* [AFFIRMATIVE DEFENSE.] *If proven by a preponderance of the evidence, it is an affirmative defense to a violation of subdivision 1 or 2 that the person's failure to appear in court as required was due to circumstances beyond the person's control.*

*Subd. 4.* [PROSECUTION.] *A violation of this section is prosecuted by the prosecuting authority who was responsible for prosecuting the offense in connection with which the person failed to appear in court.*

Sec. 5. [609.491] [FAILURE TO APPEAR; PETTY MISDEMEANOR.]

*Subdivision 1.* [CONSIDERED GUILTY PLEA.] *If a person fails to appear in court on a charge that is a petty misdemeanor, the failure to appear is considered a plea of guilty and waiver of the right to trial, unless the person appears in court within ten days and shows that the person's failure to appear was due to circumstances beyond the person's control.*

*Subd. 2.* [NOTICE.] *A complaint charging a person with a petty misdemeanor must include a conspicuous notice of the provisions of subdivision 1.*

Sec. 6. If 1989 Senate File No. 126 is enacted in the 1989 legislative session, Minnesota Statutes, section 169.92, subdivision 4, as amended by 1989 Senate File No. 126, is amended to read:

Subd. 4. (a) Upon receiving a report from the court, or from the driver licensing authority of a state, district, territory, or possession of the United States or a province of a foreign country which has an agreement in effect with this state pursuant to section 169.91, that a resident of this state or a person licensed as a driver in this state did not appear in court in compliance with the terms of a citation, the commissioner of public safety shall notify the driver that the driver's license will be suspended unless the commissioner receives notice within 30 days that the driver has appeared in the appropriate court *or, if the offense is a petty misdemeanor for which a guilty plea was entered under section 5, that the person has paid any fine imposed by the court.* If the commissioner does not receive notice of the appearance in the appropriate court *or payment of the fine* within 30 days of the date of the commissioner's notice to the driver, the commissioner may suspend the driver's license.

(b) The order of suspension shall indicate the reason for the order and shall notify the driver that the driver's license shall remain suspended until the driver has furnished evidence, satisfactory to the commissioner, of compliance with any order entered by the court.

(c) Suspension shall be ordered under this subdivision only when the

report clearly identifies the person arrested; describes the violation, specifying the section of the traffic law, ordinance or rule violated; indicates the location and date of the offense; and describes the vehicle involved and its registration number.

Sec. 7. If 1989 Senate File No. 126 is enacted in the 1989 legislative session, Senate File No. 126, section 4, is amended to read:

Sec. 4. [EFFECTIVE DATE.]

*Section 1 is effective January 1, 1990.*

Sections ~~1 to~~ *2 and* 3 are effective the day following final enactment.

Sec. 8. [EFFECTIVE DATE.]

*Sections 1 to 3, 5, and 6 are effective January 1, 1990, and apply to petty misdemeanors committed on or after that date.*

*Section 4 is effective August 1, 1989, and applies to crimes for failure to appear committed on or after that date.*

*Section 7 is effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to crime; providing that failure to appear for a petty misdemeanor is considered a plea of guilty and waiver of the right to trial; 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, sections 169.91, subdivision 3; 169.92, as amended; 169.99, subdivisions 1 and 3; and 609.49; proposing coding for new law in Minnesota Statutes, chapter 609."

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

House Conferees: (Signed) Jean Wagenius, Dave Bishop, Randy C. Kelly

Senate Conferees: (Signed) Lawrence J. Pogemiller, William P. Luther, Patrick D. McGowan

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 702 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 702 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 56 and nays 5, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Cohen | Frederick | Knutson | Larson | Renneke |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has 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. 1582: A bill for an act relating to public finance; providing conditions and requirements for the issuance and use of public debt; making technical corrections to provisions relating to hazardous substance sites and subdistricts; enabling Chisago, Kanabec, Isanti, Pine, and Mille Lacs counties to sell certain bonds at public or private sale; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 469.015, subdivision 4; 469.174, subdivisions 7 and 16; 469.175, subdivision 7; 471.56, subdivision 5; 473.541, subdivision 3, and by adding a subdivision; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; 475.66, subdivision 1; and 475.79; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, section 474A.081, subdivision 3.

There has been appointed as such committee on the part of the House:

Rest, Long and McLaughlin.

Senate File No. 1582 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 66, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 66 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 66

A bill for an act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a department of state lottery; creating a division of inspection and enforcement in the department of public safety and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15.06, subdivision 1; 15A.081, subdivision 1; 43A.08, subdivision 1a; 240.01, by adding subdivisions; 240.02, subdivisions 1 and 2; 240.04, subdivisions 1, 3, and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.21; 240.28; 340A.410, subdivision 5; 349.12, subdivisions 11, 17, 20, and by adding subdivisions; 349.151, subdivisions 1, 2, 4, and 5; 349.16, subdivisions 3 and 4; 349.161, subdivision 4; 349.162, subdivisions 1, 2, 4, and 5; 349.163; 349.18, subdivision 1; 349.19, subdivisions 5 and 6; 349.212; 349.2121, subdivisions 2, 3, 4, 4a, 6, 7, 8, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivision 1; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75, subdivision 3; 609.76, subdivision 1; 609.761; 626.05, subdivision 2; 626.13; and 626.84, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 299K; 349A; and 349B; proposing coding for new law in Minnesota Statutes, chapters 240; 245; and 349; repealing Minnesota Statutes 1988, sections 240.02, subdivision 7; 349.151, subdivisions 3 and 5; 349.161, subdivision 7; 349.164, subdivision 5; 349.171; and 349.22, subdivision 4.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 66, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 66 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

PARI-MUTUEL HORSE RACING

Section 1. Minnesota Statutes 1988, section 240.01, is amended by adding a subdivision to read:

*Subd. 13.* [DIRECTOR.] *"Director" is the director of pari-mutuel racing.*

Sec. 2. Minnesota Statutes 1988, section 240.01, is amended by adding a subdivision to read:

*Subd. 14.* [DIVISION.] *"Division" is the division of pari-mutuel racing in the department of gaming.*

Sec. 3. [240.011] [DIVISION OF PARI-MUTUEL RACING.]

*Subdivision 1.* [DIVISION CREATED.] *A division of pari-mutuel racing is created in the department of gaming. The division is under the supervision and control of the Minnesota racing commission.*

*Subd. 2.* [DIRECTOR OF PARI-MUTUEL RACING.] *The governor shall appoint the director of pari-mutuel racing, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the commission.*

Sec. 4. Minnesota Statutes 1988, section 240.02, subdivision 1, is amended to read:

Subdivision 1. [COMMISSION ~~CREATED~~.] A Minnesota racing commission is established *within the division of pari-mutuel racing* with the powers and duties specified in ~~Laws 1983, chapter 214~~ *this section. Until the effective date of the first vacancy on the commission that occurs after the effective date of this act, including a vacancy caused by the expiration of a term,* the commission consists of nine members appointed by the governor with the advice and consent of the senate *and the commissioner of gaming as a nonvoting member. After the date of the first vacancy, the commission consists of eight members appointed by the governor with the advice and consent of the senate, plus the commissioner as a voting member*. Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. ~~Of the members first appointed, three are for terms expiring June 30, 1985, three are for terms expiring June 30, 1987, and three are for terms expiring June 30, 1989. After the expiration of the initial term,~~ Appointments *by the governor* are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Sec. 5. Minnesota Statutes 1988, section 240.02, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] A member of the commission, *other than the commissioner,* must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of $100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family *residing in the same household*, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation, partnership, or association which holds a license issued by the commission.

Sec. 6. Minnesota Statutes 1988, section 240.04, subdivision 1, is amended to read:

Subdivision 1. [~~EXECUTIVE~~ DIRECTOR*; DUTIES*.] ~~The commission shall appoint an executive director, who is its chief administrative officer and who serves at its pleasure in the unclassified service.~~ The ~~executive~~ director shall perform the following duties:

(a) take and preserve records of all proceedings before the commission,

maintain its books, documents, and records, and make them available for public inspection as the commission directs;

(b) if so designated by the commission, act as a hearing officer in hearings which need not be conducted under the administrative procedure act to conduct hearings, receive testimony and exhibits, and certify the record of proceedings to the commission;

(c) act as the commission's chief personnel officer and supervise the employment, conduct, duties, and discipline of commission employees; and

(d) perform other duties as directed by the commission.

Sec. 7. Minnesota Statutes 1988, section 240.04, subdivision 7, is amended to read:

Subd. 7. [ASSISTANCE.] The commission *and director* may request assistance from any department or agency of the state in fulfilling its duties, and shall make appropriate reimbursement for all such assistance.

Sec. 8. Minnesota Statutes 1988, section 240.06, subdivision 3, is amended to read:

Subd. 3. [INVESTIGATION.] Before granting a class A license the commission shall conduct, or request the ~~bureau of criminal apprehension~~ *division of gambling enforcement* to conduct, a comprehensive background and financial investigation of the applicant and sources of financing. The commission may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the ~~bureau~~ *division of gambling enforcement* for its share of the cost of the investigation. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ *division of gambling enforcement* on class A licensees and applicants.

Sec. 9. Minnesota Statutes 1988, section 240.06, subdivision 8, is amended to read:

Subd. 8. [WORK AREAS.] A class A licensee must provide at no cost to the ~~commission~~ *division* suitable work areas for commission members, officers, employees, and agents, *including agents of the division of gambling enforcement,* who are directed *or requested* by the commission to supervise and control racing at the licensed racetrack.

Sec. 10. Minnesota Statutes 1988, section 240.07, subdivision 2, is amended to read:

Subd. 2. [HEARINGS; INVESTIGATIONS.] Before granting an initial class B license the commission shall hold at least one public hearing on the license. Comprehensive investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ *division of gambling enforcement* on class B licensees and applicants.

Sec. 11. Minnesota Statutes 1988, section 240.08, subdivision 3, is amended to read:

Subd. 3. [INVESTIGATIONS.] The commission shall investigate each applicant for a class C license to the extent it deems necessary, and may

request the assistance of and may reimburse the ~~bureau of criminal apprehension~~ *division of gambling enforcement* in investigating applicants. The commission may by rule require that an applicant be fingerprinted or furnish the applicant's fingerprints. Investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission may cooperate with national and international organizations and agencies in conducting investigations. The commission may by rule provide for examining the qualifications of an applicant for the license being applied for. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ *division of gambling enforcement* on class C applicants and licensees.

Sec. 12. Minnesota Statutes 1988, section 240.13, is amended by adding a subdivision to read:

*Subd. 9.* [TRANSMISSION TO INDIAN LANDS; POOLING OF BETS.] *A licensed racetrack may, with the approval of the horsepersons' organization representing the majority of horsepersons racing the breed involved, transmit telecasts of races the licensee conducts to sites on Indian lands of tribes who are lawfully conducting pari-mutuel wagering authorized by a tribal-state compact entered into pursuant to the Indian Gaming Regulatory Act, Public Law Number 100-497, or through litigation, arbitration, or mediation relative to that act. Nothing in this subdivision shall be construed to indicate that state policy or law permits or encourages the transmission of telecasts to sites on Indian lands. With prior approval of the commission, a licensed racetrack transmitting telecasts of races it conducts, to sites on Indian lands within or outside of Minnesota or to other locations outside the state, may commingle the amounts bet at the receiving entity with the pools at the sending licensed racetrack.*

Sec. 13. Minnesota Statutes 1988, section 240.21, is amended to read:

240.21 [RIGHT OF INSPECTION.]

The commission and its representatives, *including representatives of the division of gambling enforcement,* have the right to inspect the licensed premises of a licensee and to examine the licensee's books and other records at any time without a search warrant.

Sec. 14. Minnesota Statutes 1988, section 240.28, is amended to read:

240.28 [CONFLICT OF INTEREST.]

Subdivision 1. [FINANCIAL INTEREST.] No person may serve on the commission or be employed by ~~it~~ *the division* who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member *of the commission* or employee of the ~~commission~~ *division* may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member *of the commission* or employee of the ~~commission~~ *division* may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. [BETTING.] No member *of the commission* or employee of the ~~commission~~ *division* may bet or cause a bet to be made on a race at a licensed racetrack while serving on *the commission* or being employed by

the ~~commission~~ *division*. No person appointed or approved by the ~~commission~~ *director* as a steward may bet or cause a bet to be made at a licensed racetrack during a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. [VIOLATION.] A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

Sec. 15. [EFFECTIVE DATE.]

*Sections 1 to 14 are effective July 1, 1989.*

ARTICLE 2

LAWFUL GAMBLING

Section 1. Minnesota Statutes 1988, section 349.11, is amended to read:

349.11 [PURPOSE.]

The purpose of sections 349.11 to 349.22 is to regulate ~~legal forms of~~ *lawful* gambling to prevent ~~their~~ *its* commercialization, to insure integrity of operations, and to provide for the use of net profits only for lawful purposes.

Sec. 2. Minnesota Statutes 1988, section 349.12, subdivision 3, is amended to read:

Subd. 3. [ACTIVE MEMBER.] "Active member" means a member who has paid all dues to the organization, *who is 18 years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization,* and *who* has been a member of the organization for at least six months.

Sec. 3. Minnesota Statutes 1988, section 349.12, subdivision 11, is amended to read:

Subd. 11. [LAWFUL PURPOSE.] "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; ~~or~~ (d) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling; *(e) any expenditure by, or any contribution to, a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code; or (f) payment of reasonable costs incurred in complying with the performing of annual audits required under section 349.19, subdivision 9.*

"Lawful purpose" does not include the erection, acquisition, improvement, expansion, repair, or maintenance of any real property *or capital assets* owned or leased by the organization, *other than a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code,* unless the board specifically authorizes the expenditures after finding that the property *or capital assets* will be used exclusively for one or more of the purposes specified in clauses (a) to (c). The board may by rule adopt procedures and standards to administer this subdivision.

Sec. 4. Minnesota Statutes 1988, section 349.12, subdivision 12, is amended to read:

Subd. 12. [ORGANIZATION.] "Organization" means any fraternal, religious, veterans, or other nonprofit organization which ~~has been in existence for at least three years and~~ has at least 15 active members, *and either has been duly incorporated as a nonprofit organization for at least three years, or has been recognized by the Internal Revenue Service as exempt from income taxation for the most recent three years.*

Sec. 5. Minnesota Statutes 1988, section 349.12, subdivision 13, is amended to read:

Subd. 13. [*GROSS* PROFIT.] "*Gross* profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

Sec. 6. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 13a.* [NET PROFIT.] *"Net profit" means gross profit less reasonable sums actually expended for allowable expenses.*

Sec. 7. Minnesota Statutes 1988, section 349.12, subdivision 15, is amended to read:

Subd. 15. [GAMBLING EQUIPMENT.] "Gambling equipment" means: bingo cards ~~and~~ *or sheets,* devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, and tipboards.

Sec. 8. Minnesota Statutes 1988, section 349.12, subdivision 16, is amended to read:

Subd. 16. "Board" is the ~~charitable~~ gambling control board.

Sec. 9. Minnesota Statutes 1988, section 349.12, subdivision 17, is amended to read:

Subd. 17. [DISTRIBUTOR.] "Distributor" is a person who sells gambling equipment ~~the distributor manufactures or purchases for resale~~ within the state *to licensed organizations, to organizations conducting exempt activities under section 349.214, or to other distributors.*

Sec. 10. Minnesota Statutes 1988, section 349.12, subdivision 20, is amended to read:

Subd. 20. [IDEAL NET.] "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 19, less the total predetermined prize amounts available to be paid out. When the prize is not *entirely* a monetary one, the ideal net is 50 percent of the ideal gross.

Sec. 11. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 21.* [CAPITAL ASSETS.] *"Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least one year.*

Sec. 12. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 22.* [DIRECTOR.] *"Director" is the director of the division of gambling control.*

Sec. 13. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 23.* [MANUFACTURER.] *"Manufacturer" means a person or entity who assembles from raw materials or subparts a completed piece of gambling equipment, and who sells or furnishes the equipment for resale or for use in the state. The term includes a person who converts, modifies, adds to, or removes parts or a portion from an item, device, or assembly to further its promotion, sale, or use as gambling equipment in this state. A person only adding or modifying promotional flares to advise the public of the prizes available, the rules of play, and the consideration required is not a manufacturer.*

Sec. 14. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 24.* [PROMOTIONAL TICKET.] *A pull-tab or tipboard ticket with the words "no purchase necessary" and "for promotional use only" and for which no consideration is given is a promotional ticket.*

Sec. 15. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

*Subd. 25.* [DIVISION.] *"Division" is the division of gambling control in the department of gaming.*

Sec. 16. Minnesota Statutes 1988, section 349.15, is amended to read:

349.15 [USE OF *GROSS* PROFITS.]

*(a) Gross* profits from lawful gambling may be expended only for lawful purposes or *allowable* expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 55 percent of *gross* profits from bingo, and no more than 45 percent for other forms of lawful gambling, may be expended for ~~necessary~~ *allowable* expenses related to lawful gambling.

*(b)* The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense ~~from the gross receipts from lawful gambling~~. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross ~~receipts~~ *profits* which may be expended for certain expenses.

*(c) Allowable expenses also include reasonable costs of bank account service charges, and the reasonable costs of an audit required by the board, except an audit required under section 349.19, subdivision 9.*

Sec. 17. Minnesota Statutes 1988, section 349.151, is amended to read:

349.151 [~~CHARITABLE~~ GAMBLING CONTROL BOARD.]

Subdivision 1. [BOARD CREATED.] The ~~charitable~~ gambling control board is created with the powers and duties established by subdivision 4.

Subd. 2. [MEMBERSHIP.] The board consists of ~~13~~ *six* members appointed ~~as follows:~~

~~(1) eleven persons appointed~~ by the governor with the advice and consent of the senate~~, at least four of whom must reside outside of the seven-county metropolitan area;~~

~~(2) the commissioner of public safety or~~ a ~~designee; and~~

~~(3) the attorney general or a designee.~~

~~A member serving on the board by appointment must have been a resident of Minnesota for at least five years. Of the appointees of the governor not more than six may belong to the same political party. A member appointed to the board may be removed at any time by the appointing authority. Vacancies on the board are filled in the same manner as the original appointment. Of the members appointed by the governor, three are for terms expiring June 30, 1985, four are for terms expiring June 30, 1986, and four are for terms expiring June 30, 1987. After the expiration of the initial terms, appointments are for three years. The governor shall appoint the chair from among the governor's appointees~~ *and the commissioner of gaming as a voting member. Of the members first appointed, one is for a term expiring June 30, 1990, two are for a term expiring June 30, 1991, two are for a term expiring June 30, 1992, and one is for a term expiring June 30, 1993. After expiration of the initial terms, appointments are for four years. The board shall select one of its members, other than the commissioner, to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.*

Subd. 3. [COMPENSATION.] The compensation, *and removal* of board members ~~is~~ *and filling of membership vacancies are* as provided in section 15.0575~~, subdivision 3~~ *except for the commissioner of gaming.*

Subd. 4. [POWERS AND DUTIES.] *(a)* The board has the following powers and duties:

(1) to issue, revoke, and suspend licenses to organizations, distributors, *bingo halls,* and manufacturers under sections 349.16, 349.161, ~~and~~ 349.163, *and 349.164*;

(2) to collect and deposit license fees ~~and taxes~~ due under this chapter;

(3) to receive reports required by this chapter and inspect the records, books, and other documents of organizations and suppliers to insure compliance with all applicable laws and rules;

(4) to make rules~~, including emergency rules,~~ required by this chapter;

(5) to register gambling equipment and issue registration stamps under section 349.162;

(6) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(7) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing ~~charitable~~ gambling; ~~and~~

(8) impose civil penalties of not more than $500 per violation on organizations, distributors, and manufacturers for failure to comply with any provision of sections 349.12 to 349.23 or any rule of the board;

*(9) to notify city councils, county boards, and town boards before issuing or renewing licenses to organizations and bingo halls as specified under section 349.213; and*

*(10) delegate to the director the authority to issue licenses under criteria established by the board.*

*(b) Any organization, distributor, bingo hall operator, or manufacturer assessed a civil penalty may request a hearing before the board. Hearings conducted on appeals of imposition of penalties are not subject to the provisions of the administrative procedure act.*

*(c) All fees and penalties received by the board must be deposited in the general fund.*

Subd. 4a. [ADDITIONAL POWERS.] Whenever it appears to the ~~board~~ *director* that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:

(a) The ~~board~~ *director* has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days of the date of the hearing the board shall issue ~~a further~~ *an* order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) The board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Subd. 5. ~~[EMPLOYEES.] The board shall employ an executive secretary in the unclassified service and such other employees in the classified service as are required to enable it to carry out its functions. One or more of the employees must be bingo inspectors.~~

~~Subd. 6.~~ [ATTORNEY GENERAL.] The attorney general is the attorney for the board.

Sec. 18. [349.152] [DIRECTOR.]

*Subdivision 1.* [APPOINTED.] *The governor shall appoint, with the advice and consent of the senate, a director from a list of one or more persons submitted by the board. The director serves in the unclassified service at the pleasure of the governor.*

*Subd. 2.* [DUTIES OF THE DIRECTOR.] *The director has the following*

*duties:*

*(1) to carry out gambling policy established by the board;*

*(2) to employ and supervise personnel of the board;*

*(3) to advise and make recommendations to the board on rules;*

*(4) to issue licenses as authorized by the board;*

*(5) to issue cease and desist orders;*

*(6) to make recommendations to the board on license issuance, denial, suspension and revocation, and civil penalties the board imposes; and*

*(7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees.*

Sec. 19. [349.153] [CONFLICT OF INTEREST.]

*(a) A person may not serve on the board, be the director, or be an employee of the division who has an interest in any corporation, association, or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section 349.164.*

*(b) A member of the board, the director, or an employee of the division may not participate in the conducting of lawful gambling.*

Sec. 20. Minnesota Statutes 1988, section 349.16, subdivision 3, is amended to read:

Subd. 3. [FEES.] The board ~~shall by rule establish a schedule of fees for licenses under this section. The schedule must establish~~ *may issue* four classes of ~~license,~~ *licenses: a class A license* authorizing all forms of lawful gambling~~,~~*; a class B license authorizing* all forms *of lawful gambling* except bingo~~, raffles~~*; a class C license authorizing bingo* only~~,~~*;* and ~~bingo~~ *a class D license authorizing raffles* only. *The annual license fee for each class of license is:*

*(1) $200 for a class A license;*

*(2) $125 for a class B license;*

*(3) $100 for a class C license; and*

*(4) $75 for a class D license.*

Sec. 21. Minnesota Statutes 1988, section 349.16, subdivision 4, is amended to read:

Subd. 4. [LOCAL INVESTIGATION FEE.] A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations *or bingo halls* applying for or renewing a license to conduct lawful gambling *or operate a bingo hall.* An investigation fee may not exceed the following limits:

(1) for cities of the first class, $500;

(2) for cities of the second class, $250; ~~and~~

(3) for all other cities ~~and counties~~, $100*; and*

*(4) for counties, $375.*

Sec. 22. Minnesota Statutes 1988, section 349.161, is amended to read:

349.161 [DISTRIBUTOR LICENSES.]

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.] No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt from licensing under section 349.214, except to an organization licensed for lawful gambling; or

(2) sell, offer for sale, or furnish gambling equipment to an organization licensed for lawful gambling without having obtained a distributor license under this section.

No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.

Subd. 2. [LICENSE APPLICATION.] The board may issue licenses for the sale of gambling equipment to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes.

Subd. 3. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor a person, who:

(1) has been convicted of a felony ~~in a state or federal court~~ within the past five years ~~or who has a felony charge pending~~;

(2) has *ever* been convicted ~~in a state or federal court~~ of a ~~gambling-related offense within ten years of the date of license application~~ *felony involving fraud or misrepresentation or a crime involving gambling*; ~~or~~

(3) is or has ever been engaged in an illegal business*;*

*(4) owes $500 or more in delinquent taxes as defined in section 270.72;*

*(5) has had a sales and use tax permit revoked by the commissioner of revenue within the last two years; or*

*(6) after demand, has not filed tax returns required by the commissioner of revenue.*

Subd. 4. [FEES.] The annual fee for a ~~supplier's~~ *distributor's* license is ~~$1,500~~ *$2,500*.

Subd. 5. [PROHIBITION.] (a) No distributor, or employee ~~eligible to make sales on behalf~~ of a distributor, may also be a wholesale distributor of ~~liquor or~~ alcoholic beverages *or an employee of a wholesale distributor of alcoholic beverages*.

(b) No distributor, *distributor's representative,* or employee ~~authorized to make sales on behalf~~ of a distributor, may be involved directly in the operation of lawful gambling conducted by an organization.

*(c) No manufacturer or distributor or person acting as a representative, agent, or employee of a manufacturer or distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.*

*(d) No distributor, distributor's representative, or employee of a distributor may participate in any gambling activity at any gambling site or*

*premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.*

*(e) No distributor, distributor's representative, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.*

Subd. 6. [REVOCATION AND SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 7. [CRIMINAL HISTORY.] The board may request the assistance of the ~~bureau of criminal apprehension~~ *division of gambling enforcement* in investigating the background of an applicant for a distributor's license and may reimburse the ~~bureau~~ *division of gambling enforcement* for the costs thereof. The board has access to all criminal history data compiled by the ~~bureau~~ *division of gambling enforcement* on licensees and applicants.

Subd. 8. [EMPLOYEES OF DISTRIBUTORS.] Licensed distributors shall provide the board upon request with the names and ~~business~~ *home* addresses of all employees. Each ~~person eligible to conduct sales on behalf of a~~ distributor, *employee of a distributor, or a person making sales of gambling equipment on behalf of a distributor* must have in *their* possession a picture identification card approved by the board.

Sec. 23. Minnesota Statutes 1988, section 349.162, is amended to read:

349.162 [EQUIPMENT REGISTERED.]

Subdivision 1. [STAMP REQUIRED.] A distributor may not sell ~~to an organization and an organization may not purchase~~, *transfer, furnish, or otherwise provide to a person, organization, or distributor, and no person, organization, or distributor may purchase, borrow, accept, or acquire* from a distributor gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor is entitled to a refund for unused stamps and replacement for stamps which are defective or canceled by the distributor.

Subd. 2. [RECORDS REQUIRED.] A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

(1) the identity of the person or firm from whom the equipment was purchased;

(2) the registration number of the equipment;

(3) the name and address of the organization to which the sale was made; ~~and~~

(4) the date of the sale;

*(5) the name of the person who ordered the equipment; and*

*(6) the name of the person who received the equipment.*

The invoice for each sale must be retained for at least ~~one year~~ *two years*

after the sale is completed and a copy of ~~the~~ *each* invoice is *to be* delivered to the board *in the manner and time prescribed by the board*. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the ~~board~~ *division and the division of gambling enforcement* may inspect the books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

Subd. 3. [EXEMPTION.] For purposes of this section, bingo cards ~~intended to be used for more than one game~~ *or sheets* need not be ~~registered~~ *stamped*.

Subd. 4. [PROHIBITION.] *(a)* No person other than a licensed ~~organization or a licensed~~ distributor may possess *unaffixed* registration stamps issued by the board.

*(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been registered with the board.*

Subd. 5. [SALES FROM FACILITIES.] *(a)* All gambling equipment purchased *or possessed* by a licensed distributor for resale in Minnesota must, prior to ~~its~~ *the equipment's* resale, be unloaded into a *sales or storage* facility located in Minnesota which the distributor owns or leases*; and which has been registered, in advance and in writing, with the division of gambling enforcement as a sales or storage facility of the distributor's. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a sales or storage facility which has been registered with the division of gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board.*

*(b) All sales and storage facilities owned, leased, used, or operated by a licensed distributor may be entered upon and inspected by the employees of the division of gambling enforcement or the director's authorized representatives during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a distributor's licenses and permits issued under this chapter.*

*(c) Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than a registered sales or storage facility are contraband under section 349.2125.*

Sec. 24. Minnesota Statutes 1988, section 349.163, is amended to read:

349.163 [~~REGISTRATION~~ *LICENSING* OF MANUFACTURERS.]

Subdivision 1. [~~REGISTRATION~~ *LICENSE*.] No manufacturer of gambling equipment may sell any gambling equipment to any person unless the manufacturer ~~has registered with the board and~~ has been issued a ~~certificate of registration~~ *license by the board under objective criteria prescribed by the board by rule*.

Subd. 2. [~~CERTIFICATE~~ *LICENSE*; FEE.] A ~~certificate~~ *license* under this section is valid for one year. The annual fee for ~~registration~~ *the license* is ~~$500~~ *$2,500*.

Subd. 3. [PROHIBITED SALES.] A manufacturer may not sell gambling

equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor.

*Subd. 4.* [INSPECTION OF MANUFACTURERS.] *Employees of the division and the division of gambling enforcement may inspect the books, records, inventory, and manufacturing operations of a licensed manufacturer without notice during the normal business hours of the manufacturer.*

Sec. 25. Minnesota Statutes 1988, section 349.164, is amended to read:

349.164 [BINGO HALL LICENSES.]

Subdivision 1. [LICENSE REQUIRED.] No person may lease a facility to more than one ~~licensed~~ *individual, corporation, partnership, or* organization to conduct bingo without having obtained a bingo hall license under this section, unless the ~~person~~ *lessor* is a licensed organization.

Subd. 2. [LICENSE APPLICATION.] The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes. *The board may not issue or renew a bingo hall license unless the conditions of section 349.213, subdivision 2, have been satisfied.*

Subd. 3. [QUALIFICATIONS.] A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position, who:

(1) has been convicted of a felony ~~in a state or federal court~~ within the past five years ~~or who has a felony charge pending~~; ~~or~~

(2) has *ever* been convicted ~~in a state or federal court~~ of a ~~gambling-related offense within ten years of the date of license application~~ *felony involving fraud or misrepresentation or a crime involving gambling; or*

*(3) owes delinquent taxes in excess of $500 as defined in section 270.72.*

Subd. 4. [FEES.] The annual fee for a bingo hall license is ~~$250~~ *$2,500*.

Subd. 5. [CRIMINAL HISTORY.] The board may request the assistance of the ~~bureau of criminal apprehension~~ *division of gambling enforcement* in investigating the background of an applicant for a bingo hall license and may reimburse the ~~bureau~~ *division of gambling enforcement* for the costs. The board has access to all criminal history data compiled by the bureau *of criminal apprehension and the division of gambling enforcement* on licensees and applicants.

Subd. 6. [PROHIBITION.] No bingo hall licensee may also be a licensed distributor or ~~registered~~ *licensed* manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 *or a wholesale distributor of alcoholic beverages*.

Subd. 7. [RESTRICTIONS.] A bingo hall licensee or affiliate of the licensee may not:

(1) provide any staff to conduct bingo or any other form of lawful gambling during the bingo occasion;

(2) acquire, provide storage or inventory control, or report the use of any gambling equipment used by an organization that conducts bingo on the premises;

(3) provide accounting services to an organization conducting bingo on the premises;

(4) make any expenditures of gross receipts of an organization from lawful gambling; or

(5) charge any fee to a person at a bingo occasion, without which the person could not play a bingo game.

Subd. 8. [LEASES.] All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the operator of the bingo hall based on the number of participants attending the bingo occasion or on the gross receipts or profit received by the organization.

Subd. 9. [REVOCATION AND SUSPENSION.] A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act.

Sec. 26. Minnesota Statutes 1988, section 349.17, subdivision 2a, is amended to read:

Subd. 2a. [DISTRIBUTOR LICENSE EXEMPTION FOR LESSOR.] As part of a lease agreement on a leased bingo premises, the lessor may furnish bingo equipment without being a licensed distributor. *For purposes of this section, "furnish" does not include the right to sell or offer for sale.*

Sec. 27. Minnesota Statutes 1988, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of ~~at least~~ one year and must be in writing. Copies of all leases must be made available to employees of the ~~board~~ *division and the division of gambling enforcement* on request. A lease may not provide for ~~rental~~ payments ~~based on a percentage of~~ *determined directly or indirectly by the* receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling. *Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.*

*No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity in a leased space during times when lawful gambling is being conducted in the space.*

Sec. 28. Minnesota Statutes 1988, section 349.18, is amended by adding a subdivision to read:

*Subd. 1a.* [STORAGE OF GAMBLING EQUIPMENT.] *(a) Gambling equipment owned by or in the possession of a licensed organization must be kept at a licensed gambling premises owned or operated by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each storage site or licensed premises, the organization must have the*

*invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises.*

*(b) Gambling equipment, other than devices for selecting bingo numbers, owned by a licensed organization must be kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers consistent with the organization's internal controls filed with the board.*

*(c) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.*

*(d) A licensed organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors.*

Sec. 29. Minnesota Statutes 1988, section 349.19, subdivision 2, is amended to read:

Subd. 2. [ACCOUNTS.] Gross receipts from lawful gambling *by each organization at each licensed premises* must be segregated from all other revenues of the conducting organization and placed in a separate account. *The name and address of the bank and the account number for that separate account for that licensed premises, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within one business day of completion of the bingo occasion, deal, or game from which they are received, and deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game.* The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 30. Minnesota Statutes 1988, section 349.19, subdivision 3, is amended to read:

Subd. 3. [EXPENDITURES.] All expenditures of *gross* profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment. *Authorization of the expenditures must be recorded in the regular meeting minutes of the licensed organization.*

Sec. 31. Minnesota Statutes 1988, section 349.19, subdivision 6, is amended to read:

Subd. 6. [PRESERVATION OF RECORDS.] The board may require that records required to be kept by this section must be preserved by a licensed organization for at least two years and may be inspected by employees of the ~~board~~ *division and the division of gambling enforcement* at any reasonable time without notice or a search warrant.

Sec. 32. Minnesota Statutes 1988, section 349.19, is amended by adding a subdivision to read:

*Subd. 8.* [TERMINATION PLAN.] *Upon termination of a license for any reason, a licensed organization must notify the board in writing within 15 calendar days of the license termination date of its plan for disposal of registered gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board. The board may accept or reject a plan and order submission of a new plan*

*or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.*

Sec. 33. Minnesota Statutes 1988, section 349.19, is amended by adding a subdivision to read:

*Subd. 9.* [ANNUAL AUDIT; FILING REQUIREMENT.] *An organization licensed under this chapter must have an annual financial audit of its lawful gambling activities and funds performed by an independent auditor licensed by the state of Minnesota or performed by an independent accountant who has had prior approval of the board. A complete, true, and correct copy of the audit report must be filed with the board upon completion of the audit.*

Sec. 34. Minnesota Statutes 1988, section 349.20, is amended to read:

349.20 [MANAGERS.]

*(a)* All lawful gambling conducted by a licensed organization must be under the supervision of one or more gambling managers. A gambling manager designated by an organization to supervise a gambling occasion is responsible for the gross receipts from the occasion and for its conduct in compliance with all laws and rules. An organization may designate a different person to act as manager for each type of lawful gambling conducted. Each person designated as a gambling manager must give a fidelity bond in the sum of $10,000 in favor of the organization conditioned on the faithful performance of the manager's duties, and the terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

*(b)* A person may not act as a gambling manager for more than one organization.

*(c) An organization may not conduct lawful gambling without having a gambling manager. The board must be notified in writing of a change in gambling managers. Notification must be made within ten days of the date the gambling manager assumes the manager's duties.*

Sec. 35. Minnesota Statutes 1988, section 349.21, is amended to read:

349.21 [COMPENSATION.]

*Subdivision 1.* [TO WHOM PAID.] Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that nonmanagement assistants who are not active members or spouses may be hired to assist in the conduct of lawful gambling in nonmanagement positions if approved by a majority of the organization's members.

*Subd. 2.* [AMOUNTS PAID.] The amounts of compensation which may be paid under this section may be provided for in a schedule of compensation adopted by the board by rule. In adopting a schedule the board must consider the nature of the participation and the types of lawful gambling participated in.

*Subd. 3.* [COMPENSATION RECORDS.] *An organization paying compensation to persons for the conduct of lawful gambling must maintain a compensation record. The record must be retained for at least two years after the month in which the compensation is paid. The record must be an itemization of each payment made to each recipient of compensation, and*

*must include the amount of compensation paid and the full name, home address, and membership status of each recipient.*

*Subd. 4.* [COMPENSATION PAID BY CHECK.] *Compensation paid by an organization in connection with lawful gambling must be in the form of a check drawn on the organization's gambling account, as specified in section 349.19.*

*Subd. 5.* [PENALTY.] *(a) An organization that makes payment of compensation, or causes compensation to be made, which violates the provisions of subdivision 4 shall be assessed a civil penalty not to exceed $1,000 for each violation of subdivision 4. A second violation within 12 months of notification by the board to the organization of the first violation shall result in suspension of the organization's gambling license for a period of three months, in addition to any civil penalty assessed. A third violation within 12 months of the board's notification to the organization of the second violation shall result in revocation of the organization's gambling license in addition to any civil penalty assessed.*

*(b) Upon each violation the director shall notify the organization in writing of its violation and of the penalties under this subdivision for future violations. Notification is effective upon mailing.*

*(c) For purposes of this subdivision, a violation consists of a payroll period or compensation date that includes payments made in violation of subdivision 4.*

*Subd. 6.* [PERCENTAGE OF GROSS PROFIT PAID.] A licensed organization may pay a percentage of the gross ~~receipts~~ *profit* from raffle ticket sales to a nonprofit organization which sells tickets for the licensed organization.

*Subd. 7.* [DIRECT PAYMENT.] *All compensation must be paid directly from the organization to the employees of the organization.*

Sec. 36. Minnesota Statutes 1988, section 349.2121, subdivision 2, is amended to read:

Subd. 2. [RECORDS.] A distributor shall keep at each licensed place of business complete and accurate records for that place of business, including itemized invoices of pull-tabs and tipboards held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of pull-tabs and tipboards. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all pull-tab and tipboard deals on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of pull-tab and tipboard deals. Books, records, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner *of revenue* authorizes in writing their destruction or disposal at an earlier date. At any time during usual business hours, the commissioner *of revenue*, ~~executive secretary of the charitable gambling control board~~ *director of gambling enforcement*, or any of their duly authorized agents or employees, may enter a place of business of a distributor~~,~~ ~~charitable~~ *or* organization, ~~or~~ any site from which pull-tabs or tipboards *or other gambling equipment* are being sold, *or any site at which lawful gambling is being conducted,* and inspect the premises and the records required to be kept under this section to determine whether or not all the provisions of this section are

being fully complied with. If the commissioner *of revenue*, ~~executive secretary~~ *director of gambling enforcement*, or their duly authorized agents or employees are denied free access to or are hindered or interfered with in making an inspection of the distributor's place of business, the permit of the distributor may be revoked by the commissioner, and the license of the distributor may be revoked by the ~~charitable~~ gambling control board.

Sec. 37. Minnesota Statutes 1988, section 349.2121, subdivision 3, is amended to read:

Subd. 3. [SUSPENSION, REVOCATION.] *(a)* The commissioner *of revenue*, after *giving* notice ~~and hearing~~, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least ~~30~~ *15* days before the ~~hearing and give notice of the time and place of the hearing,~~ *proposed suspension or revocation is to take effect. The notice* must give the reason for the proposed suspension or revocation~~,~~ and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail ~~in the manner prescribed for service of notice of a deficiency~~.

*(b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner of revenue within 14 days of the date of the notice, the commissioner shall defer action on the suspension or revocation and shall refer the case to the office of administrative hearings for the scheduling of a contested case hearing. The distributor must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.*

*(c) The commissioner of revenue shall issue a final order following receipt of the recommendation of the administrative law judge.*

*(d) Under section 271.06, subdivision 1, an appeal to the tax court may be taken from the commissioner's order of revocation or suspension.* The commissioner *of revenue* may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

Sec. 38. Minnesota Statutes 1988, section 349.2121, subdivision 10, is amended to read:

Subd. 10. [UNTAXED ~~PULL-TABS OR TIPBOARDS~~ *GAMBLING EQUIPMENT*.] It is a gross misdemeanor for any person to possess ~~pull-tabs or tipboards~~ *gambling equipment* for resale in this state that ~~have~~ *has* not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. The ~~executive secretary of the charitable gambling control board~~ *director of gambling enforcement* or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed ~~pull-tabs or tipboards~~ *gambling equipment*.

Sec. 39. Minnesota Statutes 1988, section 349.2122, is amended to read:

349.2122 [MANUFACTURERS; REPORTS TO THE COMMISSIONER *OF REVENUE*; PENALTY.]

A manufacturer ~~registered~~ *licensed* with the board who sells pull-tabs and tipboards to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs and tipboards sold to licensed distributors. The report

must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. *The commissioner of revenue may inspect the books, records, and inventory of a licensed manufacturer without notice during the normal business hours of the manufacturer.* Any person violating this section shall be guilty of a misdemeanor.

Sec. 40. Minnesota Statutes 1988, section 349.2125, subdivision 1, is amended to read:

Subdivision 1. [CONTRABAND DEFINED.] The following are contraband:

(1) all pull-tab or tipboard deals that do not have stamps affixed to them as provided in section 349.162;

(2) all pull-tab or tipboard deals in the possession of any unlicensed *person, firm, or* organization, whether stamped or unstamped;

(3) any container used for the storage and display of any contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) *all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and* any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents; ~~and~~

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce, or from one distributor to another, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clause (1);

*(6) any unaffixed registration stamps except as provided in section 349.162, subdivision 4;*

*(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;*

*(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;*

*(9) any unregistered gambling equipment except as permitted by this chapter; and*

*(10) any gambling equipment kept in violation of section 349.18.*

Sec. 41. Minnesota Statutes 1988, section 349.2125, subdivision 2, is amended to read:

Subd. 2. [SEIZURE.] ~~Pull-tabs or tipboards or other~~ Property made contraband by subdivision 1 may be seized by the commissioner of revenue or the ~~executive secretary of the charitable gambling control board~~ *director of gambling enforcement* or their authorized agents or by any sheriff or other police officer, hereinafter referred to as the seizing authority, with or without process, and shall be subject to forfeiture as provided in subdivisions 3 and 4.

Sec. 42. Minnesota Statutes 1988, section 349.2125, subdivision 3, is amended to read:

Subd. 3. [INVENTORY; JUDICIAL DETERMINATION; APPEAL;

DISPOSITION OF SEIZED PROPERTY.] Within two days after the seizure of any alleged contraband, the person making the seizure shall deliver an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner *of revenue* or the ~~executive secretary of the charitable gambling control board~~ *director of gambling enforcement*. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 30 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section 349.2121, subdivision 4, the seizing authority shall release the property seized without further legal proceedings.

Sec. 43. Minnesota Statutes 1988, section 349.2127, subdivision 2, is amended to read:

Subd. 2. [PROHIBITION AGAINST POSSESSION.] *(a)* No person, other than a licensed distributor, shall sell, offer for sale, or have in possession with intent to sell or offer for sale, a pull-tab or tipboard deal not stamped in accordance with the provisions of this chapter.

*(b) No person other than a licensed distributor or licensed or exempt organization under section 349.214 may possess with the intent to sell or offer to sell gambling equipment, except (1) equipment exempt from taxation, or (2) equipment put into play by a licensed or exempt organization.*

*(c) No person, firm, or organization may possess altered, modified, or counterfeit pull-tabs or tipboard tickets with intent to sell, redeem, or exchange them.*

Sec. 44. Minnesota Statutes 1988, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed $100. The authority granted by this subdivision does not include the authority to require a license or

permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or section 349.212.

*A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must define the city's or county's trade area and must specify the percentage of lawful purpose expenditures which must be expended within the trade area.*

Sec. 45. Minnesota Statutes 1988, section 349.213, subdivision 2, is amended to read:

Subd. 2. [LOCAL APPROVAL.] Before issuing or renewing an organization license *or bingo hall license*, the board must notify the city council of the statutory or home rule city in which the organization's premises ~~are~~ *or the bingo hall is* located or, if the premises ~~are~~ *or hall is* located outside a city, by the county board of the county and the town board of the town where the premises ~~are~~ *or hall is* located. *The board may require organizations to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision.* If the city council or county board adopts a resolution disapproving the license and so informs the board within 60 days of receiving notice of the ~~license~~ *application*, the license may not be issued or renewed.

Sec. 46. Minnesota Statutes 1988, section 349.214, subdivision 2, is amended to read:

Subd. 2. [LAWFUL GAMBLING.] (a) Raffles may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed $750.

(b) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections ~~349.11 to 349.14 and~~ 349.151 to *349.16; 349.171 to 349.21; and* 349.212 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization *pays a fee of $25 to the board,* notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, *or 60 days for an occasion held in the case of a city of the first class,* the types of lawful gambling to be

conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, *or 60 days for an occasion held in a city of the first class*;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a $250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

(d) Merchandise prizes must be valued at their fair market value.

*(e) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.*

Sec. 47. Minnesota Statutes 1988, section 349.22, subdivision 1, is amended to read:

Subdivision 1. [GROSS MISDEMEANOR.] A person who in any manner violates sections 349.11 to ~~349.214~~ *349.23* to evade ~~the~~ *a* tax imposed by *a provision of* this chapter, or who aids and abets evasion of ~~the~~ *a* tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 349.2125, is guilty of a gross misdemeanor.

Sec. 48. Minnesota Statutes 1988, section 349.22, subdivision 3, is amended to read:

Subd. 3. [FELONY.] (a) A person violating section 349.2127, subdivision 1 or 3, is guilty of a felony.

(b) A person violating section 349.2127, ~~subdivisions 2 and~~ *subdivision 2 or* 4, by possessing, receiving, or transporting more than ten pull-tab or tipboard deals ~~not stamped in accordance with this chapter~~, *or a combination of more than ten deals of pull-tabs or tipboards*, is guilty of a felony.

Sec. 49. Laws 1989, chapter 184, section 7, is amended by adding a subdivision to read:

*Subd. 4.* [DISCLOSURE TO GAMBLING CONTROL BOARD.] *The commissioner may disclose return information for the purpose of and to the extent necessary to administer sections 349.161, subdivision 3, and 349.164, subdivision 3.*

Sec. 50. [GAMBLING CONTROL BOARD.]

*The terms of all members serving on the gambling control board on June 30, 1989, expire on that date.*

Sec. 51. [INSTRUCTION TO REVISOR.]

*In the next edition of Minnesota Statutes, the revisor of statutes shall alphabetize the definitions in Minnesota Statutes, section 349.12, and make all appropriate cross-reference changes in Minnesota Statutes and Minnesota Rules.*

Sec. 52. [REPEALER.]

*Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; and 349.171, are repealed. Minnesota Rules, part 7860.0030, is repealed.*

Sec. 53. [EFFECTIVE DATE.]

*Sections 1 to 26 and 28 to 52 are effective July 1, 1989. Section 27 is effective July 1, 1989, except that the provisions in section 27 relating to rules adopted by the gambling control board apply retroactively to November 1, 1988.*

ARTICLE 3

STATE LOTTERY

Section 1. [349A.01] [DEFINITIONS.]

*Subdivision 1.* [TERMS DEFINED.] *For the purposes of this chapter the terms defined in this section have the meanings given them.*

*Subd. 2.* [BOARD.] *"Board" is the state lottery board.*

*Subd. 3.* [COMMISSIONER.] *"Commissioner" is the commissioner of gaming.*

*Subd. 4.* [DEPARTMENT.] *"Department" is the department of gaming.*

*Subd. 5.* [DIRECTOR.] *"Director" is the director of the state lottery division.*

*Subd. 6.* [DIVISION.] *"Division" is the division of the state lottery in the department of gaming.*

*Subd. 7.* [GROSS RECEIPTS.] *"Gross receipts" means all money received from the sale of lottery tickets less amounts transmitted to the commissioner of revenue under section 297A.259.*

*Subd. 8.* [GROSS REVENUE.] *"Gross revenue" means gross receipts from the sale of lottery tickets, fees, or other money received by the director, and interest earned on money in the lottery fund.*

*Subd. 9.* [LOTTERY.] *"Lottery" is the state lottery operated by the state lottery division of the department.*

*Subd. 10.* [LOTTERY PROCUREMENT CONTRACT.] *"Lottery procurement contract" means a contract to provide lottery products, computer hardware and software used to monitor sales of lottery tickets, and lottery tickets. "Lottery procurement contract" does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.*

*Subd. 11.* [LOTTERY RETAILER.] *"Lottery retailer" means a person with whom the director has contracted to sell lottery tickets to the public.*

*Subd. 12.* [LOTTERY TICKET OR TICKET.] *"Lottery ticket" or "ticket" means any tangible evidence issued by the lottery to prove participation in a lottery game.*

*Subd. 13.* [LOTTERY VENDOR OR VENDOR.] *"Lottery vendor" or*

*"vendor" means a person who has entered into a contract to provide equipment, supplies, or services for the division. A lottery vendor does not include a lottery retailer.*

Sec. 2. [349A.02] [STATE LOTTERY DIVISION.]

*Subdivision 1.* [DIRECTOR.] *A state lottery division is established in the department of gaming, under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The governor shall appoint the first director from a list of at least three persons recommended to the governor by the governor's commission on the lottery which was appointed by the governor on December 8, 1988. The director must be qualified by experience and training to supervise the lottery. The director serves in the unclassified service.*

*Subd. 2.* [REMOVAL.] *(a) The director may be removed from that position only by the governor after notice and a hearing if requested, only for:*

*(1) violating section 11;*

*(2) malfeasance, nonfeasance, or misfeasance as defined in section 351.14, subdivisions 2, 3, and 4; or*

*(3) failure to perform adequately the duties of the director.*

*(b) For the purposes of this subdivision, adequate performance of the director may be determined by:*

*(1) gross revenue from the sale of lottery tickets;*

*(2) efficiency of the administration of lottery operations;*

*(3) public confidence in the integrity of the lottery; and*

*(4) compliance with advertising requirements in section 9.*

*A hearing under this subdivision must be conducted by the governor.*

*Subd. 3.* [POWERS AND DUTIES.] *In operating the lottery the director shall exercise the following powers and duties:*

*(1) adopt rules and game procedures;*

*(2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;*

*(3) enter into lottery procurement contracts for the provision of goods and services to the lottery;*

*(4) employ personnel as are required to operate the lottery;*

*(5) enter into written agreements with one or more states for the operation, marketing, and promotion of a joint lottery;*

*(6) adopt and publish advertising and promotional materials consistent with section 9; and*

*(7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.*

*Subd. 4.* [EMPLOYEES; CLASSIFICATION.] *The director may appoint other personnel as are necessary to operate the state lottery. Employees of the division who are not professional employees as defined in section 179A.03, subdivision 13, and employees whose primary responsibilities are in data processing and accounting, are in the classified service. All*

*other employees of the division are in the unclassified service. At least one position in the division must be an attorney position and the director must employ in that position an attorney to perform legal services for the division.*

*Subd. 5.* [COMPENSATION.] *The compensation of employees in the division is as provided in chapter 43A. The commissioner of employee relations may, at the request of the director, develop and implement a plan for making incentive payments to employees of the division whose primary responsibilities are in marketing.*

*Subd. 6.* [EMPLOYEES; BACKGROUND CHECKS.] *The director shall conduct background checks, or request the director of gambling enforcement to conduct background checks, on all prospective employees who are finalists, and shall require that all employees of the division be fingerprinted. No person may be employed by the division who has been convicted of a felony or a crime involving fraud or misrepresentation within five years of starting employment with the division, or has ever been convicted of a gambling-related offense. The director has access to all criminal history data compiled by the the division of gambling enforcement on employees and prospective employees of the lottery. The director may employ necessary persons pending the completion of a background check.*

*Subd. 7.* [ASSISTANCE.] *(a) The director may request any other department or agency of the state, including the division of gambling enforcement, to provide reasonable assistance to the director in carrying out the director's duties. All provision of services to the director from another state agency, must be by agreement made between the director and the agency. An agreement must include provisions specifying the duration of the services, the assignment of personnel of other agencies to provide the services, the determination of the cost of the services, and the transfer, from the lottery operations account to the agency, of funds sufficient to pay the costs of the services.*

*(b) The director may enter into agreements with the commissioner of finance for the purpose of making payroll and other financial transactions.*

*Subd. 8.* [ATTORNEY GENERAL.] *The attorney general is the attorney for the division.*

Sec. 3. [349A.03] [STATE LOTTERY BOARD.]

*Subdivision 1.* [BOARD CREATED.] *There is created within the division a state lottery board. The board consists of six members appointed by the governor plus the commissioner as a voting member. Not more than three of the members appointed by the governor under this subdivision may belong to the same political party and at least three members must reside outside the seven-county metropolitan area. The terms of office, removal from office, and compensation of members of the board, other than the commissioner, are as provided in section 15.059 except the board does not expire as provided under section 15.059, subdivision 5. The members of the board shall select the chair of the board, who shall not be the commissioner.*

*Subd. 2.* [BOARD DUTIES.] *The board has the following duties:*

*(1) to advise the director on all aspects of the lottery;*

*(2) to review and comment on rules and game procedures adopted by the director;*

*(3) review and comment on lottery procurement contracts;*

*(4) review and comment on agreements between the director and one or more other lotteries relating to a joint lottery;*

*(5) to review and comment on advertising promulgated by the director at least quarterly to ensure that all advertising is consistent with the dignity of the state and with section 9; and*

*(6) to approve additional compensation for the director under subdivision 3.*

*Subd. 3.* [DIRECTOR; ADDITIONAL COMPENSATION.] *The board shall adopt objective criteria for evaluating the performance of the director. The criteria must include, but is not limited to, the performance factors in section 2, subdivision 2, paragraph (b), clauses (1) to (4). The board may approve, by majority vote of all members, compensation for the director in addition to the compensation provided under section 15A.081, subdivision 1, based on the director's performance in office as evaluated according to the board's criteria. The additional compensation shall be paid from the lottery operations account. The board may not approve additional compensation under this subdivision more often than once in a 12-month period.*

Sec. 4. [349A.04] [LOTTERY GAME PROCEDURES.]

*The director may adopt game procedures governing the following elements of the lottery:*

*(1) lottery games;*

*(2) ticket prices;*

*(3) number and size of prizes;*

*(4) methods of selecting winning tickets; and*

*(5) frequency and method of drawings.*

*The adoption of lottery game procedures is not subject to chapter 14. Before adopting a lottery game procedure, the director shall submit the procedure to the board for its review and comment.*

Sec. 5. [349A.05] [RULES.]

*The director may adopt rules, including emergency rules, under chapter 14 governing the following elements of the lottery:*

*(1) the number and types of lottery retailers' locations;*

*(2) qualifications of lottery retailers and application procedures for lottery retailer contracts;*

*(3) investigation of lottery retailer applicants;*

*(4) appeal procedures for denial, suspension, or cancellation of lottery retailer contracts;*

*(5) compensation of lottery retailers;*

*(6) accounting for and deposit of lottery revenues by lottery retailers;*

*(7) procedures for issuing lottery procurement contracts and for the investigation of bidders on those contracts;*

*(8) payment of prizes;*

*(9) procedures needed to ensure the integrity and security of the lottery;*

*and*

*(10) other rules the director considers necessary for the efficient operation and administration of the lottery.*

*Before adopting a rule the director shall submit the rule to the board for its review and comment.*

Sec. 6. [349A.06] [LOTTERY RETAILERS.]

*Subdivision 1.* [CONTRACTS.] *The director shall sell tickets for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections 16B.06 to 16B.102, and 16B.17, and are valid for a period of one year.*

*Subd. 2.* [QUALIFICATIONS.] *(a) The director may not contract with a retailer who:*

*(1) is under the age of 18;*

*(2) is in business solely as a seller of lottery tickets;*

*(3) owes $500 or more in delinquent taxes as defined in section 270.72;*

*(4) has been convicted within the previous five years of a felony or gross misdemeanor, any crime involving fraud or misrepresentation, or a gambling-related offense;*

*(5) is a member of the immediate family, residing in the same household, as the director, board member, or any employee of the division; or*

*(6) in the director's judgment does not have the financial stability or responsibility to act as a lottery retailer, or whose contracting as a lottery retailer would adversely affect the public health, welfare, and safety, or endanger the security and integrity of the lottery.*

*(b) An organization, firm, partnership, or corporation that has a stockholder who owns more than five percent of the business or the stock of the corporation, an officer, or director, that does not meet the requirements of paragraph (a), clause (4), is not eligible to be a lottery retailer under this section.*

*(c) The restrictions under paragraph (a), clause (4), do not apply to an organization, partnership, or corporation if the director determines that the organization, partnership, or firm has terminated its relationship with the individual whose actions directly contributed to the disqualification under this subdivision.*

*Subd. 3.* [BOND.] *The director shall require that each lottery retailer post a bond, in an amount as the director deems necessary, to protect the financial interests of the state.*

*Subd. 4.* [CRIMINAL HISTORY.] *The director may request the director of gambling enforcement to investigate all applicants for lottery retailer contracts to determine their compliance with the requirements of subdivision 2. The director may issue a temporary contract, valid for not more than 90 days, to an applicant pending the completion of the investigation or a final determination of qualifications under this section.*

*Subd. 5.* [RESTRICTIONS ON LOTTERY RETAILERS.] *(a) A lottery retailer may sell lottery tickets only on the premises described in the contract.*

*(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.*

*(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the division at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the division.*

*(d) A contract issued under this section may not be transferred or assigned.*

*(e) The director shall require that lottery tickets may be sold by retailers only for cash.*

*Subd. 6.* [RETENTION BY RETAILERS.] *The director may by rule provide for:*

*(1) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets in order to pay prizes to holders of winning tickets; and*

*(2) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets as a commission.*

*Subd. 7.* [RETAILER RENTAL PAYMENTS.] *If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the compensation retained by the sales agent for the sale of lottery tickets shall be considered the amount of the retail sale for purposes of computing the rental payments.*

*Subd. 8.* [PROCEEDS OF SALES.] *All proceeds from the sale of lottery tickets received by a lottery retailer constitute a trust fund until paid to the director. The lottery retailer is personally liable for all proceeds.*

*Subd. 9.* [FEE.] *The director may charge a nonrefundable application fee to a person applying for a lottery retailer contract, in an amount sufficient to cover the costs of making the investigation required under subdivision 4. The fee collected under this subdivision must be deposited in the lottery fund.*

*Subd. 10.* [LOCAL LICENSES.] *No political subdivision may require a local license to operate as a lottery retailer or impose a tax or fee on the business of operating as a lottery retailer.*

*Subd. 11.* [REVOCATION, SUSPENSION, AND REFUSAL TO RENEW LICENSES.] *(a) The director shall cancel the contract of any lottery retailer who:*

*(1) has been convicted of a felony or gross misdemeanor;*

*(2) has committed fraud, misrepresentation, or deceit;*

*(3) has provided false or misleading information to the division; or*

*(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.*

*(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer who:*

*(1) changes business location;*

*(2) fails to account for lottery tickets received or the proceeds from tickets sold;*

*(3) fails to remit funds to the director in accordance with the director's rules;*

*(4) violates a law or a rule or order of the director;*

*(5) fails to comply with any of the terms in the lottery retailer's contract;*

*(6) fails to comply with bond requirements under this section;*

*(7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or*

*(8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.*

*(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract if there is a material change in any of the factors considered by the director under subdivision 2.*

*(d) A contract cancellation, suspension, or refusal to renew under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.*

*(e) The director may temporarily suspend a contract without notice for any of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension taking effect, the director may issue an order making the suspension permanent.*

Sec. 7. [349A.07] [VENDOR CONTRACTS.]

*Subdivision 1.* [CONTRACTS AUTHORIZED.] *The director may enter into lottery procurement contracts for the purchase, lease, or lease-purchase of the goods or services. In entering into a lottery procurement contract, the director shall utilize an open bid process and shall take into account the particularly sensitive nature of the state lottery and shall consider the competence, quality of product, experience, and timely performance of each potential vendor in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery. The director shall also consider the extent to which a bidder for a contract for printing preprinted lottery tickets would utilize employees and facilities within Minnesota in fulfilling the contract.*

*Subd. 2.* [INVESTIGATION OF POTENTIAL VENDORS.] *The director shall request the director of the division of gambling enforcement to investigate the background, financial responsibility, security, and integrity of any person who submits a bid, proposal, or offer as part of a lottery procurement contract issuance by the director. The director may require*

*the person making the bid, proposal, or offer to pay for the cost of the investigation. Any fee collected under this subdivision must be deposited into the lottery fund. At the time of submitting any bid, proposal, or offer, the bidder shall disclose to the director the information the director considers necessary to carry out the purposes of this section. The director has access to all criminal history data compiled by the division of gambling enforcement on all vendors and potential vendors who have submitted a bid to the division.*

*Subd. 3.* [PERSONS INELIGIBLE FOR CONTRACT.] *(a) The director may not enter into a lottery procurement contract with an applicant that has been convicted of a felony within the last ten years, has been convicted of a gross misdemeanor or gambling-related misdemeanor within the last five years, or has been found guilty of any crime involving fraud or misrepresentation within the last five years.*

*(b) The director may not enter into a lottery procurement contract with an applicant that has (1) a person who owns more than five percent of the stock in the applicant that does not meet the requirements of this subdivision, or (2) a partner, officer, or director that does not meet the requirements of this subdivision.*

*(c) The restrictions under this subdivision do not apply to an applicant for a lottery procurement contract if the director determines that the applicant has terminated its relationship with the individuals whose actions directly contributed to the disqualification of the applicant under this subdivision.*

*Subd. 4.* [CONFLICT OF INTEREST.] *The director may not enter into a lottery procurement contract with a person to supply goods or services if that person has an ownership interest in an entity that had supplied consultation services under a contract to the lottery regarding the request for proposal pertaining to those particular goods or services.*

*Subd. 5.* [BOND.] *(a) The director shall require securities to be deposited, or a performance bond or a letter of credit to be executed by the person or corporation that is awarded a lottery procurement contract in an amount as determined by the director.*

*(b) Any securities deposited with the director under this subdivision must be interest-bearing and limited to:*

*(1) certificates of deposit issued by a solvent bank or savings association organized and existing under the laws of this state or under the laws of the United States and having its principal place of business in this state;*

*(2) United States bonds, notes, and bills, for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and*

*(3) general obligation bonds of any political subdivision of this state, or corporate bonds of a corporation that is not an affiliate or subsidiary of the vendor, if the general obligation bonds or corporate bonds are rated in one of the four highest classifications by an established nationally recognized investment rating service.*

*(c) Any letter of credit executed under this subdivision must provide that:*

*(1) nothing more than a demand for payment is necessary for payment and is not conditional on the delivery of any other documents or materials;*

*(2) the letter of credit is irrevocable and cannot be modified or revoked without the consent of the director;*

*(3) the letter of credit cannot expire without notice from the issuer and the notice must occur at least 60 days before the expiration date of the letter of credit;*

*(4) the letter of credit is issued by a bank which is a member of the federal reserve system which has a long-term debt rating by a recognized national rating agency of investment grade or better, if no long-term debt rating is available, the financial institution must have investment grade financial characteristics;*

*(5) the letter of credit is unconditional, is not conditional upon reimbursement to the bank or the bank's ability to perfect any lien or security interest, and does not contain references to any other agreement, document, or entity; and*

*(6) the letter of credit designates the director as beneficiary.*

*Subd. 6.* [EXEMPTIONS.] *Lottery procurement contracts entered into by the director are not subject to the provisions of sections 16B.06 to 16B.102 or 16B.17, provided that the director must utilize an open and competitive bid process, and as nearly as practicable follow the procedures of chapter 16B governing contracts, consistent with the provisions of this section.*

*Subd. 7.* [ASSIGNMENT.] *A lottery procurement contract entered into under this section may not be assigned without the specific written approval of the director.*

Sec. 8. [349A.08] [LOTTERY PRIZES.]

*Subdivision 1.* [AGREEMENT BY PLAYERS.] *A person who buys a lottery ticket agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased. The player acknowledges that the determination of whether a ticket is a valid winning ticket is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.*

*Subd. 2.* [PRIZES NOT ASSIGNABLE.] *A prize in the state lottery is not assignable except as provided in subdivision 3 and except that:*

*(1) if a prize winner dies before the prize is paid, the director shall pay the prize to the prize winner's estate; and*

*(2) the director may pay a prize to a person other than the winner of that prize under an appropriate court order.*

*Subd. 3.* [PRIZES WON BY PERSONS UNDER AGE 18.] *The following provisions govern the payment of a lottery prize to a person under age 18:*

*(1) if the prize is less than $5,000, the director may give a draft, payable to the order of the person under age 18, to the person's parents, custodial parent if one parent has custody, guardian, or other adult member of the person's family; and*

*(2) if the prize is $5,000 or more, the director shall deposit the prize with the district court and section 540.08 applies to the investment and distribution of the money.*

*Subd. 4.* [DISCHARGE OF LIABILITY.] *The payment of a prize by the director discharges the director and the state of all liability for the prize.*

*Subd. 5.* [PAYMENT; UNCLAIMED PRIZES.] *A prize in the state lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If a valid claim is not made for a prize payable directly by the lottery by the end of this period, the unclaimed prize money must be added by the director to prize pools of subsequent lottery games and the winner of the prize shall have no further claim to the prize. A prize won by a person who purchased the winning ticket in violation of section 12, subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section.*

*Subd. 6.* [INSTALLMENT PAYMENTS.] *If the director decides to pay all or part of a prize in the form of installments over a period of years, the director shall provide for the payment of all installments by:*

*(1) entering into a contract with a financially responsible person or firm or by purchasing an annuity to provide for the payment of the installments; or*

*(2) establishing and maintaining as a separate and independent fund outside the state treasury a reserve account with sufficient funds for the payment of the installments as they become due.*

*Subd. 7.* [PAYMENTS PROHIBITED.] *(a) No prize may be paid to a member of the board, the director or an employee of the division, or a member of their families residing in the same household of the member, director, or employee. No prize may be paid to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved with providing goods or services to the lottery under a lottery procurement contract.*

*(b) No prize may be paid for a stolen, altered, or fraudulent ticket.*

*Subd. 8.* [WITHHOLDING OF DELINQUENT STATE TAXES OR OTHER DEBTS.] *The director shall report the name, address, and social security number of each winner of a lottery prize of $1,000 or more to the department of revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the department of revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section 270A.10 applies to the priority of claims.*

Sec. 9. [349A.09] [LOTTERY ADVERTISING.]

*Subdivision 1.* [ODDS; REQUIRED INFORMATION.] *The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game. Each lottery retailer must post prominently at or near the point of ticket sale a notice or notices printed and provided by the director of the approximate odds of winning each prize in each game for*

*which the lottery retailer sells tickets.*

*Subd. 2.* [CONTENT OF ADVERTISING.] *(a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:*

*(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;*

*(2) identify state programs supported by lottery net revenues;*

*(3) present the lottery as a form of entertainment; or*

*(4) state the winning numbers or identity of winners of lottery prizes.*

*(b) The director may not adopt or publish any advertising for the lottery which:*

*(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;*

*(2) is specifically targeted with the intent to exploit a person, a specific group or an economic class of people;*

*(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;*

*(4) uses the name or picture of a current elected state official to promote a lottery game;*

*(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or*

*(6) denegrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.*

*Subd. 3.* [PRIZES; REQUIRED INFORMATION.] *The director must include, in any publication or print advertising which refers to a prize which is or may be paid in installments, a statement to the effect that the prize will be or may be paid in installments.*

Sec. 10. [349A.10] [LOTTERY FUNDS.]

*Subdivision 1.* [STATE LOTTERY FUND.] *The director shall establish a lottery fund outside the state treasury, consisting of the gross revenues of the lottery and all other money credited or transferred to it by law, except for money set aside and deposited in the lottery prize fund under subdivision 2.*

*Subd. 2.* [DEPOSIT IN PRIZE FUND.] *(a) The director shall establish a lottery prize fund outside the state treasury. The fund consists of all money deposited in it under this subdivision and all interest earned thereon.*

*(b) The director shall deposit in the lottery prize fund, from gross receipts from the sale of lottery tickets, an amount sufficient to pay lottery prizes from the lottery prize fund according to the following provisions:*

*(1) for games which require on-line terminal connections, the prizes paid in any fiscal year must be at least 45 percent of gross receipts from those games in that fiscal year;*

*(2) for games which do not require on-line terminal connections, the prizes paid in any fiscal year must be at least the following percentages*

*of gross receipts from those games:*

*(i) 50 percent through fiscal year 1991;*

*(ii) 55 percent from July 1, 1991, to June 30, 1992; and*

*(iii) 60 percent thereafter.*

*Subd. 3.* [LOTTERY OPERATIONS.] *(a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.*

*(b) The director may not credit in any fiscal year amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.*

*(c) The director of the lottery may not expend after July 1, 1992, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.*

*(d) Except as the director determines, the division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.*

*Subd. 4.* [DEPOSIT OF RECEIPTS.] *(a) The director may require lottery retailers to:*

*(1) deposit in a separate account to the credit of the lottery fund, in banks designated by the director, all money received by the lottery retailer from the sale of lottery tickets, less money retained as the lottery retailer's commission and for payment of prizes;*

*(2) file with the director reports of the lottery retailer's receipts and transactions in ticket sales in a form that the director prescribes; and*

*(3) allow money deposited by the lottery retailer from the sale of lottery tickets to be transferred to the division through electronic fund transfer.*

*(b) The director may make arrangements for any person, including a financial institution, to perform functions, activities, or services in connection with the receipt and distribution of lottery revenues.*

*(c) A lottery retailer who fails to pay any money due to the director within the time prescribed by the director shall pay interest on the amount owed at the rate determined by rule.*

*Subd. 5.* [DEPOSIT OF NET PROCEEDS.] *Within 30 days after the end of each month, the director shall pay to the state treasurer the balance in the lottery fund after transfers to the lottery prize fund and credits to the lottery operations account.*

Sec. 11. [349A.11] [CONFLICT OF INTEREST.]

*(a) The director, a board member, an employee of the division, a member of the immediate family of the director, board member, or employee residing in the same household may not:*

*(1) purchase a lottery ticket;*

*(2) have any personal pecuniary interest in any vendor holding a lottery procurement contract, or in any lottery retailer; or*

*(3) receive any gift, gratuity, or other thing of value, excluding food or beverage, from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in excess of $100 in any calendar year.*

*(b) A violation of paragraph (a), clause (1), is a misdemeanor. A violation of paragraph (a), clause (2), is a gross misdemeanor. A violation of paragraph (a), clause (3), is a misdemeanor unless the gift, gratuity, or other item of value received has a value in excess of $500, in which case a violation is a gross misdemeanor.*

*(c) The director or an unclassified employee of the division may not, within one year of terminating employment with the division, accept employment with, act as an agent or attorney for, or otherwise represent any person, corporation, or entity that had any lottery procurement contract or bid for a lottery procurement contract with the division within a period of two years prior to the termination of their employment. A violation of this paragraph is a misdemeanor.*

Sec. 12. [349A.12] [PROHIBITED ACTS.]

*Subdivision 1.* [PURCHASE BY MINORS.] *A person under the age of 18 years may not buy a ticket in the state lottery.*

*Subd. 2.* [SALE TO MINORS.] *A lottery retailer may not sell a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer to prove by a preponderance of the evidence that the lottery retailer reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale.*

*Subd. 3.* [PROHIBITED SALES.] *(a) A person other than a lottery retailer may not sell a ticket in the state lottery.*

*(b) A lottery retailer may not sell a ticket for a price other than the price set by the director.*

*Subd. 4.* [LOTTERY RETAILERS AND VENDORS.] *A person who is a lottery retailer, or is applying to be a lottery retailer, a person applying for a contract with the director, or a person under contract with the director to supply good or services to division may not pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food or beverage, having an aggregate value of over $100 in any calendar year to the director, board member, employee of the lottery division, or to a member of the immediate family residing in the same household as that person.*

*Subd. 5.* [EXCEPTIONS.] *Nothing in this chapter prohibits giving a state lottery ticket as a gift, or buying a state lottery ticket as a gift for a person under the age of 18.*

*Subd. 6.* [VIOLATIONS.] *A violation of subdivision 1 is a petty misdemeanor. A violation of subdivision 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.*

Sec. 13. [349A.13] [RESTRICTIONS.]

*Nothing in this chapter:*

*(1) authorizes the director to conduct a lottery game or contest the winner or winners of which are determined by the result of a sporting event other than a horse race conducted under chapter 240;*

*(2) authorizes the director to install or operate a lottery device operated by coin or currency which when operated determines the winner of a game; and*

*(3) authorizes the director to sell pull-tabs as defined under section 349.12, subdivision 10.*

Sec. 14. [349A.14] [AUDIT.]

*The director shall contract for an annual certified audit of all accounts and transactions of the lottery. The audit must be conducted by a certified public accountant in accordance with generally accepted accounting standards. The director shall file a copy of each audit report of the lottery with the governor and the legislature.*

Sec. 15. [349A.15] [REPORT.]

*The director shall file an annual report with the governor and legislature which must include a complete statement of lottery revenues, administrative and operating costs, net proceeds transferred, and other financial transactions for the period the report covers.*

Sec. 16. [609.651] [STATE LOTTERY FRAUD.]

*Subdivision 1.* [FELONY.] *A person is guilty of a felony and may be sentenced under subdivision 4 if the person does any of the following with intent to defraud the state lottery:*

*(1) alters or counterfeits a state lottery ticket;*

*(2) knowingly presents an altered or counterfeited state lottery ticket for payment;*

*(3) knowingly transfers an altered or counterfeited state lottery ticket to another person; or*

*(4) otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation.*

*Subd. 2.* [COMPUTER ACCESS.] *A person is guilty of a felony and may be sentenced under subdivision 4 if the person:*

*(1) obtains access to a computer data base maintained by the director without the specific authorization of the director;*

*(2) obtains access to a computer data base maintained by a person under contract with the director to maintain the data base without the specific authorization of the director and the person maintaining the data base.*

*Subd. 3.* [FALSE STATEMENTS.] *A person is guilty of a felony and may be sentenced under subdivision 4 if the person:*

*(1) makes a materially false or misleading statement, or a material omission, in a record required to be submitted under chapter 349A; or*

*(2) makes a materially false or misleading statement, or a material omission, in information submitted to the commissioner of the state lottery in a lottery retailer's application or a document related to a bid.*

*Subd. 4.* [PENALTY.] *(a) A person who violates subdivision 1 or 2 may*

*be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both.*

*(b) A person who violates subdivision 1 or 2 and defrauds the state lottery of $35,000 or more may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.*

*(c) A person who violates subdivision 3 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $25,000, or both.*

Sec. 17. Laws 1989, chapter 184, section 12, is amended by adding a subdivision to read:

*Subd. 7.* [LOTTERY DIVISION.] *(a) The commissioner of revenue may disclose to the lottery the amount of delinquent state taxes, or debt as defined in section 270.03, subdivision 5, of a winner of a lottery prize of $1,000 or more, to the extent necessary to administer section 349A.08, subdivision 8.*

*(b) The commissioner of revenue may disclose to the lottery division that a retailer owes $500 or more in delinquent taxes as defined in section 270.72, to the extent necessary to administer section 349A.06, subdivision 2.*

Sec. 18. [EFFECTIVE DATE.]

*Sections 1 to 17 are effective the day following final enactment.*

ARTICLE 4

DEPARTMENT OF GAMING

Section 1. [349B.01] [DEPARTMENT OF GAMING CREATED; COMMISSIONER.]

*Subdivision 1.* [DEPARTMENT CREATED.] *A department of gaming is created containing a commissioner of gaming, which office is established. The commissioner of gaming is appointed by the governor with the advice and consent of the senate.*

*Subd. 2.* [DUTIES OF COMMISSIONER.] *The duties of the commissioner are:*

*(1) to sit as a voting member of the Minnesota racing commission subject to section 240.02, subdivision 1, the gambling control board, and the lottery board;*

*(2) to study the extent and status of legal and illegal gambling in Minnesota, and social, economic, and legal problems which may result from legal and illegal gambling; and*

*(3) to report annually to the governor and legislature on the activities of the commissioner, including studies under clause (2), and recommended changes in laws dealing with legal and illegal gambling.*

*Subd. 3.* [EMPLOYEES.] *The commissioner shall appoint and assign duties to employees as the commissioner deems necessary to carry out the duties specified in subdivision 2. The employees are in the unclassified service.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective July 1, 1989.*

ARTICLE 5

GAMBLING ENFORCEMENT

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) "Division" means the division of gambling enforcement.*

*(c) "Commissioner" means the commissioner of public safety.*

*(d) "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. The director must be a person who is licensed or eligible to be licensed as a peace officer under sections 626.84 to 626.863.*

*Subd. 3.* [EMPLOYEES.] *The director shall employ in the division of gambling enforcement personnel, in the classified service, necessary to carry out the duties under this chapter. The director shall request the bureau of criminal apprehension to perform background checks on persons who are finalists for employment with the division, but may employ personnel pending completion of the background check.*

Sec. 2. [299K.02] [DUTIES OF DIVISION OF GAMBLING ENFORCEMENT.]

*Subdivision 1.* [LOTTERY.] *(a) The director shall when required under chapter 349A or when requested by the director of the lottery conduct background checks on employees of the state lottery, lottery retailers, and bidders of lottery procurement contracts.*

*(b) The director shall, when so requested by the director of the state lottery or when the director believes it to be reasonable and necessary, conduct investigations of lottery retailers, applicants for lottery retailer contracts, suppliers of goods or services to the state lottery, and persons bidding on contracts for goods or services with the state lottery.*

*(c) The director shall conduct an annual security audit of the state lottery, or arrange for such an audit by an outside agency or person, firm, or corporation. The director shall report to the state lottery board and the director of the lottery on the results of the audit.*

*Subd. 2.* [GAMBLING.] *The director shall:*

*(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and*

*(2) when requested by the director of gambling control, or when the director believes it to be reasonable and necessary, inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.*

*Subd. 3.* [HORSE RACING INVESTIGATIONS.] *(a) The director shall conduct background investigations as provided by law on all applicants for licenses issued by the Minnesota racing commission.*

*(b) The director shall, upon request of the director of pari-mutuel racing, or when the director believes it to be reasonable and necessary, investigate the activities of a licensee of the Minnesota racing commission to determine the licensee's compliance with law and with rules of the commission.*

*Subd. 4.* [OTHER GAMBLING.] *The director of gambling enforcement shall cooperate with all state and local agencies in the detection and apprehension of unlawful gambling.*

*Subd. 5.* [BACKGROUND CHECKS.] *In any background check required to be conducted by the division of gambling enforcement under chapter 240, 349, or 349A, the director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for the conducting of a national criminal history check.*

Sec. 3. [299K.03] [POWERS OF DIRECTOR.]

*Subdivision 1.* [INSPECTIONS; ACCESS.] *In conducting any inspection authorized under chapter 240, 349, or 349A, the employees of the division of gambling enforcement have free and open access to all parts of the regulated business premises, and may conduct the inspection at any reasonable time without notice and without a search warrant. For purposes of this subdivision, "regulated business premises" means premises where:*

*(1) lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.214;*

*(2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;*

*(3) records required to be maintained under chapter 240, 349, or 349A are prepared or retained;*

*(4) lottery tickets are sold by a lottery retailer under chapter 340A; or*

*(5) races are conducted by a person licensed under chapter 240.*

*Subd. 2.* [ITEMS REQUIRED TO BE PRODUCED.] *In conducting an audit or inspection authorized under chapter 240, 349 or 349A the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.*

*Subd. 3.* [SUBPOENA POWER.] *The director may issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to any investigation or audit the director is authorized to conduct.*

*Subd. 4.* [ACCESS TO CRIMINAL HISTORY.] *The director has access to all criminal history data compiled by the bureau of criminal apprehension on any person licensed or under contract with the state lottery, racing commission, or the gambling control board, or any applicant for licensing or a person who has submitted a bid on a lottery contractor or any employee and finalist for employment with the division of state lottery.*

*Subd. 5.* [ARREST POWERS.] *The director may designate certain employees within the division of gambling enforcement who are authorized to arrest or investigate any person who is suspected of violating any provision of chapter 240, 349, or 349A, or is suspected of committing any crime involving gambling, and to conduct searches and seizures to enforce*

*any of those laws. Any employee authorized by this subdivision to make an arrest must be licensed under sections 626.84 to 626.863.*

*Subd. 6.* [UNLICENSED SELLERS.] *(a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:*

*(1) assess a civil penalty of not more than $300 against each person participating in the sales and assess a civil penalty of not more than $1,000 against the owner or owners of the business establishment; or*

*(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than $300 against each person participating in such sales, and assess a civil penalty of not more than $5,000 against the owner or owners of the business establishment.*

*(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.*

*(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The director's final determination must be issued within five working days of the issuance of the recommendations of the administrative law judge.*

*Subd. 7.* [OTHER POWERS.] *Nothing in this chapter limits the authority of the division of gambling enforcement to exercise any other power specified under chapter 240, 349, or 349A.*

*Subd. 8.* [RULEMAKING.] *The commissioner may adopt rules, including emergency rules, under chapter 14 to carry out the commissioner's duties under this chapter.*

Sec. 4. [299K.04] [CONFLICT OF INTEREST.]

*Subdivision 1.* [INTEREST.] *The director and any person employed by the division may not have a direct or indirect financial interest in:*

*(1) a class A or B licensee of the racing commission;*

*(2) a lottery retailer under contract with the state lottery;*

*(3) a person who is under a lottery procurement contract with the state lottery; or*

*(4) a bingo hall, manufacturer, or distributor licensed under chapter 349.*

*Subd. 2.* [GAMBLING.] *The director or an employee of the division of gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.*

Sec. 5. [299K.05] [GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.]

*An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, selling any lottery tickets*

*under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7), or 609.76, subdivision (2), for an activity occurring on the owner's premises.*

Sec. 6. [EFFECTIVE DATE.]

*Sections 1 to 5 are effective July 1, 1989.*

ARTICLE 6

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

(a) member of the legislature;

(b) constitutional officer in the executive branch and the officer's chief administrative deputy;

(c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;

(d) commissioner, deputy commissioner or assistant commissioner of any state department as designated pursuant to section 15.01;

(e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;

(f) executive director of the state board of investment;

(g) executive director of the Indian affairs intertribal board;

(h) commissioner of the iron range resources and rehabilitation board;

(i) director of mediation services;

(j) deputy of any official listed in clauses (e) to (i);

(k) judge of the workers' compensation court of appeals;

(l) administrative law judge or compensation judge in the state office of administrative hearings or hearing examiner in the department of jobs and training;

(m) solicitor general or deputy, assistant or special assistant attorney general;

(n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of senate research, senate counsel, or house research; ~~or~~

(o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission*;*

*(p) the commissioner of gaming and director of each division in the department of gaming and the deputy director of the division of state lottery; or*

*(q) director of the division of gambling enforcement in the department of public safety.*

Sec. 2. Minnesota Statutes 1988, section 10A.09, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR FILING.] Except for a candidate for elective office in the judicial branch, an individual shall file a statement of economic interest with the board:

(a) Within 60 days of accepting employment as a public official;

(b) Within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective public office;

(c) In the case of a public official requiring the advice and consent of the senate, within 14 days after undertaking the duties of office; or

(d) In the case of members of the Minnesota racing commission, ~~and its executive secretary,~~ *the director of the division of pari-mutuel racing,* chief of security, medical officer, inspector of pari-mutuels and stewards employed or approved by the commission or persons who fulfill those duties under contract, within 60 days of accepting or assuming duties.

Sec. 3. Minnesota Statutes 1988, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range

Effective

July 1, 1987

$57,500-$78,500

Commissioner of finance;

Commissioner of education;

Commissioner of transportation;

Commissioner of human services;

Commissioner of revenue;

*Commissioner of public safety;*

Executive director, state board of investment;

*Commissioner of gaming;*

*Director of the state lottery;*

$50,000-$67,500

Commissioner of administration;

Commissioner of agriculture;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of jobs and training;

Commissioner of employee relations;

Commissioner of health;

Commissioner of labor and industry;

Commissioner of natural resources;

~~Commissioner of public safety;~~

Commissioner of trade and economic development;

Chair, waste management board;

Chief administrative law judge; office of administrative hearings;

Commissioner, pollution control agency;

Commissioner, state planning agency;

Executive director, housing finance agency;

Executive director, public employees retirement association;

Executive director, teacher's retirement association;

Executive director, state retirement system;

Chair, metropolitan council;

Chair, regional transit board;

$42,500-$60,000

Commissioner of human rights;

Commissioner, department of public service;

Commissioner of veterans' affairs;

Commissioner, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board;

Ombudsman for corrections;

Ombudsman for mental health and retardation.

Sec. 4. Minnesota Statutes 1988, section 16B.54, subdivision 2, is amended to read:

Subd. 2. [VEHICLES.] (a) [ACQUISITION FROM AGENCY; APPROPRIATION.] The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck presently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the

midwest edition of the national automobile dealers association official used car guide.

(b) [PURCHASE.] To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) [TRANSFER AT AGENCY REQUEST.] On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck shall be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) [VEHICLES; MARKING.] The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide by rule for the use of motor vehicles without uniform coloring or marking by the governor, the lieutenant governor, the division of criminal apprehension, *division of gambling enforcement,* arson investigators of the division of fire marshal in the department of public safety, financial institutions division of the department of commerce, *division of state lottery in the department of gaming,* and the office of the attorney general.

Sec. 5. Minnesota Statutes 1988, section 340A.410, subdivision 5, is amended to read:

Subd. 5. [GAMBLING PROHIBITED.] (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized under chapter 349.

*(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.*

Sec. 6. Minnesota Statutes 1988, section 541.20, is amended to read:

541.20 [RECOVERY OF MONEY LOST.]

Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action, before any court of competent jurisdiction. For purposes of this section, gambling shall not include pari-mutuel wagering conducted under a license issued pursuant to chapter 240, *purchase or sale of tickets in the state lottery,* or gambling authorized under ~~chapter~~ *chapters* 349 *and 349A*.

Sec. 7. Minnesota Statutes 1988, section 541.21, is amended to read:

541.21 [COMMITMENTS FOR GAMBLING DEBT VOID.]

Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. The provisions of this section shall not apply to pari-mutuel wagering conducted under a license issued pursuant to ~~chapter~~ *chapters* 240 *and 349 or purchase of tickets in the state lottery under chapter 349A*.

Sec. 8. Minnesota Statutes 1988, section 609.75, subdivision 3, is amended to read:

Subd. 3. [WHAT ARE NOT BETS.] The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections 349.11 to 349.23.

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the ~~charitable~~ gambling control board or an organization exempt from licensing under section 349.214.

(7) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

*(8) The purchase and sale of state lottery tickets under chapter 349A.*

Sec. 9. Minnesota Statutes 1988, section 609.76, subdivision 1, is amended to read:

Subdivision 1. [GROSS MISDEMEANORS.] Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) with intent that it shall be so used, manufactures, sells or offers for sale, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2, and any facility for conducting a lottery, except as provided by section 349.40; ~~or~~

(6) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; *or*

*(7) pays any compensation for game credits earned on or otherwise rewards players of video games of chance as defined under section 349.50, subdivision 8.*

Sec. 10. Minnesota Statutes 1988, section 609.761, is amended to read:

609.761 [OPERATIONS PERMITTED.]

*Subdivision 1.* [LAWFUL GAMBLING.] Notwithstanding sections 609.755 and 609.76, an organization may conduct lawful gambling as defined in section 349.12, if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

*Subd. 2.* [STATE LOTTERY.] *Sections 609.755 and 609.76 do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A.*

Sec. 11. Minnesota Statutes 1988, section 626.05, subdivision 2, is amended to read:

Subd. 2. The term "peace officer" as used in sections 626.04 to 626.17 means a sheriff, deputy sheriff, police officer, constable, agent of the bureau of criminal apprehension, *agent of the division of gambling enforcement,* or University of Minnesota peace officer.

Sec. 12. Minnesota Statutes 1988, section 626.13, is amended to read:

626.13 [SERVICE, PERSONS MAKING.]

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension *or an agent of the division of gambling enforcement,* the agent shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 13. Minnesota Statutes 1988, section 626.84, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, *agents of the division of gambling enforcement,* and state conservation officers.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g) and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

Sec. 14. [INDIAN COMPACTS.]

*Section 9 may not be construed as prohibiting the state from entering into a tribal-state compact under the provisions of the Federal Gaming Regulatory Act, Public Law No. 100-497, as it relates to video poker or video blackjack games of chance currently operated by Indian tribes in this state.*

Sec. 15. [EFFECTIVE DATE.]

*Sections 1 to 14 are effective July 1, 1989, except that the provisions of section 3 relating to the director of the division of state lottery are effective the day following final enactment.*

ARTICLE 7

COMPULSIVE GAMBLING

Section 1. [245.98] [COMPULSIVE GAMBLING TREATMENT PROGRAM.]

*Subdivision 1.* [DEFINITION.] *For the purposes of this section, "compulsive gambler" means a person who is chronically and progressively preoccupied with gambling and with the urge to gamble to the extent that the gambling behavior compromises, disrupts, or damages personal, family, or vocational pursuits.*

*Subd. 2.* [PROGRAM.] *The commissioner of human services shall establish a program for the treatment of compulsive gamblers. The commissioner may contract with a nonprofit entity with expertise regarding the treatment of compulsive gambling to operate the program. The program may include the establishment of a statewide toll-free number, resource library, public education programs; regional in-service training programs and conferences for health care professionals, educators, treatment providers, employee assistance programs, and criminal justice representatives; and the establishment of certification standards for programs and service providers. The commissioner may enter into agreements with other governmental or nonprofit entities and may employ or contract with consultants to facilitate the provision of these services or the training of individuals to qualify them to provide these services. The program may also include inpatient and outpatient treatment and rehabilitation services and research studies. The research studies must include baseline and prevalence studies for adolescents and adults to identify those at the highest risk. The program must be approved by the commissioner before it is established.*

*Subd. 3.* [REPORT.] *The commissioner must report annually to the legislature by January 15 of each year of the manner in which the program to treat and prevent compulsive gamblers is being implemented.*

Sec. 2. [APPROPRIATION.]

*$300,000 in fiscal year 1990 and $300,000 in fiscal year 1991 is appropriated from the general fund to the commissioner of human services to implement the compulsive gambling treatment program under this section.*

*The director of the division of state lottery must transfer $100,000 in fiscal year 1990 and $100,000 in fiscal year 1991 from the amount that would otherwise be credited to the lottery operations account to the general fund for the costs incurred for the compulsive gambling program under section 1.*

Sec. 3. [EFFECTIVE DATE.]

*Sections 1 and 2 are effective July 1, 1989.*

ARTICLE 8

APPROPRIATIONS

Section 1. [DEPARTMENT OF GAMING.]

*(a) $370,000 is appropriated from the general fund to the commissioner of gaming for the purposes of carrying out article 4. Of this amount, $182,000 is from the general fund for the fiscal year ending June 30, 1990, and $188,000 is from the general fund for the fiscal year ending June 30, 1991. The director of the state lottery shall by June 30, 1990, transfer from the lottery operations account to the general fund in addition to any other transfers required by law $125,000 to reimburse the general fund for the appropriation to the commissioner of gaming for fiscal year 1991. If the appropriation in either year of the 1990-1991 biennium is insufficient the appropriation for the other year is available.*

*(b) The approved complement of the department, in addition to the complements established by law for each of its divisions, is three positions.*

Sec. 2. [LOTTERY DIVISION.]

*$8,500,000 is appropriated from the general fund to the director of the division of state lottery for the purposes of article 3. This appropriation must be repaid from the lottery fund, with interest at the average monthly rate on invested treasurer's cash, not later than June 30, 1990.*

*The governor or the governor's designee may expend any part of this appropriation prior to the effective date of the appointment of the first director of the division of state lottery for carrying out any of the duties assigned under article 3 to the director or the governor.*

Sec. 3. [GAMBLING CONTROL.]

*(a) The 13 positions relating to the responsibility for processing license applications under Minnesota Statutes, chapter 349, are transferred from the commissioner of revenue to the division of gambling control under Minnesota Statutes, section 15.039.*

*(b) The commissioner of administration shall, under Minnesota Statutes, section 15.039, transfer to the director of gambling control, from the appropriations made by law to the commissioner of revenue for the 1990-1991 biennium for lawful gambling activities, amounts necessary for the division to carry out the responsibilities of Minnesota Statutes, sections 349.11 to 349.23.*

*(c) Reorganization order No. 152 of the commissioner of administration is void.*

Sec. 4. [PARI-MUTUEL RACING.]

*(a) The commissioner of administration shall transfer, under Minnesota Statutes, section 15.039, the amounts appropriated by law to the Minnesota racing commission for the fiscal years 1990 and 1991 to the director of pari-mutuel racing for the purposes of carrying out the duties assigned to the division of pari-mutuel racing in article 1.*

*(b) The commissioner of administration shall, under Minnesota Statutes, section 15.039, transfer the authorized complement of the Minnesota racing commission to the division of pari-mutuel racing.*

Sec. 5. [DEPARTMENT OF PUBLIC SAFETY.]

*Subdivision 1.* [TRANSFER FROM REVENUE.] *The two positions relating to the responsibility for auditing and investigation of gambling under Minnesota Statutes, chapter 349, except for the responsibility for auditing tax returns are transferred from the commissioner of revenue to the commissioner of public safety for the division of gambling enforcement under Minnesota Statutes, section 15.039.*

*Subd. 2.* [PUBLIC SAFETY.] *$750,000 is appropriated from the general fund to the commissioner of public safety to implement articles 1, 2, 3, and 5. $375,000 is for the fiscal year ending June 30, 1990, and $375,000 is for the fiscal year ending June 30, 1991. The approved complement of the department of public safety is increased by ten positions. At least six of the additional positions authorized by this subdivision must be used to employ persons that are licensed under Minnesota Statutes, sections 626.84 to 626.863.*

Sec. 6. [ATTORNEY GENERAL.]

*(a) $136,000 is appropriated from the general fund to the attorney general to administer articles 1 to 3 and 5. $68,000 is for the fiscal year ending June 30, 1990, and $68,000 is for the fiscal year ending June 30, 1991. If the appropriation in either year of the 1990-1991 biennium is insufficient, the appropriation for the other year is available. The approved complement of the attorney general's office is increased by one and one-half positions.*

*(b) The director of the state lottery shall by June 30, 1990, transfer from the lottery operations account to the general fund, in addition to any other transfers required by law, $46,000 to reimburse the general fund for the appropriation to the attorney general under this section.*

Sec. 7. [COMMISSIONER OF REVENUE.]

*$388,000 is appropriated from the general fund to the commissioner of revenue to provide for computer modifications necessary to administer Minnesota Statutes, chapter 349. $194,000 is for the fiscal year ending June 30, 1990, and $194,000 is for the fiscal year ending June 30, 1991.*

Sec. 8. [EFFECTIVE DATE.]

*Section 2 is effective the day following final enactment. Sections 1 and 3 to 7 are effective July 1, 1989.*"

Delete the title and insert:

"A bill for an act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a division of state lottery; creating a division of gambling enforcement in the department of public safety and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15A.081, subdivision 1; 16B.54, subdivision 2; 240.01, by adding subdivisions; 240.02, subdivisions 1 and 2; 240.04, subdivisions 1 and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.13, by adding a subdivision; 240.21; 240.28; 340A.410, subdivision 5; 349.11; 349.12, subdivisions 3, 11, 12, 13, 15, 16, 17, 20, and by adding subdivisions; 349.15; 349.151; 349.16, subdivisions 3 and 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; 349.2121, subdivisions 2, 3, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivisions 1 and 2; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75, subdivision 3; 609.76, subdivision 1; 609.761; 626.05, subdivision 2; 626.13; and 626.84, subdivision 1; Laws 1989, article 184, sections 7, by adding a subdivision and 12, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapters 299K; 349A; and 349B; proposing coding for new law in Minnesota Statutes, chapters 240; 245; 349; and 609; repealing Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; and 349.171."

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

House Conferees: (Signed) Joe Quinn, Dick Kostohryz, Glen H. Anderson, Tony L. Bennett, Tom Osthoff

Senate Conferees: (Signed) Bob Lessard, Clarence M. Purfeerst, Fritz

Knaak, Marilyn M. Lantry

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on H.F. No. 66 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Benson moved that the recommendations and Conference Committee Report on H.F. No. 66 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

The question was taken on the adoption of the motion of Mr. Benson.

The roll was called, and there were yeas 30 and nays 36, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Frank | Knutson | Mehrkens | Reichgott |
| Benson | Frederick | Laidig | Moe, D.M. | Renneke |
| Berg | Frederickson, D.R. | Larson | Olson | Spear |
| Berglin | Freeman | Luther | Peterson, D.C. | Storm |
| Bernhagen | Gustafson | Marty | Peterson, R.W. | Taylor |
| Brandl | Johnson, D.E. | McQuaid | Ramstad | Waldorf |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Decker | Kroening | Morse | Schmitz |
| Beckman | DeCramer | Langseth | Novak | Solon |
| Belanger | Dicklich | Lantry | Pariseau | Stumpf |
| Bertram | Diessner | Lessard | Pehler | Vickerman |
| Brataas | Frederickson, D.J. | McGowan | Piper | |
| Chmielewski | Hughes | Merriam | Pogemiller | |
| Cohen | Johnson, D.J. | Metzen | Purfeerst | |
| Davis | Knaak | Moe, R.D. | Samuelson | |

The motion did not prevail.

The question recurred on the motion of Mr. Lessard. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 66 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 39 and nays 28, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Johnson, D.J. | Mehrkens | Piper |
| Berglin | Dicklich | Knaak | Merriam | Pogemiller |
| Bertram | Diessner | Kroening | Metzen | Purfeerst |
| Brataas | Frederick | Langseth | Moe, R.D. | Ramstad |
| Cohen | Frederickson, D.J. | Lantry | Morse | Samuelson |
| Dahl | Freeman | Lessard | Novak | Solon |
| Davis | Gustafson | McGowan | Pariseau | Stumpf |
| Decker | Hughes | McQuaid | Pehler | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Brandl | Laidig | Peterson, D.C. | Storm |
| Beckman | Chmielewski | Larson | Peterson, R.W. | Taylor |
| Belanger | Frank | Luther | Reichgott | Vickerman |
| Benson | Frederickson, D.R. | Marty | Renneke | Waldorf |
| Berg | Johnson, D.E. | Moe, D.M. | Schmitz | |
| Bernhagen | Knutson | Olson | Spear | |

So the bill, as amended by the Conference Committee, was repassed and

its title was agreed to.

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 262, and repassed said bill in accordance with the report of the Committee, so adopted.

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 joint legislative committee 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.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; 43A.08, subdivision 1; 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; 17; 18B; 40; 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.

Senate File No. 262 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 372, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 372 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 372

A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; consolidating certain funds and accounts and making conforming changes; changing the organization, operation, financing, and management of certain courts and related offices; amending Minnesota Statutes 1988, sections 3.099, subdivision 3; 3.732, subdivision 1; 6.48; 6.56; 6.58; 8.15; 8.31, subdivisions 2c and 3; 13.33; 14.07, subdivisions 1 and 2; 14.08; 14.26; 15.06, subdivision 1; 15.50, subdivision 2; 15A.081, subdivision 1; 16A.10, subdivision 1; 16A.123, by adding a subdivision; 16A.125, subdivision 5, and by adding a subdivision; 16A.133, subdivision 1; 16B.24, subdivision 6; 16B.42, subdivision 4; 16B.48, subdivision 2; 16B.61, subdivision 5; 16B.70; 41A.09, subdivision 1; 43A.02, subdivision 25; 43A.17, subdivision 1; 43A.24, subdivision 2; 44A.0311; 69.031, subdivision 5; 69.77, subdivision 2b; 84.0272; 82.0274, by adding a subdivision; 84.084; 84.83, subdivision 1; 84.922, subdivision 3; 84.927, subdivision 1; 84A.51, subdivision 2; 84A.55, subdivision 14; 85.055, subdivision 2; 85.22, subdivisions 1 and 2a; 85.43; 85A.01, subdivisions 1 and 5; 85A.02, subdivisions 2, 5, 5a, 5b, 12, 16, 17, 18; 85A.04, subdivisions 1 and 4; 89.035; 89.036; 89.21; 93.335, subdivision 4; 94.09, subdivision 2; 94.342, subdivision 3; 97A.055, by adding a subdivision; 97A.165; 97A.475, subdivisions 2, 3, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 29a, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42; 97A.485, subdivisions 6 and 7; 97B.301, by adding a subdivision; 106A.661, subdivision 2; 112.73; 115.03, subdivision 1; 115A.14, subdivision 4; 115A.908, subdivision 2; 115B.17, subdivision 7; 115B.20, subdivisions 1, 4, and 6; 115B.22, subdivision 7; 115B.24, subdivision 10; 115B.25, subdivision 7; 115B.26; 115C.02, subdivision 6; 115C.08, subdivision 1; 116.41, subdivision 2; 116.65, subdivision 3; 116J.01; 116J.03, subdivision 2; 116J.58, subdivision 1; 116J.64, subdivision 6; 116J.68, subdivision 2; 116J.74, subdivision 5; 116J.873, subdivision 4; 116J.955, subdivisions 1 and 2; 116J.9673, subdivision 4; 116J.970; 116J.971, subdivisions 3, 6, 7, 8, and 9; 116J.982, subdivision 1; 116L.02; 116L.03, subdivisions 2 and 7; 116L.04, subdivision 1; 116N.01, subdivision 3; 116N.02, subdivision 6; 116N.08, subdivisions 4 and 8; 116O.02, and by adding a subdivision; 116O.03, subdivisions 1, 2, 3, and by adding subdivisions; 116O.04, by adding a subdivision; 116O.05; 116O.06, subdivisions 1 and 5; 116O.08, subdivisions 2 and 7; 116O.12; 116O.13; 116O.14; 116O.15; 116P.08, subdivisions 1 and 2; 116P.13; 148B.17; 169.121, subdivision 5a; 169.126, subdivisions 4 and 4a; 169.686, subdivision 3; 176.135, subdivision 1; 190.07; 190.25, subdivision 3; 192.51, subdivision 2; 214.06, subdivision 1; 256.482, subdivisions 3, 7, and by adding a subdivision; 260.193, subdivision 8; 270.069; 270.185, subdivision 1; 273.02, subdivisions 5 and 6; 275.51, subdivision 3f; 284.28, subdivisions 8, 9, and

10; 296.421, subdivision 8; 297.13, subdivision 1; 297.26; 297.32, subdivision 9; 297A.44, subdivision 1; 299D.03, subdivision 7; 302A.821, subdivisions 4 and 5; 307.08, subdivision 5; 336.9-302; 336.9-413; 349.213, subdivision 1; 352.01, subdivision 2b; 353.01, subdivision 2a; 356.215, subdivisions 1 and 4d; 357.021, subdivisions 1a, 2a, and 4; 357.08; 361.03, by adding a subdivision; 373.27, subdivision 3; 402.065; 403.11, subdivision 1; 423A.01, subdivision 2; 423A.02, subdivisions 1 and 2; 462.396, subdivision 4; 462A.21, by adding a subdivision; 466.01, subdivision 6; 469.056, subdivision 4; 469.100, subdivison 6; 471.699; 473.13, subdivision 4; 473.375, subdivision 17; 473.435, subdivision 2; 473.543, subdivision 5; 473.843, subdivision 2; 473.844, subdivision 1; 473.845, subdivision 1; 473.877, subdivision 1; 480.01; 480.058; 480.09, subdivision 5; 480.241, subdivisions 1 and 2; 480.242; 481.01; 481.20; 484.54, subdivision 2; 484.545, subdivisions 2 and 3; 484.62; 484.64, subdivision 3; 484.65, subdivisions 3 and 7; 484.68, subdivision 5; 485.018, subdivisions 5 and 7; 486.05, subdivision 1; 486.055; 486.06; 487.08, subdivision 5; 487.31, subdivision 1; 488.14, subdivision 1; 488A.17, subdivision 2; 488A.31, subdivision 1; 488A.34, subdivision 2; 517.08, subdivision 1c; 525.033; 609.101; 609.5315, subdivision 5; 611.17; 611.21; 611.215, subdivision 2; 611.26, subdivision 2; 611A.61, subdivision 3; 626.861, subdivisions 3 and 4; Laws 1971, chapter 355, section 1, subdivision 2; Laws 1987, chapter 386, article 2, section 22; article 9, section 19; Laws 1988, chapter 686, article 1, section 37; article 2, section 10; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; 84; 93; 115A; 116J; 116K; 192; 290; 462A; 469; 473; 480; 611; and 631; proposing coding for new law as Minnesota Statutes, chapter 361A; repealing Minnesota Statutes 1988, sections 3C.035; 3C.056; 11A.22; 16A.133, subdivision 3; 41A.01; 41A.02; 41A.021; 41A.022; 41A.023; 41A.03; 41A.035; 41A.036; 41A.04; 41A.05; 41A.051; 41A.06; 41A.065; 41A.066; 41A.07; 41A.08; 43A.316; 84.0911, subdivisions 1 and 3; 85.051; 85A.01, subdivision 1b; 89.04; 93.221; 94.165; 97A.065, subdivision 3; 97A.071; 97A.075; 115A.162; 116E.01; 116E.02; 116E.03; 116E.035; 116E.04; 116J.941; 116J.942; 116J.968; 161.52; 190.26; 198.001, subdivision 5; 344.03; 383B.63, subdivisions 4 and 5; 469.121, subdivision 1; 469.148; 469.149; 480.242, subdivision 4; 480.245; 486.07; 487.31, subdivision 4; 488A.05; 488A.111; 488A.22; 488A.281; 525.012, subdivisions 1, 2, 3, and 4; 611.07; 611.071; 611.12; 611.214; and 611.25, subdivision 2; Laws 1975, chapter 258, section 6, subdivisions 1, 3, 4, and 5; Laws 1983, chapter 334, section 7, as amended; Laws 1984, chapter 564, section 48; and Laws 1988, chapter 686, article 1, sections 14, paragraph (j); 21; 37, subdivision 10; and article 2, section 9.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 372, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 372 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

STATE DEPARTMENTS

Section 1. [STATE DEPARTMENTS; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1989," "1990," and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively.

SUMMARY BY FUND

| | 1990 | 1991 | TOTAL |
|---|---|---|---|
| General | $440,863,900 | $486,223,000 | $927,086,900 |
| Special Revenue | 40,294,000 | 41,242,000 | 81,536,000 |
| Game and Fish | 43,549,000 | 45,674,000 | 89,223,000 |
| Trunk Highway | 12,214,000 | 24,315,500 | 36,529,500 |
| Highway User | 1,896,000 | 2,218,000 | 4,114,000 |
| Workers' Comp. | 14,045,000 | 14,379,000 | 28,424,000 |
| Environmental Response | 3,527,000 | 3,527,000 | 7,054,000 |
| Metro Landfill Abatement | 1,741,000 | 1,741,000 | 3,482,000 |
| Metro Landfill Contingency | 719,000 | 719,000 | 1,438,000 |
| Minnesota Resources | 9,975,000 | 8,615,000 | 18,590,000 |
| Motor Vehicle Transfer | 3,351,000 | 3,058,000 | 6,409,000 |
| Petroleum Cleanup | 1,425,000 | 1,432,000 | 2,857,000 |
| TOTAL | $573,599,900 | $633,143,500 | $1,206,743,400 |

| | APPROPRIATIONS Available for the Year Ending June 30 1990 | 1991 |
|---|---|---|
| Sec. 2. LEGISLATURE | | |
| Subdivision 1. Total for this section | $ 44,630,900 | $ 44,297,500 |
| Summary by Fund | | |
| General | $ 44,601,800 | $ 44,267,000 |
| Trunk Highway | $ 29,000 | $ 30,500 |
| Subd. 2. Senate | 14,494,000 | 14,494,000 |
| Subd. 3. House of Representatives | 19,942,400 | 19,942,400 |

$250,000 the first year and $250,000 the second year of the house of representatives appropriation is for a management information systems director, development of a long-range strategic information management plan for the house of representatives and enhancement of the budget coordination activity. $200,000 of this appropriation is to be used for the purchase of computer hardware and software and is not available for expenditure

until the successful completion of the strategic information systems plan.

| | | |
|---|---|---|
| Subd. 4. Legislative Coordinating Commission | 6,873,500 | 6,387,100 |
| Summary by Fund | | |
| General | $ 6,844,500 | $ 6,356,600 |
| Trunk Highway | $ 29,000 | $ 30,500 |

(a) Legislative Reference Library

| 1990 | 1991 |
|---|---|
| $ 783,000 | $ 803,000 |

(b) Revisor of Statutes

| | |
|---|---|
| $3,352,900 | $3,551,100 |

Before January 1, 1990, the revisor shall repair the computer facility in the state office building room B19 so the facility can be maintained at its current location until January 1, 1991.

The revisor shall study alternatives for replacing the computer facility and report by January 1, 1990, to the house appropriations committee, the senate finance committee, and the legislative coordinating commission. The report shall include the operational advantages and disadvantages of the various alternatives and a recommendation for a corrective solution.

(c) Legislative Commission on the Economic Status of Women

| | |
|---|---|
| $ 197,000 | $ 152,000 |

$50,000 the first year is to develop recommendations to the legislature for a coordinated child care system in Minnesota. The report shall be submitted to the legislature by January 1, 1991.

(d) Legislative Commission on Employee Relations

| | |
|---|---|
| $ 94,500 | $ 95,500 |

(e) Great Lakes Commission

| | |
|---|---|
| $ 40,500 | $ 40,500 |

(f) Legislative Commission on Pensions and Retirement

| | |
|---|---|
| $ 583,000 | $ 607,100 |

(g) Legislative Commission on Planning and Fiscal Policy

| | |
|---|---|
| $ 100,000 | $ 100,000 |

(h) Legislative Commission to Review

Administrative Rules
$ 121,500 $ 124,000

(i) Legislative Commission on Waste Management
$ 145,200 $ 149,300

(j) Mississippi River Parkway Commission
$ 29,000 $ 30,500

This appropriation is from the trunk highway fund.

(k) Subcommittee on Redistricting
$ 700,000

(l) Legislative Coordinating Commission - General Support
$ 726,900 $ 734,100

$200,000 in the first year and $200,000 the second year are appropriated to fund joint house and senate subcommittee or task force projects. Projects funded from this appropriation must involve both the house and senate, be temporary in nature, and focus on key policy issues facing the legislature. The legislative coordinating commission shall develop a project selection process for this appropriation. $25,000 each year of this appropriation is for the legislative task force on minerals.

$50,000 the first year and $50,000 the second year are reserved for unanticipated costs of agencies in this subdivision and subdivision 5. The legislative coordinating commission may transfer necessary amounts from this appropriation to the appropriations of the agencies concerned, and the amounts transferred are appropriated to those agencies to be spent by them. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

$78,200 the first year and $82,900 the second year are for the state contribution to the National Conference of State Legislatures.

$69,000 the first year and $73,100 the second year are for the state contribution to the Council of State Governments.

$80,000 appropriated by Laws 1988, chapter 688, article 21, section 17, for soil and water stewardship education does

not cancel June 30, 1989, and is available to the legislative coordinating commission until June 30, 1991.

Subd. 5. Legislative Audit Commission 3,321,000 3,474,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Legislative Audit Commission
$ 15,000 $ 15,000

(b) Legislative Auditor
$ 3,306,000 $ 3,459,000

Sec. 3. SUPREME COURT

Subdivision 1. Total Appropriation 11,439,000 12,207,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Supreme Court Operations
$ 3,045,000 $ 2,899,000

$2,100 the first year and $2,200 the second year are for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

The cost of moving and installing in the judicial building the marble fountain which was previously located in the former Mechanic Arts high school building is included in any appropriation for moving expenses of the court.

$250,000 and one position are for a study of the state takeover of all county costs associated with the state trial court system. This position expires on June 30, 1991.

Subd. 3. Supreme Court Civil Surcharge
$ 1,348,000 $ 1,348,000

This appropriation is for legal service to low-income clients. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

Subd. 4. Family Farm Legal Assistance
$ 850,000 $ 850,000

This appropriation is for family farm legal assistance. Any unencumbered balance

remaining in the first year does not cancel but is available for the second year of the biennium.

Subd. 5. State Court Administrator
$ 5,488,000 $ 6,172,000

$873,000 the first year and $1,179,000 in the second year are to implement the trial court information system in the third, sixth, and ninth judicial districts.

$250,000 the first year and $250,000 the second year are for distribution to the second and fourth judicial districts for the housing calendar consolidation project.

$32,000 the first year is a one-time appropriation for a computer integrated courtroom project in the second judicial district.

$204,000 is a one-time appropriation for the court to install and operate video taping equipment in at least three district courts and the court of appeals.

$520,000 the second year is for the county costs of the trial court information system.

Subd. 6. State Law Library
$ 807,000 $ 1,039,000

Subd. 7. Base Cut
$ (99,000) $ (101,000)

The base cut must be allocated among the agency's programs by the agency head.

| | | |
|---|---|---|
| Sec. 4. COURT OF APPEALS | 4,285,000 | 4,519,000 |

$235,000 the first year and $588,000 the second year are for costs related to three new judges, to be added July 1, 1989, July 1, 1990, and December 1, 1990.

| | | |
|---|---|---|
| Sec. 5. TRIAL COURTS | 25,362,000 | 27,410,000 |

$4,200,000 the first year is for the costs of the state takeover of the trial court and county court costs in the eighth judicial district and is available for either year of the biennium.

$420,000 the first year is for transfer to the department of finance for the purposes of a contingent account for the eighth district project to be allocated through the regular legislative advisory commission process.

$1,500,000 the second year is for district court administrative costs.

$4,328,000 the second year is for law clerk salaries.

$140,000 the second year is for insurance for law clerks.

Nothing in this act shall be construed to build into the base level for the 1992-1993 biennium any court costs which have not been appropriated for in this act. It is the intent of the legislature to continue the state takeover of trial court costs.

| | | |
|---|---|---|
| Sec. 6. BOARD ON JUDICIAL STANDARDS | 163,000 | 163,000 |
| Approved Complement - 2 | | |
| Sec. 7. BOARD OF PUBLIC DEFENSE | 2,665,000 | 19,485,000 |
| Approved Complement - 31 | | |

During the biennium, legal assistance to Minnesota prisoners shall serve the civil legal needs of persons confined to state institutions.

None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

$100,000 the first year is a one-time appropriation for the costs of the weighted case load study of the public defender system and public defense services.

$16,910,000 the second year is for the costs of felony and gross misdemeanor public defense services statewide and all public defense costs in the second and fourth judicial districts.

Takeover of the costs of public defense services shall be considered a part of the base level funding for the 1992-1993 biennium. Nothing in this act shall be construed to build into the base level for the 1992-1993 biennium any additional costs of the public defense system which have not been appropriated in this act.

| | | |
|---|---|---|
| Sec. 8. GOVERNOR AND LIEUTENANT GOVERNOR | 2,961,000 | 2,861,000 |

This appropriation is to fund the offices of the governor and lieutenant governor.

$20,000 the first year and $20,000 the

second year are for personal expenses connected with the office of the governor.

$89,000 the first year and $95,000 the second year are for membership dues of the National Governors Association.

$2,000 the first year is a one-time appropriation to the governor's residence council for repairs and replacements in the governor's residence.

$100,000 the first year is for a grant to the board of regents of the University of Minnesota. It is for the establishment and operation of a midwest native plant center at the University Landscape Arboretum in conjunction with the National Wildflower Research Center to facilitate information exchange and research of native wildflowers and plants.

Sec. 9. SECRETARY OF STATE

Subdivision 1. Total Appropriation 2,918,000 3,029,000

Approved Complement - 59.5

General - 52.5

Special Revenue - 7

The amounts that may be spent from this appropriation for each activity are specified in the following subdivisions.

Subd. 2. Elections and Publications
$ 332,000 $ 573,000

Subd. 3. Uniform Commercial Code
$ 166,000 $ 166,000

Subd. 4. Business Services
$ 632,000 $ 632,000

Subd. 5. Administration
$ 523,000 $ 399,000

The appropriation includes one-time funding for the secretary of state to prepare, catalogue, and preserve, by no later than June 30, 1991, official government survey documents.

The Minnesota Historical Society shall preserve the original survey documents.

Subd. 6. Fiscal Operations
$ 140,000 $ 140,000

Subd. 7. Data Services
$ 214,000 $ 214,000

Subd. 8. Network Operations Voter

Registration
$ 779,000 $ 697,000

Subd. 9. Reports Renewals Registration
$ 145,000 $ 223,000

Subd. 10. Base Cut
$ (13,000) $ (15,000)

The base cut must be allocated among the agency's programs by the agency head.

| | | |
|---|---|---|
| Sec. 10. STATE AUDITOR | 576,000 | 576,000 |
| Approved Complement - 115 | | |

$77,000 the first year and $77,000 the second year are for an account the auditor may bill for costs associated with conducting single audits of federal funds. During the biennium, this account may be used only when no other billing mechanism is feasible.

$218,000 the first year and $218,000 the second year must be subtracted from the amount that would otherwise be payable as local government aid under Minnesota Statutes, chapter 477A, in order to reimburse the general fund for the services of the government information division and the parts of the constitutional office that are related to the government information function.

$80,000 the first year and $80,000 the second year must be subtracted from the total police and fire state aid otherwise payable to police and firefighters' relief associations under Minnesota Statutes, sections 69.011 to 69.051, for the costs and expenses incurred by the state auditor in making a review of the audits and examinations of relief associations. The amount subtracted shall be divided proportionally according to the estimated costs of the audits or examinations of the police and firefighters' relief associations as determined by the state auditor.

Notwithstanding any other law to the contrary, the state auditor shall continue to audit the Minnesota state high school league and review any private audits done for the league.

| | | |
|---|---|---|
| Sec. 11. STATE TREASURER | 597,000 | 572,000 |
| Approved Complement - 12 | | |

$25,000 the first year is a one-time

appropriation for a study of the information system needs of the state treasurer's office.

Sec. 12. ATTORNEY GENERAL

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 18,815,000 | 18,105,000 |

Approved Complement - 341.6

General - 313.8

Federal - 9.8

Special Revenue - 18

Summary by Fund

| | | |
|---|---|---|
| General | $ 17,919,000 | $ 17,209,000 |
| Special Revenue | $ 896,000 | $ 896,000 |

The amounts that may be spent from this appropriation for each activity are specified in the following subdivisions.

Subd. 2. Government Services
$ 3,428,000 $ 3,430,000

Subd. 3. Public Resources
$ 2,254,000 $ 2,254,000

Subd. 4. Human Resources
$ 2,699,000 $ 2,699,000

Summary by Fund

| | 1990 | 1991 |
|---|---|---|
| General | $ 1,983,000 | $ 1,803,000 |
| Special Revenue | $ 896,000 | 896,000 |

The commissioner of human services shall analyze the effect of Laws 1988, chapter 689, article 2, sections 163 to 168, on accelerating the resolution of long-term care rate appeals and report findings to the legislature by December 1, 1989. The commissioner shall make recommendations, based on the findings and any other relevant information, for additional measures to resolve these appeals.

$180,000 is appropriated to the special project account created in Minnesota Statutes, section 256.01, subdivision 2, paragraph (15), for the state share of attorney general costs incurred in the resolution of long-term care appeals. The maximum balance of the account shall remain at $1,000,000 as provided by Laws 1987, chapter 403, article 4, section 14, until June 30, 1991, and then must return

to $400,000.

Subd. 5. Law Enforcement
$ 2,832,000 $ 2,827,000

Subd. 6. Business Regulation
$ 2,799,000 $ 2,799,000

Subd. 7. Legal Policy and Administration
$ 4,795,000 $ 4,268,000

$50,000 the first year and $50,000 the second year are for a special account for unanticipated legal expenses. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

$500,000 the first year is for moving costs and increased rents.

$70,000 the first year and $70,000 the second year are for the Alliance for a Drug Free America project. The attorney general shall take all steps necessary to ensure women and men are fairly represented among the participants in the alliance.

The attorney general, with the assistance of the commissioner of employee relations and all state agencies that employ civil service attorneys, shall study the activities performed by the civil service attorneys and make recommendations to the legislature by January 8, 1990, on the classification and the appointing authority for the positions.

$30,000 the first year is to support activities celebrating the bicentennial of the constitution.

$200,000 the first year and $200,000 the second year is a general increase.

Subd. 8. Base Cut
$ (172,000) $ (172,000)

The base cut must be allocated among the agency's programs by the agency head.

Notwithstanding Minnesota Statutes, section 8.06, or other law, a state agency that is current with its billings from the attorney general for legal services may contract with the attorney general for additional legal and investigative services.

Sec. 13. INVESTMENT BOARD 1,692,000 1,692,000

Approved Complement - 25

Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

Sec. 14. ADMINISTRATIVE HEARINGS 2,999,000 2,999,000

Approved Complement - 77.5

Revolving - 25.5

Workers' Compensation - 52

This appropriation is from the workers' compensation special compensation fund for considering workers' compensation claims.

Notwithstanding Laws 1987, chapter 404, section 15, the required reduction in the approved complement of the office of administrative hearings by four workers' compensation judges and two workers' compensation support staff must not occur until the commissioner of finance has determined that the office can reasonably hold a hearing within six months of the date when a claim petition is filed with the department of labor and industry and the current incumbents no longer hold those positions.

Sec. 15. ADMINISTRATION

Subdivision 1. Total Appropriation 24,016,000 23,720,000

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 878.1 | 878.1 |
| General - | 204.6 | 204.6 |
| Special Revenue - | 30.0 | 30.0 |
| Gift - | 1 | 1 |
| Revolving - | 642.5 | 642.5 |

Summary by Fund

| | | |
|---|---|---|
| General | $17,507,000 | $17,208,000 |
| Special Revenue | $ 6,509,000 | $ 6,512,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Operations Management
$ 3,977,000 $ 3,978,000

$792,000 in contributed capital is transferred from the department's plant management fund to the printing services fund.

The department shall study and submit a report to the legislature by January 1, 1990, on the feasibility of adding aircraft to the central motor pool fleet. This study shall include an analysis of similar programs in other states, cost effectiveness of adding aircraft to the fleet, the cost effectiveness of consolidating agency aircraft fleets, and specific recommendations for future actions. This study shall also include an analysis of the University of Minnesota's aircraft fleet.

Subd. 3. Information Management

| $ 5,836,000 | $ 5,759,000 |
|---|---|

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,678,000 | $ 1,601,000 |
| Special Revenue | $ 4,158,000 | $ 4,158,000 |

The appropriation from the special revenue fund is for recurring costs of 911 emergency telephone service.

$201,100 the first year and $205,800 the second year must be subtracted from the amount that would otherwise be payable to local government aid under Minnesota Statutes, chapter 477A, in order to fund the local government records program and the intergovernmental information systems activity.

$1,000,000 in contributed capital is transferred from the computer services fund to the telecommunications fund.

The commissioner shall study the feasibility of contracting for disaster recovery services from nonstate sources.

Notwithstanding any law to the contrary, legislators' telephone records are private data.

Subd. 4. Property Management

| $ 7,823,000 | $ 7,826,000 |
|---|---|

Summary by Fund

| | | |
|---|---|---|
| General | $ 5,472,000 | $ 5,472,000 |
| Special Revenue | $ 2,351,000 | $ 2,354,000 |

$175,000 the first year and $175,000 the second year from the program's total appropriation are for capitol area repairs and replacements. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

$3,582,000 the first year and $3,582,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

The commissioner shall make provisions in the master plan of agency relocations for the relocation of the legislative auditor's office within the capitol complex according to the relocation requirements indicated by the legislative auditor.

$89,000 the first year and $92,000 the second year are appropriated from the money received as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations for use in an expansion of the state of Minnesota's energy conservation activity. This appropriation is not available until a work plan has been reviewed by the legislative commission on Minnesota resources. Any unencumbered balance at the end of the first year does not cancel and is made available for the second year.

Subd. 5. Administrative Management

$ 4,985,000 $ 4,757,000

$3,000 the first year and $2,000 the second year are for the state employees' band.

The management analysis activity shall periodically provide the legislature with a list indicating the studies being conducted by the activity and any future studies scheduled at the time that the list is submitted.

$274,000 is available the first year of the biennium as a grant to the Thief River Falls Area Technical Institute for radio and television equipment used in the mass communications curriculum. $139,000 of this amount is to be used for radio equipment and $135,000 is to be used for television equipment. Any unencumbered balance at the end of the first year does not cancel and is available for the second year.

$229,000 the first year and $229,000 the second year are for block grants to public television stations.

$704,000 the first year and $704,000 the second year are for matching grants to public television stations. $300,000 of

the biennial appropriation is a one-time grant and shall not be included in the 1992-1993 budget base.

$1,135,600 the first year and $1,135,600 the second year are for public television equipment needs. Equipment grant allocations shall be made after considering the recommendations of the Minnesota Public Television Association.

$266,000 the first year and $266,000 the second year are for operational grants to public educational radio stations, which must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations under Minnesota Statutes, section 139.19. $150,000 of the biennial appropriation is a one-time grant and shall not be included in the 1992-1993 budget base.

$215,900 the first year and $215,900 the second year are for public educational radio stations, which must be allocated after considering the recommendations of the Association of Minnesota Public Educational Radio Stations for equipment needs.

$100,000 the first year and $100,000 the second year are for equipment grants to affiliate stations of Minnesota Public Radio, Incorporated. Equipment grant allocations must be made after consideration of the recommendations of Minnesota Public Radio, Incorporated.

If an appropriation for either year for grants to public television or radio stations is not sufficient, the appropriation for the other year is available for it.

Subd. 6. Information Policy Office

$ 1,557,000 $ 1,562,000

$150,000 in the first year is for distributive computing model grants to be divided equally among the Motley-Staples school district, Ortonville Independent School District No. 62, and the Minneapolis public school district. The grants are to establish experimental computer centers to demonstrate the effectiveness of a distributive computing model for a wide range of computer applications in the field of education, including

financial management. For purposes of this section, the reporting requirements of Minnesota Statutes, section 121.936, subdivision 1, and the data standards of Minnesota Statutes, section 121.932, subdivision 5, must be maintained, but all other requirements, except financial obligations, shall be waived. The information policy office shall evaluate the models and report to the legislature in January 1991.

Notwithstanding any law to the contrary, no statutory changes affecting reporting and data collection requirements for local units of government may be enforced until the state agency most responsible for administration of the change has filed a computer impact statement with the information policy office. This statement must indicate the proposed data processing costs associated with the pending change.

Subd. 7. Interagency Projects

Special Revenue $ 1,000,000

This appropriation is for the planning and initial start-up costs associated with establishing a statewide telecommunications access and routing system (STARS). $750,000 shall be transferred from the computer services revolving fund to the STARS revolving fund. Following the initial planning and development stages of this project the amount appropriated shall be reimbursed by agencies and educational institutions using the system and be used as contributed capital for the statewide telecommunications access routing system revolving account.

Notwithstanding any law to the contrary, any direct appropriation made to educational institutions for usage costs associated with the STARS network must only be used by the educational institutions for payment of usage costs of the network as billed by the commissioner of administration. The post-secondary appropriations may be shifted between systems as required by unanticipated usage patterns. Such intersystem transfers are to be requested by the appropriate system and may be made only after

review and approval by the commissioner of finance, in consultation with the commissioner of administration.

The commissioner may not enter into any contract implementing the STARS network without the recommendation of both the chair of the house appropriations committee and the chair of the senate finance committee. The commissioner shall report to the chairs of the senate finance committee and the house appropriations committee on the status of the contract award process of the STARS network not later than February 15, 1990.

Notwithstanding any law to the contrary, higher education institutions must not purchase interconnective computer technology without securing approval of the information policy office prior to the acquisition.

Subd. 8. Base Cut
$ (162,000) $ (162,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 16. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD 229,000 229,000

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 5 | 5 |

Any unencumbered balance of the appropriation for the first year does not cancel and is available for use in the second year.

Sec. 17. FINANCE

Subdivision 1. Total Appropriation 8,531,000 8,531,000

Approved Complement - 128

The amounts that may be spent from this appropriation for each activity are specified below.

$235,000 the first year and $235,000 the second year are for enhancements and technical support for the biennial budget system. This appropriation shall only be expended upon receipt of the recommendations of the chair of the house appropriations committee and the chair of the senate finance committee. These recommendations are advisory only. If

the appropriation for either year is insufficient the appropriation for the other year is available for use.

Beginning with the biennial budget submitted for the 1992-1993 biennium all change level requests involving data processing equipment or staff shall include a summary of the recommendations made on the change level request in the budget document by the information policy office in the department of administration.

As a continuation of the fund consolidation effort begun this biennium, the commissioner shall study the remaining special revenue funds in state government and make recommendations to the legislature by January 1, 1990, for any additional consolidations that should be accomplished. Special emphasis in this study shall be placed on those funds for which agencies are currently given open appropriation authority such as enterprise funds.

Any increase in complement with the exception of federal positions, approved by the commissioner of finance as temporary positions, shall be reflected in the governor's budget recommendations to the legislature as change request items. These positions are not permanent positions until the legislature has approved the change request items.

Subd. 2. Base Cut
$ (169,000) $ (169,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 18. EMPLOYEE RELATIONS

| | | | |
|---|---|---|---|
| Subdivision 1. Total Appropriation | | 10,426,000 | 9,620,000 |
| | 1990 | 1991 | |
| Approved Complement - | 178.5 | 169.5 | |
| General - | 119 | 112 | |
| Special Revenue - | 46 | 44 | |
| Trust - | 13.5 | 13.5 | |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Administration
$1,929,000 $1,929,000

$55,000 the first year and $55,000 the

second year must be subtracted from the amount that would otherwise be payable as local government aid under Minnesota Statutes, chapter 477A, to offset the cost of the local government pay equity function of the department.

Subd. 3. Benefits
$ 676,000 $ 199,000

Subd. 4. Labor Relations
$ 484,000 $ 484,000

The commissioner shall prepare a report evaluating the impacts on state agencies resulting from the current schedule for negotiating collective bargaining agreements. The report shall include, but not be limited to, the effects on agencies leaving positions vacant, laying employees off, and scaling back or eliminating programs in order to fully fund contract settlements. The report shall also evaluate alternative collective bargaining arrangements and discuss the advantages and disadvantages of each.

The commissioner shall consult with the chairs of the appropriations committee, the state departments division, and the government operations committee and with exclusive representatives of state employee units in developing the report. The report shall be submitted to these committees and the legislative commission on employee relations by April 1, 1990.

Subd. 5. Personnel
$7,413,000 $7,084,000

Of the increased amount appropriated for staffing information systems in fiscal year 1991, all but $578,000 is a one-time appropriation. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

$100,000 the first year and $100,000 the second year are for career development grants. Any recipient of a grant must as part of the grant agreement agree in writing to repay the state if the recipient voluntarily leaves state service within one year of completing the career development training.

During the biennium, the commissioner

shall study the costs, benefits, and alternatives of the state's participation in the Workers' Compensation Reinsurance Association. The commissioner shall report the findings of the study to the legislature by January 15, 1991.

$121,000 the first year and $132,000 the second year are for a pilot project to begin an education and training program to retrain current state employees to meet changing staffing needs caused by expanded use of data processing equipment in the workplace. This program will focus on identifying educational opportunities for providing improved technical skills necessary for current employees to make a satisfactory transition into a data processing based work environment and to allow managers the flexibility to reassign employees to reflect changing staffing needs. The commissioner shall coordinate the development of this program with the information policy office. The commissioner shall ensure that employees are given the maximum opportunity possible to change civil service classifications, employment conditions, positions, and appointing authorities after satisfactory completion of the retraining program. Agency heads shall also be granted the authority to require individual employees to participate in this retraining program as a condition of continued employment. None of the appropriation is available until the information policy office has approved the retraining program. During the biennium, the information policy office shall continue to monitor and make recommendations to the commissioner of employee relations regarding this training.

Notwithstanding Minnesota Statutes, section 79.34, subdivision 1, the University of Minnesota shall pay its portion of workers' compensation reinsurance premiums directly to the workers' compensation reinsurance association.

Until June 30, 1991, the commissioner of employee relations may use FICA savings generated from the dependent care expense account program to pay for the administrative costs of the program.

$324,000 the first year and $324,000 the

second year are for payment of peace officer survivor benefits under Minnesota Statutes, section 176B.04. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 6. Base Cut
$ (76,000) $ (76,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 19. REVENUE

| | | | |
|---|---|---|---|
| Subdivision 1. Total Appropriation | | 65,431,000 | 65,510,000 |
| | 1990 | 1991 | |
| Approved Complement - | 1218.2 | 1168.2 | |
| General - | 1180.2 | 1130.2 | |
| Highway User - | 38 | 38 | |

Summary by Fund

| | | |
|---|---|---|
| General | $63,754,000 | $63,828,000 |
| Highway User | $ 1,595,000 | $ 1,600,000 |
| Metro Landfill Abatement | $ 41,000 | $ 41,000 |
| Metro Landfill Contingency | $ 41,000 | $ 41,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Revenue Administration
$19,092,000 $18,819,000

The amount appropriated for the sales tax processing module is available for either year of the biennium and is a one-time expenditure.

The commissioner shall report quarterly on the progress made and the money spent on the sales tax module and the taxpayer accounts system. The report shall be made to the chairs of the house appropriations and senate finance subcommittees, the house appropriations subcommittee on information and data processing, and the comparable subcommittee in the senate.

Of the 55 positions removed from the base for fiscal year 1991, not more than eight may be reduced from the taxpayer services program.

Subd. 3. Tax Policy
$3,088,000 $3,051,000

Subd. 4. Taxpayer Service
$11,089,000 $11,251,000

Summary by Fund

| | | |
|---|---|---|
| General | $9,412,000 | $9,569,000 |
| Highway User | $1,595,000 | $1,600,000 |
| Metro Landfill Abatement | $ 41,000 | $ 41,000 |
| Metro Landfill Contingency | $ 41,000 | $ 41,000 |

$35,000 the first year and $35,000 the second year must be subtracted from the total police and fire state aid otherwise payable to police and firefighters' relief associations under Minnesota Statutes, sections 69.011 to 69.051, and deposited in the general fund for the costs and expenses incurred by the department in collecting and distributing state aid to police and firefighters' relief associations.

$55,000 the first year and $55,000 the second year must be subtracted from the total taconite production tax revenues distributed to local units of government. These amounts shall be deposited in the general fund for the costs and expenses incurred by the department in collecting and distributing taconite production tax revenues.

Of the amount appropriated, $340,000 and four positions are for additional telephone taxpayer assistance.

The department shall during its regular audits of charitable gambling activity include in their findings reports on the potential gender bias in activities funded from the proceeds of charitable gambling. The findings shall be reported to the legislature in January of 1991.

$30,000 the first year and $30,000 the second year are for state-paid tuition for required assessor training.

Subd. 5. Operations
$10,061,000 $10,134,000

Subd. 6. Tax Compliance
$22,719,000 $22,875,000

Subd. 7. Base Cut
$ (618,000) $ (620,000)

The base cut must be allocated among the agency's programs by the agency head.

Sec. 20. TAX COURT 436,000 437,000

Approved Complement - 6

Sec. 21. NATURAL RESOURCES

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 132,129,000 | 134,228,000 |

| | 1990 | 1991 |
|---|---|---|
| Agency Approved Full-Time Equivalency | 2,543 | 2,543 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 62,230,000 | $ 63,129,000 |
| All-Terrain | $ 744,000 | $ 794,000 |
| Con. Con. | $ 250,000 | $ 250,000 |
| Forest Management | $ 5,938,000 | $ 5,967,000 |
| Nongame Wildlife | $ 1,257,000 | $ 1,269,000 |
| Snowmobile | $ 4,473,000 | $ 4,561,000 |
| State Park M. & O. | $ 5,545,000 | $ 5,684,000 |
| Water Recreation | $ 8,528,000 | $ 8,848,000 |
| Wild Rice | $ 30,000 | $ 30,000 |
| Wildlife Acquis. | $ 1,233,000 | $ 1,233,000 |
| Game and Fish | $ 40,901,000 | $ 41,588,000 |
| Permanent School | $ 325,000 | $ 200,000 |
| Trunk Highway | $ 675,000 | $ 675,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

The full-time equivalency in this subdivision shall be the base for the 1992-1993 biennium. The commissioner of finance, in consultation with the commissioner of natural resources and the chairs of the house appropriations and senate finance committees, shall identify the amount appropriated from the funds in this subdivision for salary obligations based on the 1990 base level as adjusted by the appropriations in this act.

Subd. 2. Mineral Resources Management

| | |
|---|---|
| $ 4,779,000 | $ 4,809,000 |

The commissioner is authorized one complement position in the unclassified service from the mineral lease account.

(a) Mineral Resources

| | |
|---|---|
| $ 4,779,000 | $ 4,809,000 |

$185,000 the first year and $185,000 the second year are for minerals research. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$307,000 the first year and $307,000 the second year are for iron ore cooperative research, of which $200,000 the first year

and $200,000 the second year are available only as matched by $1 of nonstate money for each $1 of state money. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$122,000 the first year and $122,000 the second year are for industrial minerals development. The commissioner may match this state money with money from nonstate sources. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$750,000 the first year and $750,000 the second year are for mineral diversification. Any unencumbered balance remaining in the first year does not cancel but is available for the second year. $70,000 the first year is for development of products made from Minnesota clay, including kaolin clay. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Any income received from state oil and gas leases on property owned by the department of natural resources in the state of Montana shall be deposited in the minerals lease account and be made available for litigation costs. After completion of the litigation, any remaining funds received from the leases shall remain in the mineral lease account and be available for mineral diversification.

(b) Mineland Reclamation
$ 408,000 $ 408,000

Subd. 3. Water Resources Management
$ 6,774,500 $ 6,655,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 6,692,500 | $ 6,573,000 |
| Water Recreation | $ 82,000 | $ 82,000 |

$7,500 in the first year is for construction of an outlet control structure to stabilize the level of Johnson Lake in Aitkin county.

The board of water and soil resources is authorized to make grants to counties for comprehensive local water planning and implementation of priority actions identified in approved plans and sealing of

abandoned wells.

$1,100,000 the first year and $1,100,000 the second year are available for shoreland management grants to include $125,000 each year of the biennium total for a grant to the North Shore Management Board. Pursuant to existing law and department rules, the metropolitan area shall be considered in distribution of these funds.

$150,000 the first year is to conduct the stream maintenance program under Minnesota Statutes, section 105.475. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Subd. 4. Forest Management

| $ 24,941,500 | $ 26,453,000 |
|---|---|

Summary by Fund

| | | |
|---|---|---|
| General | $18,260,500 | $19,745,000 |
| Con. Con. | $ 250,000 | $ 250,000 |
| Forest Management | $ 5,756,000 | $ 5,783,000 |
| Trunk Highway | $ 675,000 | $ 675,000 |

The divisions of forestry and fish and wildlife must coordinate the harvesting of trees in order to ensure optimum wildlife habitat benefits and water quality of adjacent streams or lakes.

$765,000 the first year and $765,000 the second year are for emergency fire fighting and are not subject to transfer. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. If these appropriations are insufficient, the amount necessary to pay for emergency firefighting expenses during the biennium is appropriated from the general fund. No more than $400,000 the first year and $410,000 the second year are available for presuppression costs.

$120,000 the first year and $120,000 the second year from the general fund under Minnesota Statutes, section 89.04, may be used for grants to the board of water and soil resources for cost-sharing with landowners in the state forest improvement program.

$1,687,000 the first year and $2,497,000 the second year are available for county

forest management grants. $200,000 each year of this amount shall be used for employment of Minnesota conservation corps in forested counties of Minnesota.

$250,000 the first year and $350,000 the second year are for grants to the University of Minnesota College of Natural Resources. $400,000 of this amount is for hybrid aspen and hybrid larch research and development at the North Central Experiment Station at Grand Rapids. $200,000 of this amount is for expansion of the paper science and engineering program.

$7,500 the first year is for a grant to the Thief River Falls Technical Institute for a pilot project on aspen tree planting on conservation reserve lands.

The commissioner shall study and report to the legislature by January 1, 1991, the sources of state payments to counties for forestry related activities. The report shall identify the amounts paid by counties from various sources, the statutes directing the payments, and provide a comparison of the actual state payments to the amount individual counties would have received for these lands under the payment in lieu of taxes formulas.

$100,000 the first year of this appropriation is to be used as a grant to the Natural Resources Research Institute for a study of aspen thinning. The institute shall submit a report to the chairs of the environment and natural resources and economic development committees of the house and senate by January 15, 1991.

Subd. 5. Parks and Recreation Management

$17,096,000 $17,419,000

Summary by Fund

| | | |
|---|---|---|
| General | $10,979,000 | $11,164,000 |
| State Park Maintenance and Operation | $ 5,545,000 | $ 5,684,000 |
| Water Recreation | $ 572,000 | $ 571,000 |

$572,000 the first year and $571,000 the second year are from the water recreation account for state park development projects. If the appropriation in either year

is insufficient, the appropriation for the other year is available for it.

The commissioner shall study and report to the legislature by July 1, 1990, the feasibility of providing a lapidary site or sites within a state park or forest area. The study shall identify the need for such sites, potential site locations, and projected costs associated with creation of such a program.

The commissioner shall develop a program to celebrate the 100th anniversary of the state park system. The activities planned for this celebration must focus on Itasca State Park, but shall be a systemwide recognition of the unique natural and cultural resources preserved within the park system. The commissioner shall coordinate this effort with the commissioner of trade and economic development as part of the celebrate 1990 program.

Subd. 6. Trails and Waterways

| | |
|---|---|
| $ 9,213,000 | $ 9,663,000 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,137,000 | $ 1,157,000 |
| All-Terrain | $ 556,000 | $ 606,000 |
| Snowmobile | $ 3,471,000 | $ 3,541,000 |
| Water Recreation | $ 3,626,000 | $ 3,935,000 |
| Game and Fish | $ 423,000 | $ 424,000 |

$1,748,000 the first year and $1,748,000 the second year are for snowmobile grants-in-aid.

$35,000 appropriated in Laws 1988, chapter 686, article 1, section 11, for lease of the Paul Bunyan Trail does not cancel on June 30, 1989, and is available to the commissioner for this lease agreement until June 30, 1991.

$250,000 the second year is available from the water recreation account for a safe harbor program on Lake Superior. This appropriation is not available until the satisfactory completion of the legislative commission on Minnesota resources' north shore harbor study project.

Subd. 7. Fish and Wildlife Management

| | |
|---|---|
| $30,757,000 | $31,148,000 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 2,712,000 | $ 2,638,000 |
| Nongame Wildlife | $ 1,081,000 | $ 1,219,000 |
| Water Recreation | $ 394,000 | $ 394,000 |
| Wild Rice | $ 30,000 | $ 30,000 |
| Wildlife Acquis. | $ 715,000 | $ 715,000 |
| Game and Fish | $25,825,000 | $26,152,000 |

$685,700 in the first year and $685,700 the second year are appropriated from the game and fish fund for payments to counties in lieu of taxes on acquired wildlife lands and is not subject to transfer.

$769,000 the first year and $777,000 the second year are from the nongame wildlife management account in the special revenue fund for the purpose of nongame wildlife management. Any unencumbered balance remaining in the first year does not cancel but is available the second year.

$30,000 the first year and $30,000 the second year are available from the wild rice account for a cooperative agreement with the Cuyuna Development Corporation for an economic development project on wild rice and grains. This project is to be accomplished in consultation with Aitkin Growth, Inc.

$50,000 the first year and $50,000 the second year are available for a grant to Aitkin Growth, Inc. for the development of projects for added value to wild rice and other grains. Any unencumbered balance at the end of the first year shall not cancel, but shall be available for the second year.

$127,900 the first year and $127,900 the second year are available for deer and bear management to include emergency deer feeding. If the appropriation for either year is insufficient, the appropriation for the other year is available. The commissioner shall study the costs associated with emergency deer feeding and shall include the effect that the feeding project has on the deer population. This study shall be completed by January 1, 1991, and include a comparison of Minnesota's emergency deer feeding program to emergency deer feeding programs in other states.

Any balance remaining in the $80,000 appropriation made for elk management

in Laws 1987, chapter 404, section 22, does not cancel and is made available until June 30, 1991.

The commissioner shall seek to qualify money appropriated for reinvest in Minnesota, payments associated with Indian treaty agreements, and projects funded by legislative commission on Minnesota resources funds for federal matching funds available under the Wallop-Breaux program.

The commissioner shall make the development of fishing piers on the Mississippi river in areas easily accessible to inner city populations shall be a priority in allocating the funds used to construct fishing piers for the 1990-1991 biennium.

$100,000 the first year is from the game and fish fund to construct two barrier reefs on the south shore of Lake of the Woods for fish habitat improvement.

$250,000 the first year and $250,000 the second year are general fund base adjustments to the scientific and natural areas and county biological survey activities. $150,000 each year shall be directed to the county biological survey. One unclassified position is authorized in the general fund for this activity. $100,000 each year is for the scientific and natural areas activity.

$100,000 the first year and $100,000 the second year are available on a matching basis for private nonprofit organizations including, but not limited to, sporting groups and lake associations to conduct fish rearing and stocking for the department. The commissioner shall develop a process for the distribution of funds to organizations submitting proposals for this program. Notwithstanding any rules, regulations, or policies of the department to the contrary, the commissioner shall obtain a portion of the fish used for this pilot from private fish hatcheries. The commissioner shall ensure that fish obtained from private hatcheries comply with the health and genetic standards applied to fish raised by the department's hatcheries. Grant projects selected for this program must meet eligibility requirements for federal reimbursement from

Wallop-Breaux funds.

The commissioner shall contract with a private consultant outside state service to conduct a study of the cost-effectiveness of this program and the potential for continuation beyond the biennium. The study shall also include an analysis of the costs associated with the operation of a state fish hatchery to include at least building maintenance, personnel, supplies, and expenses as compared to the costs of private hatchery operations. The study shall be submitted to the legislature on or before January 1, 1991, analyzing the results of the project and making specific recommendations for future actions relative to public and private ventures. A work plan must be submitted and reviewed by the legislative commission on Minnesota resources for the project. Should the appropriation from either year be insufficient, the appropriation from the other year shall be made available.

$250,000 the first year and $250,000 the second year is from the water recreation account for the development of a program to control the spread of purple loosestrife and Eurasian water milfoil on Minnesota public waters.

$1,025,000 the first year and $1,025,000 the second year are appropriated from the general fund to the commissoner of natural resources for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands, established under Minnesota Statutes, section 40.43. Any unencumbered balance for the first year does not cancel but is available for use the second year.

Subd. 8. Enforcement

$12,631,000 $12,952,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 2,246,000 | $ 2,246,000 |
| All-Terrain | $ 152,000 | $ 152,000 |
| Snowmobile | $ 282,000 | $ 282,000 |
| Water Recreation | $ 1,972,000 | $ 1,972,000 |
| Game and Fish | $ 7,979,000 | $ 8,300,000 |

$1,124,300 the first year and $1,124,300 the second year are from the water recreation account for grants to counties for

boat and water safety.

The undercover operations unit within this division shall submit an annual finance report to the chair of the house appropriations committee and the chair of the senate finance committee by January 1 of each year detailing the expenditures for the previous fiscal year and projecting the expenditures for the forthcoming fiscal year.

Subd. 9. Field Operations Support

| $10,136,000 | $ 9,294,000 |
|---|---|

Summary by Fund

| | | |
|---|---|---|
| General | $ 5,401,000 | $ 4,669,000 |
| Game and Fish | $ 3,792,000 | $ 3,807,000 |
| Snowmobile | $ 11,000 | $ 11,000 |
| Water Recreation | $ 354,000 | $ 354,000 |
| Permanent School | $ 325,000 | $ 200,000 |
| Wildlife Acquis. | $ 253,000 | $ 253,000 |

$832,000 the first year and $492,000 the second year are for land sale costs under Minnesota Statutes, section 92.67, subdivision 3. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

The three complement positions for the department of natural resources lakeshore lease sale program are funded only until June 30, 1991.

If the appropriation made under Minnesota Statutes, section 92.46, subdivision 1, paragraph (d), for fiscal year 1990 is not expended, it is available for use in fiscal year 1991.

$500,000 is appropriated from the general fund as contributed capital for the professional services revolving account established to provide engineering and real estate management services to the department's operating unit. Positions established within this account are in the unclassified service.

Subd. 10. Regional Operations Support

| $ 4,751,000 | $ 5,022,000 |
|---|---|

Summary by Fund

| | | |
|---|---|---|
| General Fund | $ 3,818,000 | $ 4,077,000 |
| Game and Fish | $ 708,000 | $ 719,000 |
| Water Recreation | $ 225,000 | $ 226,000 |

Subd. 11. Special Services and Programs

$ 5,099,000 $ 4,928,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 3,769,000 | $ 3,698,000 |
| Forest Management | $ 182,000 | $ 184,000 |
| Nongame Wildlife | $ 176,000 | $ 50,000 |
| Snowmobile | $ 180,000 | $ 198,000 |
| Water Recreation | $ 487,000 | $ 493,000 |
| Wildlife Acquis. | $ 265,000 | $ 265,000 |
| Game and Fish | $ 40,000 | $ 40,000 |

$85,000 the first year and $85,000 the second year are for a grant to the Mississippi headwaters board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under its jurisdiction.

$18,000 the first year and $18,000 the second year are for department operating and administrative expenses associated with the Mississippi headwaters board grant and the implementation of the plan in areas along the river that are not included within the jurisdiction of the Mississippi headwaters board.

$126,000 the first year is from the nongame wildlife account for a planning grant to the Committee for an International Wolf Center for planning and program development for the wolf center.

$100,000 the first year is for a planning grant to the Kettle River Environmental Learning Center. Any unencumbered balance from the first year does not cancel, but is available for the second year.

Subd. 12. Administrative Management Services

$ 5,951,000 $ 5,885,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 2,436,000 | $ 2,353,000 |
| All-Terrain | $ 36,000 | $ 36,000 |
| Snowmobile | $ 529,000 | $ 529,000 |
| Water Recreation | $ 816,000 | $ 821,000 |
| Game and Fish | $ 2,134,000 | $ 2,146,000 |

The commissioner of employee relations shall transfer persons occupying classified or unclassified seasonal, part-time, or full-time positions with a full-time equivalency of 75 percent or greater in

the department of natural resources that are converted to full-time classified positions by the state departments appropriation act of 1989 to the same classification and pay step in the classified civil service without competitive examination as of June 30, 1989.

Sec. 22. ZOOLOGICAL BOARD 5,851,000 5,036,000

Approved Complement - 157

$125,000 the first year and $125,000 the second year are only for major maintenance and physical facilities upkeep at the zoo and are one-time appropriations.

$750,000 the first year is for a match of private dollars toward the coral reef shark exhibit. This is a one-time appropriation and is available for the biennium.

$65,000 the first year is a one-time appropriation for a contract with a post-secondary educational institution for horticultural activities and greening of the zoo.

$1,200,000 appropriated by Laws 1988, chapter 686, article 1, section 12, item (b), to renovate the water and filtration systems that serve the beluga whale facility, does not cancel on June 30, 1989, and is available until expended.

Sec. 23. POLLUTION CONTROL AGENCY

Subdivision 1. Total Appropriation 25,934,000 25,115,000

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 631.5 | 638.5 |
| General - | 190.5 | 190.5 |
| Special Revenue - | 115.5 | 132.5 |
| Federal - | 207.5 | 196.5 |
| Environmental - | 56 | 56 |
| Metro Landfill Contingency - | 2 | 2 |
| Motor Vehicle Transfer - | 18 | 18 |
| Building - | 23 | 23 |
| Petroleum Cleanup - | 19 | 20 |

Summary by Fund

| | | |
|---|---|---|
| General | $11,632,000 | $10,667,000 |
| Special Revenue | $ 3,817,000 | $ 4,249,000 |
| Environmental | $ 3,527,000 | $ 3,527,000 |
| Metro Landfill Abatement | $ 1,700,000 | $ 1,700,000 |
| Metro Landfill Contingency | $ 678,000 | $ 678,000 |
| Petroleum Cleanup | $ 1,425,000 | $ 1,432,000 |

| | | |
|---|---|---|
| Motor VehicleTransfer | $ 3,155,000 | $ 2,862,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Water Pollution Control
$ 5,522,000 $ 4,211,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 4,252,000 | $ 2,752,000 |
| Special Revenue | $ 1,270,000 | $ 1,459,000 |

$225,000 the first year is from the general fund to be transferred to the department of trade and economic development for the capital cost component grant program established under Minnesota Statutes, section 116.18, subdivision 3b, for the purpose of providing full grants to those municipalities awarded partial capital cost component grants in 1989.

This appropriation is only available upon certification by the pollution control agency that the construction plans for the affected projects meet established requirements and the appropriate construction security bonds have been obtained by the contractor for each project.

The total state stop payment amount that is withheld from communities completing wastewater treatment facility construction under the state-federal matching grants program must not exceed ten percent of the total state grant amount.

Notwithstanding any law to the contrary, agricultural land and land capable of being used as farmland in vegetable processing operations that is reasonably necessary to meet the requirements of pollution control laws or rules shall not be subject to the land ownership prohibitions of Minnesota Statutes, section 500.221.

Notwithstanding any other law to the contrary, municipalities on the needs list for state reimbursement of wastewater treatment facilities shall not have their position on the state needs list changed in any way as a result of local funding of wastewater treatment facilities under Minnesota Statutes, section 116.18, subdivision 3c.

Subd. 3. Air Pollution Control
$ 3,047,000 $ 3,515,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,891,000 | $ 1,891,000 |
| Special Revenue | $ 608,000 | $ 604,000 |
| Motor Vehicle Transfer | $ 548,000 | $ 1,020,000 |

$548,000 the first year and $1,020,000 the second year are available as a loan from the motor vehicle transfer fund to the vehicle emissions inspection account for the vehicle emissions inspection program. The loan shall be repaid from vehicle emissions inspection receipts. The authorized complement is increased by six positions the first year and by no more than 16 positions the second year. Of the complement for the second year no more than 15 shall be inspection waiver officers and not more than one shall be an inspection waiver officer supervisor. The agency shall allot no more than one waiver officer for each inspection station made operational during the biennium. Should the number of inspection stations made operational be less than 15, the total authorized complement shall be adjusted downward accordingly.

Subd. 4. Groundwater and Solid Waste Pollution Control

$ 7,813,000 $ 8,313,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 2,553,000 | $ 3,053,000 |
| Environmental Response | $ 2,890,000 | $ 2,890,000 |
| Metro Landfill Abatement | $ 1,700,000 | $ 1,700,000 |
| Metro Landfill Contingency | $ 670,000 | $ 670,000 |

All money in the environmental response, compensation, and compliance fund not otherwise appropriated, is appropriated to the pollution control agency for the purposes described in the environmental response and liability act, Minnesota Statutes, section 115B.20, subdivision 2, paragraphs (a), (b), (c), and (d). This appropriation is available until June 30, 1991.

All money in the metropolitan landfill abatement fund not otherwise appropriated is appropriated to the pollution control agency for payment to the metropolitan council and may be used by the council for the purposes of Minnesota Statutes, section 473.844. The council may not spend the money until

the legislative commission on waste management has made its recommendations on the budget and work program submitted by the council.

$1,000,000 the first year and $1,500,000 the second year are appropriated from the general fund for transfer to the environmental response, compensation, and compliance fund.

Any unencumbered balance from the metropolitan landfill contingency fund remaining in fiscal year 1990 does not cancel but is available for fiscal year 1991.

Subd. 5. Hazardous Waste Pollution Control

| | |
|---|---|
| $ 3,922,000 | $ 4,126,000 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,129,000 | $ 1,079,000 |
| Special Revenue | $ 1,366,000 | $ 1,613,000 |
| Motor Vehicle Transfer | $ 121,000 | $ 121,000 |
| Petroleum Cleanup | $ 1,306,000 | $ 1,313,000 |

$50,000 in the first year is for a grant to the Minnesota emergency responders training academy for hazardous materials handling training.

Subd. 6. Regional Support

| | |
|---|---|
| $ 52,000 | $ 52,000 |

Summary by Fund

| | | |
|---|---|---|
| Environmental | $ 41,000 | $ 41,000 |
| Motor Vehicle Transfer | $ 2,000 | $ 2,000 |
| Petroleum Cleanup | $ 9,000 | $ 9,000 |

Subd. 7. General Support

| | |
|---|---|
| $ 3,131,000 | $ 3,216,000 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,807,000 | $ 1,892,000 |
| Environmental | $ 596,000 | $ 596,000 |
| Metro Landfill Contingency | $ 8,000 | $ 8,000 |
| Motor Vehicle Transfer | $ 37,000 | $ 37,000 |
| Special Revenue | $ 573,000 | $ 573,000 |
| Petroleum Cleanup | $ 110,000 | $ 110,000 |

The program permit and assessment fees of the pollution control agency shall equal as nearly as possible the amount appropriated from the special revenue fund for the biennium and may not include any amounts to cover the cost items in Minnesota Statutes, section 16A.128, subdivision 1a, except to the extent that the

cost items are included in the appropriations.

Beginning with fiscal year 1990, any new fee or fee increase adopted by the pollution control agency under Minnesota Statutes, chapter 14, shall be subject to legislative approval during the next biennial budget session following adoption. The commissioner shall submit a report of fee adjustments to the legislature as a supplement to the biennial budget. Any new fee or fee increase shall remain in effect unless the legislature passes a bill disapproving the new fee or fee increase. Any fee or fee increase disapproved by the legislature shall become null and void on July 1 following adjournment.

Subd. 8. Waste Tire Management

| | | |
|---|---|---|
| Motor Vehicle Transfer | $ 2,447,000 | $ 1,682,000 |

This appropriation is from the motor vehicle transfer fund for use in cleanup of waste tire dumps, as prioritized by the agency. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

| | | |
|---|---|---|
| Sec. 24. OFFICE OF WASTE MANAGEMENT | 1,655,000 | -0- |

Summary by Fund

| | | |
|---|---|---|
| General | $ 1,655,000 | $ -0- |

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 22 | 10 |
| General - | 12 | 0 |
| Building - | 10 | 10 |

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

| | | |
|---|---|---|
| Sec. 25. TRADE AND ECONOMIC DEVELOPMENT | | |
| Subdivision 1. Total Appropriation | 39,745,000 | 37,817,000 |

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 227.7 | 231.7 |
| General - | 188.7 | 188.7 |
| Special Revenue - | 3 | 3 |
| Motor Vehicle Transfer - | 3 | 3 |
| Trunk Highway - | 16 | 16 |
| Federal - | 17 | 21 |

Summary by Fund

| | | |
|---|---|---|
| General | $38,884,000 | $36,956,000 |
| Motor Vehicle Transfer | $ 196,000 | $ 196,000 |
| Trunk Highway | $ 665,000 | $ 665,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

The following accounts within the special fund are abolished: 1991 sports festival, amateur athletic facilities, sport event lead network, Minnesota Olympic development, and the celebrate 1990 program.

All funds received by the department as a result of interagency agreements for the celebrate 1990 program shall be deposited as nondedicated receipts to the general fund. The commissioner of finance shall add a like amount from the general fund to the appropriations in this section. This is a one-time appropriation.

Subd. 2. Minnesota Trade Office

$2,307,000 $2,319,000

There is appropriated funding for a trade office in Canada.

The department may not extend the lease agreement for space in the world trade center without the written approval of both the chair of the house appropriations committee and the chair of the senate finance committee. The department shall present a proposed lease agreement to the chairs of the house appropriations and senate finance committees in time for the department to find alternative space should the lease agreement not be approved.

Subd. 3. Business Promotion

$4,413,000 $4,313,000

Summary by Fund

| | | |
|---|---|---|
| General | $4,217,000 | $4,117,000 |
| Motor Vehicle Transfer | $ 196,000 | $ 196,000 |

$170,000 the first year and $170,000 the second year are for the Minnesota motion picture board. This appropriation is available only upon receipt by the board of $1 in matching contributions of money or in kind from nonstate sources for every $3 provided by this appropriation.

Funding for administration of the celebrate 1990 program is a one-time appropriation to be used for administration of the 1990 program only.

$800,000 the first year and $800,000 the second year are for a grant to Minnesota Project Outreach.

$125,000 the first year and $125,000 the second year are for the state's match for the federal small business development centers. The department shall evaluate the effectiveness of these centers and report to the legislature in January of 1991 on the cost effectiveness of these centers. If funding in one year is insufficient the other year's appropriation is available.

$1,300,000 the first year and $1,300,000 the second year is for the Minnesota Jobs Skills Partnership.

Funding for grants through the jobs skills partnership program appropriated by Laws 1987, chapter 386, article 10, section 9, does not cancel and may be used for further grants.

The three positions and their incumbents in the Jobs Skills Partnership are transferred to trade and economic development.

$150,000 appropriated to the amateur sports commission by Laws 1988, chapter 686, article 1, section 16, item (b), for operation of the Blaine sports facility is available until June 30, 1990.

The commissioner of finance may transfer money from the general fund up to $225,000 to the national sports center special revenue account under Minnesota Statutes, section 16A.126. The transfer must be repaid to the general fund by the amateur sports commission from proceeds of the operation of the national sports center by June 30, 1991.

Subd. 4. Tourism
$8,195,000 $8,095,000

Summary by Fund

| | | |
|---|---|---|
| General | $7,530,000 | $7,430,000 |
| Trunk Highway | $ 665,000 | $ 665,000 |

$125,000 the first year and $125,000 the second year is for computer needs at the

travel information centers. This appropriation is from the general fund and is a one-time appropriation.

$40,000 the first year and $40,000 the second year are from the trunk highway fund for funding of a regional office.

Notwithstanding any law to the contrary, the department of transportation shall provide space free of charge to the office of tourism for travel information centers. The department of transportation shall provide highway maps free of charge for use and distribution through the travel information centers. The department of transportation shall not charge the office of tourism for any regular expenses associated with the operation of the travel information centers.

$75,000 of this appropriation is to the office of tourism for promoting the cross country ski trails program and providing the public with information about the importance of the program to tourism in Minnesota and the importance of maintenance and development of cross country ski trails. $100,000 the first year is for a grant to Moscow on the Mississippi for a year-long series of events and exchanges between Minnesota and the Soviet Union. This appropriation is available until expended. In order to develop maximum private sector involvement in tourism, $2,200,000 the first year and $2,200,000 the second year of the amounts appropriated for marketing activities are contingent upon receipt of an equal contribution of nonstate sources that have been documented by the commissioner of finance. Up to one-third of the match may be given in in-kind contributions.

Subd. 5. Administration

| | |
|---|---|
| $ 1,491,000 | $ 1,491,000 |

Subd. 6. Community Development

| | |
|---|---|
| $22,358,000 | $20,618,000 |

$5,664,000 the first year and $5,664,000 the second year are for economic recovery grants. The department of trade and economic development may grant up to $100,000 from the economic recovery fund to a city of under 600 population that has experienced economic hardship

in the last 12 months due to the loss of employment. The grant may be used to establish a revolving loan fund or to undertake public improvements to enhance economic development prospects for the city.

$500,000 the first year is for a grant to the Duluth zoo. The grant is only available after the commissioner of finance has determined that this grant has been matched with $500,000 from nonstate sources.

$1,400,000 the first year is a one-time grant to the Minnesota Advanced Manufacturing Technology Center.

$5,000,000 the first year and $6,075,000 the second year are for the targeted neighborhoods revitalization and financing program.

$2,000,000 the first year and $3,000,000 the second year are for payment of a grant to the metropolitan council for metropolitan area regional parks maintenance and operation.

$700,000 the first year is for Minnesota marketplace grants and is available for either year.

$350,000 appropriated by Laws 1988, chapter 686, article 1, section 14, item (g), for the Minnesota marketplace program does not cancel on June 30, 1989, and is available for the biennium ending June 30, 1991.

$1,500,000 the first year is a one-time general fund grant to capitalize a tourism loan account in the special revenue fund.

$1,000,000 the first year is for funding of the celebrate 1990 grants. Only existing applications that have not received funding shall be considered for funding. Funding appropriated in the first year of the biennium for celebrate 1990 grants is available for the second year. This is a one-time appropriation.

$350,000 the first year and $350,000 the second year is for the community and neighborhood development organization pilot project. The three complement positions added for this program are in the unclassified service.

Any remaining balance in the energy and economic development fund after the appropriations made in Laws 1987, chapters 386 and 404, section 26, is canceled to the general fund.

A city may grant the funds received under Laws 1988, chapter 686, article 1, section 14, paragraph (o), to an incorporated development society or organization of the state that, in the city's opinion, will use the money for the best interests of the joint consolidated district area in developing the economic and agricultural resources of the area.

$250,000 the first year and $250,000 the second year are for community development corporations. This appropriation is only available to the extent that it is matched by a community development corporation with $2 of nonstate money for every $3 of state money.

$200,000 the first year and $200,000 the second year are for a grant to the Women's Economic Development Corporation. This is a one-time appropriation.

$100,000 the first year and $100,000 the second year are for a grant to the Minnesota cooperation office. This is a one-time appropriation.

$851,000 the first year and $2,686,000 the second year are for grants to pay principal and interest due on bonds issued by the city of Minneapolis for the Great River Road Project, the city of St. Paul for the Como Park conservatory, suburban Hennepin regional park district for land acquisition and development, Washington County for land acquisition and development, and the Western Lake Superior Sanitary District. The amounts needed each year for the Western Lake Superior Sanitary District are transferred to the pollution control agency for payment of this grant. These amounts shall be continued in the base and adjusted only for the normal reduction in principal and interest payments.

Notwithstanding any law to the contrary, suburban Hennepin regional park district may issue $1,700,000 in general obligation bonds to acquire and develop

land for a regional park on Lake Minnetonka. Bonds issued under this authority are not included in the net debt of the park district as defined in Minnesota Statutes, section 383B.73, subdivision 2.

Notwithstanding any law to the contrary, Washington County may issue $1,500,000 in general obligation bonds to acquire and develop land for a regional park on Big Marine Lake.

$60,000 the first year and $60,000 the second year are for a grant to the Minnesota High Tech Corridor.

$50,000 the first year is for a grant to study the feasibility, location, and design of a museum of transportation in St. Paul.

$500,000 the first year is for a loan to the city of St. Paul for costs relating to the restoration, maintenance, and operation of the St. Paul union depot concourse. The loan must be repaid, without interest, by June 30, 1994.

$100,000 the first year and $100,000 the second year are for the small cities federal match.

$200,000 appropriated by Laws 1988, chapter 686, article 1, section 14, item (e), for a symposium on technical innovation and entrepreneurship is available until December 31, 1989.

$75,000 the first year and $75,000 the second year are for a grant to the Minnesota Inventors' Congress. The purposes of this grant include establishment of a focal point for development of an invention support system including an advisory council comprised of representatives from the public and private sectors; coordination of an invention support system, primarily in the form of semi-autonomous regional centers, while protecting, enriching, and promoting existing activities such as the Minnesota Inventors' Congress, the Minnesota Inventors' Hall of Fame, the Inventions and Technology Transfer Corporation, the Inventors' Club, and the Young Inventors' Fair; promotion of invention research, with resultant knowledge to be disseminated to Minnesota educational systems; and development of a fiscal design

for the statewide invention support system. The Minnesota Inventors' Congress shall submit to the commissioner of trade and economic development and to the chairs of the senate finance committee and house appropriations committee by December 31, 1989, an implementation plan for its activities under this grant and shall report to the commissioner of trade and economic development by June 30 of each year on its activities in carrying out the purposes of this grant.

Subd. 7. Policy Analysis, Science, and Technology

$ 1,191,000 $ 1,191,000

$50,000 the first year and $50,000 the second year are for Quality Council grants.

$120,000 the first year and $120,000 the second year are for a grant to Minnesota Project Innovation.

Subd. 8. Base Cut

$ (210,000) $ (210,000)

The base cut must be allocated among the agency's programs by the agency head.

Notwithstanding any law to the contrary the Greater Minnesota Corporation may not reduce its commitment to the Minnesota advanced manufacturing technology center project.

$800,000 of any funds except those designated by law specifically for agricultural related purposes received by the Greater Minnesota Corporation through an appropriation, a transfer from another state fund, investment income, fees, and other charges, repayment of loans, royalty and dividend income and lottery proceeds are transferred to the department of trade and economic development for deposit in the capital access account in the special revenue fund for the capital access program.

Subd. 9. Greater Minnesota Corporation Reallocations

$1,000,000 the first year of any funds except those designated by law specifically for agricultural related purposes received by the Greater Minnesota Corporation through an appropriation, a

transfer from another state fund, investment income, fees, and other charges, repayment of loans, royalty and dividend income and lottery proceeds shall be transferred to Minnesota Project Innovation by October 1, 1989, for the purposes of providing research bridge grants. The commissioner of trade and economic development shall be responsible for coordinating the grant. Upon written notice from the commissioner of trade and economic development, the Greater Minnesota Corporation shall transfer the funds requested to Minnesota Project Innovation.

$150,000 the first year of any funds except those designated by law specifically for agricultural related purposes received by the Greater Minnesota Corporation through an appropriation, a transfer from another state fund, investment income, fees, and other charges, repayment of loans, royalty and dividend income, and lottery proceeds shall be transferred by August 1, 1989, to the Western Five Community Development Corporation for the purpose of establishing a statewide system of aiding small businesses in preparing proposals for and negotiating federal government procurement contracts. The Western Five Community Development Corporation shall cooperate with the other community development corporations in the state to develop this statewide system. Responsibilities of the community development corporations may include preparation and negotiation of federal government procurement proposals on behalf of small businesses and administration of federal government procurement contracts. This funding must be matched on a dollar-for-dollar basis from nonstate sources.

| | | |
|---|---|---|
| Sec. 26. AMATEUR SPORTS COMMISSION | 603,000 | 428,000 |

Approved Complement - 7

$20,000 of the appropriation is for establishing and promoting programs for ringette hockey.

$175,000 the first year is appropriated to the amateur sports commission for a grant to a joint recreation board made up

of three or more municipalities for feeder hills. This appropriation is to be matched with $50,000 from sources other than the state general fund. This appropriation is available until June 30, 1991.

Notwithstanding any law to the contrary, the Minnesota state high school league shall develop a plan to establish a two-class state high school hockey championship tournament. The high school league shall report to the legislature on its plan no later than August 15, 1990. Beginning in the 1990-1991 school year the high school league shall conduct a two-class high school hockey championship. The requirement supersedes any inconsistent provision of H.F. No. 654 notwithstanding the date and time of day of final enactment.

The amateur sports commission may not enter into any agreement obligating it or the state to share in the operation of any amateur sports facility. The commission may not enter into any agreement that would commit the commission or the state into sharing in the profit or loss of any amateur sports facility. This section does not apply to the national sports center at Blaine.

Sec. 27. HOUSING FINANCE AGENCY

Subdivision 1. Total Appropriation 12,583,000 12,584,000

Approved Complement - 134

Spending limit on cost of general administration of agency programs:

| 1990 | 1991 |
|---|---|
| $7,130,000 | $7,560,000 |

This appropriation is for transfer to the housing development fund for the programs specified.

$225,000 the first year and $225,000 the second year are for housing programs for the elderly under Minnesota Statutes, section 462A.05, subdivision 24.

$2,115,000 the first year and $2,115,000 the second year are for home ownership assistance under Minnesota Statutes, section 462A.21, subdivision 8.

$1,887,000 the first year and $1,887,000 the second year are for tribal Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 14, of which $125,000 the first year and $125,000 the second year are for a demonstration program to make off-reservation loans in combination with bond proceeds from the agency.

$233,000 the first year and $233,000 the second year are for urban Indian housing programs under Minnesota Statutes, section 462A.07, subdivision 15, to be distributed by the agency without regard to any allocation formula.

$4,842,000 the first year and $4,842,000 the second year are for housing rehabilitation and accessibility loans under Minnesota Statutes, section 462A.05, subdivisions 14a and 15a.

$569,000 the first year and $569,000 the second year are for temporary housing programs under Minnesota Statutes, sections 462A.05, subdivision 20; and 462A.21.

Notwithstanding any law to the contrary, in the event that the housing finance agency assumes servicing responsibility for its home improvement loans, energy loans, and rehabilitation loans, the agency may apply for an increase in its complement and administrative cost ceiling through the regular legislative advisory commission process.

Subd. 2. Urban and Rural Homesteading

$187,000 the first year and $188,000 the second year are for a pilot project for grants to establish a rural and urban homesteading program.

Subd. 3. Governor's Housing Commission

$1,500,000 the first year and $1,500,000 the second year are for low-income rental housing. This appropriation may not be used for housing loans or rental subsidies in neighborhoods eligible to participate in the targeted neighborhoods revitalization and financing program.

$750,000 the first year and $750,000 the second year are for the housing preservation program.

$50,000 the first year and $50,000 the second year are for capacity building grants.

$25,000 the first year and $25,000 the second year are for the home equity conversion loan counseling program.

$25,000 the first year and $25,000 the second year are for transfer to the commissioner of jobs and training for accessible housing information grants.

$25,000 the first year and $25,000 the second year are for the home sharing program.

$100,000 the first year and $100,000 the second year are for the acquisition, rehabilitation, or construction of transitional housing units. The commissioner of the Minnesota housing finance agency may transfer up to $100,000 of this amount to the commissioner of jobs and training for the transitional housing program established under Minnesota Statutes, section 268.38.

$50,000 the first year and $50,000 the second year is for the acquisition, rehabilitation, or construction of affordable housing units for migrant laborers. To the greatest extent possible, this amount must be combined with nonpublic money from nonprofit organizations, interested persons, and private entities engaged in the business of producing and processing agricultural products.

Sec. 28. STATE PLANNING AGENCY 6,105,000 6,505,000

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 113 | 113 |
| General - | 80.5 | 80.5 |
| Special Revenue - | 4.5 | 4.5 |
| Revolving - | 22 | 22 |
| Federal - | 6 | 6 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 5,630,000 | $ 6,030,000 |
| Special Revenue | $ 475,000 | $ 475,000 |

$377,000 the first year and $377,000 the second year are for regional planning grants to regional development commissions organized under Minnesota Statutes, sections 462.381 to 462.396.

Until June 30, 1991, for state and federal

grants distributed by state agencies to regions of the state not having a regional development commission, the state agency administering the grant program may assess the program for administrative costs incurred by the agency that normally are incurred by the commission.

$22,000 the first year and $22,000 the second year are for the Council of Great Lakes Governors.

During the biennium any seminars or training sessions regarding federal issues for federal budgeting that are conducted by the Washington office shall be made available to legislators and legislative staff. The Washington office shall notify the legislature regarding the timing of such seminars.

The commissioner shall contract with an independent consultant to explore future directions for Minnesota in land management information systems. This study shall examine interagency cooperation, public and private venture potential, the status of geographic information systems planning as it applies to Minnesota, the role that the land management information center should play in future development of an overall system, and development of a long-range strategy for Minnesota's role in providing the appropriate services to agencies and political subdivisions. The study shall also explore the activities of other states and nations in the area of geographic information systems. The study must be accomplished in conjunction with the information policy office and be compatible with the long-range information management architecture being developed by the information policy office. A final report shall be submitted to the legislature by January 1, 1991, indicating recommendations for future actions.

The state planning agency shall study the effects on the state's transportation systems, methods of storage, public safety systems, and state health concerns of any incinerator to be contructed in Minnesota that is designed to burn hazardous wastes. The report shall include specific recommendations and shall be delivered to the legislature and the affected state

agencies by January 1, 1991.

$500,000 the second year is for one-third of the state's membership fee in the Great Lakes Protection Fund. The governor may enter as a signatory party in the Great Lakes Protection Fund. The fund is created as a permanent endowment to advance the principles, goals, and objectives of the Great Lakes Toxic Substance Control Agreement, executed by the eight Great Lakes governors in May 1986, and to ensure the continuous development of needed scientific information, new cleanup technologies, and innovative methods of managing pollution problems as a cooperative effort in the Great Lakes region.

The governor may enter the state as a signatory party in the Great Lakes Protection Fund, subject to approval by the legislature. After approval, the governor shall do all things necessary or incidental to participate in the Great Lakes Protection Fund, as spelled out in its bylaws and articles of incorporation.

If congressional consent to the Great Lakes Protection Fund carries with it conditions that materially change the provisions agreed to by the party states, the state reserves the option to terminate further participation in the fund.

$100,000 the first year and $100,000 the second year are for demonstration grants under the youth employment and housing program to eligible organizations as defined in Minnesota Statutes, section 268.361, subdivision 4. $75,000 each year is for a grant to an eligible organization in the city of Bemidji.

$250,000 the first year and $250,000 the second year is for the Way to Grow school readiness program. $125,000 the first year and $125,000 the second year must be used for a project located within a city of the first class located within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. $125,000 the first year and $125,000 the second year must be used for a project located within a city of the second class located within the metropolitan area as defined in Minnesota Statutes, section

473.121, subdivision 2. This is intended to be a nonrecurring appropriation and must not be included in the budget base for the 1992-1993 biennium.

The state planning agency shall study the administrative costs of local units of government and shall report to the legislature by January 1, 1990, on the level and growth of administrative costs and alternatives for controlling future growth.

$100,000 the first year and $100,000 the second year are for the Minnesota environmental education board. Any appropriations for the board made by S.F. No. 262 serve to reduce these appropriations.

Sec. 29. MINNESOTA FUTURE RESOURCES FUND

| | | |
|---|---|---|
| Subdivision 1. Total Appropriation | 9,975,000 | 8,615,000 |
| Approved Complement - 36.8 | | |

The appropriations in this section are from the Minnesota future resources fund.

The amounts that may be spent from this appropriation for each activity are more specifically described in the following subdivisions.

For all appropriations in this section, if the appropriation for either year is insufficient, the appropriation for the other year is available for it.

| | | |
|---|---|---|
| Subd. 2. Legislative Commission on Minnesota Resources | 340,000 | 340,000 |

For the biennium ending June 30, 1991, the commission shall review the work programs and progress reports required under this section.

| | | |
|---|---|---|
| Subd. 3. Department of Natural Resources | 2,189,000 | 2,089,000 |
| Approved Complement - 21 | | |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Acquisition of Private Exploration Data

| | |
|---|---|
| $ 75,000 | $ 75,000 |

Approved Complement - 2

To acquire and catalog private drill core

and other materials, microfilm appropriate data, and make all this information permanently available for public use.

(b) St. Louis County Tract Index
$ 40,000 $ 40,000

This appropriation is for a grant to St. Louis county to develop a computerized tract index system that will make it possible to easily determine severed mineral ownership on tracts with potential mineral development possibilities. This appropriation is contingent upon a $100,000 match from St. Louis county.

(c) Groundwater Sensitivity
$362,000 $362,000

Approved Complement - 1

To provide guidelines describing where contamination has or is likely to reach the groundwater supply as determined by hydrogeologic conditions, water use, land use, or other factors and make these tools available for appropriate state and local action.

(d) River Bank and Meander Management
$100,000 $100,000

This project shall address the need to reduce losses due to river flooding by developing comprehensive information on river reaches prone to channel shifts and low-cost erosion and sedimentation control techniques.

(e) Development of Forest Soil Interpretations
$ 25,000 $ 25,000

This appropriation is for a grant to Beltrami county to develop a system of forest soil interpretations and characteristics in which the information from county soil surveys is put into a computerized format, thus insuring optimum utilization of the survey information in forested counties.

(f) Urban Forestry
$ 50,000 $ 50,000

Approved Complement - 1

To accelerate the community forestry assistance program.

(g) Impacts of Forest Road Systems

$ 85,000 $ 85,000

To determine how present and planned forest road networks expansion and upgrading will impact forest uses.

(h) Statewide Public Recreation Map
$285,000 $285,000

Approved Complement - 3

To publish and provide for sale a statewide series of recreational maps displaying the location of various public recreational opportunities, including county-managed facilities. When this project is completed, the map project is expected to be self-sustaining. This project is to serve as a pilot for the development of a comprehensive geographic information system in the department.

(i) Camper Survey
$ 15,000 $ 15,000

For a cooperative matching program contingent upon the office of tourism providing $30,000 and the Minnesota Association of Campground Owners providing $10,000 to better understand and market camping in Minnesota.

(j) American Youth Hostel Pilot Program
$130,000 $130,000

Approved Complement - 2

To establish as a demonstration project an American Youth Hostel facility at an appropriate site. Consultation with the Minnesota historical society is expected.

The commissioner may contract for the operation of the pilot youth hostel project without complying with the competitive bidding requirements of Minnesota Statutes, chapter 16B.

(k) Trails Planning and Management
$ 64,000 $ 64,000

Approved Complement - 1

To prepare a statewide trail plan that coordinates the appropriate agencies, including the department of transportation's rail banking program, and addresses the issue of acquisition and development priorities, procedures, and responsibilities for linear corridor opportunities.

(l) Trail Right-of-Way Protection

$ 75,000 $ 75,000

To provide for innovative ways of obtaining public opportunity to use high priority linear corridors for recreation, with emphasis on less than fee interests, and for appropriate betterments.

(m) Ridgeline Hiking Trail

$ 78,000 $ 78,000

Approved Complement - 1

This appropriation is for a grant to the Superior Hiking Trail Association for planning, development, and limited use of easement acquisition of at least a segment of the trail between Gooseberry Falls and Two Harbors. The use of conservation corps resources is strongly encouraged. Up to $70,000 is available to the department for planning and administrative assistance. Available federal and private money is appropriated.

(n) North Shore Harbors Study

$100,000 $ -0-

This appropriation is for a grant to the North Shore Management Board to determine the best location for protected harbors on the north shore of Lake Superior.

(o) Duluth Area Breakwater

The appropriation for this purpose in Laws 1987, chapter 404, section 30, subdivision 3, item (g), remains available until June 30, 1991.

This carryforward appropriation is contingent upon additional funding of $500,000 from the city of Duluth and state and federal money necessary for total funding of a breakwater and public access on Lake Superior within the city of Duluth.

In the event that the required match from the city of Duluth is not provided, this appropriation shall be made available for implementation of the north shore harbor study funded in this section.

(p) Mississippi River Interpretive Center Planning

$ 30,000 $ 30,000

This appropriation is for a grant to the city of Winona to plan for an upper Mississippi river interpretive center as outlined in the state historic interpretive center plan.

(q) Urban Fishing Program

$175,000 $175,000

Approved Complement - 1

To expand urban fishing opportunities and awareness.

(r) North American Waterfowl Plan Coordination

$100,000 $100,000

Approved Complement - 1

To coordinate the implementation of waterfowl and wetland protection and enhancement programs and to survey lakes.

(s) Swan Lake Area Wildlife Project

Approved Complement - 2

The appropriation for this purpose in Laws 1987, chapter 404, section 30, subdivision 3, item (j), remains available until June 30, 1991.

The appropriation may be spent for acquisition, habitat development, management, and evaluation. Matching money is appropriated.

(t) County Biological Survey

$ 75,000 $ 75,000

Approved Complement - 2

To continue and expand assessment of Minnesota's rare natural resources in a systematic county-by-county manner.

(u) Purple Loosestrife Research

$100,000 $100,000

To initiate cooperative research with the University of Minnesota to document the genetic diversity and study the biology and ecology of Minnesota purple loosestrife populations to enhance the use of nonchemical control methods and evaluate the potential use of biological control agents, thereby providing alternatives to chemical control methods. Matching

money is appropriated.

(v) Local Volunteer Coordination

$ 25,000 $ 25,000

This appropriation is for a grant to Polk county central cities community center to improve coordination between volunteer groups and resource managers, which can act as a model for other agencies. Matching money is appropriated.

(w) Accelerated Land Exchange

$100,000 $100,000

Approved Complement - 2

To complete for presentation to the land exchange board a package for exchange of school trust fund lands in state parks and accelerate the exchange of school trust fund lands in the BWCA and other state units.

(x) Alternative Dispute Resolution

$ 60,000 $ 60,000

Approved Complement - 1

To increase the understanding and utilization of alternative dispute resolution techniques.

(y) LAWCON Administration

$ 40,000 $ 40,000

Approved Complement - 1

The appropriation is for administration of the federal land and water conservation fund.

Subd. 4. Pollution Control Agency 1,466,000 1,466,000

Approved Complement - 12.8

Two of these positions are for contractual work with the department of natural resources in the groundwater sensitivity program.

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Redesign Ambient Groundwater Monitoring Program

$ 98,000 $ 98,000

Approved Complement - 1.5

To examine the current ambient groundwater monitoring program's shortcomings, analyze state and local groundwater quality information needs, and recommend an improved design for the statewide monitoring program.

(b) Minnesota River Basin Water Quality Monitoring

$350,000 $350,000

Approved Complement - 2

A joint effort of federal, state, and local government units that will assess mainstem, major tributary, and groundwater nonpoint source inputs to the Minnesota river for the purpose of targeting future water quality management programs. Equal match of state dollars is required, including local units of government coordinated through the south central planning project, who will provide in-kind service or local money to assist in data gathering. Matching money is appropriated.

(c) PCB's and Mercury in Public Waters

$250,000 $250,000

Approved Complement - 1

To identify the sources and pathways of PCB's and mercury to the St. Louis river and Mississippi river systems, Sand Point, and Crane Lake to develop processes and procedures to reduce the sources and conditions causing mercury accumulation in fish.

(d) Biological Manipulation of Wastewater Treatment Ponds

$ 73,000 $ 73,000

Approved Complement - 1

To determine what factors cause daphnia to thrive in some sewage stabilization ponds and not in others, in order to decrease sewage treatment costs.

(e) Municipal Solid Waste Materials Recovery

$200,000 $200,000

Approved Complement - 1

To determine the changes municipal solid waste undergoes when incinerated and

to measure how removing specific waste streams from municipal solid waste will affect the operation of incinerators.

(f) Medical Waste Incinerator Evaluation

$125,000 $125,000

Approved Complement - 1

To evaluate air and ash pollutants from medical waste incinerators to determine the variety and quantity of the pollutants and to determine what standard pollution control strategies are necessary and cost effective.

(g) Dioxin From Incinerator Emissions

$148,000 $148,000

Approved Complement - 1

To monitor and study the pathways dioxin travels from a waste incinerator into the human food chain, in order to evaluate and improve the existing health risk assessment model currently used in the environmental review and permitting process for incinerators.

(h) Household Batteries Recycling and Disposal

$ 45,000 $ 45,000

Approved Complement - 1

To study the impacts of battery management on the environment, alternative management methods or other identified research needs regarding the disposal of household batteries.

(i) Ash as Soil Amendment

$ 50,000 $ 50,000

Approved Complement - .3

To research and promote the beneficial use of solid waste incinerator ash in agriculture.

(j) Health Risk Assessment Modeling for Composting

$ 40,000 $ 40,000

To develop a health risk assessment model for municipal waste compost and compare risks with other waste management methods.

(k) Contaminants in Minnesota Wildlife

| | | | |
|---|---|---|---|
| | $ 87,000 | $ 87,000 | |

Approved Complement - 1

To determine the amount and extent of toxic contaminants in Minnesota wildlife.

Subd. 5. Department of Trade and Economic Development Recreation Grants Program

| | | | |
|---|---|---|---|
| | $1,250,000 | $ -0- | |

The appropriation is for acquisition and development of recreation open space projects requested by local units of government. Priority is for projects that receive federal grants. This appropriation is for grants of up to 50 percent of the total cost, or 50 percent of the local share if federal money is used. The per project limit for state grants is $400,000. During the biennium, notwithstanding any other law to the contrary, grants are not contingent upon the matching of federal grants. State grants are limited to one per local unit for the biennium.

One-half of this appropriation is for projects outside the metropolitan area.

| | | | |
|---|---|---|---|
| Subd. 6. State Planning Agency | | 280,000 | 280,000 |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Statewide Land Use Update

| | | | |
|---|---|---|---|
| | $225,000 | $225,000 | |

The appropriation is for a grant to the International Coalition to do a statewide land use update of all land and water resources.

(b) Hydrologic Model Applications

| | | | |
|---|---|---|---|
| | $ 55,000 | $ 55,000 | |

The appropriation is for a grant to the International Coalition to produce a state-of-the-art tool for water decision making that combines standard watershed modeling and geographic information systems technology.

| | | | |
|---|---|---|---|
| Subd. 7. Department of Health | | 369,000 | 369,000 |

Approved Complement - 2

The amounts that may be spent from this appropriation for each activity are as

follows:

(a) Pesticide Breakdown Products Survey

$165,000 $165,000

Approved Complement - 1

To identify the occurrence and level of pesticide breakdown products in selected public and private water wells.

(b) Abandoned Well and Monitoring Well Technologies

$100,000 $100,000

To research and apply technical methods used in the petroleum industry to remove obstructions from wells so that they can be properly abandoned, and to research and develop methods of detecting leaking monitoring wells.

(c) Indoor Air Quality Assessment Protocol

$ 54,000 $ 54,000

Approved Complement - 1

To develop a method for assessing and mitigating indoor air quality problems in homes, and to transfer this information to the private sector for implementation.

(d) Community Lead Abatement Project

$ 50,000 $ 50,000

The appropriation is for a grant to the community lead abatement project to determine the benefits of cleanup of lead contaminated exterior and interior dust on children's blood levels.

Subd. 8. Department of Agriculture 295,000 295,000

Approved Complement - 1

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Pesticide Use Survey

$ 45,000 $ 45,000

Approved Complement - 1

To develop an accurate map of pesticide use, through the use of surveys, and then compare that use with the distribution and quality of the state's water resources.

(b) Biological Control of Pests

$250,000 $250,000

To collect and identify potential biological control agents, and to develop and test biological control agents for a variety of pests. A grant request to supplement this appropriation must be submitted to the U.S. Department of Agriculture and the results reported to the legislative commission on Minnesota resources.

Subd. 9. Minnesota Historical Society 347,000 347,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) State History Center Exhibit Planning

$100,000 $100,000

To plan exhibits for the new state history center. Matching money is appropriated.

(b) County and Local Historical Outreach

$ 40,000 $ 40,000

To transfer preservation principles and options to county and local historical societies.

(c) Historical Data Base

$ 50,000 $ 50,000

The appropriation is to organize and automate one quarter of the collections, which will increase public awareness and significantly improve management of these rare materials. Matching money is appropriated.

(d) Heritage Trails

$ 50,000 $ 50,000

The appropriation is for a project to interpret and preserve historic trails for public use and tourism.

(e) Heirloom Seeds

$ 20,000 $ 20,000

To provide a gardening and "heirloom seeds" interpretation for the Oliver H. Kelly farm. A by-product of this proposal will be the sale of "heirloom seeds." It is anticipated that sale of seeds will allow the program to be self-supporting. Matching money is appropriated.

(f) Preservation of Historic Shipwrecks

$ 37,000 $ 37,000

To comply with federal law, a process must be developed to complete an extensive literature search of North Shore wrecks and gather available field data. Results will yield a plan for further exploration and historical designation of important wrecks.

(g) Implement Plan for Archaeological Resources.

$ 50,000 $ 50,000

To develop a project with the Institute for Minnesota Archaeology and with the state archaeologist that will further aid in the development and identification of the state's archaeological resources. The project must be in accordance with Minnesota Statutes, sections 138.31 to 138.42 and 307.08.

Subd. 10. Science Museum of Minnesota 255,000 255,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Water Education for Minnesota

$150,000 $150,000

For a cooperative effort involving the Science Museum of Minnesota, the Freshwater Foundation, and the department of education to develop a program to better inform Minnesotans about crucial issues of water use and quality.

(b) North Central Minnesota Water Quality Education

$ 75,000 $ 75,000

For a contract with the central Minnesota water quality project to provide water quality education and information to 14 north central counties.

(c) Aquatic Invertebrate Data Base Development

$ 30,000 $ 30,000

To develop a central data base on aquatic invertebrates that are sensitive indicators of surface water quality.

| | | |
|---|---|---|
| Subd. 11. University of Minnesota | 2,469,000 | 2,459,000 |

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aeromagnetic Survey

| | |
|---|---|
| $315,000 | $315,000 |

The appropriation is to the Minnesota geological survey for the sixth and final biennium of an effort to electronically acquire and interpret geophysical data, including ground truth-drilling.

(b) Biogeochemical Prospecting

| | |
|---|---|
| $ 75,000 | $ 75,000 |

The appropriation is to the Natural Resources Research Institute to address the relationship between heavy metals related to mineral deposits and bioconcentration of heavy metals in plants and mapping of the resulting vegetative differences using remote sensing techniques.

(c) Research in Taconite Refinement

| | |
|---|---|
| $100,000 | $100,000 |

To the Natural Resources Research Institute to assist in the development of new methods to produce taconite concentrates acceptable as preferred ore for new steel-making technologies. This appropriation is contingent upon a $50,000 match from the iron range resources and rehabilitation board.

(d) Program Design for Groundwater Research

| | |
|---|---|
| $ 10,000 | $ -0- |

To develop plans and proposals to bring increased federal funding to the university for groundwater research, training, and information transfer.

(e) Program Design for Lake Superior Studies

| | |
|---|---|
| $ 25,000 | $ 25,000 |

This appropriation is not available until the university has financed and submitted to the legislative commission on Minnesota resources a report on a study

using outside consultants that recommends the appropriate research directions necessary to protect Lake Superior. This appropriation is for a study by the University Natural Resources Research Council to determine the best way to organize the research work within the university structure.

(f) Land Use Impacts on Lake Superior

$120,000 $120,000

To the Natural Resources Research Institute to measure and model the impacts of changing land use practices on erosion rates, water quality, and biological communities on the near shore waters of Lake Superior. Matching funds must be applied for and the results reported to the legislative commission on Minnesota resources.

(g) County-Level Groundwater Data Management

$ 43,000 $ 43,000

The appropriation is to the Minnesota geological survey to provide tools and training to counties that want an enhanced capability to use the computerized county well index in local water planning.

(h) Chemical Transport in Groundwater

$150,000 $150,000

The appropriation is for the civil and mineral engineering department to develop, test, and implement interactive models to simulate groundwater transport of chemicals.

(i) Lake Aeration Techniques and Hydrologic Forecasting

$414,000 $414,000

The appropriation is for the St. Anthony Falls Hydraulics Laboratory to conduct engineering and hydraulics research in three water resource areas: (1) $338,000 to optimize lake aeration techniques; (2) $440,000 to develop forecast methods for: groundwater, hydropower effects on water quality, operation of wastewater treatment ponds, and for ice-induced flooding; and (3) $50,000 to test several new techniques for measurement of ice in rivers and lakes.

(j) Wetland Plant Communities

$ 45,000 $ 45,000

The appropriation is for the College of Natural Resources for research to identify the optimal mix of plants that remove nutrients from wetlands. A grant application must be submitted to the National Science Foundation and the Environmental Protection Agency to supplement this appropriation and the results reported to the legislative commission on Minnesota resources.

(k) Water Filter for Iron Removal

$ 14,000 $ 14,000

The appropriation is to the Institute of Technology for the development of a cost-effective membrane system for removing iron from water so the processed water can be used in a variety of industrial and domestic situations where high iron content is undesirable. A grant application must be submitted to the National Science Foundation to supplement this appropriation and the results reported to the legislative commission on Minnesota resources.

(l) Simulation of Future Forestry Economy

$ 50,000 $ 50,000

The appropriation is to the College of Natural Resources to develop methods and evaluate opportunities for supporting forest land economic development in Minnesota from a statewide strategic viewpoint.

(m) Oak Wilt Research

$ 44,000 $ 44,000

The appropriation is to the College of Natural Resources for research aimed at biological control of oak wilt using a special fungus, improvement of root barriers to limit spread of the disease, and an educational program on how best to control oak wilt. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota future

resources fund.

(n) Lignin-Based Engineering Plastics

$ 54,000 $ 54,000

The appropriation is to the College of Natural Resources for fabricating engineering plastics based upon industrial by-product lignins and corresponding raw materials from wheat straw. If this work results in a patent and subsequent royalties, the university shall repay 50 percent of the royalties received, net of patent servicing costs, until the entire appropriation is repaid, into the Minnesota future resources fund.

(o) High Flotation Tire Research

$ 20,000 $ 20,000

The appropriation is to the College of Natural Resources in cooperation with the Mille Lacs Area Community Development Corporation for a grant to study the impact of high flotation tires on soil and regeneration of aspen and evaluate the economic feasibility of installing and using this equipment.

(p) Aquaculture Development and Education

$100,000 $100,000

The appropriation is to the College of Natural Resources for development of aquaculture demonstration projects and education.

(q) Sonar Measurement of Fish Population

$ 30,000 $ 30,000

The appropriation is to the College of Biological Sciences to develop electronic procedures for measuring the abundance of fish in lakes and for preparing lake maps.

(r) Accelerated Soil Survey

$600,000 $600,000

The appropriation is to the agricultural experiment station for the seventh biennium of a seven-biennium effort to provide the appropriate detailed survey based on the adopted federal, state, and local cost share. It may be spent only in counties where the survey was under way or

the agreement signed and survey scheduled by July 1, 1988.

(s) Test Emissions from Densified-RDF

$ 75,000 $ 75,000

The appropriation is to the Natural Resources Research Institute to study emissions at the bench scale from incinerated densified refuse derived fuel and to develop baseline combustion data.

(t) Peat for Containment of Municipal Incinerator Ash

$ 75,000 $ 75,000

The appropriation is to the Natural Resources Research Institute to work in cooperation with the pollution control agency and the department of natural resources to design a passive containment system for municipal incinerator ash using peat. The institute must apply to the Minnesota Waste Management Association for financial support.

(u) Evaluation of Peat in Poultry Waste Treatment

$ 65,000 $ 65,000

The appropriation is to the Natural Resources Research Institute to develop environmentally sound treatment methods utilizing peat for the disposal and recycling of poultry wastes and to integrate these processes into manure management systems.

(v) Urban Gardening Program

$ 45,000 $ 45,000

The appropriation is to the Minnesota extension service in cooperation with the Minnesota State Horticultural Society and the Self Reliance Center to provide gardening information and technical assistance in community gardening.

Subd. 12. State University Board 215,000 215,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Groundwater Quality Assessment Procedure

$ 45,000 $ 45,000

The appropriation is for Bemidji state university to develop a procedure for the assessment of regional groundwater quality based on the usual sources of available groundwater data in the Mississippi headwaters region.

(b) Pilot County Groundwater Mapping

$170,000 $170,000

The appropriation is for Mankato state university to develop a groundwater atlas and information system for 13 counties to be used as a tool for state and local government and provide education on groundwater.

Subd. 13. Contingent Account 500,000 500,000

This appropriation is for acquisition or development of state land or other projects that are part of a natural resources acceleration activity, when deemed to be of an emergency or critical nature. This appropriation is also available for projects initiated by the legislative commission on Minnesota resources that are found to be proper in order for the commission to carry out its legislative charge.

This appropriation is not available until the legislative commission on Minnesota resources has made a recommendation to the legislative advisory commission regarding each expenditure from the account. The legislative advisory commission must then hold a meeting with the governor and provide its recommendation on each item, which may be spent only with the approval of the governor.

Subd. 14. Compatible Data

During the biennium ending June 30, 1991, the data collected by projects funded under this section that has common value for natural resource planning must be provided and integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by the activity receiving funding under this section. This requirement applies to all projects funded under this section, including but not limited to, projects under subdivision 3, clauses (c), (e), (g), (h),

(k), (r), and (t), subdivision 4, clauses (a) and (b), subdivision 5, clauses (a) and (b), subdivision 7, clause (a), subdivision 8, clause (h), subdivision 9, clause (c), subdivision 10, clauses (a), (g), (h), and (r), subdivision 11, clause (b).

Subd. 15. Work Programs

It is a condition of acceptance of the appropriations made by this section that the agency or entity receiving the appropriation must submit work programs and semiannual progress reports in the form determined by the legislative commission on Minnesota resources. None of the money provided in this section may be spent unless the commission has approved the pertinent work program.

Subd. 16. Complement Temporary

Persons employed by a state agency and paid by an appropriation in this section are in the unclassified civil service, and their continued employment is contingent upon the availability of money from the appropriation. When the appropriation has been spent, their positions must be canceled and the approved complement of the agency reduced accordingly. Part-time employment of persons is authorized.

Sec. 30. LABOR AND INDUSTRY

Subdivision 1. Total Appropriation 16,793,000 16,581,000

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 351 | 351 |
| General - | 69 | 69 |
| Special Revenue - | 40 | 40 |
| Federal - | 38.5 | 38.5 |
| Workers' Compensation - | 203.5 | 203.5 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 5,936,000 | $ 5,969,000 |
| Worker's Comp. | $ 9,320,000 | $ 9,075,000 |
| Special Revenue | $ 1,537,000 | $ 1,537,000 |

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Employment Standards

$ 937,000 $ 937,000

Subd. 3. Workers' Compensation Regulation and Enforcement

$ 6,491,000 $ 6,400,000

This appropriation is from the special compensation fund.

Fee receipts collected as a result of providing direct computer access to public workers' compensation data on file with the commissioner must be deposited in the general fund.

Funding for the file administration improvements is contingent on the department agreeing to participate in the information policy office's optical disk scanning study. The file administration improvements appropriation is a one-time appropriation.

Subd. 4. Workers' Compensation Special Compensation Fund

$ 2,500,000 $ 2,500,000

Subd. 5. Code Enforcement

$ 1,511,000 $ 1,511,000

This appropriation is from the special revenue fund.

Subd. 6. OSHA

$ 1,307,000 $ 1,310,000

Subd. 7. General Support

$ 2,336,000 $ 2,288,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 815,000 | $ 845,000 |
| Workers' Comp. | $ 1,400,000 | $ 1,321,000 |

$225,000 the first year and $225,000 the second year are for labor education and advancement program grants. Notwithstanding Laws 1983, chapter 301, section 32, the commissioner of labor and industry shall develop and implement an application process for organizations seeking to receive funding from the labor education advancement program. Criteria for selection of grant recipients shall include but not be limited to the number of minority people served and the ability of organizations to match the state money with nonstate resources.

Subd. 8. Information Management

Services

$ 1,832,000 $ 1,757,000

Summary by Fund

| | | |
|---|---|---|
| General | $ 377,000 | $ 377,000 |
| Workers' Comp. | $ 1,429,000 | $ 1,354,000 |
| Special Revenue | $ 26,000 | $ 26,000 |

Funding is included from the special workers' compensation fund in this appropriation for computer system restructuring.

Sec. 31. WORKERS' COMPENSATION COURT OF APPEALS 1,094,000 1,058,000

Approved Complement - 22

This appropriation is from the workers' compensation special compensation fund.

Sec. 32. MEDIATION SERVICES 1,775,000 1,780,000

Approved Complement - 25

$287,000 the first year and $287,000 the second year are for grants to area labor-management committees. The unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 33. PUBLIC EMPLOYMENT RELATIONS BOARD 65,000 65,000

Approved Complement - 1

Sec. 34. MILITARY AFFAIRS

Subdivision 1. Total Appropriation 8,461,000 9,454,000

Approved Complement - 340.8
General - 137.8
Federal - 203

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Maintenance of Training Facilities

$ 5,559,000 $ 5,559,000

$100,000 the first year and $100,000 the second year are for six general fund positions to support the federal construction program.

Notwithstanding any law to the contrary the department of military affairs may use up to $1,450,000 of the proceeds

from the sale of the Minneapolis armory for roof repairs, window replacements, and boiler replacements at state armories. If the adjutant general determines that the sale of the Minneapolis armory will occur during the biennium, the adjutant general may transfer funds from the regular armory maintenance funding into the repairs and replacements of roofs, windows, and boilers at state armories.

The adjutant general shall seek to include in the governor's capital bonding requests for 1990 and 1991 funding for roof replacements and window replacements at state armories.

Subd. 3. General Support

$ 1,399,000 $ 1,393,000

$75,000 the first year and $75,000 the second year are for expenses of military forces ordered to active duty under Minnesota Statutes, chapter 192. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Subd. 4. Enlistment Incentives

$ 1,572,000 $ 2,571,000

$1,070,000 the first year and $2,225,000 the second year are for the tuition reimbursement program.

$477,000 the first year and $321,000 the second year are for the reenlistment bonus program.

If appropriations for either year of the biennium are insufficient, the appropriation from the other year is available.

The amounts appropriated for tuition assistance and bonuses in Laws 1988, chapter 686, article 1, section 21, do not cancel and are available for the purposes for which they were appropriated. Funding for the tuition assistance and reenlistment bonus programs are available until expended. If funding for either year of the biennium is insufficient, the other year's appropriation is available.

Subd. 5. Base Cut

$ (69,000) $ (69,000)

The base cut must be allocated among

the agency's programs by the agency head.

| | | | |
|---|---|---|---|
| Sec. 35. VETERANS AFFAIRS | | 3,090,000 | 2,590,000 |
| | 1990 | 1991 | |
| Approved Complement - | 38 | 38 | |

$300,000 is appropriated for the commissioner of veterans affairs for the purposes of creating a Minnesota Vietnam veterans memorial on the capitol mall. This appropriation is available until expended. The capitol area architectural and planning board shall conduct a selection process to award the contracts for design and construction of the memorial. The capitol area architectural and planning board shall also select a site for the memorial. No contract for construction shall be entered into by the board until after the board has received recommendations on the cost, design, and placement of the memorial from the chairs of the house appropriations and senate finance committees.

During the biennium, in administering veterans benefits programs the commissioner shall ensure that veterans participate in all federally funded benefit programs to the maximum extent possible before receiving assistance under state funded programs.

$1,088,000 the first year and $1,088,000 the second year are for emergency financial and medical needs of veterans. For the biennium ending June 30, 1991, the commissioner shall limit financial assistance to veterans and dependents to six months, unless recipients have been certified as ineligible for other benefit programs. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

$200,000 is appropriated for a grant to the Vineland Center.

$30,000 the first year and $30,000 the second year are for bronze star grave markers.

| | | |
|---|---|---|
| Sec. 36. HUMAN RIGHTS | 2,902,000 | 2,902,000 |

Approved Complement - 69.5
General - 68
Federal - 1.5

$140,000 the first year is a one-time appropriation for development of an information system, and is available either year of the biennium.

| | | |
|---|---|---|
| Sec. 37. INDIAN AFFAIRS COUNCIL | 313,000 | 313,000 |
| Approved Complement - 6<br>General - 6<br>Federal - 0 | | |
| Sec. 38. COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE | 190,000 | 190,000 |
| Approved Complement - 4 | | |
| Sec. 39. COUNCIL ON BLACK MINNESOTANS | 176,000 | 176,000 |
| Approved Complement - 3.5 | | |
| Sec. 40. COUNCIL ON ASIAN-PACIFIC MINNESOTANS | 153,000 | 153,000 |
| Approved Complement - 3 | | |
| Sec. 41. COUNCIL ON PEOPLE WITH DISABILITIES | 520,000 | 520,000 |
| Approved Complement - 10 | | |

Notwithstanding any law to the contrary the two incumbents transferred from the council on technology for people with disabilities to the Minnesota council on disabilities shall continue in their same positions with the same responsibilities. The department of employee relations shall reclassify the positions within the disabilities council to reflect the transfers.

$50,000 the first year and $50,000 the second year are for general support grants, in consultation with the state board of the arts, to statewide handicapped arts organizations regardless of the size of their operating budgets. The state arts board is encouraged to support handicapped arts organizations by providing technical and grant assistance as well as assisting them in seeking partnership opportunities with the private sector.

| | | |
|---|---|---|
| Sec. 42. SALARY SUPPLEMENT | 40,722,000 | 88,992,000 |
| Subdivision 1. Appropriations | | |

Except as limited by the direct appropriations made in this section, the amounts necessary to pay compensation and economic benefit increases covered by this

section are appropriated from the various funds in the state treasury from which salaries are paid to the commissioner of finance for the fiscal years ending June 30, 1990, and June 30, 1991. In the case of salaries that are paid from one fund, but that fund is reimbursed by another fund, the amounts necessary to make these reimbursements are also appropriated.

(a) General Fund

| | |
|---|---|
| $29,964,000 | $60,836,000 |

(b) Game and Fish Fund

| | |
|---|---|
| $ 1,369,000 | $ 2,807,000 |

(c) Trunk Highway Fund

| | |
|---|---|
| $11,520,000 | $23,620,000 |

(d) Highway User Tax Distribution Fund

| | |
|---|---|
| $ 301,000 | $ 618,000 |

(e) Workers' Compensation

| | |
|---|---|
| $ 532,000 | $ 1,147,000 |

Subd. 2. Increases Covered

The compensation and economic benefit increases covered by this section are those paid to classified and unclassified employees and officers in the executive, judicial, and legislative branches of state government, and to employees of the Minnesota Historical Society who are paid from state appropriations, if the increases are required by existing law or authorized by law during the 1989 session of the legislature or by appropriate resolutions for employees of the legislature, or are given interim approval by the legislative commission on employee relations under Minnesota Statutes, sections 3.855 and 43A.18 or 179A.22, subdivision 4.

The commissioner of finance shall transfer to the appropriations for agencies in the legislative and judicial branches and for the constitutional officers the amounts certified as necessary for each agency by its chief financial officer. For the purposes of this paragraph, the secretary of the senate is the chief financial officer for the senate, the chair of the legislative coordinating commission for legislative commissions, the chief justice of the

supreme court for agencies in the judicial branch, and the elected constitutional officer for each constitutional office.

Within the provisions of the managerial plan approved under Minnesota Statutes, section 43A.18, an agency may not authorize aggregate increases for its managers that exceed an average of five percent in each year of the biennium ending June 30, 1991. A salary increase given in a lump sum is included within this limit. If an agency has fewer than three managers, it may exceed this average by one percent.

The metropolitan council or a metropolitan commission or board may not authorize aggregate performance increases for its managers that exceed an average of five percent in each year of the biennium ending June 30, 1991. A salary increase given in a lump sum is included within this limit. If an agency has fewer than three managers, it may exceed this average by one percent.

The commissioner of employee relations shall study the compensation levels of managers, officials, and administrators of the state, cities, counties, towns, school districts, metropolitan and regional agencies, and retirement funds, and the increases granted them during the period from January 1, 1985, to January 1, 1990, and shall report to the legislature by January 1, 1991, on how to establish appropriate compensation levels and how to impose appropriate controls on aggregate compensation increases. The term "managers, officials, and administrators" means employees reported in those classes as reported by the employer to the Equal Employment Opportunity Commission, but does not include any employees who are represented for the purposes of collective bargaining by an exclusive representative under Minnesota Statutes, chapter 179A.

Subd. 3. Notice

During the biennium, the commissioner of finance shall transfer the necessary amounts to the proper accounts. The commissioner shall adjust the allocation to each agency for any disparities among

agencies in health insurance costs. The commissioner shall promptly notify the committee on finance of the senate and the committee on appropriations of the house of representatives of the amount transferred to each appropriation account, showing the adjustments that were made.

Sec. 43. GENERAL CONTINGENT ACCOUNTS 1,450,000 750,000

The appropriations in this section must be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30.

The appropriations in this section must be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

| | | |
|---|---|---|
| General | $ 250,000 | $ 250,000 |
| Special Revenue | $ 500,000 | $ -0- |
| Workers' Comp. | $ 100,000 | $ 100,000 |

Sec. 44. TORT CLAIMS 319,000 319,000

To be spent by the commissioner of finance.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Summary by Fund

| | | |
|---|---|---|
| General | $ 303,000 | $ 303,000 |
| Game and Fish | $ 16,000 | $ 16,000 |

Sec. 45. MINNESOTA STATE RETIREMENT SYSTEM 7,943,000 8,468,000

The amounts estimated to be needed for each program are as follows:

(a) Legislators

$ 2,258,000 $ 2,371,000

Under Minnesota Statutes, sections 3A.03, subdivision 2; 3A.04, subdivisions 3 and 4; and 3A.11.

(b) Judges

$ 5,500,000 $ 5,900,000

Under Minnesota Statutes, sections 490.106; and 490.123, subdivision 1.

(c) Constitutional Officers

$ 168,000 $ 180,000

Under Minnesota Statutes, sections 352C.031, subdivision 5; 352C.04, subdivision 3; and 352C.09, subdivision 2.

(d) State Employee Supplemental Benefits

$ 17,000 $ 17,000

Under Minnesota Statutes, section 352.73.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 46. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 14,000 14,000

This appropriation is for supplemental benefits under Minnesota Statutes, section 353.83.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Sec. 47. MINNEAPOLIS EMPLOYEES RETIREMENT FUND 10,415,000 10,475,000

The appropriation is to the commissioner of finance for payment to the Minneapolis employees retirement fund under Minnesota Statutes, section 422A.101, subdivision 3.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

The senate and house committees on governmental operations shall review the appropriation for the second year and the state's obligation under Minnesota Statutes, section 422A.101, subdivision 3, and provide their recommendations to their respective houses during the 1990 regular session.

Sec. 48. POLICE AND FIRE AMORTIZATION AID 6,017,000 6,017,000

The appropriation is to the commissioner of revenue for state aid to amortize the unfunded liability of local police and salaried firefighters' relief associations, under Minnesota Statutes, section

423A.02. If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

The reduction in amortization aid for police and fire relief associations applies only to police and fire relief association funds in cities of the first class with over 300,000 population. The reduction should be allocated among funds based on the respective amounts of unfunded accrued liability. Amortization aid shall be distributed for all other police and fire relief associations in the normal manner.

Sec. 49. PRE-1973 RETIREES 5,995,000 5,707,000

This appropriation is to the commissioner of finance for payment under section 50. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

This appropriation is void if another law to pay a similar benefit to the same group is enacted at the 1989 regular session.

Sec. 50. [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.* [APPORTIONMENT.] *The appropriation in section 49 for pre-1973 retirees is apportioned as follows:*

| | *Fiscal Year 1990* | *Fiscal Year 1991* |
|---|---|---|
| *Public employees retirement fund* | *$1,913,000* | *$1,778,000* |
| *Public employees police and fire fund* | *90,000* | *86,000* |
| *Teachers retirement fund* | *1,682,000* | *1,598,000* |
| *State patrol retirement fund* | *78,000* | *78,000* |
| *State employees retirement fund* | *1,315,000* | *1,250,000* |
| *Minneapolis employees retirement fund* | *917,000* | *917,000* |

*If the apportionment for either year is insufficient, the apportionment for the other is available for it.*

Sec. 51. [TRANSFERS.]

*Subdivision 1.* [GENERAL PROCEDURE.] *If the appropriation in this act to an agency in the executive branch is specified by program, the agency may transfer unencumbered balances among the programs specified in that section after getting the approval of the commissioner of finance. The commissioner shall not approve a transfer unless the commissioner believes that it will carry out the intent of the legislature. The transfer must be reported immediately to the committee on finance of the senate and the committee on appropriations of the house of representatives. If the appropriation in this act to an agency in the executive branch is specified*

*by activity, the agency may transfer unencumbered balances among the activities specified in that section using the same procedure as for transfers among programs.*

*Subd. 2.* [CONSTITUTIONAL OFFICERS.] *A constitutional officer need not get the approval of the commissioner of finance but must notify the committee on finance of the senate and the committee on appropriations of the house of representatives before making a transfer under subdivision 1.*

*Subd. 3.* [TRANSFER PROHIBITED.] *If an amount is specified in this act for an item within an activity, that amount must not be transferred or used for any other purpose.*

Sec. 52. [ENVIRONMENTAL TRUST FUND CITIZENS' ADVISORY COMMITTEE.]

*The governor, speaker of the house, and the senate majority leader shall each appoint one additional person to the environmental trust fund citizens' advisory committee for a term that expires on January 1, 1991. The purpose of adding three new members to the advisory committee is to address the gender imbalance of the existing committee.*

Sec. 53. [LEGISLATIVE TASK FORCE ON MINERALS.]

*Subdivision 1.* [MEMBERSHIP.] *The legislative task force on minerals consists of five members of the senate, including members of the minority caucus, appointed by the subcommittee on committees of the committee on rules and administration, and five members of the house of representatives, including members of the minority caucus, appointed by the speaker. The task force shall elect a chair or cochairs from its members.*

*Subd. 2.* [DUTIES.] *The task force must study issues relating to the environmentally sound development of the minerals industry including but not limited to:*

*(1) establishment in state government of a focused mineral development function, the purpose of which would be the advancement of environmentally sound mineral development in the state;*

*(2) economic competitiveness of the state for mineral development in the context of state economic policies, tax structure, and industry financial incentives;*

*(3) practices and programs of state agencies related to minerals that may act as impediments to mineral development without effectively serving a useful state interest;*

*(4) effectiveness and appropriateness of the state's involvement in mineral resource programs, such as technical research, technology development, data collection, mapping, and the distribution of information; and*

*(5) appropriate roles for the state in educational and professional programs relating to the state's mineral resources and related scientific and technical disciplines.*

Sec. 54. [STUDY OF GROWING COSTS.]

*In preparing for the 1992-1993 budget, the governor shall provide for studies of major state expenditure programs that are likely to grow substantially in cost in upcoming years. Programs to be studied include, but are not limited to:*

*(1) state aids to local government;*

*(2) property tax relief;*

*(3) medical assistance and other health care programs;*

*(4) income maintenance;*

*(5) infrastructure improvements; and*

*(6) elementary and secondary education.*

*The following issues shall be studied in respect to the selected programs:*

*(1) methods to control program costs;*

*(2) methods to improve program accountability, efficiency, and value; and*

*(3) desirable redistributions of service delivery and revenue raising responsibilities between units of state and local government.*

*In preparing these studies, assistance shall be sought from persons and organizations knowledgeable about the programs. It is understood that appropriate committees of the legislature will work with and assist in the performance of the studies.*

*The governor shall submit recommendations for reform in program content and program delivery with the budget in January 1991.*

Sec. 55. Minnesota Statutes 1988, section 3C.035, subdivision 2, is amended to read:

Subd. 2. [COSTS.] Agencies shall include in their budgets amounts to pay for bill drafting services provided by the revisor of statutes. The revisor shall assess agencies for the actual cost of bill drafting services rendered to them on ~~requests delivered to the revisor by~~ *or after* November 1 *and until the annual session adjourns*. The revisor shall assess agencies for double the actual cost of bill drafting services rendered to them ~~on requests delivered to the revisor~~ after November 1. The revisor shall also assess an agency for the actual cost or double the actual cost, as appropriate, for drafting a request that a senator or representative submits to the revisor's office on behalf of the agency. The revisor may not assess a department or agency for the costs related to drafting affecting an agency if the request for drafting originated from within the legislature. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.

Sec. 56. Minnesota Statutes 1988, section 8.15, is amended to read:

8.15 [ATTORNEY GENERAL COSTS.]

The attorney general in consultation with the commissioner of finance shall assess executive branch agencies a fee for legal services rendered to them. The budget requests of all executive branch agencies submitted to the legislature in each odd-numbered year must show the actual or estimated amount assessed, paid, and requested for each year. The assessment against appropriations from other than the general fund must be the full amount of the fee. The assessment against appropriations supported by fees must be included in the fee calculation. Unless appropriations are made for fee supported costs, no payment by the agency is required. The assessment against appropriations from the general fund not supported by fees must be one-half of the fee. Receipts from assessments must be deposited in the

state treasury and credited to the general fund.

*The attorney general in consultation with the commissioner of finance shall assess political subdivisions fees to cover half the cost of legal services rendered to them.*

Sec. 57. Minnesota Statutes 1988, section 15.50, subdivision 2, is amended to read:

Subd. 2. (a) The board shall prepare, prescribe, and from time to time amend a comprehensive use plan for the capitol area, herein called the area which shall initially consist of that portion of the city of Saint Paul comprehended within the following boundaries: Beginning at the point of intersection of the centerline of the Arch-Pennsylvania freeway and the centerline of Marion Street, thence southerly along the centerline of Marion Street *extended* to ~~the south line of the right-of-way of Interstate Highway 94,~~ *a point 50 feet south of the south line of Concordia Avenue,* thence ~~easterly~~ *southeasterly* along *a line extending 50 feet from* the south line ~~to the centerline~~ *of Concordia Avenue to a point 125 feet from the west line* of John Ireland Boulevard, thence southwesterly along *a line extending 125 feet from* the ~~centerline~~ *west line* of John Ireland Boulevard *to the south line of Dayton Avenue, thence northeasterly from the south line of Dayton Avenue to the west line of John Ireland Boulevard, thence northeasterly* to the centerline of ~~the junction of Dayton Avenue, Kellogg Boulevard,~~ *the intersection of Old Kellogg Boulevard* and Summit Avenue, ~~thence easterly along the centerline of Summit Avenue to the centerline of Sixth Street, thence southeasterly along the centerline of Sixth Street to the centerline of College Avenue, thence northeasterly along the centerline of College Avenue extended to the centerline of Rice Street, thence northwesterly along the centerline of Rice Street to the centerline of Summit Avenue, thence northerly along a line extended to the north line of the right-of-way of Interstate Highway 94, thence easterly along the north line to~~ *thence northeasterly along the centerline of Summit Avenue to the south line of the right-of-way of the Fifth Street ramp, thence southeasterly along the right-of-way of the Fifth Street ramp to the east line of the right-of-way of Interstate Highway 35-E, thence northeasterly along the east line of the right-of-way of Interstate Highway 35-E to the south line of the right-of-way of Interstate Highway 94, thence easterly along the south line of the right-of-way of Interstate Highway 94 to the west line of St. Peter Street, thence southerly to the south line of Eleventh Street, thence easterly along the south line of Eleventh Street to* the ~~centerline~~ *west line* of Cedar Street, thence southeasterly along the ~~centerline~~ *west line* of Cedar Street to the centerline of Tenth Street, thence northeasterly along the centerline of Tenth Street to the centerline of Minnesota Street, thence northwesterly along the centerline of Minnesota Street to the centerline of Eleventh Street, thence northeasterly along the centerline of Eleventh Street to the centerline of Jackson Street, thence northwesterly along the centerline of Jackson Street to the centerline of the Arch-Pennsylvania freeway extended, thence westerly along the centerline of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin. Pursuant to the comprehensive plan, or any portion thereof, the board may regulate, by means of zoning rules adopted pursuant to the administrative procedure act, the kind, character, height, and location, of buildings and other structures constructed or used, the size of yards and open spaces, the percentage of lots that may be occupied, and the uses of land, buildings and other structures, within the area. To protect and enhance the dignity, beauty and architectural integrity

of the capitol area, the board is further empowered to include in its zoning rules design review procedures and standards with respect to any proposed construction activities in the capitol area significantly affecting the dignity, beauty and architectural integrity of the area. No person shall undertake these construction activities as defined in the board's rules in the capitol area without first submitting construction plans to the board, obtained a zoning permit from the board and received a written certification from the board specifying that the person has complied with all design review procedures and standards. Violation of the zoning rules is a misdemeanor. The board may, at its option, proceed to abate any violation by injunction. The board and the city of St. Paul shall cooperate in assuring that the area adjacent to the capitol area is developed in a manner that is in keeping with the purpose of the board and the provisions of the comprehensive plan.

(b) The commissioner of administration shall act as a consultant to the board with regard to the physical structural needs of the state. The commissioner shall make studies and report the results to the board when they request reports for their planning purpose.

(c) No public building, street, parking lot, or monument, or other construction shall be built or altered on any public lands within the area unless the plans for the same conforms to the comprehensive use plan as specified in clause (d) and to the requirement for competitive plans as specified in clause (e). No alteration substantially changing the external appearance of any existing public building approved in the comprehensive plan or the exterior or interior design of any proposed new public building the plans for which were secured by competition under clause (e), may be made without the prior consent of the board. The commissioner of administration shall consult with the board regarding internal changes having the effect of substantially altering the architecture of the interior of any proposed building.

(d) The comprehensive plan shall show the existing land uses and recommend future uses including: areas for public taking and use; zoning for private land and criteria for development of public land, including building areas and open spaces; vehicular and pedestrian circulation; utilities systems; vehicular storage; elements of landscape architecture. No substantial alteration or improvement shall be made to public lands or buildings in the area save with the written approval of the board.

(e) The board shall secure by competitions, plans for any new public building. Plans for any comprehensive plan, landscaping scheme, street plan, or property acquisition, which may be proposed, or for any proposed alteration of any existing public building, landscaping scheme or street plan may be secured by a similar competition. Such competition shall be conducted under rules prescribed by the board and may be of any type which meets the competition standards of the American Institute of Architects. Designs selected shall become the property of the state of Minnesota and the board may award one or more premiums in each such competition and may pay such costs and fees as may be required for the conduct thereof. At the option of the board, plans for projects estimated to cost less than $1,000,000 may be approved without competition provided such plans have been considered by the advisory committee described in clause (f). Plans for projects estimated to cost less than $400,000 and for construction of streets need not be considered by the advisory committee if in conformity with the comprehensive plan.

(f) The board shall not adopt any plan under clause (e) unless it first receives the comments and criticism of an advisory committee of three persons, each of whom is either an architect or a planner, who have been selected and appointed as follows: one by the board of the arts, one by the board, and one by the Minnesota Society of the American Institute of Architects. Members of the committee shall not be contestants under clause (e). The comments and criticism shall be a matter of public information. The committee shall advise the board on all architectural and planning matters. For that purpose:

(1) the committee shall be kept currently informed concerning, and have access to, all data, including all plans, studies, reports and proposals, relating to the area as the same are developed or in the process of preparation whether by the commissioner of administration, the commissioner of trade and economic development, the metropolitan council, the city of Saint Paul, or by any architect, planner, agency or organization, public or private, retained by the board or not retained and engaged in any work or planning relating to the area. A copy of any such data prepared by any public employee or agency shall be filed with the board promptly upon completion;

(2) the board may employ such stenographic or technical help as may be reasonable to assist the committee to perform its duties;

(3) when so directed by the board, the committee may serve as, and any member or members thereof may serve on, the jury or as professional advisor for any architectural competition. The board shall select the architectural advisor and jurors for any competition with the advice of the committee; and

(4) the city of St. Paul shall advise the board.

(g) The comprehensive plan for the area shall be developed and maintained in close cooperation with the commissioner of trade and economic development and the planning department and the council for the city of Saint Paul and the board of the arts, and no such plan or amendment thereof shall be effective without 90 days' notice to the planning department of the city of Saint Paul and the board of the arts.

(h) The board and the commissioner of administration jointly, shall prepare, prescribe, and from time to time revise standards and policies governing the repair, alteration, furnishing, appearance and cleanliness of the public and ceremonial areas of the state capitol building. Pursuant to this power, the board shall consult with and receive advice from the director of the Minnesota state historical society regarding the historic fidelity of plans for the capitol building. The standards and policies developed as herein provided shall be binding upon the commissioner of administration. The provisions of sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45 shall not apply to this clause.

(i) The board in consultation with the commissioner of administration shall prepare and submit to the legislature and the governor no later than October 1 of each even-numbered year a report on the status of implementation of the comprehensive plan together with a program for capital improvements and site development, and the commissioner of administration shall provide the necessary cost estimates for the program.

(j) The state shall, by the attorney general upon the recommendation of the board and within appropriations available for that purpose, acquire by gift, purchase or eminent domain proceedings any real property situated

in the area described in this section and it shall also have the power to acquire an interest less than a fee simple interest in the property, if it finds that it is needed for future expansion or beautification of the area.

(k) The board is the successor of the state veterans' service building commission, and as such may adopt rules and may reenact the rules adopted by its predecessor under Laws 1945, chapter 315, and acts amendatory thereof.

(l) The board shall meet at the call of the chair and at such other times as it may prescribe.

(m) The commissioner of administration shall assign quarters in the state veterans service building to (1) the department of veterans affairs of which such part as the commissioner of administration and commissioner of veterans affairs may mutually determine shall be on the first floor above the ground and (2) the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the Purple Heart, United Spanish War Veterans, and Veterans of World War I, and their auxiliaries, incorporated, or when incorporated, under the laws of the state, and (3) as space becomes available to such other state departments and agencies as the commissioner may deem desirable.

Sec. 58. Minnesota Statutes 1988, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range

Effective

July 1, 1987

$57,500-$78,500

Commissioner of finance;

Commissioner of education;

Commissioner of transportation;

Commissioner of human services;

Commissioner of revenue;

Executive director, state board of investment;

$50,000-$67,500

Commissioner of administration;

Commissioner of agriculture;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of jobs and training;

Commissioner of employee relations;

Commissioner of health;

Commissioner of labor and industry;

Commissioner of natural resources;

Commissioner of public safety;

Commissioner of trade and economic development;

~~Chair, waste management board;~~

Chief administrative law judge; office of administrative hearings;

Commissioner, pollution control agency;

Commissioner, state planning agency;

*Director, office of waste management;*

Executive director, housing finance agency;

Executive director, public employees retirement association;

Executive director, teacher's retirement association;

Executive director, state retirement system;

Chair, metropolitan council;

Chair, regional transit board;

$42,500-$60,000

Commissioner of human rights;

Commissioner, department of public service;

Commissioner of veterans' affairs;

Commissioner, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board;

Ombudsman for corrections;

Ombudsman for mental health and retardation.

Sec. 59. Minnesota Statutes 1988, section 16A.10, subdivision 1, is amended to read:

Subdivision 1. [BY MAY 1 AND SEPTEMBER 1.] Each even-numbered calendar year the commissioner shall prepare the budget for all agencies, subject to the approval of the governor. *The commissioner shall consult with the chairs of the senate finance committee and house of representatives appropriations committee, as well as their respective division chairs, before adopting a format for the biennial budget document.* By May 1, the commissioner shall send the proposed budget forms to the appropriations and finance committees ~~and receive~~. *The committees have until June 1 to give*

*the commissioner* their advisory recommendations on possible improvements. By September 1, the commissioner shall send each agency enough forms to make its budget estimates. The forms must show actual expenditures and receipts for the two most recent fiscal years, estimated expenditures and receipts for the current fiscal year, and estimates for each fiscal year of the next biennium, and an estimated appropriation balance at the end of the current fiscal year. Estimated expenditures must be classified by funds and character of expenditures and may be subclassified by programs and activities. Agency revenue estimates must show how the estimates were made and what factors were used. Receipts must be classified by funds, programs, and activities. Expenditure and revenue estimates must be based on the law in existence at the time the estimates are prepared.

Sec. 60. Minnesota Statutes 1988, section 16A.123, is amended by adding a subdivision to read:

*Subd. 5.* [DEPARTMENT OF NATURAL RESOURCES COMPLEMENT.] *(a) Beginning with the biennium ending June 30, 1991, the legislature shall establish complements for the department of natural resources based on the number of full-time equivalent positions and dollars appropriated for salary-related expenditures.*

*The commissioner of natural resources shall provide a biennial report indicating the distribution of the full-time equivalents for the previous biennium as a supplement to the agency's biennial budget request for succeeding bienniums. The biennial budget document submitted to the legislature by the governor beginning with the 1992-1993 biennium shall indicate, by activity, the number of full-time equivalent positions included as base level and recommended changes. The governor's salary requests for the agency shall include all full-time, part-time, and seasonal dollars requested. Any change level request submitted to the legislature for consideration by the governor as part of the governor's biennial budget containing funding for salaries shall indicate the number of additional full-time equivalent positions and salary dollars requested.*

*Within the full-time equivalent number and amount of salary dollars appropriated for the department, the commissioner shall have the authority to establish as many full-time, part-time, or seasonal positions as required to accomplish the assigned responsibilities for the department. The commissioner shall have the authority to reallocate salary dollars for other operating expenses, but the commissioner shall not have authority to reallocate other operating funds to increase the total amount appropriated for salary-related expenses, including salary supplement, without receiving prior approval according to the process defined in this subdivision.*

*In the event that the commissioner finds it necessary to exceed the full-time equivalent number or the amount of appropriated dollars and the legislature is not in session, the commissioner shall seek approval of the legislative advisory commission under subdivision 4. Legislative advisory commission approved full-time equivalent positions and dollars shall not become a part of the agency budget base unless authorized by the legislature.*

*(b) This subdivision does not apply to emergency firefighting crews. Subdivisions 1, 2, and 3 do not apply to the department of natural resources.*

Sec. 61. Minnesota Statutes 1988, section 16A.133, subdivision 1, is amended to read:

Subdivision 1. [~~CREDIT UNION; ORGANIZATION; COMPANY~~ *PAYROLL DIRECT DEPOSIT AND DEDUCTIONS.*] An agency head ~~may, with~~ *in the executive, judicial, and legislative branch may, upon* ~~the~~ written request ~~of~~ *signed by* an employee, *directly deposit all or part of an employee's pay in any credit union or financial institution, as defined in section 47.015, designated by the employee. An agency head may, upon written request of an employee,* deduct from the pay of the employee a requested amount to be paid to ~~any state employees' credit union, or~~ the Minnesota benefit association, or to any organization contemplated by section 179A.06, of which the employee is a member, or to a company that has contracted to insure the employee for the medical costs of cancer or intensive care. If an employee is a member of *or has accounts with* more than one ~~such~~ credit union or *financial institution or* more than one ~~such~~ organization *under section 179A.06*, or is insured by more than one company, only one credit union *or financial institution* and one organization and one company may be paid money by *direct deposit or by* payroll deduction from the employee's pay. ~~No deduction may be made from the salary of an employee for payment to a credit union or organization or company unless 100 employees request deductions for payment to the credit union or organization or company. The 100 employee minimum does not apply to credit unions and organizations which received authorized payroll deduction payments on June 5, 1971.~~

Sec. 62. Minnesota Statutes 1988, section 16B.24, subdivision 6, is amended to read:

Subd. 6. [PROPERTY RENTAL.] (a) [LEASES.] The commissioner shall rent land and other premises when necessary for state purposes. The commissioner may lease land or premises for five years or less, subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use. The commissioner may not rent non-state-owned land and buildings or substantial portions of land or buildings within the capitol area as defined in section 15.50 unless the commissioner first consults with the capitol area architectural and planning board. *If the commissioner enters into a lease-purchase agreement for buildings or substantial portions of buildings within the capitol area, the commissioner shall require that any new construction of non-state-owned buildings conform to design guidelines of the capitol area architectural and planning board.* Lands needed by the department of transportation for storage of vehicles or road materials may be rented for five years or less, such leases for terms over two years being subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use.

(b) [USE VACANT PUBLIC SPACE.] No agency may initiate or renew a lease for space for its own use in a private building unless the commissioner has thoroughly investigated presently vacant space in public buildings, such as closed school buildings, and found that none is available.

(c) [PREFERENCE FOR CERTAIN BUILDINGS.] For needs beyond those which can be accommodated in state-owned buildings, the commissioner shall acquire and utilize space in suitable buildings of historical, architectural, or cultural significance for the purposes of this subdivision unless use of that space is not feasible, prudent and cost effective compared with available alternatives. Buildings are of historical, architectural, or cultural significance if they are listed on the national register of historic places, designated by a state or county historical society, or designated by

a municipal preservation commission.

(d) [RECYCLING SPACE.] Leases for space of 30 days or more for 5,000 square feet or more must require that space be provided for recyclable materials.

Sec. 63. Minnesota Statutes 1988, section 16B.41, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The office has the following duties:

(a) The office must develop and establish a state information architecture to ensure that further state agency development and purchase of information systems equipment and software is directed in such a manner that individual agency information systems complement and do not needlessly duplicate or needlessly conflict with the systems of other agencies. *In those instances where state agencies have need for the same or similar computer data, the commissioner shall ensure that the most efficient and cost-effective method of producing and storing data for or sharing data between those agencies is used.* The development of this information architecture must include the establishment of standards and guidelines to be followed by state agencies. The commissioner of administration must establish interim standards and guidelines by August 1, 1987. The office must establish permanent standards and guidelines by July 1, 1988. On January 1, 1988, and every six months thereafter, any state agency that has purchased information systems equipment or software in the past six months, or that is contemplating purchasing this equipment or software in the next six months, must report to the office and to the chairs of the house appropriations committee and the senate finance committee on how the purchases or proposed purchases comply with the applicable standards and guidelines.

(b) The office shall assist state agencies in the planning and management of information systems so that an individual information system reflects and supports the state agency's and the state's mission, requirements, and functions.

(c) Beginning July 1, 1988, the office must review and approve all agency requests for legislative appropriations for the development or purchase of information systems equipment or software. Requests may not be included in the governor's budget submitted to the legislature, beginning with the budget submitted in January 1989, unless the office has approved the request.

(d) Each biennium the office must rank in order of priority agency requests for new appropriations for development or purchase of information systems equipment or software. The office must submit this ranking to the legislature at the same time, or no later than 14 days after, the governor submits the budget message to the legislature.

(e) Beginning July 1, 1989, the office must define, review, and approve major purchases of information systems equipment to (1) ensure that the equipment follows the standards and guidelines of the state information architecture; (2) ensure that the equipment is consistent with the information management principles adopted by the information policy council; (3) evaluate whether or not the agency's proposed purchase reflects a cost-effective policy regarding volume purchasing; and (4) ensure the equipment is consistent with other systems in other state agencies so that data can be shared among agencies, unless the office determines that the agency purchasing the equipment has special needs justifying the inconsistency. The

commissioner of finance may not allot funds appropriated for major purchases of information systems equipment until the office reviews and approves the proposed purchase.

(f) The office shall review the operation of information systems by state agencies and provide advice and assistance so that these systems are operated efficiently and continually meet the standards and guidelines established by the office.

Sec. 64. [16B.465] [STATEWIDE TELECOMMUNICATIONS ACCESS ROUTING SYSTEM.]

*Subdivision 1.* [CREATION.] *The statewide telecommunications access routing system provides voice, data, video, and other telecommunications transmission services to state agencies, educational institutions, public corporations, and state political subdivisions. It is not a telephone company for purposes of chapter 237. It shall not resell or sublease any services or facilities to nonpublic entities. The commissioner has the responsibility for planning, development, and operations of a statewide telecommunications access routing system in order to provide cost-effective telecommunications transmission services to system users.*

*Subd. 2.* [ADVISORY COUNCIL.] *The statewide telecommunications access routing system is managed by the commissioner. Subject to section 15.059, subdivisions 1 to 4, the commissioner shall appoint an advisory council to provide assistance in implementing a statewide telecommunications access routing system. The council consists of:*

*(1) one member appointed by the higher education advisory council established by section 136A.02, subdivision 6;*

*(2) the system heads, or their designees, of the University of Minnesota, the state university system, the community colleges system, and the board of vocational technical education; and*

*(3) five members appointed by the governor or the governor's designee or designees, four of whom must be agency heads or their designees or representatives of political subdivisions.*

*No member of the advisory council may be a vendor of telecommunications equipment or services or an employee or representative of a vendor.*

*Subd. 3.* [DUTIES.] *The commissioner, after consultation with the council, shall:*

*(1) provide voice, data, video, and other telecommunications transmission services to the state and to political subdivisions through the statewide telecommunications access routing system revolving fund;*

*(2) appoint a chief executive officer of the system to serve in the unclassified service;*

*(3) manage vendor relationships, network function, and capacity planning in order to be responsive to the needs of the system users;*

*(4) set rates and fees for services;*

*(5) approve contracts relating to the system;*

*(6) develop the system plan, including plans for the phasing of its implementation and maintenance of the initial system, and the annual program and fiscal plans for the system; and*

*(7) develop a plan for interconnection of the network with private colleges in the state.*

*Subd. 4.* [PROGRAM PARTICIPATION.] *The commissioner may require the participation of state agencies and the governing boards of the state universities, the community colleges, and the technical institutes, and may request the participation of the board of regents of the University of Minnesota, in the planning and implementation of the network to provide interconnective technologies. The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.*

*Subd. 5.* [RULES.] *The commissioner shall adopt rules for the operation of this program. The rules must require participation of state agencies in the network to provide interconnective technologies. The rules may require the participation of the governing boards of the state universities, the community colleges, and the technical institutes, and may request the participation of the board of regents of the University of Minnesota, in the planning of the program. The commissioner shall establish reimbursement rates in cooperation with the commissioner of the department of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.*

*Subd. 6.* [REVOLVING ACCOUNT.] *The statewide telecommunications access routing system revolving account is a separate account for the department of administration in the state treasury for the receipt of and payment of funds for the statewide telecommunications access routing system established in subdivision 1. Money appropriated to the account and fees for communications services provided by the statewide telecommunications access routing system must be deposited in the account. Money in the account is appropriated annually to the commissioner to operate the statewide telecommunications access routing system.*

*Subd. 7.* [EXEMPTION.] *The system is exempt from the five-year limitation on contracts set by section 16B.07, subdivision 2.*

Sec. 65. Minnesota Statutes 1988, section 16B.61, subdivision 5, is amended to read:

Subd. 5. [ACCESSIBILITY.] (a) [PUBLIC BUILDINGS.] The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by physically handicapped persons, although this does not require the remodeling of public buildings solely to provide accessibility and usability to the physically handicapped when remodeling would not otherwise be undertaken.

(b) [LEASED SPACE.] No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the state building code for accessibility by the physically handicapped, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) [MEETINGS OR CONFERENCES.] Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the state building code requirements relating to accessibility for physically handicapped persons.

This subdivision does not apply to any classes, seminars, or training programs offered by a state university, the University of Minnesota, or a state community college. Meetings or conferences intended for specific individuals none of whom need the accessibility features for handicapped persons specified in the state building code need not comply with this subdivision unless a handicapped person gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) [EXEMPTIONS.] The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for handicapped persons. Exemptions shall be granted using criteria developed by the commissioner in consultation with the council on disability.

(e) [SYMBOL INDICATING ACCESS.] The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by handicapped persons. In the interests of uniformity, this symbol in its white on blue format is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the council on disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the state building code.

(f) [MUNICIPAL ENFORCEMENT.] Municipalities which have not adopted the state building code may enforce the building code requirements for handicapped persons by either entering into a joint powers agreement for enforcement with another municipality which has adopted the state building code; or contracting for enforcement with an individual certified under section 16B.65, subdivision 3, to enforce the state building code.

*(g)* [EQUIPMENT ALLOWED.] *The code must allow the use of vertical wheelchair lifts and inclined stairway wheelchair lifts in public buildings. An inclined stairway wheelchair lift must be equipped with light or sound signaling device for use during operation of the lift. The stairway or ramp shall be marked in a bright color that clearly indicates the outside edge of the lift when in operation. The code shall not require a guardrail between the lift and the stairway or ramp. Compliance with this provision by itself does not mean other handicap accessibility requirements have been met.*

Sec. 66. Minnesota Statutes 1988, section 84.025, is amended by adding a subdivision to read:

*Subd. 9.* [PROFESSIONAL SERVICES SUPPORT ACCOUNT.] *The commissioner of natural resources may bill the various programs carried out by the commissioner for the costs of providing them with professional support services. Receipts must be credited to a special account in the state treasury and are appropriated to the commissioner to pay the costs for which the billings were made.*

*The commissioner of natural resources shall submit to the commissioner of finance before the start of each fiscal year a work plan showing the estimated work to be done during the coming year, the estimated cost of doing the work, and the positions and fees that will be necessary. This account is exempted from statewide and agency indirect cost payments.*

Sec. 67. Minnesota Statutes 1988, section 84.0272, is amended to read:

84.0272 [PROCEDURE IN ACQUIRING LANDS.]

When the commissioner of natural resources is authorized to acquire lands or interests in lands the procedure set forth in this section shall apply. The commissioner of natural resources shall first prepare a fact sheet showing the lands to be acquired, the legal authority for their acquisition, and the qualities of the land that make it a desirable acquisition. The commissioner of natural resources shall cause the lands to be appraised. An appraiser shall before entering upon the duties of office take and subscribe an oath to faithfully and impartially discharge the duties as appraiser according to the best of the appraiser's ability and that the appraiser is not interested directly or indirectly in any of the lands to be appraised or the timber or improvements thereon or in the sale thereof and has entered into no agreement or combination to purchase the same or any part thereof, which oath shall be attached to the report of the appraisal. The commissioner of natural resources *may pay less than the appraised value, but* shall not agree to pay more than *ten percent above* the appraised value, *except that if the commissioner pays less than the appraised value for a parcel of land, the difference between the purchase price and the appraised value may be used to apply to purchases at more than the appraised value. The sum of accumulated differences between appraised amounts and purchases for more than the appraised amount may not exceed the sum of accumulated differences between appraised amounts and purchases for less than the appraised amount.* New appraisals may be made at the discretion of the commissioner of natural resources.

Sec. 68. Minnesota Statutes 1988, section 84.0274, is amended by adding a subdivision to read:

*Subd. 8.* [EXCEPTION FOR RAILROAD RIGHT-OF-WAY ACQUISITIONS.] *When the commissioner of natural resources acquires abandoned railroad right-of-way from a railroad, railroad holding company, or similar entity, any or all of the provisions of this section may be waived by mutual agreement of the commissioner and the landowner.*

Sec. 69. [84.0921] [EURASIAN WATER MILFOIL EDUCATION AND MANAGEMENT.]

*Subdivision 1.* [DEFINITION.] *For the purpose of this section, "Eurasian water milfoil" means myriophyllum spicatum.*

*Subd. 2.* [INVENTORY.] *The commissioner of natural resources shall inventory and monitor the growth of Eurasian water milfoil on lakes in the state. The commissioner may use volunteers to aid in the inventory effort.*

*Subd. 3.* [EDUCATION.] *The commissioner shall publish and distribute informational materials to lakeshore owners and boaters on the control problems of Eurasian water milfoil.*

*Subd. 4.* [MANAGEMENT.] *The commissioner shall coordinate a control program to manage the growth of Eurasian water milfoil with appropriate local units of government, special purpose districts, and lakeshore associations. Technical assistance may be provided by the commissioner upon request.*

*Subd. 5.* [RESEARCH.] *The commissioner shall initiate cooperative research with the Freshwater Foundation and the University of Minnesota freshwater biological institute to study the use of nonchemical methods, including biological control agents, for control of Eurasian water milfoil.*

Sec. 70. [84.98] [MINNESOTA CONSERVATION CORPS.]

*Subdivision 1.* [ESTABLISHMENT.] *The Minnesota conservation corps is established and is under the supervision of the commissioner of natural resources.*

*Subd. 2.* [PLAN.] *(a) The commissioner of natural resources shall develop a plan for the Minnesota conservation corps to provide:*

*(1) equal opportunities of employment for youths with preference given to youths who are economically, socially, physically, or educationally disadvantaged and youths residing in areas of substantial unemployment;*

*(2) equal opportunity for female and male youths;*

*(3) summer youth programs and year-round young adult programs;*

*(4) ways in which exclusive bargaining representatives are to be involved in regard to the planning and implementation of positions and job duties of persons employed in projects;*

*(5) methods for coordinating the programs of the Minnesota conservation corps with other publicly authorized or subsidized programs in cooperation with the commissioners of education and jobs and training, the governor's job training council, and other state and local youth service and education entities;*

*(6) programs for participants to be assisted in gaining employment or training upon completing the projects, including, where feasible, in cooperation with the department of jobs and training and educational agencies, arranging for career assessment and planning services designed to enhance participant transition from the Minnesota conservation corps to future employment or education;*

*(7) a remedial education component utilizing, as resources permit and where feasible, the services of the department of jobs and training and educational agencies including instruction in life skills and basic remedial skills for participants who are deficient in the skills or who have not completed high school;*

*(8) the manner of allocating the services of Minnesota conservation corps members to the various divisions of the department of natural resources, to other state, local, and federal governmental conservation and natural resource managers, and to federally recognized Indian tribes or bands;*

*(9) standards of conduct and other operating guidelines for Minnesota conservation corps members; and*

*(10) a determination of preference for projects that will provide long-term benefits to the public, will provide productive work and public service experience to Minnesota conservation corps members, will be primarily*

*labor intensive, and will provide a significant return on taxpayer investment.*

*(b) The commissioner shall establish the plan notwithstanding chapter 14. No later than July 1, 1990, the plan established under this paragraph shall be adopted under the rulemaking provisions of chapter 14.*

*Subd. 3.* [CRITERIA FOR DETERMINING ECONOMIC, SOCIAL, PHYSICAL, OR EDUCATIONAL DISADVANTAGE.] *(a) The criteria for determining economic, social, physical, or educational disadvantage shall be determined as provided in this subdivision.*

*(b) Economically disadvantaged are persons who meet the criteria for disadvantaged established by the department of jobs and training or persons receiving services provided by the department of human services such as welfare payments, food stamps, and aid to families with dependent children.*

*(c) Socially disadvantaged are persons who have been classified as persons in need of supervision by the court system.*

*(d) Physically disadvantaged are persons who have been identified as having special needs by public agencies that deal with employment for the disabled.*

*(e) Educationally disadvantaged are persons who have dropped out of school or are at risk of dropping out of school and persons with learning disabilities or in need of special education classes.*

*Subd. 4.* [REQUIREMENTS FOR ELIGIBILITY FOR ENROLLMENT IN THE CORPS.] *A person is eligible to enroll in the Minnesota conservation corps if the person is:*

*(1) a permanent resident of the state;*

*(2) unemployed or underemployed;*

*(3) at least age 15, but not older than age 26 years;*

*(4) free from medical or behavioral problems that would render an individual unable to adjust to the standards, discipline, or requirements of the corps; and*

*(5) in the young adult program, the person must have a high school diploma or equivalent, or agree to work towards a high school diploma or equivalent while participating in the program.*

*Subd. 5.* [CORPS MEMBER STATUS.] *Minnesota conservation corps members are not eligible for unemployment compensation or other benefits except workers' compensation, and are not employees of the state within the meaning of section 43A.02, subdivision 21.*

*Subd. 6.* [FEES.] *The commissioner may charge a fee for any service performed by the Minnesota conservation corps.*

*Subd. 7.* [LIMITATIONS ON MINNESOTA CONSERVATION CORPS PROJECTS.] *Each employing agency must certify that the assignment of Minnesota conservation corps members will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay off, reduce the seasonal hours, or reduce the working*

*hours of any employee for the purpose of using a corps member with available funds. The positions and job duties of persons employed in projects shall be submitted to affected exclusive representatives prior to actual assignment.*

*Subd. 8.* [EXPENDITURE OF CORPS FUNDS.] *The commissioner shall allocate money received for Minnesota conservation corps work projects. An appropriation from a special revenue fund or account to the commissioner for Minnesota conservation corps programs must be spent for projects that are consistent with the purposes of the fund or account from which the appropriation was made.*

Sec. 71. [84.99] [WORK CREWS; ALLOCATION OF FUNDS.]

*The commissioner of natural resources is authorized to provide work crews to the 14 forested counties that operate land departments under chapter 282. Any money appropriated for these crews must be used for forestry-related programs using participants of the Minnesota conservation corps.*

*The money must be apportioned to the counties in the proportion that each county's managed commercial forest land is to the managed commercial forest land in all 14 counties. If a county does not use all of its share, the commissioner shall reallocate the balance to those of the 14 counties whose Minnesota conservation corps program was not fully supported by the first allocation for either year. The reallocation must be based on the proportion that commercial forest lands in each county to receive the reallocated money is to the managed commercial forest land in all of the counties receiving a reallocation.*

Sec. 72. Minnesota Statutes 1988, section 85A.01, subdivision 1, is amended to read:

Subdivision 1. The Minnesota zoological garden is established under the supervision and control of the Minnesota zoological board. The board consists of 30 public and private sector members having a background or interest in zoological societies or zoo management or an ability to generate community interest in the Minnesota zoological garden. ~~Fourteen~~ *Fifteen* members shall be appointed by the board after consideration of a list supplied by board members serving on a nominating committee, and 15 members shall be appointed by the governor. *One member of the board must be a resident of Dakota county and shall be appointed by the governor after consideration of the recommendation of the Dakota county board. Board appointees shall not be subject to the advice and consent of the senate.*

To the extent possible, the board and governor shall appoint members who are residents of the various geographic regions of the state. Terms, compensation, and removal of members are as provided in section 15.0575. In making appointments, the governor and board shall utilize the appointment process as provided under section 15.0597 and consider, among other factors, the ability of members to garner support for the Minnesota zoological garden. ~~One member shall be appointed by the Dakota county board who must be a resident of Dakota county and who may be a member of the county board.~~

A member of the board may not be an employee of or have a direct or immediate family financial interest in a business that provides goods or services to the zoo. A member of the board may not be an employee of

the zoo.

Sec. 73. Minnesota Statutes 1988, section 85A.02, subdivision 5, is amended to read:

Subd. 5. The board may accept and use gifts, grants or contributions from any nonstate source. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of, and invest or reinvest the money, securities, or other property given or bequeathed to it from nonstate sources. The principal of these funds, the income from them, and all other revenues received by it from any nonstate source must be placed in the depositories the board determines and is subject to expenditure for the board's purposes, *except that expenditures of $25,000 or more must be approved by the full board.* Any additional operating expenses incurred by virtue of capital development projects must be paid for with funds other than state appropriations.

Sec. 74. Minnesota Statutes 1988, section 85A.02, subdivision 5a, is amended to read:

Subd. 5a. [EMPLOYEES.] (a) The board shall appoint an administrator who shall serve as the executive secretary and principal administrative officer of the board and, subject to its approval, the administrator shall operate the Minnesota zoological garden and enforce all rules and policy decisions of the board. The administrator must be chosen solely on the basis of training, experience, and other qualifications appropriate to the field of zoo management and development. The board shall set the compensation for the administrator within the limits established for the commissioner of agriculture in section 15A.081, subdivision 1. The administrator shall perform duties assigned by the board and shall serve in the unclassified service at the pleasure of the board. The ~~board~~ *administrator*, with the participation of the ~~private sector~~ *board*, shall appoint a development director in the unclassified service or contract with a development consultant to establish mechanisms to foster community participation in and community support for the Minnesota zoological garden. The board may employ other necessary professional, technical, and clerical personnel. *Employees of the zoological garden are eligible for salary supplement in the same manner as employees of other state agencies. The commissioner of finance shall determine the amount of salary supplement based on available funds.*

(b) The board may contract with individuals to perform professional services and may contract for the purchases of necessary species exhibits, supplies, services, and equipment. *The board may also contract for the construction and operation of entertainment facilities on the zoo grounds that are not directly connected to ordinary functions of the zoological garden. The zoo board shall not enter into any final agreement for construction of any entertainment facility that is not directly connected to the ordinary functions of the zoo until after final construction plans have been submitted to the chairs of the senate finance and house appropriations committees for their recommendations.*

*The zoo may not contract for entertainment during the period of the Minnesota state fair that would directly compete with entertainment at the Minnesota state fair.*

Sec. 75. Minnesota Statutes 1988, section 85A.02, subdivision 5b, is amended to read:

Subd. 5b. [EXEMPTIONS.] ~~Except as it determines, and except as provided in subdivisions 16 and 17,~~ The board is not subject to ~~chapters 15, 15A, 16A, and 16B concerning budgeting, payroll, and the purchase of goods or services. The board is not subject to~~ *sections 15.057, 15.061, 16A.128, and 16A.28; chapter 16B, except for sections 16B.07, 16B.102, 16B.17, 16B.19, 16B.35, and 16B.55; and* chapter 14 ~~concerning administrative procedures~~, except sections 14.38, subdivision 7, and 14.39 to 14.43 relating to the legal status of rules and the legislative review of rules.

Sec. 76. Minnesota Statutes 1988, section 85A.02, subdivision 16, is amended to read:

Subd. 16. The board may acquire by lease-purchase or installment purchase contract, transportation systems, facilities and equipment that it determines will substantially enhance the public's opportunity to view, study or derive information concerning the animals to be located in the zoological garden, and will increase attendance at the garden. The contracts may provide for: (1) the payment of money over a 12-year period, or over a longer period not exceeding 25 years if approved by the board; (2) the payment of money from any funds of the board not pledged or appropriated for another purpose; (3) indemnification of the lessor or seller for damage to property or injury to persons due primarily to the actions of the board or its employees; (4) the transfer of title to the property to the board upon execution of the contract or upon payment of specified amounts; (5) the reservation to the lessor or seller of a security interest in the property; and (6) any other terms that the board determines to be commercially reasonable. Property so acquired by the board, and its purchase or use by the board, or by any nonprofit corporation having a concession from the board requiring its purchase, shall not be subject to taxation by the state or its political subdivisions. Each contract shall be subject to the provisions of chapter 16B, relating to competitive bidding, provided that, *notwithstanding subdivision 5b,* the board is not required to readvertise for competitive proposals for any transportation system, facilities and equipment heretofore selected from competitive proposals ~~taken pursuant to subdivision 18~~.

Sec. 77. Minnesota Statutes 1988, section 85A.02, subdivision 17, is amended to read:

Subd. 17. [ADDITIONAL POWERS.] The board may establish a schedule of charges for admission to or the use of the Minnesota zoological garden or any related facility. The board shall have a policy ~~encouraging the admission of~~ *admitting* elementary school children at no charge when *they are* part of an organized school activity. *The Minnesota zoological garden must be open to the public without admission charges at least two days each month. However, the zoo may charge at any time for parking, special services, and for admission to special facilities for the education, entertainment, or convenience of visitors.* The board may provide for the purchase, reproduction, and sale of gifts, souvenirs, publications, informational materials, food and beverages, and grant concessions for the sale of these items.

Sec. 78. Minnesota Statutes 1988, section 85A.02, subdivision 18, is amended to read:

Subd. 18. [PURCHASING.] The board may contract for supplies, materials, purchase or rental of equipment, and utility services. *Except as provided in subdivision 5b,* chapter 16B does not apply to these contracts. ~~However, contracts shall be awarded on the basis of competitive bids to~~

~~the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. Competitive bidding is not required for purchases clearly and legitimately limited to a single source of supply; the purchase price may then be established by direct negotiation. Competitive bids are not required for utility services if no competition exists or if rates are fixed by law or ordinance. The board may contract for consultant, professional, and technical services without regard to sections 16B.17 and 16B.19.~~

Sec. 79. Minnesota Statutes 1988, section 92.19, is amended to read:

92.19 [ASSIGNMENT; EXTENSIONS OF PAYMENT.]

When a certificate *or partial interest in a certificate* is assigned, the assignment must be ~~executed like a deed of land and acknowledged~~ *made by deed or instrument of assignment of an equitable interest of record, executed* by the assignor, *and consented to by the commissioner. An assignment of a partial interest shall recite that payment in full has been made to the commissioner.*

*When the assignee satisfies the terms of the assignment and corresponding terms of the certificate, the commissioner shall issue a deed or patent to the assignee.* When an extension of time of payment is agreed upon, the agreement must be in writing, executed like a deed, and recorded in the office of the commissioner.

Sec. 80. [93.222] [TACONITE IRON ORE SPECIAL ADVANCE ROYALTY ACCOUNT.]

*The taconite iron ore special advance royalty account is created as an account in the state treasury for disposal of certain mineral lease money received under the terms of extension agreements adopted under section 93.193, relating to state iron ore or taconite iron ore mining leases. The principal of the account is distributed under the terms of the extension agreements to the account or entity entitled by applicable law and lease terms to receive the income from the class of land being leased. Interest accruing from investment of the account remains with the account until distributed as provided in this section. The interest accrued through June 30 under each extension agreement is distributed annually, as soon as possible after June 30, to the account or entity entitled by applicable law and lease terms to receive the income from the class of land being leased in the same proportion that the total acres included in a particular class of land bears to the total acreage of the leased land covered by each extension agreement. Money in the taconite iron ore special advance royalty account is appropriated for distribution as provided in this section.*

Sec. 81. Minnesota Statutes 1988, section 94.09, subdivision 2, is amended to read:

Subd. 2. On or before July 1 of each year the head of each department or agency having control and supervision over any state owned land the sale or disposition of which is not otherwise provided for by law, shall certify in writing to the commissioner of administration whether or not there is any state owned land under control and supervision of that department or agency which is no longer needed. If the certification discloses lands no longer needed for a department or agency, the head thereof shall include in such certification a description of the lands, and the reasons why such lands are no longer needed. *If the certification is by the commissioner of natural resources, the duties prescribed for the commissioner*

*of administration by this section and sections 94.10 to 94.16 shall be performed by the commissioner of natural resources.*

Sec. 82. Minnesota Statutes 1988, section 94.342, subdivision 3, is amended to read:

Subd. 3. [~~EXCHANGE RESTRICTIONS~~ *CLASS C.*] Land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law is Class C land. Class C land may not be given in exchange unless expressly authorized by the legislature or unless through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public; provided, that any exchange with the United States or any agency thereof may be made free from this limitation upon condition that the state land given in exchange bordering on public waters shall be subject to reservations by the state for public travel along the shores as provided by section 92.45, unless waived as provided in this subdivision, and that there shall be reserved by the state such additional rights of public use upon suitable portions of such state land as the commissioner of natural resources, with the approval of the land exchange board, may deem necessary or desirable for camping, hunting, fishing, access to the water, and other public uses. In regard to Class B *or Class C* land that is contained within that portion of the Superior National Forest that is designated as the Boundary Waters Canoe Area Wilderness ~~and is also located within Cook county~~, the condition that state land given in exchange bordering on public waters must be subject to the public travel reservations provided in section 92.45, may be waived by the land exchange board upon the recommendation of the *commissioner of natural resources and, if the land is Class B land, the additional recommendation of the* county board ~~which has the concurrence of the commissioner of natural resources.~~ *in which the land is located.*

Sec. 83. Minnesota Statutes 1988, section 94.343, subdivision 3, is amended to read:

Subd. 3. Except as otherwise herein provided, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner, with the approval of the board. For the purposes of such determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers as provided in section ~~92.12 in like manner as school trust land to be offered for sale~~ *84.0272*; provided, that in exchanges with the United States or any agency thereof the examination and appraisal may be made in such manner as the land exchange board may direct. The appraisers shall determine the fair market value of the lands involved, disregarding any minimum value fixed for state land by the state constitution or by law, and shall make a report thereof, together with such other pertinent information respecting the use and value of the lands to the state as they deem pertinent or as the commissioner or the board may require. Such reports shall be filed and preserved in the same manner as other reports of appraisal of state lands. The appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the board, together with such other matters as they deem material, in determining the values for the purposes of exchange.

Sec. 84. Minnesota Statutes 1988, section 94.344, subdivision 3, is amended to read:

Subd. 3. Except as otherwise provided, Class B land may be exchanged only for land of substantially equal value or greater value to the state, as determined by the county board, with the approval of the commissioner and the land exchange board. For an exchange involving Class B land for Class A or Class C land, the value of the lands shall be determined by the commissioner, with approval of the land exchange board. For purposes of the determination, the commissioner shall appraise the state and tax-forfeited land proposed to be exchanged in the same manner as ~~school trust~~ *Class A* land. For all other purposes, the county board shall appraise the state land and the land in the proposed exchange in the same manner as tax-forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

Sec. 85. Minnesota Statutes 1988, section 97A.055, is amended by adding a subdivision to read:

*Subd. 3.* [GAME AND FISH FUND FEES.] *To reduce yearly fluctuations of the game and fish fund balance and to provide improved long-range planning of the fund, the policy of the state is to make fee adjustments as part of the budget process. Agency responsibilities are:*

*(a) The commissioner of natural resources must make specific requests for fee adjustments for all receipt items in the game and fish fund as a part of the fee report.*

*(b) The commissioner of finance must review the fee report and make recommendations for each fee. The commissioner of finance must submit a six-year projection on revenues and expenditures to the legislature.*

Sec. 86. Minnesota Statutes 1988, section 97A.165, is amended to read:

97A.165 [SOURCE OF PAYMENTS FOR INDIAN AGREEMENT.]

Money to make payments to the Leech Lake Band, *the 1854 treaty area agreement,* and White Earth Band special license account under sections 94.16 ~~and~~, 97A.151, subdivision 4, *and 97A.157, subdivision 4,* is annually appropriated for that purpose in a ratio of ~~60~~ *20* percent from the game and fish fund and ~~40~~ *80* percent from the general fund.

Sec. 87. Minnesota Statutes 1988, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to be issued to residents only, are:

(1) for persons under age 65 to take small game, ~~$9~~ *$10*;

(2) for persons age 65 or over, ~~$4.50~~ *$5*;

(3) to take turkey, ~~$12.50~~ *$14*;

(4) to take deer with firearms, ~~$20~~ *$22*;

(5) *family license to take deer with firearms, $84;*

*(6)* to take deer by archery, ~~$20~~ *$22*;

~~(6)~~ *(7)* to take moose, for a party of not more than four persons, ~~$250~~ *$275*;

~~(7)~~ *(8)* to take bear, ~~$30~~ *$33*; and

~~(8)~~ *(9)* to take elk, for a party of not more than two persons, ~~$200~~ *$220*.

Sec. 88. Minnesota Statutes 1988, section 97A.475, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT HUNTING.] Fees for the following licenses, to be issued to nonresidents, are:

(1) to take small game, ~~$51~~ *$56*;

(2) to take deer with firearms, ~~$100~~ *$110*;

(3) to take deer by archery, ~~$100~~ *$110*;

(4) to take bear, ~~$150~~ *$165*;

(5) to take turkey, ~~$30~~ *$33*; and

(6) to take raccoon, bobcat, fox, coyote, or lynx, ~~$125~~ *$137.50*.

Sec. 89. Minnesota Statutes 1988, section 97A.475, subdivision 6, is amended to read:

Subd. 6. [RESIDENT FISHING.] Fees for the following licenses, to be issued to residents only, are:

(1) to take fish by angling, for persons under age 65, ~~$9.50~~ *$10.50*;

(2) to take fish by angling, for persons age 65 and over, ~~$4~~ *$4.50*;

(3) to take fish by angling, for a combined license for a married couple, ~~$13.50~~ *$15*;

(4) to take fish by spearing from a dark house, ~~$12~~ *$13*; and

(5) to take fish by angling for a period of 24 hours from the time of issuance, ~~$4.50~~ *$5*.

Sec. 90. Minnesota Statutes 1988, section 97A.475, subdivision 7, is amended to read:

Subd. 7. [NONRESIDENT FISHING.] Fees for the following licenses, to be issued to nonresidents, are:

(1) to take fish by angling, ~~$18~~ *$20*;

(2) to take fish by angling limited to seven consecutive days, ~~$15~~ *$16.50*;

(3) to take fish by angling for three consecutive days, ~~$12~~ *$13.50*;

(4) to take fish by angling for a combined license for a family, ~~$30.50~~ *$33.50*;

(5) to take fish by angling for a period of 24 hours from the time of issuance, ~~$4.50~~ *$5*; and

(6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days, ~~$22.50~~ *$25*.

Sec. 91. Minnesota Statutes 1988, section 97A.475, subdivision 8, is amended to read:

Subd. 8. [MINNESOTA SPORTING.] The commissioner shall issue Minnesota sporting licenses to residents only. The licensee may take fish by angling and small game. The fee for the license is:

(1) for an individual, ~~$13.50~~ *$15*; and

(2) for a combined license for a married couple to take fish and for one spouse to take small game, ~~$19.50~~ *$21.50*.

Sec. 92. Minnesota Statutes 1988, section 97A.475, subdivision 11, is amended to read:

Subd. 11. [FISH HOUSES AND DARK HOUSES; RESIDENTS.] Fees for the following licenses are:

(1) for a fish house or dark house that is not rented, ~~$8~~ *$9*; and

(2) for a fish house or dark house that is rented, ~~$18~~ *$20*.

Sec. 93. Minnesota Statutes 1988, section 97A.475, subdivision 12, is amended to read:

Subd. 12. [FISH HOUSES; NONRESIDENT.] The fee for a fish house license for a nonresident is ~~$19.50~~ *$21.50*.

Sec. 94. Minnesota Statutes 1988, section 97A.475, subdivision 13, is amended to read:

Subd. 13. [NETTING WHITEFISH AND CISCOES FOR PERSONAL CONSUMPTION.] The fee for a license to net whitefish and ciscoes in inland lakes and international waters for personal consumption is, for each net, ~~$5~~ *$5.50*.

Sec. 95. Minnesota Statutes 1988, section 97A.475, subdivision 14, is amended to read:

Subd. 14. [ROUGH FISH; MINNESOTA AND MISSISSIPPI RIVERS.] The fee for a license to take rough fish for domestic use with a set line in the Minnesota and Mississippi rivers is ~~$13~~ *$14.50*.

Sec. 96. Minnesota Statutes 1988, section 97A.475, subdivision 15, is amended to read:

Subd. 15. [LAKE SUPERIOR FISHING GUIDES.] The fee for a license to operate a charter boat and guide anglers on Lake Superior is:

(1) for a resident, ~~$25~~ *$27.50*;

(2) for a nonresident, ~~$100~~ *$110*; or

(3) if another state charges a Minnesota resident a fee greater than $100 for a Lake Superior fishing guide license in that state, the nonresident fee for a resident of that state is that greater fee.

Sec. 97. Minnesota Statutes 1988, section 97A.475, subdivision 16, is amended to read:

Subd. 16. [RESIDENT HUNTING GUIDES.] The fees for the following resident guide licenses are:

(1) to guide bear hunters, ~~$75~~ *$82.50*; and

(2) to guide turkey hunters, ~~$20~~ *$22*.

Sec. 98. Minnesota Statutes 1988, section 97A.475, subdivision 17, is amended to read:

Subd. 17. [NONRESIDENT BEAR GUIDES.] The fee for a license to guide bear hunters for a nonresident is ~~$400~~ *$440*.

Sec. 99. Minnesota Statutes 1988, section 97A.475, subdivision 18, is amended to read:

Subd. 18. [SHOOTING PRESERVES.] The fee for a shooting preserve license is ~~$75~~ *$82.50*.

Sec. 100. Minnesota Statutes 1988, section 97A.475, subdivision 19, is amended to read:

Subd. 19. [TAXIDERMISTS.] The fee for a taxidermist license, to be issued for a three-year period to residents only, is:

(1) for persons age 18 and older, ~~$40~~ *$44*; and

(2) for persons under age 18, ~~$25~~ *$27.50*.

Sec. 101. Minnesota Statutes 1988, section 97A.475, subdivision 20, is amended to read:

Subd. 20. [TRAPPING LICENSE.] The fee for a license to trap fur-bearing animals is:

(1) for persons over age 13 and under age 18, ~~$5~~ *$5.50*; and

(2) for persons age 18 and older, ~~$16~~ *$18*.

Sec. 102. Minnesota Statutes 1988, section 97A.475, subdivision 21, is amended to read:

Subd. 21. [FUR BUYING AND SELLING; RESIDENTS.] (a) The fee for a license for a resident to buy and sell raw furs is ~~$100~~ *$110*.

(b) The fee for a supplemental license to buy and sell furs is ~~$50~~ *$55*.

Sec. 103. Minnesota Statutes 1988, section 97A.475, subdivision 23, is amended to read:

Subd. 23. [RAW FUR TANNING.] The fee for a license to tan and dress raw furs to be issued to residents and nonresidents is ~~$15~~ *$16.50*.

Sec. 104. Minnesota Statutes 1988, section 97A.475, subdivision 24, is amended to read:

Subd. 24. [GAME AND FUR FARMS.] The fee for a game and fur farm license is ~~$15~~ *$16.50*.

Sec. 105. Minnesota Statutes 1988, section 97A.475, subdivision 25, is amended to read:

Subd. 25. [MUSKRAT FARMS.] The fee for a muskrat farm license is ~~$10~~ *$11*.

Sec. 106. Minnesota Statutes 1988, section 97A.475, subdivision 26, is amended to read:

Subd. 26. [MINNOW DEALERS.] The fees for the following licenses are:

(1) minnow dealer, ~~$70~~ *$77*;

(2) minnow dealer's helper, ~~$5~~ *$5.50*;

(3) minnow dealer's vehicle, ~~$10~~ *$11*;

(4) exporting minnow dealer, ~~$250~~ *$275*; and

(5) exporting minnow dealer's vehicle, ~~$10~~ *$11*.

Sec. 107. Minnesota Statutes 1988, section 97A.475, subdivision 27, is amended to read:

Subd. 27. [MINNOW RETAILERS.] The fees for the following licenses, to be issued to residents and nonresidents, are:

(1) minnow retailer, ~~$10~~ *$11*; and

(2) minnow retailer's vehicle, ~~$10~~ *$11*.

Sec. 108. Minnesota Statutes 1988, section 97A.475, subdivision 28, is amended to read:

Subd. 28. [NONRESIDENT MINNOW HAULERS.] The fees for the following licenses, to be issued to nonresidents, are:

(1) exporting minnow hauler, $525; and

(2) exporting minnow hauler's vehicle, ~~$10~~ *$11*.

Sec. 109. Minnesota Statutes 1988, section 97A.475, subdivision 29, is amended to read:

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

(1) for a private fish hatchery, with annual sales under $200, ~~$25~~ *$27.50*;

(2) for a private fish hatchery, with annual sales of $200 or more, ~~$50~~ *$55*; and

(3) To take sucker eggs from public waters for a private fish hatchery, ~~$150~~ *$165*, plus $3 for each quart in excess of 100 quarts.

Sec. 110. Minnesota Statutes 1988, section 97A.475, subdivision 29a, is amended to read:

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

(1) for a fish farm, ~~$250~~ *$275*; and

(2) to take sucker eggs from public waters for a fish farm, ~~$150~~ *$165*, plus $3 for each quart in excess of 100 quarts.

Sec. 111. Minnesota Statutes 1988, section 97A.475, subdivision 30, is amended to read:

Subd. 30. [COMMERCIAL NETTING OF FISH IN INLAND WATERS.] The fee for a license to net commercial fish in inland waters, to be issued to residents and nonresidents, is $70 plus:

(1) for each hoop net pocket, ~~75 cents~~ *$1*;

(2) for each 1,000 feet of seine, ~~$15~~ *$16.50*; and

(3) for each helper's license, ~~$5~~ *$5.50*.

Sec. 112. Minnesota Statutes 1988, section 97A.475, subdivision 31, is amended to read:

Subd. 31. [COMMERCIAL NETTING OF FISH IN LAKE OF THE WOODS.] The fee for a license to commercially net fish in Lake of the Woods is:

(1) for each pound net or staked trap net, ~~$45~~ *$49.50*;

(2) for each fyke net, ~~$10~~ *$11*, plus $5 for each two-foot segment, or fraction, of the wings or lead in excess of four feet in height;

(3) for each 100 feet of gill net, ~~$2.50~~ *$2.75*;

(4) for each submerged trap net, ~~$15~~ *$16.50*; and

(5) for each helper's license, ~~$15~~ *$16.50*.

Sec. 113. Minnesota Statutes 1988, section 97A.475, subdivision 32, is amended to read:

Subd. 32. [COMMERCIAL NETTING OF FISH IN RAINY LAKE.] The fee for a license to commercially net fish in Rainy Lake is:

(1) for each pound net, ~~$45~~ *$49.50*;

(2) for each 100 feet of gill net, ~~$2.50~~ *$2.75*; and

(3) for each helper's license, ~~$15~~ *$16.50*.

Sec. 114. Minnesota Statutes 1988, section 97A.475, subdivision 33, is amended to read:

Subd. 33. [COMMERCIAL NETTING OF FISH IN NAMAKAN AND SAND POINT LAKES.] The fee for a license to commercially net fish in Namakan Lake and Sand Point Lake is:

(1) for each 100 feet of gill net, ~~$1.50~~ *$1.75*;

(2) for each pound, fyke, and submerged trap net, ~~$15~~ *$16.50*; and

(3) for each helper's license, ~~$5~~ *$5.50*.

Sec. 115. Minnesota Statutes 1988, section 97A.475, subdivision 34, is amended to read:

Subd. 34. [COMMERCIAL SEINE AND SET LINES TO TAKE FISH IN THE MISSISSIPPI RIVER.] (a) The fee for a license to commercially seine rough fish in the Mississippi river from St. Anthony Falls to the St. Croix river junction is:

(1) for a seine not exceeding 500 feet, ~~$25~~ *$27.50*; or

(2) for a seine over 500 feet, ~~$40~~ *$44*, plus $2 for each 100 foot segment or fraction over 1,000 feet.

(b) The fee for each helper's license issued under paragraph (a) is ~~$5~~ *$5.50*.

Sec. 116. Minnesota Statutes 1988, section 97A.475, subdivision 35, is amended to read:

Subd. 35. [COMMERCIAL SEINING OF FISH IN WISCONSIN BOUNDARY WATERS.] The fee for a license to commercially seine fish in the boundary waters between Wisconsin and Minnesota from Taylors Falls to the Iowa border is:

(1) for a seine not exceeding 500 feet, ~~$25~~ *$27.50*; or

(2) for a seine over 500 feet, ~~$40~~ *$44*, plus $2.50 for each 100 feet over 1,000 feet; and

(3) for each helper's license to be issued to residents and nonresidents, ~~$5~~ *$5.50*.

Sec. 117. Minnesota Statutes 1988, section 97A.475, subdivision 36, is amended to read:

Subd. 36. [COMMERCIAL NETTING IN WISCONSIN BOUNDARY

WATERS.] The fee for a license to commercially net in the boundary waters between Wisconsin and Minnesota from Lake St. Croix to the Iowa border is:

(1) for each gill net not exceeding 500 feet, ~~$13~~ *$14.50*;

(2) for each gill net over 500 feet, ~~$25~~ *$27.50*;

(3) for each fyke net and hoop net, ~~$10~~ *$11*;

(4) for each bait net, ~~$1.50~~ *$1.75*;

(5) for each turtle net, ~~$1.50~~ *$1.75*;

(6) for each set line identification tag, ~~$13~~ *$14.50*; and

(7) for each helper's license to be issued to residents and nonresidents, ~~$5~~ *$5.50*.

Sec. 118. Minnesota Statutes 1988, section 97A.475, subdivision 37, is amended to read:

Subd. 37. [COMMERCIAL NETTING OF FISH IN LAKE SUPERIOR.] The fee for a license to commercially net fish in Lake Superior is:

(1) for each gill net, ~~$70~~ *$77* plus $2 for each 1,000 feet over 1,000 feet;

(2) for a pound or trap net, ~~$70~~ *$77* plus $2 for each additional pound or trap net; and

(3) for each helper's license, ~~$5~~ *$5.50*.

Sec. 119. Minnesota Statutes 1988, section 97A.475, subdivision 38, is amended to read:

Subd. 38. [FISH BUYERS.] The fees for licenses to buy fish from commercial fishing licensees to be issued residents and nonresidents are:

(1) for Lake Superior fish bought for sale to retailers, ~~$50~~ *$55*;

(2) for Lake Superior fish bought for sale to consumers, ~~$10~~ *$11*;

(3) for Lake of the Woods, Namakan, Sand Point, and Rainy Lake fish bought for sale to retailers, ~~$100~~ *$110*; and

(4) for Lake of the Woods, Namakan, Sand Point, and Rainy Lake fish bought for shipment only on international boundary waters, ~~$10~~ *$11*.

Sec. 120. Minnesota Statutes 1988, section 97A.475, subdivision 39, is amended to read:

Subd. 39. [FISH PACKER.] The fee for a license to prepare dressed game fish for transportation or shipment is ~~$13~~ *$14.50*.

Sec. 121. Minnesota Statutes 1988, section 97A.475, subdivision 40, is amended to read:

Subd. 40. [FISH VENDORS.] The fee for a license to use a motor vehicle to sell fish is ~~$25~~ *$27.50*.

Sec. 122. Minnesota Statutes 1988, section 97A.475, subdivision 41, is amended to read:

Subd. 41. [TURTLE SELLERS.] The fee for a license to take, transport, purchase, and possess unprocessed turtles for sale is ~~$50~~ *$55*.

Sec. 123. Minnesota Statutes 1988, section 97A.475, subdivision 42, is

amended to read:

Subd. 42. [FROG DEALERS.] The fee for the licenses to deal in frogs that are to be used for purposes other than bait are:

(1) for a resident to purchase, possess, and transport frogs, ~~$70~~ *$77*;

(2) for a nonresident to purchase, possess, and transport frogs, ~~$200~~ *$220*; and

(3) for a resident to take, possess, transport, and sell frogs, ~~$10~~ *$11*.

Sec. 124. Minnesota Statutes 1988, section 97A.485, subdivision 7, is amended to read:

Subd. 7. [COUNTY AUDITOR'S COMMISSION.] The county auditor shall retain for the county treasury a commission of four percent of all license fees collected by the auditor and the auditor's subagents, excluding the small game surcharge and issuing fees, *and the license to take fish by angling for persons age 65 and over*. In addition, the auditor shall collect the issuing fees on licenses sold by the auditor to a licensee.

Sec. 125. Minnesota Statutes 1988, section 97B.301, is amended by adding a subdivision to read:

*Subd. 5.* [FAMILY HUNTING LICENSE.] *A resident family license may be issued by the commissioner. "Family" is defined as a husband, wife, and their children under the age of 18 residing at home. To hunt with a family license, children must be under the age of 18 and enrolled in school. The individual deer limits in subdivision 1 do not apply to the family license. When hunting with a family license, the total limit for the license is one per family member not to exceed four deer.*

Sec. 126. Minnesota Statutes 1988, section 105.41, subdivision 1b, is amended to read:

Subd. 1b. [USE LESS THAN MINIMUM.] ~~No~~ *Except for local permits under section 473.877, subdivision 4, a* permit is *not* required for the appropriation and use of less than a minimum amount to be established by the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules must include provisions for reporting to the commissioner the amounts of water appropriated under local permits.

Sec. 127. Minnesota Statutes 1988, section 115.03, subdivision 1, is amended to read:

Subdivision 1. The agency is hereby given and charged with the following powers and duties:

(a) To administer and enforce all laws relating to the pollution of any of the waters of the state;

(b) To investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as it may deem advisable;

(c) To establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may

be put as it shall deem necessary for the purposes of this chapter and, with respect to the pollution of waters of the state, chapter 116;

(d) To encourage waste treatment, including advanced waste treatment, instead of stream low-flow augmentation for dilution purposes to control and prevent pollution;

(e) To adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities;

(1) Requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter;

(2) Prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(3) Prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(4) Requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person;

(5) Establishing, and from time to time revising, standards of performance for new sources taking into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any nonwater quality environmental impact and energy requirements. Said standards of performance for new sources shall encompass those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the agency determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication by the agency of proposed rules prescribing a standard of performance which will be applicable to such source. Notwithstanding any other provision of the law of this state, any point source the construction of which is commenced after May 20, 1973 and which is so constructed as to meet all applicable standards of performance for new sources shall, consistent with and subject to the provisions of section 306(d) of the

Amendments of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent standard of performance for new sources during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first. Construction shall encompass any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(6) Establishing and revising pretreatment standards to prevent or abate the discharge of any pollutant into any publicly owned disposal system, which pollutant interferes with, passes through, or otherwise is incompatible with such disposal system;

(7) Requiring the owner or operator of any disposal system or any point source to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including where appropriate biological monitoring methods, sample such effluents in accordance with such methods, at such locations, at such intervals, and in such a manner as the agency shall prescribe, and providing such other information as the agency may reasonably require;

(8) Notwithstanding any other provision of this chapter, and with respect to the pollution of waters of the state, chapter 116, requiring the achievement of more stringent limitations than otherwise imposed by effluent limitations in order to meet any applicable water quality standard by establishing new effluent limitations, based upon section 115.01, subdivision 5, clause (b), including alternative effluent control strategies for any point source or group of point sources to insure the integrity of water quality classifications, whenever the agency determines that discharges of pollutants from such point source or sources, with the application of effluent limitations required to comply with any standard of best available technology, would interfere with the attainment or maintenance of the water quality classification in a specific portion of the waters of the state. Prior to establishment of any such effluent limitation, the agency shall hold a public hearing to determine the relationship of the economic and social costs of achieving such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained and to determine whether or not such effluent limitation can be implemented with available technology or other alternative control strategies. If a person affected by such limitation demonstrates at such hearing that, whether or not such technology or other alternative control strategies are available, there is no reasonable relationship between the economic and social costs and the benefits to be obtained, such limitation shall not become effective and shall be adjusted as it applies to such person;

(9) Modifying, in its discretion, any requirement or limitation based upon best available technology with respect to any point source for which a permit application is filed after July 1, 1977 upon a showing by the owner or operator of such point source satisfactory to the agency that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants;

(f) To require to be submitted and to approve plans and specifications for disposal systems or point sources, or any part thereof and to inspect the construction thereof for compliance with the approved plans and specifications thereof;

(g) To prescribe and alter rules, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon it by this chapter and, with respect to pollution of waters of the state, in chapter 116, provided that every rule affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state;

(h) To conduct such investigations, issue such notices, public and otherwise, and hold such hearings as are necessary or which it may deem advisable for the discharge of its duties under this chapter and, with respect to the pollution of waters of the state, under chapter 116, including, but not limited to, the issuance of permits, and to authorize any member, employee, or agent appointed by it to conduct such investigations or, issue such notices and hold such hearings;

(i) For the purpose of water pollution control planning by the state and pursuant to the Federal Water Pollution Control Act, as amended, to establish and revise planning areas, adopt plans and programs and continuing planning processes, including, but not limited to, basin plans and areawide waste treatment management plans, and to provide for the implementation of any such plans by means of, including, but not limited to, standards, plan elements, procedures for revision, intergovernmental cooperation, residual treatment process waste controls, and needs inventory and ranking for construction of disposal systems;

(j) To train water pollution control personnel, and charge such fees therefor as are necessary to cover the agency's costs. All such fees received shall be paid into the state treasury and credited to the water pollution control training fund of the agency, from which the agency shall have the power to make disbursements to pay expenses relating to such training;

(k) To impose as additional conditions in permits to publicly owned disposal systems appropriate measures to insure compliance by industrial and other users with any pretreatment standard, including, but not limited to, those related to toxic pollutants, and any system of user charges ratably as is hereby required under state law or said Federal Water Pollution Control Act, as amended, or any regulations or guidelines promulgated thereunder;

(l) To set a period not to exceed five years for the duration of any National Pollutant Discharge Elimination System permit; ~~and~~

(m) To require a governmental subdivision that owns or operates a wastewater disposal system to have a plan to address its ability to pay the costs of making major repairs to the existing system and planning and constructing an adequate replacement system at the end of the existing system's expected useful life~~.~~*; and*

*(n) To train individual sewage treatment system personnel, including persons who design, construct, install, inspect, service, and operate individual sewage treatment systems, and charge fees as necessary to pay the agency's costs. All fees received must be paid into the state treasury and credited to the agency's training account. Money in the account is appropriated to the agency to pay expenses related to training.*

Sec. 128. Minnesota Statutes 1988, section 115A.03, is amended by adding a subdivision to read:

*Subd. 8a.* [DIRECTOR.] *"Director" means the director of the office of waste management.*

Sec. 129. Minnesota Statutes 1988, section 115A.03, is amended by adding a subdivision to read:

*Subd. 22a.* [OFFICE.] *"Office" means the office of waste management.*

Sec. 130. [115A.055] [OFFICE OF WASTE MANAGEMENT.]

*The office of waste management is an agency in the executive branch headed by a director appointed by the governor, with the advice and consent of the senate, to serve in the unclassified service. The director may appoint two assistant directors in the unclassified service and may appoint other employees, as needed, in the classified service.*

Sec. 131. [WASTE MANAGEMENT BOARD; POWERS AND DUTIES.]

*Except for the office of waste tire management in the pollution control agency, the responsibilities of the waste management board transferred from it by reorganization order under Minnesota Statutes, section 16B.37, are transferred to the office of waste management established by section 130 under Minnesota Statutes, section 15.039.*

Sec. 132. [116.80] [MONITORS REQUIRED FOR INCINERATORS]

*Notwithstanding any other law to the contrary, an incinerator permit issued to a facility that allows burning of PCB's must, as a condition of the permit, require the installation of a continuous emission monitoring system approved by the commissioner. The monitoring system must provide continuous emission measurements to ensure optimum combustion efficiency of dioxin precursors. The system must also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy. Should, at any time, the permitted facility's emissions exceed permit requirements based on accurate and valid emissions data, the facility shall immediately commence shutdown of the incinerator until the appropriate modifications to the facility have been made to ensure its ability to meet permitted requirements.*

Sec. 133. [116.81] [MONITORS REQUIRED FOR INCINERATORS.]

*Notwithstanding any other law to the contrary, an incinerator permit that contains emission limits for dioxin, cadmium, chromium, lead, or mercury must, as a condition of the permit, require the installation of an air emission monitoring system approved by the commissioner. The monitoring system must provide continuous measurements to ensure optimum combustion efficiency for the purpose of ensuring optimum dioxin destruction. The system shall also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy. Should, at any time after normal startup, the permitted facility's emissions exceed permit requirements, based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner and immediately either commence appropriate modifications to the facility*

*to ensure its ability to meet permitted requirements or commence shutdown if the modifications cannot be completed within 72 hours. This section shall not be construed to limit the authority of the agency to regulate incinerator operations under any other law.*

Sec. 134. Minnesota Statutes 1988, section 116C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The members of the board are the commissioner of the state planning agency, the commissioner of public service, the commissioner of the pollution control agency, the commissioner of natural resources, the ~~chair~~ *director* of the *office of* waste management ~~board~~, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the chair of the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

Sec. 135. Minnesota Statutes 1988, section 116E.03, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] The environmental education board shall operate under the general supervision of the commissioner of ~~natural resources~~ *state planning*. The environmental education board shall submit its budget to the commissioner each year for review and approval. Twice each year the state environmental education board shall report to the commissioner on the status of its programs and operations. In addition to any powers or duties otherwise prescribed by law and without limiting the same, the state environmental education board shall have the powers and duties hereinafter specified.

Sec. 136. Minnesota Statutes 1988, section 116J.01, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENTAL ORGANIZATION.] The commissioner shall organize the department as provided in section 15.06. The department must be organized into ~~three~~ *four* divisions, designated as the business promotion and marketing division, the community development division, *the policy analysis and science and technology division,* and the Minnesota trade division, and ~~two offices,~~ the office of tourism ~~and the policy analysis office~~. Each division and office shall administer the duties and functions assigned to it by law. When the duties of the divisions or office are not allocated by law, the commissioner may establish and revise the assignments of each division and office. Each division is under the direction of a deputy commissioner in the unclassified service. The deputy commissioner of the Minnesota trade division must be experienced and knowledgeable in matters of international trade.

Each office is under the direction of a director in the unclassified service.

Sec. 137. Minnesota Statutes 1988, section 116J.01, subdivision 4, is amended to read:

*Subd. 4.* [APPOINTMENT OF DIRECTOR OF THE OFFICE OF TOURISM.] *The director of the office of tourism shall be appointed by the governor.*

Sec. 138. [116J.616] [SPECIFIC AGREEMENTS PROHIBITED.]

*The commissioner or director of tourism may not enter into an agreement which would obligate the state to pay any part of a debt incurred by a public or private facility, organization, or attraction.*

Sec. 139. [116J.617] [TOURISM LOAN PROGRAM.]

*Subdivision 1.* [ESTABLISHMENT.] *The commissioner may establish a tourism revolving loan program to provide loans or participate in loans to resorts, campgrounds, lodging facilities, and other tourism-related businesses. The commissioner shall work with financial institutions in making or participating in loans under this section.*

*Subd. 2.* [ELIGIBLE BORROWER.] *To receive a loan under this section, the borrower must be a sole proprietorship, partnership, corporation, or other person engaged in a tourism-related business or other entity that is defined by the standard industrial classification codes of 7011 and 7033 as set out in the Code of Federal Regulations, title 13, section 121.2. An eligible borrower under this section must maintain the business or other entity as a tourism-related entity as defined by this subdivision during the term of the loan. An eligible borrower may not receive a loan under this section if the borrower has received a tourism-related loan made by the state or participated in by the state in the past three years.*

*Subd. 3.* [ELIGIBLE LOAN.] *The maximum loan made or participated in under this section may not be for more than 50 percent of the total cost of the project. Loan proceeds may be used for the following purposes: building construction and improvement, site improvement, equipment, other construction costs, and engineering costs. Project-related expenditures made more than 30 days before an application may not be financed by a loan made or participated in under this section.*

*Subd. 4.* [LOAN TERMS.] *The maximum term of a loan made or participated in under this section may not exceed the useful life of the real property or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:*

*(1) ten years for land, building, or other real property;*

*(2) five years for equipment or machinery; or*

*(3) a weighted average of the limits under clauses (1) and (2) for loans made or participated in for a combination of real property and equipment or machinery.*

*The commissioner may establish interest rates for loans made under this section. All loans made must be secured by collateral.*

*Subd. 5.* [TOURISM LOAN ACCOUNT.] *The tourism loan account is created in the special revenue fund. The fund consists of money appropriated or transferred to the account and interest collected through the tourism revolving loan program, and gifts, donations, and bequests made to the account. Money in the account is appropriated to the commissioner for purposes of this section. Fees collected through the tourism revolving loan program must be credited to the general fund.*

Sec. 140. Minnesota Statutes 1988, section 116J.58, subdivision 1, is amended to read:

Subdivision 1. [ENUMERATION.] The commissioner shall:

(1) investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;

(2) locate markets for manufacturers and processors and aid merchants in locating and contacting markets;

(3) investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the commissioner in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;

(4) plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;

(5) compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;

(6) conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;

(7) study trends and developments in the industries of the state and analyze the reasons underlying the trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

(8) serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;

(9) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(10) cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as the use, conservation, and development may be appropriately directed or influenced by a state agency;

(11) assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on the public works; gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employment; inquire into and report to the governor, when requested by the governor, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other

state departments or agencies as may be needed properly to report thereon;

(12) study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(13) confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring states, counties, and municipalities and the development of this state;

(14) generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state, with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in a manner that seems wise;

*(15) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development; and*

*(16) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies.*

Sec. 141. Minnesota Statutes, section 116J.63, is amended by adding a subdivision to read:

*Subd. 4. The office of tourism may market tourism-related publications and media promotional material to businesses and organizations. The proceeds from the marketing must be placed in a special account and are appropriated to the commissioner to prepare and distribute the office's publications and media promotional materials.*

Sec. 142. Minnesota Statutes 1988, section 116J.68, subdivision 2, is amended to read:

Subd. 2. The bureau shall:

(a) provide information and assistance with respect to all aspects of business planning and business management related to the start-up, operation, or expansion of a small business in Minnesota;

(b) refer persons interested in the start-up, operation, or expansion of a small business in Minnesota to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations *or to the business assistance referral system established by the Minnesota Project Outreach Corporation*;

(c) plan, develop, and implement a master file of information on small business assistance programs of federal, state, and local governments, and other public and private organizations so as to provide comprehensive, timely information to the bureau's clients;

(d) employ staff with adequate and appropriate skills and education and training for the delivery of information and assistance;

(e) seek out and utilize, to the extent practicable, contributed expertise and services of federal, state, and local governments, educational institutions, and other public and private organizations;

(f) maintain a close and continued relationship with the director of the procurement program within the department of administration so as to facilitate the department's duties and responsibilities under sections 16B.19 to 16B.22 relating to the small business set aside program of the state;

(g) develop an information system which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze, and exchange data regarding small business development and growth in the state. All executive branch agencies of state government and the secretary of state shall to the extent practicable, assist the bureau in the development and implementation of the information system;

(h) establish and maintain a toll free telephone number so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state~~;~~. *If the small business person requires a referral to another provider the bureau may use the business assistance referral system established by the Minnesota Project Outreach Corporation;*

(i) conduct research and provide data as required by state legislature;

(j) develop and publish material on all aspects of the start-up, operation, or expansion of a small business in Minnesota;

(k) collect and disseminate information on state procurement opportunities, including information on the procurement process;

(l) develop a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising about state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons;

(m) publicize to small businesses ~~the provisions of Laws 1983, chapter 188, requiring~~ *section 14.115 which requires* consideration of small business issues in state agency rulemaking~~.~~*;*

*(n) enter into agreements with the federal government and other public and private entities to serve as the statewide coordinator or host agency for the federal small business development center program under United States Code, title 15, section 648;*

*(o) establish an evaluation mechanism to determine if assistance providers have adequate expertise and resources to deliver quality services. Evaluation of assistance providers may be based on the ability of the provider to offer the advertised service, the training and experience of the provider, and the formal evaluation process used by the provider. The evaluation mechanism must be designed so that the business assistance referral system established by the Minnesota Project Outreach Corporation may use the results of the evaluation in providing clients with referrals to providers; and*

*(p) assist providers in the evaluation of their programs and the assessment of their service area needs. The bureau may establish model evaluation techniques and performance standards for providers to use.*

Sec. 143. [116J.691] [MINNESOTA PROJECT OUTREACH

CORPORATION.]

*Subdivision 1.* [ESTABLISHMENT; PURPOSE.] *The Minnesota Project Outreach Corporation is established as a nonprofit corporation under chapter 317 and is subject to the provisions of that chapter. The purpose of the corporation is to (i) facilitate the transfer of technology and scientific advice from the University of Minnesota and other institutions to businesses in the state that may make economic use of the information; and (ii) to assist small and medium-sized businesses in finding technical and financial assistance providers that meet their needs.*

*Subd. 2.* [BOARD OF DIRECTORS.] *The Minnesota Project Outreach Corporation shall be governed by a nine-member board of directors consisting of the president of the University of Minnesota or the president's designee, the deputy commissioner of trade and economic development for community development or the commissioner's designee, the chair of the Greater Minnesota Corporation board of directors or the chair's designee, the president of the Minnesota Project Outreach Corporation, a member of the state senate appointed by the subcommittee on committees of the senate rules and administration committee, a member of the house of representatives appointed by the speaker, a representative of small manufacturing firms located outside the metropolitan area, a representative of medium-sized manufacturing firms located in the metropolitan area, and a private sector person representing the general public. Vacancies on the board for the members who are representatives of the manufacturing firms and the general public shall be filled by the board. The president of the Minnesota Project Outreach Corporation shall be appointed by at least a two-thirds majority of the other members of the board.*

*The terms of the directors appointed by the governor shall be three years. The directors appointed by the governor shall serve until their successors are appointed and qualify. The board may elect a chair and form committees of the board.*

*Subd. 3.* [ARTICLES OF INCORPORATION.] *The articles of incorporation of the Minnesota Project Outreach Corporation must be filed with the secretary of state under chapter 317 and must be consistent with the duties of the corporation under subdivision 4 and the other provisions of this section.*

*Subd. 4.* [DUTIES.] *The Minnesota Project Outreach Corporation shall:*

*(1) establish a technology assistance system to assist business, specifically new and other small and medium-sized businesses across the state, in gaining access to technical information, including but not limited to technologies developed by the University of Minnesota and other higher education systems and their personnel; and in gaining access to technology-related federal programs.*

*(2) establish and continually update a business assistance referral system which includes a data base of economic development related technical assistance and financial assistance providers or programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, local governments, private industry associations, and other organizations and individuals that provide assistance;*

*(3) establish and maintain or contract for the establishment of a toll-free telephone number operated by trained staff familiar with the business*

*assistance referral system and data base;*

*(4) maintain a marketing and outreach program informing persons interested in starting, operating, or expanding small business and assistance providers of the technology assistance system and the business assistance referral system;*

*(5) establish, where possible, regional bases and referral systems for the business assistance referral system; and*

*(6) make available the data base of the business assistance referral system to the legislature, the department of trade and economic development, and other state agencies for evaluating the effectiveness and efficiency of the provision of economic development-related technical and financial assistance in the state.*

*Subd. 5.* [STATE AGENCY COOPERATION.] *The Minnesota Project Outreach Corporation shall consult with the department of trade and economic development in the development and marketing of the business assistance referral system. The corporation shall assist the department of trade and economic development in establishing an evaluation mechanism for the business assistance referral system which at least includes a process for determining the effectiveness of the economic development related technical or financial assistance provider's service in meeting the needs of the client referred to the provider.*

*Subd. 6.* [CHARGES TO CLIENTS.] *(a) The Minnesota Project Outreach Corporation may charge reasonable fees to a client for the technology assistance system. The corporation shall establish a fee structure for the technology assistance system and may base the fee structure on the type of service provided, the size of the client based on number of employees or amount of annual revenues, the length of time the client has been in operation, and other criteria.*

*(b) The corporation shall provide the business assistance referral system at no cost to the client and may not charge the client a fee or any other compensation for the referral to a provider. This subdivision does not prohibit the technical or financial assistance provider from charging a fee or other compensation to a client that has been referred to the provider by the business assistance referral system.*

*Subd. 7.* [ADVISORY COMMITTEES.] *The board of directors of the Minnesota Project Outreach Corporation may appoint advisory committees to assist in selecting vendors and evaluating the corporation's activities.*

*Subd. 8.* [ANNUAL REPORT.] *The Minnesota Project Outreach Corporation shall submit an annual report by January 15 of each year to the appropriations, finance, and economic development committees of the legislature, the governor, the Greater Minnesota Corporation, and the University of Minnesota. The report must include a description of the corporation's activities for the past year, a listing of the contracts entered into by the corporation, and a summary of the corporation's expenditures.*

*Subd. 9.* [AUDIT.] *The Minnesota Project Outreach Corporation shall contract with a certified public accounting firm to perform a financial and compliance audit of the corporation and any subsidiary annually in accordance with generally accepted accounting standards.*

Sec. 144. [116J.692] [REGISTERED NAME.]

*Notwithstanding Minnesota Statutes, section 317.09, the secretary of state shall register the name "Minnesota Project Outreach Corporation" on behalf of the corporation.*

Sec. 145. [INITIAL APPOINTMENTS.]

*Notwithstanding section 143, subdivision 2, the members of the initial board of directors representing manufacturing firms and the general public shall be appointed by the governor as follows: one member to a one-year term, one member to a two-year term, and one member to a three-year term.*

Sec. 146. [116J.876] [DEFINITIONS.]

*Subdivision 1.* [TERMS.] *For the purposes of this section and sections 147 to 155, the terms defined in this section have the meanings given them.*

*Subd. 2.* [AGREEMENT.] *"Agreement" means an agreement between a lender and the commissioner under which a lender may participate in the program.*

*Subd. 3.* [BORROWER.] *"Borrower" means the recipient of a loan which is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:*

*(1) the borrower is a corporation, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, which is authorized to conduct business in the state; and*

*(2) the borrower is not an executive officer, director, or principal shareholder of the lender, or a member of the immediate family of an executive officer, director, or principal shareholder of the lender, or an entity controlled by an executive officer, director, principal shareholder, or member of the immediate family.*

*Subd. 4.* [CAPITAL ACCESS ACCOUNT; ACCOUNT.] *"Capital access account" or "account" means an account created in the special revenue fund for the purposes of the capital access program.*

*Subd. 5.* [CLAIM.] *"Claim" means any claim filed by the lender under section 153.*

*Subd. 6.* [COMMISSIONER.] *"Commissioner" means the commissioner of trade and economic development.*

*Subd. 7.* [EARLY LOAN.] *"Early loan" means an enrolled loan where at the time of enrollment the amount of previously enrolled loans made by the lender under the program was less than $5,000,000.*

*Subd. 8.* [ELIGIBLE LOAN.] *"Eligible loan" means a loan made by the lender to a borrower that meets the requirements of section 150.*

*Subd. 9.* [ENROLLED LOAN.] *"Enrolled loan" means a loan enrolled by the commissioner under the terms of section 150.*

*Subd. 10.* [LENDER.] *"Lender" means a financial institution as defined in section 13A.01, subdivision 2, that has entered into an agreement with the commissioner to participate in the program.*

*Subd. 11.* [PASSIVE REAL ESTATE OWNERSHIP.] *"Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include (1) the ownership of that portion of real estate being used or*

*intended to be used for the operation of the business of the owner of the real estate; or (2) ownership of real estate for the purpose of construction or renovation until the completion of the construction or renovation phase.*

*Subd. 12.* [PROGRAM.] *"Program" means the capital access program created by sections 146 to 155.*

*Subd. 13.* [RESERVE FUND.] *"Reserve fund" means an administrative account maintained by the commissioner for funds accumulated under an agreement with the commissioner to cover losses sustained by the lender on enrolled loans.*

Sec. 147. [116J.8761] [CAPITAL ACCESS PROGRAM; CREATION; ADMINISTRATION.]

*A capital access program is created in the department of trade and economic development. The purpose of the capital access program is to provide capital to businesses, particularly small and medium sized businesses, to foster economic development. Loans made under this program are to be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the capital access program.*

*The commissioner has the power to administer the program, enter into contracts, and take action reasonably necessary to ensure compliance with the program. The lender shall provide the commissioner with information regarding its participation in the program as the commissioner may reasonably require. Upon notice to the lender, the commissioner may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.*

*A lender is eligible to participate in the program upon entering into an agreement with the commissioner governing the duties of the commissioner and the lender under the program.*

Sec. 148. [116J.8762] [COMMISSIONER; DUTIES.]

*Subdivision 1.* [DUTIES.] *The commissioner must:*

*(1) market the capital access program to businesses and other persons in the state in cooperation with financial institutions and statewide associations representing financial institutions;*

*(2) establish a reservation or allocation system so that lenders may reserve an allocation of funds in the account before or after the lender enters into a loan agreement or contract with a borrower; and*

*(3) develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the commissioner and the participating lenders is maximized and the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.*

*Subd. 2.* [INTERESTS OF COMMISSIONER.] *Except upon the exercise of the commissioner's right of subrogation under section 153, the commissioner has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the commissioner's consent is not necessary for any amendment to the lender's loan documents.*

Sec. 149. [116J.8763] [ELIGIBLE LOANS.]

*Subdivision 1.* [LOAN TYPES.] *Eligible loans may include:*

*(1) loans made for industrial, commercial, or agricultural purposes;*

*(2) refinancing of loans made for the purposes in clause (1); and*

*(3) lines of credit agreements established between the lender and borrower which are used for the purposes in clause (1).*

*Subd. 2.* [LOAN RESTRICTIONS.] *Eligible loans must meet the following criteria:*

*(1) the lender has not made the loan in order to enroll in the program prior debt which is not covered under the program and which is or was owed by the borrower to the lender;*

*(2) the proceeds of the loan will not be used for that portion of a project or development devoted to housing;*

*(3) the proceeds of the loan will not be used to finance passive real estate ownership; and*

*(4) the proceeds of the loan will be used to finance a project or enterprise located within this state which will foster economic development in Minnesota.*

*Subd. 3.* [LOAN PROVISIONS.] *An eligible loan may provide for an interest rate, fees, and other terms and conditions as the lender and borrower may agree. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.*

Sec. 150. [116J.8764] [ENROLLMENT OF LOANS IN PROGRAM.]

*Subdivision 1.* [FILING REQUIREMENTS.] *(a) To enroll a loan under this program, the lender must file a completed loan enrollment form with the commissioner. The lender must also certify the following to the commissioner as part of the filing:*

*(1) the lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 146, subdivision 3;*

*(2) that the lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans;*

*(3) the loan being filed for enrollment is an eligible loan under section 149; and*

*(4) premium changes required of the borrower and lender under this section have been deposited in the reserve fund.*

*(b) The lender shall file the loan enrollment form within ten business days after the lender makes the loan. The date on which the lender makes a loan is the date on which the lender first disburses proceeds of the loan to the borrower or an earlier date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender delivers the required documentation to the commissioner, delivers it to a professional courier service for delivery to the commissioner, or mails it to the commissioner by certified mail.*

*Subd. 2.* [COMMISSIONER ENROLLMENT; ACKNOWLEDGMENT.]

*When the commissioner receives the loan enrollment form, the commissioner shall enroll the loan, unless the information provided under subdivision 1 indicates that the loan is not an eligible loan, and shall deliver to the lender within five business days of receipt an acknowledgment of enrollment, signed by the commissioner or designee, including documentation of the amount being transferred by the commissioner into the reserve fund under this section.*

*Subd. 3.* [AMOUNT COVERED.] *When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan. Unless the context clearly requires otherwise, when used in connection with a loan or loans, the words "amount" and "proceeds" refer only to the amount covered under the agreement.*

*Subd. 4.* [AMOUNT COVERED IN REFINANCINGS.] *(a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.*

*(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the commissioner to the reserve fund.*

*(c) If an enrolled loan is refinanced in an amount exceeding the amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under subdivision 1.*

*(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.*

*Subd. 5.* [TERMINATION OF ENROLLMENT.] *If the outstanding balance of an enrolled loan which is not a line of credit is reduced to zero, the loan is no longer an enrolled loan. If an enrolled loan which is a line of credit has an outstanding balance of zero for a 12-month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the 12-month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.*

Sec. 151. [116J.8765] [RESERVE FUND; PREMIUMS.]

*Subdivision 1.* [CREATION.] *Upon execution of an agreement between the lender and the commissioner, the commissioner shall establish a reserve fund account with the lender in the name of the commissioner for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the commissioner under sections 146 to 155.*

*Subd. 2.* [PREMIUM PAYMENTS AND TRANSFERS TO RESERVE FUND.] *The premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment are determined by the lender. The premium paid by the borrower may not be less*

*than 1.5 percent nor greater than 3.5 percent of the amount of the loan. The premium paid by the lender shall be equal to the amount of the premium paid by the borrower. The lender may recover from the borrower the cost of the lender's premium payment, in any manner in which the lender and borrower agree. When enrolling a loan, the commissioner shall transfer into the reserve fund from the account premium amounts determined as follows:*

*(a) If the amount of any loan, plus the amount of loans previously enrolled by the lender, is less than $2,000,000, the premium amount transferred must be equal to 150 percent of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.*

*(b) If, prior to the enrollment of the loan, the amount of loans previously enrolled by the lender equals or exceeds $2,000,000, the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.*

*(c) If the amount of loans previously enrolled by the lender is less than $2,000,000, but the enrollment of a loan will cause the aggregate amount of all enrolled loans made by the lender to exceed $2,000,000, the premium amount transferred must be equal to a percentage of the combined amount paid by the lender and the borrower. The percentage must be determined by (1) multiplying by 150 that portion of the loan which when added to the amount of all previously enrolled loans totals $2,000,000, (2) multiplying the balance of the loan by 100, and (3) adding the products of the two amounts and dividing the sum by the total amount of the loan.*

*Subd. 3.* [LIMITATION OF TRANSFERS.] *A maximum premium amount of $150,000 may be transferred into the reserve funds of all lenders participating in the program by the commissioner over any three-year period in connection with any one borrower or any group of borrowers among which a common enterprise exists. This maximum premium amount may be exceeded upon the written request by a lender only if the commissioner approves in writing the transfer of an amount in excess of $150,000. For the purpose of this subdivision, the term "common enterprise" has the meaning given it in Code of Federal Regulations, title 12, section 32, as amended.*

*Subd. 4.* [CONTROL AND INVESTMENT OF RESERVE FUND.] *(a) All money credited to the reserve fund is under the exclusive control of the commissioner. The commissioner may not withdraw money from the reserve fund except as specifically provided in this subdivision and sections 152 and 154.*

*(b) Money in the reserve fund must be deposited by the commissioner in an account with the lender unless the commissioner determines that the lender is not in substantial compliance with the requirements of the agreement. If money in the reserve fund is not deposited by the commissioner in an account with the lender, it must be invested or reinvested by the commissioner in (1) direct obligations of the United States or the state of Minnesota or in obligations the principal and interest of which are unconditionally guaranteed by the United States or the state of Minnesota, or (2) a deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.*

*(c) Interest or income earned on the money credited to the reserve fund*

*is part of the reserve fund. The commissioner may withdraw at any time from the reserve fund 50 percent of all interest or income that has been credited to the reserve fund, except that after the first withdrawal the commissioner may not withdraw more than 50 percent of all interest or income that has been credited to the reserve fund since the time of the last withdrawal. Any withdrawal made under this subdivision may be made prior to paying any claim. None of the amounts withdrawn need to be transferred back to the reserve fund. Any withdrawal under this subdivision must be credited in the capital access account.*

*Subd. 5.* [PLEDGE OF THE RESERVE FUND.] *The commissioner shall pledge to the lender that the money in the reserve fund will be available to pay claims under section 152, that the lender will have a first security interest in the money in the reserve fund to pay the claims, and that the commissioner will not encumber or pledge the money to any other party.*

*Subd. 6.* [QUARTERLY REPORTS; INSPECTIONS.] *(a) If the reserve fund is not maintained with the lender, the commissioner shall provide to the lender quarterly transaction reports indicating the balance in the reserve fund, payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on money credited to the reserve fund.*

*(b) The records of the commissioner with respect to all payments and transfers into the reserve fund, withdrawals from the reserve fund, and interest or income earned on the money credited to the reserve fund, are available to the lender at the offices of the commissioner during normal business hours.*

Sec. 152. [116J.8766] [CLAIMS BY LENDER TO RESERVE FUND.]

*Subdivision 1.* [CLAIM PROCESS.] *(a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the commissioner. The claim must be filed contemporaneously with the charge-off.*

*(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half of the documented out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral. The amount of principal and accrued interest included in the claim may not exceed the principal amount covered under the program upon enrollment, plus accrued interest attributable to the covered principal amount.*

*(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with its normal method for making these determinations on similar loans which are not enrolled loans.*

*(d) If the lender files two or more claims contemporaneously and there are insufficient funds in its reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the commissioner shall pay the claims.*

*Subd. 2.* [DISBURSEMENT OF RESERVE FUND.] *(a) Upon receipt by the commissioner of a claim filed by the lender, the commissioner shall, within ten business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the information provided by the lender was known by the lender to be false at the time the loan was filed for enrollment. No other violation of sections 146 to 155 or the agreement is grounds for denial of a claim.*

*(b) If there is insufficient money in the reserve fund to cover the entire amount of the lender's claim, the commissioner shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund and the following shall apply:*

*(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.*

*(2) If the loan is an early loan, the partial payment does not satisfy the lender's claim, and at any time that the remaining balance of the claim is not greater than 75 percent of the balance in the reserve fund at the time of the loss, the commissioner, upon request of the lender, shall pay the remaining balance of the claim.*

*Subd. 3.* [RECOVERY BY LENDER SUBSEQUENT TO CLAIM.] *If, subsequent to payment of a claim by the commissioner, the lender recovers from a borrower any amount for which payment of the claim was made, the lender shall promptly pay to the commissioner for deposit in the reserve fund the amount recovered, less one-half of any documented out-of-pocket expenses incurred. The lender need pay to the commissioner for deposit in the reserve fund only amounts in excess of the amount of recovery needed to fully cover the lender's loss on an enrolled loan.*

*For the purposes of this subdivision and section 153, the lender's loss on an enrolled loan includes any losses on the loan including principal, accrued interest, and one-half of the documented out-of-pocket expenses attributable to principal amounts in excess of the amount covered under the program or the principal amount included in the claim.*

Sec. 153. [116J.8767] [SUBROGATION OF CLAIMS.]

*Subdivision 1.* [LIMITATION.] *The commissioner may exercise the right of subrogation under this section if the commissioner determines, in the commissioner's discretion, that the lender has not exercised reasonable care and diligence in its collection activities with respect to the loan or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to the collection activities.*

*Subd. 2.* [ASSIGNMENT OF RIGHTS.] *If the payment of a claim has fully covered the lender's loss on an enrolled loan, or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the commissioner, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the commissioner any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.*

*Subd. 3.* [LENDER OBLIGATIONS.] *If an assignment has been made, the commissioner is not required to undertake any obligations of the lender under its loan documents, except for any obligations directly related to the commissioner's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations it may have under the loan documents in the same manner and to the same degree as required had the assignment not been made. The lender shall provide the commissioner with all reasonable assistance the commissioner requests in proceeding with respect to any collateral, security, or other right of recovery, except*

*that the lender need not incur any out-of-pocket expenses.*

*Subd. 4.* [PAYMENT OF LENDER'S LOSS.] *If the commissioner decides to exercise the right of subrogation in connection with an enrolled loan and would be entitled to exercise the right except for the fact that the lender's loss has not been fully covered, the commissioner may pay from money in the reserve fund an amount sufficient to fully cover the lender's loss even though the payment may cover a principal amount not covered under the program or not included in the lender's claim. Upon making the payment, the commissioner is subrogated to the rights of the lender.*

*Subd. 5.* [RECOVERED FUNDS.] *Any money received by the commissioner as a result of enforcement actions taken with respect to any collateral, security, or other rights of recovery must be promptly deposited by the commissioner in the reserve fund, less any out-of-pocket expenses incurred by the commissioner in taking such enforcement actions.*

Sec. 154. [116J.8768] [EXCESS RESERVE FUNDS.]

*Subdivision 1.* [REPORTS.] *The lender shall file quarterly reports with the commissioner indicating the number and aggregate outstanding balance of all enrolled loans as of the end of each quarter. A quarterly report is not required for any quarter that ends with a balance in the reserve fund of zero, except that a calendar year-end report must be filed. In computing the aggregate outstanding balance of all enrolled loans, the balance of any loan may not be greater than the covered amount of the loan as enrolled.*

*Subd. 2.* [WITHDRAWAL OF EXCESS RESERVE FUNDS.] *(a) If reports filed under this section indicate that for the immediately preceding 24-month period the balance in the reserve fund continually exceeded the aggregate outstanding balance of all enrolled loans, the commissioner may withdraw from the reserve fund, on or before the last day of the month for which a report is due, an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the most recent report, unless the lender has provided to the commissioner adequate documentation that at some time during that 24-month period the aggregate outstanding balance of all enrolled loans exceeded the balance then in the reserve fund. Any amounts withdrawn from the reserve fund must be transferred to the account.*

*(b) If a report is not filed within 30 days of its original due date, the commissioner may withdraw from the reserve fund based on the commissioner's determination from an inspection of the lender's files an amount not greater than the amount by which the reserve fund balance exceeded the aggregate outstanding balance of all enrolled loans as of the date for which the report was required to be filed.*

Sec. 155. [116J.8769] [TERMINATION.]

*The commissioner may terminate the obligation to a lender to enroll loans under the program if the commissioner determines that the lender is not in substantial compliance with the requirements of the program. The termination takes effect on the date specified in the notice of termination, except that the termination does not apply to any loan made on or before the date on which the notice of termination is received by the lender. If the commissioner is terminating the enrollment of loans for all participating lenders under the program, the commissioner shall provide notice of at*

*least 90 days to the lender. Any terminations under this section are prospective only and do not apply to any loans previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.*

Sec. 156. Minnesota Statutes 1988, section 116J.970, is amended to read:

116J.970 [SCIENCE AND TECHNOLOGY ~~OFFICE~~ *DUTIES.*]

~~Subdivision 1. [DUTIES.]~~ The commissioner shall ~~establish an office of science and technology, which shall~~:

(1) provide assistance to the committee on science and technology research and development established in section 116J.971;

(2) prepare and deliver to the legislature every January 15, a science and technology annual report that shall contain:

(i) a list of the scientifically and technologically related research and development projects and development activities funded by a grant or loan of state money;

(ii) guidelines that the legislature may use in allocating state grant or loan money for scientifically and technologically related research and development projects, to include assessments of emerging technologies and those technologies that provide significant promise for the development of job-creating businesses; and

(iii) an analysis of the efficacy and completeness of the decentralized research peer review processes mandated in section 116J.971, subdivision ~~5~~ *6*, with special emphasis on whether or not scientifically and technologically related research and development projects in Minnesota are in conformance with the guidelines established in ~~item~~ ~~(ii)~~ *section 116J.971, subdivision 6*, and whether or not the scientifically and technologically related research and development projects have or will result in creating scientifically and technologically related jobs;

(3) keep a current roster of technology intensive businesses in the state;

(4) collect and disseminate information on financial, technical, marketing, management, and other services available to technology intensive small and emerging businesses, including potential sources of debt and equity capital;

(5) review the technological development potential of various regions of the state and cooperate with and make recommendations to the legislature, state agencies, *the Greater Minnesota Corporation,* local governments, local technology development agencies, the federal government, private businesses, and individuals for the realization of the development potential; *and*

(6) sponsor and conduct conferences and studies, collect and disseminate information, and issue periodic reports relating to scientifically and technologically related research and development, and education in the state and represent the state at appropriate interstate and national conferences; ~~and~~

~~(7) take other action as assigned by the commissioner~~.

Sec. 157. Minnesota Statutes 1988, section 116J.971, subdivision 3, is amended to read:

Subd. 3. [QUALIFICATIONS AND DUTIES OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT.] Members of the committee on science and technology research and development must be qualified in at least one of the five following areas: economic development, academic and applied research, the administration of research, the review of research processes, and the management and development of technology intensive companies. The committee shall:

(i) advise upon and approve by a majority vote the guidelines required by section 116J.970, clause (2), item (ii);

(ii) advise the ~~director of the office of science and technology~~ *commissioner* on the preparation of the analysis required by section 116J.970, clause (2), item (iii);

(iii) approve the assignment of ad hoc advisory committees on science and technology research and development as needed; and

(iv) review and comment upon, if the committee considers it to be necessary, the reports of the ad hoc advisory committees and forward the reports to the ~~director of the office of science and technology~~ *commissioner*.

Sec. 158. Minnesota Statutes 1988, section 116J.971, subdivision 6, is amended to read:

Subd. 6. [PEER REVIEW PLANS.] A state agency, board, commission, authority, ~~or~~ institution *or other entity, including the Greater Minnesota Corporation,* that ~~funds~~ *allocates state money by a grant, loan, or contract for* scientifically and technologically related research shall establish a peer review system to evaluate the research. The committee on science and technology research and development shall recommend guidelines for establishing effective peer review. An agency, board, commission, authority, or institution that funds scientifically and technologically related research shall, at least biennially, present to the committee on science and technology research and development or to ad hoc committees, as determined by the committee on science and technology research and development, a review and evaluation of the peer review process used in that organization.

Sec. 159. Minnesota Statutes 1988, section 116J.971, subdivision 7, is amended to read:

Subd. 7. [AUTHORITY TO PERFORM REQUESTED EVALUATIONS.] The governor, commissioner ~~or director of the office of science and technology~~, speaker of the house of representatives, house of representatives minority leader, senate majority leader, senate minority leader, chair of the house of representatives appropriations committee, chair of the senate finance committee, or a member of the legislature considering the introduction or approval of legislation containing funding for scientifically and technologically related research and development, may request the committee on science and technology research and development to evaluate a loan or grant made or to be made or the proposed legislation for funding scientifically and technologically related research and development to determine (1) whether it complies with the guidelines required by section 116J.970, clause (2), item (ii); (2) whether it is technically feasible; and (3) for development proposals, whether the proposal appears to have the potential for economic development. Ad hoc committees may be appointed by the committee on science and technology research and development to perform these reviews.

Sec. 160. Minnesota Statutes 1988, section 116J.971, subdivision 8, is amended to read:

Subd. 8. [AUTHORITY FOR REVIEW AND COMMENT UPON RESEARCH AND DEVELOPMENT PROGRAMS.] Each agency, board, commission, authority ~~or~~, institution ~~receiving an appropriation for the funding of~~ *or other entity, including the Greater Minnesota Corporation, that allocates state money by a grant, loan, or a contract for* scientifically and technologically related research and development must notify the ~~office of science and technology~~ *commissioner* within 60 days of making a loan or grant for scientifically or technologically related research and development. The notice shall contain a summary of the nature of and significant objectives of the research and development project funded by a grant or loan. The notice must also include information on the size and timing of previous grants or loans and anticipated additional funding needs. The committee on science and technology research and development shall, at least once each biennium, review scientifically and technologically related research funded by a state agency, board, commission, authority, ~~or~~ institution *or other entity, including the Greater Minnesota Corporation,* to assess whether or not the research and development is conducted in accordance with the guidelines required by section 116J.970, clause (2), item (ii). The committee's assessment shall be sent to the legislature on or before January 15 of every odd-numbered year.

Sec. 161. Minnesota Statutes 1988, section 116J.971, subdivision 9, is amended to read:

Subd. 9. [STAFF APPOINTMENTS.] The ~~director of the office of science and technology~~ *commissioner* shall appoint those staff members necessary to perform the ~~functions of the science and technology division~~ *duties of the commissioner required under section 116J.970.* The ~~director~~ *commissioner* shall appoint in the unclassified service an executive director of the committee on science and technology research and development~~, who shall report to the director~~. The executive director must hold a postbaccalaureate degree in scientific or technologically related studies, or demonstrate experience in technological policy formulation.

Sec. 162. [116J.983] [CERTIFIED DEVELOPMENT COMPANY.]

*Subdivision 1.* [PURPOSE; OBJECTIVES.] *The commissioner may create, promote, and assist a development company that will qualify as a certified development company for the purposes of United States Code, title 15, section 697, and Code of Federal Regulations, title 13, section 108.503.*

*The commissioner shall use the development company program, in conjunction with the other economic development programs administered by the department, to stimulate the state's economic activity.*

*The development company and its directors and officers shall comply with the organizational, operational, regulatory, and reporting requirements as adopted by the United States Small Business Administration and the Minnesota department of trade and economic development; the guidelines contained in the bylaws; the articles of incorporation; and standard operating procedure prescribed by the Small Business Administration.*

*Subd. 2.* [CAPITAL, LOAN LIMITS; MEMBERSHIP REQUIREMENTS.] *The capital for a certified development company must be derived from corporate holders or members, each of whom must not have more*

*than ten percent of the voting control of the development company. The company must have a minimum of 25 members. The members of the company from each economic development region must represent, to the greatest extent practical, the same proportion of the membership of the company as the population of the economic development region is of the population of the state.*

*Subd. 3.* [MEMBERS.] *Members must be representatives of local government, community organizations, financial institutions, and businesses in Minnesota and must, upon application, have been accepted for membership by a majority vote of the members of the board of directors present at a regular or special meeting of the board at which there is a quorum. Department of trade and economic development staff may not be members of the development company. A "financial institution" is a business organization recognized under Minnesota or federal law as a banking institution, trust company, savings and loan association, insurance company, or a corporation, partnership, foundation, or other institution licensed to do business in Minnesota and engaged primarily in lending or investing money.*

*Subd. 4.* [MEMBERSHIP APPLICATIONS.] *Applications for membership must be submitted to the development company's board of directors on forms provided by the commissioner and accompanied by additional information as the form may require. Application forms must provide that if the application is approved and the applicant accepted for membership by the development company's board of directors before withdrawal of the application, the applicant agrees to become a member upon the acceptance and to assume the rights and obligations of a member. Notice of approval or rejection of an application must be forwarded, by certified or registered United States mail, to the applicant for the attention of the person signing the application, within 15 days following the date when the approval or rejection is made. Approval of the application constitutes acceptance of the applicant as a member of the corporation.*

*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.*

*Subd. 6.* [OFFICERS.] *The executive officers of the development company are a president, one or more vice-presidents including the executive vice-president, a secretary, and a treasurer. The commissioner of trade and economic development is the president of the development company. None of the officers, except the president, need be directors. One person may hold the offices and perform the duties of any two or more of the offices. The development company's board of directors by majority vote may leave unfilled, for any period it may fix, any office except that of president, treasurer, or secretary.*

*Subd. 7.* [ADMINISTRATION.] *The commissioner of trade and economic development shall administer all certified development company programs.*

*Subd. 8.* [REPORTS.] *The development company shall submit annual operation reports to the Small Business Administration and the state legislature. When requested by the Small Business Administration or the state legislature, interim reports of a similar nature must be provided. The*

*reports must be provided in accordance with the instructions and attachments set by the Small Business Administration. The development company shall comply with all regulations issued under the Small Business Investment Act of 1958, as amended; department of trade and economic development operating procedures; and applicable state and federal laws affecting its operation.*

*Subd. 9.* [REVOLVING ACCOUNT.] *The development company may charge a one-time processing fee up to the maximum allowed by the Small Business Administration on a debenture issued for loan purposes. In addition, a fee for servicing loans may be imposed up to the maximum allowed by the Small Business Administration based on the unpaid balance of each debenture. These fees must be deposited in the state treasury and credited to an account in the special revenue fund. Money in the account is appropriated to the commissioner to pay the costs of administering the program, including personnel costs; compensate members of the board of directors under section 15.0575, subdivision 3; and create and operate a pool of money for investment in projects that further the purposes of this section.*

Sec. 163. [TRANSFER OF WASHINGTON OFFICE.]

*The responsibility for operating the state of Minnesota's Washington, D.C. office is transferred from the commissioner of trade and economic development to the commissioner of state planning under Minnesota Statutes, section 15.039. The revisor of statutes shall renumber Minnesota Statutes, section 116J.613, as section 116K.14.*

Sec. 164. Minnesota Statutes 1988, section 116L.02, is amended to read:

116L.02 [JOB SKILLS PARTNERSHIP PROGRAM.]

The Minnesota job skills partnership program is created to act as a catalyst to bring together employers with specific training needs with educational or other nonprofit institutions which can design programs to fill those needs. The partnership shall work closely with employers to train and place workers in identifiable positions as well as assisting educational or other nonprofit institutions in developing training programs that coincide with current and future employer requirements. The partnership shall provide grants to educational or other nonprofit institutions for the purpose of training displaced workers. A participating business must match the grant-in-aid made by the Minnesota job skills partnership. ~~Preference must be given to a business located in a rural area.~~ The match may be in the form of funding, equipment, or faculty.

Sec. 165. Minnesota Statutes 1988, section 116L.03, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] The Minnesota job skills partnership board consists of: eight members appointed by the governor, ~~the commissioner of trade and economic development,~~ the commissioner of jobs and training, and the state director of vocational technical education.

Sec. 166. Minnesota Statutes 1988, section 116L.03, subdivision 7, is amended to read:

Subd. 7. [OFFICES.] The ~~higher education coordinating board~~ *department of trade and economic development* shall provide staff and administrative services for the board.

Sec. 167. Minnesota Statutes 1988, section 116L.04, subdivision 1, is

amended to read:

Subdivision 1. [GRANTS-IN-AID.] *(a)* The partnership may provide grants-in-aid to educational or other nonprofit institutions using the following guidelines:

~~(a)~~ *(1)* the educational or other nonprofit institution is a provider of training within the state in either the public or private sector;

~~(b)~~ *(2)* the program involves skills training that is an area of employment need; and

~~(c)~~ *(3)* preference will be given to educational or other nonprofit institutions which serve economically disadvantaged people, minorities, or those who are victims of economic dislocation *and to businesses located in rural areas*.

~~Grants~~ *(b) A single grant to any one institution* shall not exceed $200,000 ~~to any one institution~~.

Sec. 168. Minnesota Statutes 1988, section 116O.02, is amended by adding a subdivision to read:

*Subd. 6.* [TECHNOLOGY RELATED ASSISTANCE.] *"Technology related assistance" means the transfer of technological information and technologies to assist in the development and production of new technology related products or services or to increase the productivity or otherwise enhance the production or delivery of existing products or services.*

Sec. 169. Minnesota Statutes 1988, section 116O.03, subdivision 1, is amended to read:

Subdivision 1. [~~NAME~~ *ESTABLISHMENT.*] The Greater Minnesota Corporation is *established as* a public corporation of the state and is not subject to the laws governing a state agency except as provided in this chapter. The business of the corporation must be conducted under the name "Greater Minnesota Corporation."

Sec. 170. Minnesota Statutes 1988, section 116O.03, is amended by adding a subdivision to read:

*Subd. 1a.* [PURPOSE.] *The purpose of the corporation is to foster long-term economic growth and job creation by stimulating innovation and the development of new products, services, and production processes through technology transfer, applied research, and financial assistance. The corporation's purpose is not to create new programs or services but to build on the existing educational, business, and economic development infrastructure. The primary focus of the corporation's activities must be to benefit new or existing small and medium-sized businesses in greater Minnesota.*

Sec. 171. Minnesota Statutes 1988, section 116O.05, is amended to read:

116O.05 [POWERS OF THE CORPORATION.]

*Subdivision 1.* [GENERAL CORPORATE POWERS.] (a) ~~Except as otherwise provided in this article,~~ The corporation has the powers granted to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13, except that the corporation may not act as a general partner in any partnership; 14; 15; 16; 17; 18; and 22.

(b) The state is not liable for the obligations of the corporation.

(c) Section 302A.041 applies to this ~~article~~ *chapter* and the corporation in the same manner that it applies to business corporations established under chapter 302A.

*Subd. 2.* [DUTIES.] *The corporation shall:*

*(1) establish programs, activities, and policies that provide technology transfer and applied research and development assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations in the state that are primarily new and existing small and medium-sized businesses in greater Minnesota;*

*(2) provide or provide for technology related assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations;*

*(3) provide financial assistance under section 116O.06 to assist the development of new products, services, or production processes or to assist in bringing new products or services to the marketplace;*

*(4) provide or provide for research services including on-site research and testing of production techniques and product quality;*

*(5) establish and operate regional research institutes as provided for in section 116O.08;*

*(6) make matching research grants for applied research and development to public and private post-secondary education institutes as provided for in section 116O.11;*

*(7) enter into contracts for establishing formal relationships with public or private research institutes or facilities;*

*(8) establish the agricultural utilization research institute under section 116O.09; and*

*(9) not duplicate existing services or activities provided by other public and private organizations but shall build on the existing educational, business, and economic development infrastructure.*

*Subd. 3.* [RULES.] *The corporation is not subject to chapter 14, but must publish in the State Register any guidelines, policies, rules, or eligibility criteria prepared or adopted by the corporation for any of its financial or technology transfer programs.*

Sec. 172. Minnesota Statutes 1988, section 116O.06, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL ASSISTANCE; TYPES.] The corporation may provide financial assistance to *individuals,* sole proprietorships, ~~businesses~~ *partnerships, corporations, other business entities,* or ~~for profit or~~ nonprofit organizations that have (1) received research assistance from a corporation research facility or as a result of a research grant under section 116O.09, subdivision 4, or 116O.011; or (2) received favorable review through a peer review process established under guidelines developed under section 116O.10, subdivision 2. Financial assistance includes, but is not limited to, loan guarantees or insurance, direct loans, and interest subsidy payments. The corporation may participate in loans by purchasing from a lender up to 50 percent of each loan. *Financial assistance under this section is for assisting in the financing of a business's debt financing, product development financing, or working capital needs.*

Sec. 173. Minnesota Statutes 1988, section 116O.06, subdivision 5, is amended to read:

Subd. 5. [PREFERENCE.] In providing financial assistance, the corporation must give preference to *individuals,* sole proprietorships, ~~businesses~~ *partnerships, corporations, other business entities,* or organizations that are starting or expanding their operations in greater Minnesota.

Sec. 174. Minnesota Statutes 1988, section 116O.08, subdivision 2, is amended to read:

Subd. 2. [PURPOSE.] The purpose of the institutes is to provide applied research and development services to individuals, businesses, or organizations for the purposes of developing the region's economy through the utilization of the region's resources and the development of technology. Research and development services may include on-site research, product development grants, testing of production techniques and product quality~~, marketing and business management assistance,~~ and feasibility studies.

Sec. 175. Minnesota Statutes 1988, section 116O.14, is amended to read:

116O.14 [AUDITS.]

The corporation board shall contract with a certified public accounting firm to do a financial and compliance audit of the corporation and any subsidiary annually in accordance with generally accepted accounting standards. *A copy of this audit must be submitted to the chairs of the senate finance and economic development and housing committees, and the house appropriations and economic development committees.*

~~The books and records of the corporation and any subsidiary, fund, or entity to be administered or governed by the corporation are subject to audit without previous notice by the legislative auditor~~ *The corporation is subject to the auditing requirements under sections 3.971 and 3.972.*

Sec. 176. Minnesota Statutes 1988, section 116O.15, is amended to read:

116O.15 [~~REPORTS~~ *ANNUAL REPORT.*]

The board shall *submit a* report to the ~~appropriate~~ *chairs of the senate economic development and housing and the house economic development* committees of the legislature and the governor on the activities of the corporation by ~~January~~ *February* 1 of each year. The report must include~~,~~ at least~~, a description of projects supported by the corporation, an account of all grants made by the corporation during the calendar year, the source and amount of all money collected and distributed by the corporation, the corporation's assets and liabilities, an explanation of administrative expenses, and any amendments to the operational plan.~~ *the following:*

*(1) a description of each of the programs that the corporation has provided or undertaken at some time during the previous year. The description of each program must describe (i) the statement of purpose for the program, (ii) the administration of the program including the activities the corporation was responsible for and the responsibilities that other organizations had in administering the program, (iii) the results of the program including how the results were measured, (iv) the expenses of the program paid by the corporation, and (v) the source of corporate and noncorporate funding for the program;*

*(2) an identification of the sources of funding in the previous year for*

*the corporation and its programs including federal, state and local government, foundations, gifts, donations, fees, and all other sources;*

*(3) a description of the distribution of all money spent by the corporation in the previous year including an identification of the total expenditures, other than corporate administrative expenditures, by sector of the economy;*

*(4) a description of the administrative expenses of the corporation during the previous year;*

*(5) a listing of the assets and liabilities of the corporation at the end of the previous fiscal year;*

*(6) a list and description of each grant awarded by the corporation during the previous year;*

*(7) a description of any changes made to the operational plan during the previous year; and*

*(8) a description of any newly adopted or significant changes to bylaws, programmatic or administrative guidelines, policies, rules, or eligibility criteria for programs created or administered by the corporation during the previous year.*

Reports must be made to the legislature as required by section 3.195.

Sec. 177. [APPOINTMENT OF COMMISSIONER.]

*Notwithstanding Minnesota Statutes, section 116O.03, subdivision 2, the commissioner of trade and economic development is a member of the Greater Minnesota Corporation's board of directors when the first vacancy on the board occurs.*

Sec. 178. Minnesota Statutes 1988, section 116P.08, subdivision 1, is amended to read:

Subdivision 1. [EXPENDITURES.] Money in the trust fund may be spent only for:

(1) the reinvest in Minnesota program as provided in section 84.95, subdivision 2;

(2) research that contributes to increasing the effectiveness of protecting or managing the state's environment or natural resources;

(3) collection and analysis of information that assists in developing the state's environmental and natural resources policies;

(4) enhancement of public education, awareness, and understanding necessary for the protection, conservation, restoration, and enhancement of air, land, water, forests, fish, wildlife, and other natural resources;

(5) capital projects for the preservation and protection of unique natural resources;

(6) activities that preserve or enhance fish, wildlife, *land, air, water,* and other natural resources that otherwise may be substantially impaired or destroyed in any area of the state;

(7) administrative and investment expenses incurred by the state board of investment in investing deposits to the trust fund; and

(8) administrative expenses subject to the limits in section 116P.09.

Sec. 179. Minnesota Statutes 1988, section 116P.13, is amended to read:

116P.13 [MINNESOTA FUTURE RESOURCES ~~ACCOUNT~~ *FUND.*]

Subdivision 1. [REVENUE SOURCES.] The money in the Minnesota future resources ~~account~~ *fund* consists of revenue credited under section 297.13, subdivision 1, clause (1).

Subd. 2. [INTEREST.] The interest attributable to the investment of the Minnesota future resources ~~account~~ *fund* must be credited to the ~~account~~ *fund*.

Subd. 3. [REVENUE PURPOSES.] Revenue in the Minnesota future resources ~~account~~ *fund* may be spent for purposes of natural resources acceleration and outdoor recreation, including but not limited to the development, maintenance, and operation of the state outdoor recreation system under chapter 86A and regional recreation open space systems as defined under section 473.351, subdivision 1.

Sec. 180. Minnesota Statutes 1988, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, *PSYCHOLOGICAL,* CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, *psychological,* chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to do so the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.

(b) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

Sec. 181. Minnesota Statutes 1988, section 190.07, is amended to read:

190.07 [APPOINTMENT; QUALIFICATIONS; RANK.]

There shall be an adjutant general of the state who shall be appointed by the governor~~, who~~. *The adjutant general* shall be a staff officer, who at the time of appointment shall be a commissioned officer of the national

guard of this state, with not less than ten years military service in the armed forces of this state or of the United States, at least three of which shall have been commissioned and who shall have reached the grade of a field officer.

The adjutant general shall hold rank equal to that of the highest rank authorized for the army and air national guard in the table of organization for units allotted to the state by the department of the army, or the department of the air force, or by both such departments, through the national guard bureau. However, the adjutant general shall not be appointed to the rank of major general without having 20 years service in the national guard, of which two years has been in the rank of brigadier general.

The *term of the* adjutant general ~~shall hold office as provided by United States Code, title 32, section 314, as amended through~~ *is seven years from* the date of appointment~~, and~~. *Section 15.06, subdivisions 3, 4, and 5, governs filling of vacancies in the office of adjutant general. The adjutant general* shall not be removed from office *during a term* except upon withdrawal of federal recognition or as otherwise provided by the military laws of this state.

Sec. 182. [192.50] [FINANCIAL INCENTIVES FOR NATIONAL GUARD MEMBERS.]

*Subdivision 1.* [REENLISTMENT BONUS.] *(a) The adjutant general shall establish a program providing a reenlistment bonus for members of the Minnesota National Guard in accordance with this section. An active member of the Minnesota National Guard serving satisfactorily, as defined by the adjutant general, shall be paid $250 per year for reenlisting in the Minnesota National Guard.*

*(b) A member must reenlist in the Minnesota National Guard for a minimum of three years.*

*(c) A member is eligible for subsequent reenlistment bonuses to the extent that total years of bonus eligibility are limited to 12 years.*

*(d) Bonus payments shall be paid in the month prior to the anniversary of a member's current reenlistment.*

*(e) A member electing to receive tuition assistance under subdivision 2, shall forfeit the reenlistment bonus for the years that the tuition assistance is provided.*

*Subd. 2.* [TUITION REIMBURSEMENT.] *(a) The adjutant general shall establish a program providing tuition reimbursement for members of the Minnesota national guard in accordance with this section. An active member of the Minnesota national guard serving satisfactorily, as defined by the adjutant general, shall be reimbursed for tuition paid to a post-secondary education institution as defined by Minnesota Statutes, section 136A.15, subdivision 5, upon proof of satisfactory completion of course work.*

*(b) In the case of tuition paid to a public institution located in Minnesota, including any vocational or technical school, tuition is limited to an amount equal to 50 percent of the cost of tuition at that public institution, except as provided in this section. In the case of tuition paid to a Minnesota private institution or vocational or technical school or a public or private institution or vocational or technical school not located in Minnesota, reimbursement is limited to 50 percent of the cost of tuition for lower*

*division programs in the college of liberal arts at the twin cities campus of the University of Minnesota in the most recent academic year, except as provided in this section.*

*(c) If a member of the Minnesota national guard is killed in the line of state active duty, the state shall reimburse 100 percent of the cost of tuition for post-secondary courses satisfactorily completed by any surviving spouse and any surviving dependents who are 21 years old or younger. Reimbursement for surviving spouses and dependents is limited in amount and duration as is reimbursement for the national guard member.*

*(d) The amount of tuition reimbursement for each eligible individual shall be determined by the adjutant general according to rules formulated within 30 days of the effective date of this section. Tuition reimbursement received under this section shall not be considered by the Minnesota higher education coordinating board or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.09 to 136A.132.*

*Subd. 3.* [RECORD KEEPING; RECRUITMENT AND RETENTION; FISCAL MANAGEMENT.] *The department of military affairs shall keep an accurate record of the recipients of the reenlistment bonus and tuition reimbursement programs. The department shall report to the legislature on the effectiveness of the reenlistment bonus and tuition reimbursement programs in retaining and recruiting members for the Minnesota National Guard. The report to the legislature shall be made by January 1 of each year. The report shall include a review of the effect that the reenlistment bonus and tuition reimbursement programs have on the enlistment and reenlistment of National Guard members. The report shall include an accurate record of the effect that both the tuition reimbursement program and the reenlistment bonus program have on the recruitment and retention of members by rank, unit location, race, and sex.*

*The department of military affairs shall make a specific effort to recruit and retain women and members of minority groups into the guard through the use of the tuition reimbursement and reenlistment bonus programs.*

Sec. 183. Minnesota Statutes 1988, section 192.51, subdivision 2, is amended to read:

Subd. 2. [ACTIVE DUTY PAY.] When called into active service by the governor, other than for encampment or maneuvers, including the time necessarily consumed in travel, each enlisted person of the military forces shall be paid by the state the pay and the allowances, when not furnished in kind, provided by law for enlisted persons of similar grade, rating and length of service in the armed forces of the United States, or ~~$65~~ *$130* a day, whichever is more.

Sec. 184. Minnesota Statutes 1988, section 221.67, is amended to read:

221.67 [SERVICE OF PROCESS.]

The use of any of the public highways of this state for the transportation of persons or property for compensation by a motor carrier in interstate commerce shall be deemed an irrevocable appointment by the carrier of the secretary of state to be the carrier's true and lawful attorney upon whom may be served all legal process in any action or proceeding brought under this chapter against the carrier or the carrier's executor, administrator,

personal representative, heirs, successors or assigns. This use is a signification of agreement by the interstate motor carrier that any process in any action against the carrier or the carrier's executor, administrator, personal representative, heirs, successors, or assigns which is so served shall be of the same legal force and validity as if served upon the carrier personally. Service shall be made by serving a copy thereof upon the secretary of state or by filing a copy in the office of the secretary of state, together with payment of a fee of ~~$25~~ *$35*, and the service shall be sufficient service upon the absent motor carrier if notice of the service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at the defendant's last known address and the plaintiff's affidavit of compliance with the provisions of this section and sections 221.60, 221.65, and 221.68 is attached to the summons.

Sec. 185. Minnesota Statutes 1988, section 256.482, subdivision 3, is amended to read:

Subd. 3. [RECEIPT OF FUNDS.] Whenever any person, firm, ~~or~~ corporation, *or the federal government* offers to the council funds by the way of gift, grant, or loan, for purposes of assisting the council to carry out its powers and duties, the council may accept the offer by majority vote and upon acceptance the chair shall receive the funds subject to the terms of the offer. However, no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

Sec. 186. Minnesota Statutes 1988, section 256.482, is amended by adding a subdivision to read:

*Subd. 5a.* [TECHNOLOGY FOR PEOPLE WITH DISABILITIES.] *The council has the following duties related to technology for people with disabilities:*

*(1) to identify individuals with disabilities, including individuals from underserved groups, who reside in the state and conduct an ongoing evaluation of their needs for technology-related assistance;*

*(2) to identify and coordinate state policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements;*

*(3) to provide assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services;*

*(4) to disseminate information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies, and private entities that have contact with individuals with disabilities, including insurers, employers, and other appropriate individuals;*

*(5) to provide training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies, and private entities that have contact with individuals with disabilities, including insurers, employers, and other appropriate individuals;*

*(6) to conduct a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities;*

*(7) to assist statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities;*

*(8) to support the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector;*

*(9) to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel for assistive technology devices;*

*(10) to compile and evaluate appropriate data relating to the program; and*

*(11) to establish procedures providing for the active involvement of individuals with disabilities, the families or representatives of the individuals, and other appropriate individuals in the development and implementation of the program, and for individuals with disabilities who use assistive technology devices and assistive technology services, for their active involvement, to the maximum extent appropriate in decisions relating to the assistive technology devices and assistive technology services.*

Sec. 187. [TRANSFER.]

*The council on technology for people with disabilities, created by executive order number 86-12, is transferred to the council on disability. Minnesota Statutes, section 15.039, applies to this transfer.*

Sec. 188. Minnesota Statutes 1988, section 290.39, subdivision 4, is amended to read:

Subd. 4. [VOTER REGISTRATION FORM.] The commissioner shall insert securely in each individual income tax return form or instruction booklet *distributed in an even-numbered year* a voter registration form, returnable to the secretary of state, designed according to rules adopted by the secretary of state. *This requirement applies to forms and booklets supplied to post offices, banks, and other outlets, as well as to those mailed directly to taxpayers.*

Sec. 189. [290.432] [CORPORATE NONGAME WILDLIFE CHECKOFF]

*A corporation that files an income tax return may designate on its original return that $1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that corporation and paid into the nongame wildlife management account established by section 290.431 for use by the section of wildlife in the department of natural resources for its nongame wildlife program. The commissioner of revenue shall, on the corporate tax return, notify filers of their right to designate that a portion of their tax return be paid into the nongame wildlife management account for the protection of endangered natural resources. All interest earned on money accrued in the nongame wildlife management account shall be credited to the account by the state treasurer. The commissioner of natural resources shall submit a work program for each fiscal year to the legislative commission on Minnesota resources in the form determined by the commission. None of the money provided in this section may be spent unless the commission has approved the work program.*

*The state pledges and agrees with all corporate contributors to the*

*nongame wildlife account to use the funds contributed solely for the nongame wildlife program and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of those programs.*

Sec. 190. Minnesota Statutes 1988, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT.] Revenues received from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota future resources ~~account~~ *fund*;

(2) ~~the revenue produced by two mills of the tax on cigarettes weighing not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;~~

~~(3) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;~~

~~(4)~~ the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 191. Minnesota Statutes 1988, section 299D.03, subdivision 7, is

amended to read:

Subd. 7. [DISCHARGE OF TROOPER.] Every person employed and designated as a state trooper under and pursuant to the provisions of this section, after ~~six~~ *12* months of continuous employment, shall continue in service and hold the position without demotion, until suspended, demoted, or discharged in the manner hereinafter provided for one or more of the causes specified herein.

Sec. 192. Minnesota Statutes 1988, section 300.49, subdivision 1, is amended to read:

Subdivision 1. [PAID TO SECRETARY OF STATE.] Domestic corporations must pay to the secretary of state the following fees:

(1) for articles of incorporation, $100;

(2) for filing any instrument required or permitted by sections 300.01 to 300.68, ~~$25~~ *$35*;

(3) for a merger, an additional fee of $25.

Sec. 193. Minnesota Statutes 1988, section 302A.011, subdivision 11, is amended to read:

Subd. 11. [FILED WITH THE SECRETARY OF STATE.] "Filed with the secretary of state" means that an original of a document meeting the applicable requirements of this chapter, signed and accompanied by a filing fee of ~~$25~~ *$35*, has been delivered to the secretary of state of this state. The secretary of state shall endorse on the original the word "Filed" and the month, day, year, and time of filing, record the document in the office of the secretary of state, and return the document to the person who delivered it for filing.

Sec. 194. Minnesota Statutes 1988, section 302A.153, is amended to read:

302A.153 [EFFECTIVE DATE OF ARTICLES.]

Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the secretary of state accompanied by a payment of ~~$125~~ *$135*, which includes a $100 incorporation fee in addition to the ~~$25~~ *$35* filing fee required by section 302A.011, subdivision 11. Articles of amendment and articles of merger are effective when filed with the secretary of state or at another time within 30 days after filing if the articles of amendment so provide. Articles of merger must be accompanied by a fee of ~~$50~~ *$60*, which includes a $25 merger fee in addition to the ~~$25~~ *$35* filing fee required by section 302A.011, subdivision 11.

Sec. 195. Minnesota Statutes 1988, section 302A.821, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF REPEATED VIOLATION.] If a corporation fails for ~~two~~ *three* consecutive years to file a registration pursuant to the requirements of subdivision 1, the secretary of state shall give notice by ~~registered~~ *first class* mail to the corporation at its registered office that it has violated this section and is subject to dissolution by the office of the secretary of state if the delinquent registrations are not filed pursuant to subdivision 1 within 60 days after the mailing of the notice.

Sec. 196. Minnesota Statutes 1988, section 302A.821, subdivision 5, is

amended to read:

Subd. 5. [PENALTY.] (a) A corporation that has failed for ~~two~~ *three* consecutive years to file a registration pursuant to the requirements of subdivision 1, has been notified of the failure pursuant to subdivision 4, and has failed to file the delinquent registrations during the 60-day period described in subdivision 4, may be dissolved by the secretary of state as described in paragraph (b).

(b) Immediately after the expiration of the 60-day period described in paragraph (a), if the corporation has not filed the delinquent registrations, the secretary of state shall issue a certificate of involuntary dissolution, and a copy of the certificate shall be filed in the office of the secretary of state. The original certificate and a notice explaining that the corporation has been dissolved shall be sent to the registered office of the corporation. The secretary of state shall annually inform the attorney general and the commissioner of revenue of the names of corporations dissolved under this section during the preceding year. A corporation dissolved in this manner is not entitled to the benefits of section 302A.781, subdivision 1. The liability, if any, of the shareholders of a corporation dissolved in this manner shall be determined and limited in accordance with section 302A.557, except that the shareholders shall have no liability to any director of the corporation under section 302A.559, subdivision 2.

Sec. 197. Minnesota Statutes 1988, section 303.13, subdivision 1, is amended to read:

Subdivision 1. [FOREIGN CORPORATION.] A foreign corporation shall be subject to service of process, as follows:

(1) By service on its registered agent;

(2) When any foreign corporation authorized to transact business in this state fails to appoint or maintain in this state a registered agent upon whom service of process may be had, or whenever any registered agent cannot be found at its registered office in this state, as shown by the return of the sheriff of the county in which the registered office is situated, or by an affidavit of attempted service by any person not a party, or whenever any corporation withdraws from the state, or whenever the certificate of authority of any foreign corporation is revoked or canceled, service may be made by delivering to and leaving with the secretary of state, or with any deputy or clerk in the corporation department of the secretary of state's office, three copies thereof and a fee of ~~$25~~ *$35*; provided, that after a foreign corporation withdraws from the state, pursuant to section 303.16, service upon the corporation may be made pursuant to the provisions of this section only when based upon a liability or obligation of the corporation incurred within this state or arising out of any business done in this state by the corporation prior to the issuance of a certificate of withdrawal.

(3) If a foreign corporation makes a contract with a resident of Minnesota to be performed in whole or in part by either party in Minnesota, or if a foreign corporation commits a tort in whole or in part in Minnesota against a resident of Minnesota, such acts shall be deemed to be doing business in Minnesota by the foreign corporation and shall be deemed equivalent to the appointment by the foreign corporation of the secretary of the state of Minnesota and successors to be its true and lawful attorney upon whom may be served all lawful process in any actions or proceedings against the foreign corporation arising from or growing out of the contract or tort.

Process shall be served in duplicate upon the secretary of state, together with a fee of ~~$25~~ *$35* and the secretary of state shall mail one copy thereof to the corporation at its last known address, and the corporation shall have 30 days within which to answer from the date of the mailing, notwithstanding any other provision of the law. The making of the contract or the committing of the tort shall be deemed to be the agreement of the foreign corporation that any process against it which is so served upon the secretary of state shall be of the same legal force and effect as if served personally on it within the state of Minnesota.

Sec. 198. Minnesota Statutes 1988, section 303.21, subdivision 3, is amended to read:

Subd. 3. [OTHER INSTRUMENTS.] A fee of ~~$25~~ *$35* shall be paid to the secretary of state for filing any instrument, other than the annual report required by section 303.14, required or permitted to be filed under the provisions of this chapter. For filing the annual report a fee of $20 must be paid to the secretary of state. The fees shall be paid at the time of the filing of the instrument.

Sec. 199. Minnesota Statutes 1988, section 307.08, subdivision 5, is amended to read:

Subd. 5. The cost of authentication, identification, marking, and rescue of unmarked or unidentified burial grounds or burials shall be the responsibility of the state. *The data collected by this activity that has common value for natural resource planning must be provided and integrated into the Minnesota land management information system's geographic and summary data bases according to published data compatibility guidelines. Costs associated with this data delivery must be borne by the state.*

Sec. 200. Minnesota Statutes 1988, section 308.06, subdivision 4, is amended to read:

Subd. 4. The original articles of incorporation shall be filed with the secretary of state and a copy shall be recorded in the office of the county recorder of the county in which the principal place of business of the association is located. For filing the articles of incorporation with the secretary of state a fee of $60 shall be paid to the secretary of state. For filing other documents required by this chapter with the secretary of state, a fee of ~~$25~~ *$35* must be paid to the secretary of state. An additional fee of $25 must be paid to the secretary of state for filing a merger.

Sec. 201. Laws 1989, chapter 144, section 4, is amended to read:

Sec. 4. [308A.021] [FILING FEE.]

Unless otherwise provided, the filing fee for documents filed with the secretary of state is ~~$25~~ *$35*.

Sec. 202. Minnesota Statutes 1988, section 317.67, subdivision 2, is amended to read:

Subd. 2. The secretary of state shall collect a fee of ~~$25~~ *$35* for filing any instrument that is required to be filed under this chapter.

Sec. 203. 1989 H.F. No. 1203, section 2, subdivision 8, is amended to read:

Subd. 9. [FILED WITH THE SECRETARY OF STATE.] "Filed with the secretary of state" means that an original of a document meeting the

requirements of this chapter, signed, and accompanied by a filing fee of ~~$25~~ *$35*, has been delivered to the secretary of state of this state. The secretary of state shall endorse on the original the word "Filed" and the month, day, year, and time of filing, record the document in the office of the secretary of state, and return the document to the person who delivered it for filing.

Sec. 204. 1989 H.F. No. 1203, section 20, subdivision 2, is amended to read:

Subd. 2. [EFFECTIVE DATE.] Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the secretary of state accompanied by a payment of ~~$60~~ *$70*, which includes a $35 incorporation fee in addition to the ~~$25~~ *$35* filing fee required by section 2, subdivision ~~9~~ *8*. Articles of amendment are effective when filed with the secretary of state or at another time within 31 days after filing if the articles of amendment so provide.

Sec. 205. 1989 H.F. No. 1203, section 120, subdivision 1, is amended to read:

Subdivision 1. [NOTICE FROM SECRETARY OF STATE; REGISTRATION REQUIRED.] (a) Before February 1, 1990, the secretary of state shall mail a corporate registration form by first-class mail to each corporation at its last registered office address listed in the records of the secretary of state. The form must include the exact legal corporate name and registered office address currently on file with the secretary of state.

(b) A corporation that is subject to chapter 317 shall file an initial corporate registration with the secretary of state between January 1, 1990, and December 31, 1990. The registration must include the exact legal corporate name and registered office address of the corporation and must be signed by an authorized person. If the current registered office address listed in the records of the secretary of state is not in compliance with section 2, subdivision 2, or if the corporation has changed its registered office address to an address other than that listed with the secretary of state, the corporation shall list a new registered office address that complies with section 2, subdivision 2, on the registration form. A fee of ~~$25~~ *$35* must be paid for filing the registered office address change. The new registered office address must have been approved by the board.

Sec. 206. 1989 H.F. No. 1203, section 121, subdivision 1, is amended to read:

Subdivision 1. [NOTICE FROM SECRETARY OF STATE; REGISTRATION REQUIRED.] (a) Before February 1 of each year, the secretary of state shall mail a corporate registration form by first-class mail to each corporation that incorporated or filed a corporate registration during either of the previous two calendar years at its last registered office address listed on the records of the secretary of state. The form must include the exact legal corporate name and registered office address currently on file with the secretary of state.

(b) A corporation shall file a corporate registration with the secretary of state once each calendar year. The registration must include the exact legal corporate name and registered office address of the corporation and must be signed by an authorized person. If the corporation has changed its registered office address to an address other than that listed on the records of the secretary of state, the corporation shall list the new registered

office address on the registration form. A fee of ~~$25~~ *$35* must be paid for filing the registered office address change. The new address must comply with section 2, subdivision 2, and must have been approved by the board.

Sec. 207. 1989 H.F. No. 1203, section 121, subdivision 3, is amended to read:

Subd. 3. [NOTICE; DISSOLUTION.] If a corporation fails to file a report required under this section for two consecutive calendar years, the secretary of state shall give notice to the corporation by first-class mail at its registered office that it has violated this section and is subject to dissolution under section 123 if the delinquent registrations are not filed with a ~~$25~~ *$35* fee within 60 days after the mailing of the notice. A corporation that fails to file the delinquent annual registrations within the 60 days is dissolved under section 123.

Sec. 208. Minnesota Statutes 1988, section 322A.16, is amended to read:

322A.16 [FILING IN OFFICE OF SECRETARY OF STATE.]

(a) A signed copy of the certificate of limited partnership, of any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of the executor's authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of a ~~$25~~ *$35* filing fee and, in the case of a certificate of limited partnership, a $60 initial fee, the secretary shall:

(1) endorse on the original the word "Filed" and the day, month and year of the filing; and

(2) return the original to the person who filed it or a representative.

(b) Upon the filing of a certificate of amendment or judicial decree of amendment in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth in the amendment, and upon the effective date of a certificate of cancellation or a judicial decree of it, the certificate of limited partnership is canceled.

Sec. 209. Minnesota Statutes 1988, section 330.11, subdivision 3, is amended to read:

Subd. 3. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of the state of Minnesota. This consent shall stipulate that the service of such process or pleadings on the secretary of state shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant in the state of Minnesota. In case any summons, process, or pleadings are served upon the secretary of state, it shall be by duplicate copies, one of which shall be retained in the office of the secretary of state, and the other to be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the secretary of state, against whom the summons, process, or pleadings may be divested. A fee of ~~$25~~ *$35* must be paid to the secretary of state for each service.

Sec. 210. Minnesota Statutes 1988, section 333.055, subdivision 3, is

amended to read:

Subd. 3. The secretary of state shall charge and collect:

(a) For the filing of each certificate or amended certificate of an assumed name - ~~$15~~ *$25*

(b) Certificate renewal fee - ~~$15~~ *$25*.

Sec. 211. Minnesota Statutes 1988, section 333.20, subdivision 4, is amended to read:

Subd. 4. The application for registration shall be accompanied by a filing fee of ~~$25~~ *$35*, payable to the secretary of state; provided, however, that a single credit of $10 shall be given each applicant applying for reregistration of a mark hereunder for each $10 filing fee paid by applicant for registration of the same trademark prior to the effective date of sections 333.18 to 333.31.

Sec. 212. Minnesota Statutes 1988, section 333.22, subdivision 1, is amended to read:

Subdivision 1. Registration of a mark hereunder shall be effective for a term of ten years from the date of registration and, upon application filed within six months prior to the expiration of such term or a renewal thereof, on a form to be furnished by the secretary of state, the registration may be renewed for additional ten-year terms provided that the mark is in use by the applicant at the time of the application for renewal and that there are no intervening rights. A renewal fee of ~~$12~~ *$22* payable to the secretary of state shall accompany the application for renewal of the registration.

Sec. 213. Minnesota Statutes 1988, section 333.23, is amended to read:

333.23 [CONVEYANCES OF MARKS; RECORDATION, FEE, NECESSITY.]

The secretary of state shall record written conveyances of any mark along with that part of the goodwill of the business in connection with which the mark is used, and of the corresponding application or registration which is presented for recording along with a payment of a fee of ~~$5~~ *$15* and shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under sections 333.18 to 333.31 shall be void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase.

Sec. 214. Minnesota Statutes 1988, section 336.9-302, is amended to read:

336.9-302 [WHEN FILING IS REQUIRED TO PERFECT SECURITY INTEREST; SECURITY INTERESTS TO WHICH FILING PROVISIONS OF THIS ARTICLE DO NOT APPLY.]

(1) A financing statement must be filed to perfect all security interest except the following:

(a) A security interest in collateral in possession of the secured party under section 336.9-305;

(b) A security interest temporarily perfected in instruments or documents without delivery under section 336.9-304 or in proceeds for a 20 day period

under section 336.9-306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 336.9-313;

(e) An assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) A security interest of a collecting bank (section 336.4-208) or in securities (section 336.8-321) or arising under the article on sales (see section 336.9-113) or covered in subsection (3) of this section;

(g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this article is not necessary or effective to perfect a security interest in property subject to the following statutes or treaties; except that to the extent such statutes or treaties are silent on a specific matter, the provisions of this article shall govern:

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this article for filing of the security interest; or

(b) the following statutes of this state;

(i) Sections 168A.01 to 168A.31 *and sections 222 to 242*; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this article (part 4) apply to a security interest in that collateral created by the person as a debtor; or

(ii) Sections 300.11 to 300.115.

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of section 336.9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in section 336.9-103 on multiple state transactions. A security interest perfected by compliance with such a statute or treaty is governed by this article in all respects not inconsistent with the provisions of the statute or treaty under which it was perfected, provided that this article shall not be deemed inconsistent if it provides for a more extensive duration of effectiveness.

Sec. 215. Minnesota Statutes 1988, section 336.9-403, is amended to read:

336.9-403 [WHAT CONSTITUTES FILING; DURATION OF FILING; EFFECT OF LAPSED FILING; DUTIES OF FILING OFFICER.]

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later regardless of whether the financing statement filed as to that security interest is destroyed by the filing officer pursuant to subsection (3). Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, set forth the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, identify the original statement by file number and filing date, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if the officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. If insolvency proceedings are commenced by or against the debtor, the secured party shall notify the filing officer both upon commencement and termination of the proceedings, and the filing officer shall not destroy any financing statements filed with respect to the debtor until termination of the insolvency proceedings. The security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later.

(4) Except as provided in subsection (7) a filing officer shall mark each

statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The secretary of state shall prescribe uniform forms for statements and samples thereof shall be furnished to all filing officers in the state. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be ~~$5~~ *$7* if the statement is in the standard form prescribed by the secretary of state and otherwise shall be $10, plus in each case, if the financing statement is subject to subsection (5) of section 336.9-402, $5. An additional fee of ~~$5~~ *$7* shall be collected if more than one name is required to be indexed or if the secured party chooses to show a trade name for any debtor listed. ~~There shall be no~~ *The uniform* fee collected for the filing of an amendment to a financing statement if the amendment is in the standard form prescribed by the secretary of state and does not add additional debtor names to the financing statement *shall be $7*. The fee for an amendment adding additional debtor names shall be ~~$5~~ *$14* if the amendment is in the form prescribed by the secretary of state and, if otherwise, ~~$10~~ *$17*. The fee for an amendment which is not in the form prescribed by the secretary of state but which does not add additional names shall be ~~$5~~ *$10*.

The secretary of state shall adopt rules for filing, amendment, continuation, termination, removal, and destruction of financing statements.

(6) If the debtor is a transmitting utility (subsection (5) of section 336.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 336.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, for filing offices other than the secretary of state, where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. If requested of the filing officer on the financing statement, a financing statement filed for record as a fixture filing in the same office where nonfixture filings are made is effective, without a dual filing, as to collateral listed thereon for which filing is required in such office pursuant to section 336.9-401 (1) (a); in such case, the filing officer shall also index the recorded statement in accordance with subsection (4) using the recording data in lieu of a file number.

(8) The fees provided for in this article shall supersede the fees for similar services otherwise provided for by law except in the case of security interests filed in connection with a certificate of title on a motor vehicle.

Sec. 216. Minnesota Statutes 1988, section 336.9-405, is amended to read:

336.9-405 [ASSIGNMENT OF SECURITY INTEREST; DUTIES OF FILING OFFICER; FEES.]

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 336.9-403(4). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be the same as the fee prescribed in section 336.9-403, clause (5).

(2) A secured party of record may record an assignment of all or a part of the secured party's rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record, setting forth the name and address of the secured party of record and the debtor as those items appear on the original financing statement or the most recently filed amendment, identifying the file number and the date of filing of the financing statement, giving the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. The filing officer shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103. The filing officer shall also index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing, and furnishing filing data about such a separate statement of assignment shall be ~~$5~~ *$7* if the statement is in the standard form prescribed by the secretary of state and otherwise shall be $10, plus in each case, if the original financing statement was subject to subsection (5) of section 336.9-402, the fee prescribed by section 357.18, subdivision 1, clause (1). An additional fee of ~~$5~~ *$7* shall be charged if there is more than one name against which the statement of assignment is required to be indexed. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 336.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than Laws 1976, chapter 135.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Sec. 217. Minnesota Statutes 1988, section 336.9-406, is amended to read:

336.9-406 [RELEASE OF COLLATERAL; DUTIES OF FILING OFFICER; FEES.]

A secured party of record may by signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, and identifies the original financing statement by file number and filing date. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon being presented with such a statement of release the filing officer shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. ~~There shall be no~~ *The uniform* fee for filing and noting such a statement of release *shall be $7* if the statement is in the standard form prescribed by the secretary of state and otherwise shall be ~~$5~~ *$10*, plus in each case, if the original financing statement was subject to subsection (5) of section 336.9-402, the fee prescribed by section 357.18, subdivision 1, clause (1).

Sec. 218. Minnesota Statutes 1988, section 336.9-407, is amended to read:

336.9-407 [INFORMATION FROM FILING OFFICER.]

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

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

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

(b) photocopies of those original documents on file and located in the office of the filing officer; or

(c) upon request, both the certificate and the photocopies referred to in (b).

The uniform fee for conducting the search and for preparing a certificate showing up to five listed filings or for preparing up to five photocopies of original documents, or any combination of up to five listed filings and photocopies, shall be ~~$5~~ *$7* if the request is in the standard form prescribed by the secretary of state and otherwise shall be $10. Another fee, at the same rate, shall also be charged for conducting a search and preparing a certificate showing federal and state tax liens on file with the filing officer naming a particular debtor. There shall be an additional fee of 50 cents for each financing statement and each statement of assignment or tax lien listed on the certificate and for each photocopy prepared in excess of the first five. Notwithstanding the fees set in this section, a natural person who is the subject of data must, upon the person's request, be shown the data without charge, and upon request be provided with photocopies of the data

upon payment of no more than the actual cost of making the copies.

Sec. 219. Minnesota Statutes 1988, section 336.9-413, is amended to read:

336.9-413 [UNIFORM COMMERCIAL CODE ACCOUNT.]

(a) The uniform commercial code account is established as an account in the state treasury.

(b) The filing officer with whom a financing statement, *amendment,* assignment, *statement of release,* or continuation statement is filed, or to whom a request for search is made, shall collect a ~~$2~~ *$3* surcharge on each filing or search. By the 15th day following the end of each fiscal quarter, each county recorder shall forward the receipts from the surcharge accumulated during that fiscal quarter to the secretary of state. The surcharge does not apply to a search request made by a natural person who is the subject of the data to be searched except when a certificate is requested as a part of the search.

(c) The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the uniform commercial code account.

(d) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing a service under sections 336.9-411 to 336.9-413 must be deposited in the state treasury and credited to the uniform commercial code account.

(e) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing information contained in the computerized records maintained by the secretary of state must be deposited in the state treasury and credited to the uniform commercial code account.

(f) Money in the uniform commercial code account is continuously appropriated to the secretary of state to implement and maintain the computerized uniform commercial code filing system under section 336.9-411 and to provide electronic-view-only access to other computerized records maintained by the secretary of state.

Sec. 220. Minnesota Statutes 1988, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed $100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section

349.16, subdivision 4, or section 349.212.; *provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for lawful purposes, is not considered an expenditure to the city or county nor a tax under section 349.212, and is valid and lawful.*

Sec. 221. Minnesota Statutes 1988, section 361.03, is amended by adding a subdivision to read:

*Subd. 3a.* [WATERCRAFT SURCHARGE.] *A surcharge of $2 is placed on each watercraft licensed under subdivision 3, that is 17 feet in length or longer, for management of purple loosestrife and Eurasian water milfoil according to law.*

CHAPTER 361A

WATERCRAFT TITLING

Sec. 222. [361A.01] [DEFINITIONS.]

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

*Subd. 2.* [COMMISSIONER.] *"Commissioner" means the commissioner of natural resources.*

*Subd. 3.* [DEALER.] *"Dealer" means a person who: (1) is in the business of manufacturing, distributing, selling, or purchasing new or used watercraft; (2) has an established place of business for the sale, trade, and display of watercraft; and (3) possesses watercraft for the purpose of sale or trade.*

*Subd. 4.* [DEPARTMENT.] *"Department" means the department of natural resources.*

*Subd. 5.* [DEPUTY REGISTRAR.] *"Deputy registrar" means a person appointed or hired by the commissioner of public safety under section 168.33.*

*Subd. 6.* [MANUFACTURER.] *"Manufacturer" means a person engaged in the business of constructing or assembling watercraft required to have a certificate of title.*

*Subd. 7.* [MANUFACTURER'S OR IMPORTER'S CERTIFICATE OF ORIGIN.] *"Manufacturer's or importer's certificate of origin" means a certificate with the authorized signature of the manufacturer or importer of a watercraft, describing and identifying the watercraft, giving the name and address of the person to whom the watercraft is first sold by the manufacturer or importer, and containing executed assignments of the watercraft to an applicant for a certificate of title on the watercraft in this state.*

*Subd. 8.* [OWNER.] *"Owner" means a person, other than a secured party, having the title to a watercraft. "Owner" includes a person entitled to use or possess the watercraft, subject to a security interest in another person, reserved or created by agreement and securing payment of performance of an obligation, but "owner" does not include a lessee under a lease not intended as security.*

*Subd. 9.* [PERSON.] *"Person" means an individual, firm, partnership,*

*association, corporation, or governmental organization.*

*Subd. 10.* [SECURED PARTY.] *"Secured party" means a secured party as defined in section 336.9-105, subsection (1)(m), having a security interest in a watercraft and includes a lienholder.*

*Subd. 11.* [SECURITY AGREEMENT.] *"Security agreement" has the meaning given it in section 336.9-105, subsection (1)(l).*

*Subd. 12.* [SECURITY INTEREST.] *"Security interest" has the meaning given it in section 336.1-201, subsection (37), and includes statutory liens for which lien statements are filed.*

*Subd. 13.* [TITLED WATERCRAFT.] *"Titled watercraft" means a watercraft required to have a certificate of title under section 223, subdivision 1, or for which a certificate of title has been issued under section 223, subdivision 3.*

*Subd. 14.* [WATERCRAFT.] *"Watercraft" means a device used or designed for navigation on water that is greater than 16 feet in length, as defined in section 361.02, subdivision 14, but does not include:*

*(1) a row-type fishing boat of single hull construction, with oar locks and an outboard motor capacity rating of less than 40 horsepower;*

*(2) a canoe;*

*(3) a kayak;*

*(4) a ship's lifeboat;*

*(5) a vessel of at least five net tons measured in Code of Federal Regulations, title 46, part 69, that is documented under Code of Federal Regulations, title 46, subpart 67.01; or*

*(6) a seaplane.*

*Subd. 15.* [WATERS OF THIS STATE.] *"Waters of this state" means waters capable of substantial public use and waters to which the public has access, that are within the territorial limits of this state, including boundary waters.*

Sec. 223. [361A.02] [CERTIFICATE OF TITLE REQUIRED.]

*Subdivision 1.* [REQUIREMENT.] *Except as provided in subdivision 2, a watercraft used on the waters of the state must have a certificate of title if:*

*(1) the watercraft is owned by a resident of this state and is kept in the state for more than 90 consecutive days; or*

*(2) the watercraft is kept in the state for more than 60 consecutive days and has not been issued a certificate of title or similar document from another jurisdiction.*

*Subd. 2.* [EXEMPT WATERCRAFT.] *A watercraft is not required to have a certificate of title if the watercraft is:*

*(1) owned by a manufacturer or dealer and held for sale;*

*(2) used by a manufacturer solely for testing;*

*(3) from a jurisdiction other than this state, temporarily using the waters of this state;*

*(4) owned by the United States, a state, this state, or a political subdivision;*

*(5) a duck boat used only during duck hunting season;*

*(6) a rice boat used only during the wild rice harvesting season;*

*(7) owned by a person, firm, or corporation operating a resort as defined in section 157.01, subdivision 1, or a recreational camping area as defined in section 327.14, subdivision 8, except with respect to a previously titled watercraft; or*

*(8) watercraft manufactured prior to August 1, 1979.*

*Subd. 3.* [VOLUNTARY TITLING.] *The owner of a device used or designed for navigation on water and used on the waters of this state may obtain a certificate of title for the device, even though it is not a watercraft as defined in section 222, subdivision 14, in the same manner and with the same effect as the owner of a watercraft required to be titled under this act. Once titled, the device is a titled watercraft as defined in section 222, subdivision 13, and is and remains subject to this act to the same extent as a watercraft required to be titled.*

*Subd. 4.* [TITLE REQUIRED FOR TRANSFER.] *A person may not sell or otherwise transfer a titled watercraft without delivering to the person acquiring the watercraft a certificate of title with an assignment on it to show title in the person acquiring the watercraft. A person may not acquire a watercraft required to have a certificate of title without obtaining a certificate of title for the watercraft in the person's name.*

*Subd. 5.* [NO LEGAL TITLE WITHOUT CERTIFICATE.] *A person acquiring a watercraft through a sale or gift does not acquire a right, title, claim, or interest in the watercraft until the person has been issued a certificate of title to the watercraft or has received a manufacturer's or importer's certificate. A waiver or estoppel does not operate in favor of that person against another person who has obtained possession of the certificate of title or manufacturer's or importer's certificate for the watercraft for valuable consideration.*

*Subd. 6.* [WATERCRAFT LICENSE MAY NOT BE ISSUED WITHOUT TITLE.] *The commissioner may not issue or renew a watercraft license to an owner of a titled watercraft unless the owner has been issued or has applied for a certificate of title for the watercraft.*

Sec. 224. [361A.03] [APPLICATION AND ISSUANCE OF CERTIFICATE OF TITLE.]

*Subdivision 1.* [APPLICATION.] *The owner of a titled watercraft must apply for the first certificate of title of a watercraft in this state to the commissioner or a deputy registrar on a form prescribed by the commissioner. The appropriate fee under section 232 must accompany the application. The application must be signed by the owner and contain:*

*(1) the full names, dates of birth, and addresses of owners who are natural persons and the full names and addresses of other owners;*

*(2) a description of the watercraft including its make, model, year, length, the principal material used in construction, the builder's hull identification number, and the manufacturer's inboard engine serial number;*

*(3) the date of purchase by the applicant, the name and address of the person from whom the watercraft was acquired;*

*(4) the name and address of the person who is to possess the title and any conditions of possession; and*

*(5) other information required by the commissioner to determine whether the owner is entitled to a certificate of title and whether security interests exist in the watercraft.*

*Subd. 2.* [ISSUANCE.] *(a) The commissioner shall issue a certificate of title for a watercraft upon verification that:*

*(1) the application is genuine;*

*(2) the applicant is the owner of the watercraft; and*

*(3) payment of the required fee.*

*(b) The original certificate of title must be mailed to the first secured party disclosed in the application or, if none, to the owner named in the application.*

*Subd. 3.* [CONTENTS.] *(a) A certificate of title issued by the commissioner must contain:*

*(1) the date issued;*

*(2) the full names, dates of birth, and addresses of owners who are natural persons and the full names and addresses of other owners;*

*(3) the names and addresses of secured parties;*

*(4) the title number assigned to the watercraft;*

*(5) a description of the watercraft including its make, model, year of manufacture, length, principal material used in construction, registration number, and manufacturer's hull identification number or, if none, the builder's hull identification number assigned to the watercraft by the commissioner;*

*(6) spaces for assignment of title by the owner or by the dealer and for warranting that the signer is the owner and that the watercraft is not subject to security interests, liens, or encumbrances except as noted on the face of the certificate of title;*

*(7) spaces on the certificate for application of title by a new owner subject to the security interests of secured parties named and for the assignment or release of the security interest of a secured party; and*

*(8) other information the commissioner may require.*

*(b) A certificate of title issued by the commissioner is prima facie evidence of the facts appearing on it.*

*Subd. 4.* [ISSUANCE WITHOUT ABSOLUTE PROOF OF OWNERSHIP.] *(a) If application is made for a certificate of title for a watercraft and the commissioner is not satisfied of the ownership of the watercraft or the existence of security interests in the watercraft, the watercraft may be assigned a title number but the commissioner must:*

*(1) withhold issuance of a certificate of title until the applicant presents documents that satisfy the commissioner of the applicant's ownership of the watercraft and of security interest in the watercraft; or*

*(2) require the applicant to file a bond in the form prescribed by the commissioner and executed by the applicant as a condition to issuing a*

*certificate of title.*

*(b) A bond filed under this subdivision must be accompanied by the deposit of cash or executed by a surety company authorized to do business in this state. The bond must be in an amount equal to one and one-half times the value of the watercraft as determined by the commissioner. The bond must be conditioned to indemnify prior owners, secured parties, and later purchasers of the watercraft or persons acquiring a security interest in the watercraft, or successors in interest of the persons, against expenses, losses, or damages, including reasonable attorney fees, by reason of the issuance of the certificate of title to the watercraft or on account of a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the watercraft.*

*(c) An interested person has a right of action to recover on the bond for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount of the bond.*

*(d) The commissioner shall return the bond and any deposit accompanying the bond if:*

*(1) the commissioner has not been notified of the pendency of an action to recover on the bond;*

*(2) questions of ownership and outstanding security interests have been resolved to the satisfaction of the commissioner;*

*(3) the bond has been posted for three years or the watercraft is not registered for license purposes in this state under section 361.03; and*

*(4) the currently valid certificate of title is surrendered.*

*Subd. 5.* [RECORDS.] *(a) The commissioner shall maintain records of certificates of title issued under this section according to one of the following systems:*

*(1) under a distinctive title number assigned to a watercraft;*

*(2) under the registration number awarded to a watercraft in accordance with the registration and numbering law of the state where it is registered;*

*(3) alphabetically, under the name of the owner; or*

*(4) under another system determined by the commissioner.*

*(b) Records relating to watercraft titling maintained by the commissioner are public records and are open to public inspection during regular office hours.*

*Subd. 6.* [GROUNDS FOR REFUSAL TO ISSUE CERTIFICATE OF TITLE.] *The commissioner may not issue a certificate of title if a required fee is not paid or the commissioner has reasonable grounds to believe that:*

*(1) the applicant is not the owner of the watercraft;*

*(2) the application contains a false statement; or*

*(3) the applicant failed to furnish required information or documents or additional information the commissioner reasonably requires.*

Sec. 225. [361A.04] [DEALER ACQUISITION AND TRANSFER.]

*Subdivision 1.* [CERTIFICATE OF ORIGIN REQUIRED.] *(a) A dealer may not purchase or acquire a new titled watercraft without obtaining a*

*manufacturer's or importer's certificate of origin from the seller.*

*(b) A manufacturer, importer, dealer, or other person may not sell or otherwise dispose of a new titled watercraft to a dealer for purposes of display and resale without delivering to the dealer a manufacturer's or importer's certificate of origin.*

*Subd. 2.* [CONTENTS OF CERTIFICATE.] *The manufacturer's or importer's certificate of origin must be of a form prescribed by the commissioner and contain:*

*(1) a description of the watercraft, including its trade name, if any, year, series or model, hull material, length, and hull identification number;*

*(2) certification of the date of transfer of the watercraft and the name and address of the person to whom the watercraft was transferred;*

*(3) certification that the transfer of the watercraft was in ordinary trade and commerce;*

*(4) the signature and address of a representative of the person transferring the watercraft;*

*(5) an assignment form, including the name and address of the person the watercraft is to be transferred to, a certification that the watercraft is new, and a warranty that the title at the time of delivery is subject only to the security interests stated on the title; and*

*(6) other information required by the commissioner.*

*Subd. 3.* [SALE OF NEW WATERCRAFT.] *A dealer selling or exchanging a new titled watercraft, before delivering the watercraft to a purchaser, shall apply to the commissioner for a new title in the name of the purchaser. The application must contain the name and address of any secured party holding a security interest created or reserved at the time of sale and the date of the security agreement and must be accompanied by a manufacturer's or importer's certificate of origin. The application must be signed by the dealer and the owner, and the dealer shall promptly mail or deliver the application to the commissioner or a deputy registrar.*

*Subd. 4.* [USED WATERCRAFT ACQUIRED FOR RESALE.] *(a) If a dealer buys or acquires a used titled watercraft for resale, the dealer must apply to the commissioner or deputy registrar and obtain a title number before selling or exchanging the watercraft in the same manner as a new watercraft on forms the commissioner provides or apply for and obtain a certificate of title.*

*(b) If a dealer acquires a used titled watercraft for resale and the watercraft is covered by a certificate of title that is surrendered to the dealer by the owner at the time of delivery of the watercraft, the dealer need not send the certificate of title to the commissioner. Upon transferring the watercraft to another person, the dealer must promptly execute the assignment, showing the name and address of the person to whom the watercraft is transferred and forward the certificate to the commissioner or deputy registrar with the application for a new certificate of title.*

*Subd. 5.* [WATERCRAFT WITH FOREIGN REGISTRATION.] *(a) Except as provided in paragraph (b), an application for a certificate of title for a watercraft last registered in another state or foreign country must contain or be accompanied by:*

*(1) a certificate of title or registration issued by the other state or foreign country; and*

*(2) other information or documents the commissioner requires to establish the ownership of the watercraft and the existence or nonexistence of security interests.*

*(b) If the state or foreign country where the watercraft was last registered does not issue certificates of title, the application must contain or be accompanied by:*

*(1) a proper bill of sale or sworn statement of ownership, certificate of registration, or evidence of ownership as required by the law of the state or foreign country; and*

*(2) any other information or documents the commissioner requires to establish the ownership of the watercraft and the existence or nonexistence of security interests.*

Sec. 226. [361A.05] [TRANSFER BY OWNER.]

*Subdivision 1.* [VOLUNTARY TRANSFER.] *(a) An owner who transfers a titled watercraft must execute the assignment and warranty of title to the person to whom the watercraft is transferred in the space provided on the certificate of title where the watercraft is delivered.*

*(b) The person acquiring the watercraft must obtain a new certificate of title by applying to the commissioner or a deputy registrar on a form prescribed by the commissioner, and submitting the required fee. The application for certificate of title must be filed within 15 days after delivery of the watercraft to the person acquiring the watercraft.*

*(c) Upon request of the owner or the person who acquired the watercraft, a secured party in possession of the certificate of title must deliver the certificate to the person acquiring the watercraft, the commissioner, or a deputy registrar, unless the transfer is a breach of the security agreement. The delivery of the certificate does not affect the rights of the secured party under the security agreement.*

*(d) If a security interest or encumbrance is first created at the time of transfer of ownership, the certificate must be retained by or delivered to the secured party.*

*Subd. 2.* [TRANSFER BY LAW.] *(a) Except as otherwise provided in this chapter, if the ownership of a titled watercraft is transferred by operation of law, including inheritance or bequest, order in bankruptcy, insolvency, replevin, execution, sale, or satisfaction of mechanic's lien, or repossession upon default in performance of the terms of a security agreement, the person acquiring the watercraft by operation of law must promptly submit the last certificate of title, if available, or the manufacturer's or importer's certificate or other satisfactory proof of the transfer of ownership to the commissioner or deputy registrar with the application for a new certificate of title and the required fee.*

*(b) If a secured party acquires a titled watercraft under the terms of a security agreement or by operation of law, the secured party must promptly submit to the commissioner, a deputy registrar, or the person acquiring the watercraft from the secured party the last certificate of title, if available, an application for a new certificate of title with the required fee, and an affidavit by the secured party or an authorized representative stating*

*the facts entitling the secured party to possession and ownership of the watercraft, including a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded. If the secured party cannot produce the required proof of ownership, the secured party may submit other evidence with the application and the commissioner may issue a new certificate of title if the evidence provides satisfactory proof of ownership.*

Sec. 227. [361A.06] [TEMPORARY WATERCRAFT USE PERMITS.]

*Subdivision 1.* [ISSUANCE TO TITLE APPLICANT.] *(a) The commissioner may issue a temporary watercraft use permit to a person applying for a certificate of title for a new or used watercraft to allow that person to operate the watercraft on the waters of this state pending completion of the titling and watercraft licensing process.*

*(b) The watercraft use permit must be carried aboard the watercraft to allow immediate inspection. The watercraft use permit must contain a description of the watercraft, including its trade name, if any, year, series or model, hull material, length, hull identification number, and other information prescribed by the commissioner. A permit is valid only for the watercraft for which it is issued.*

*Subd. 2.* [DISTRIBUTION TO DEALERS.] *The commissioner may distribute permits in booklet form to licensed dealers. If the dealer issues a permit, the dealer must submit a watercraft use permit information form to the commissioner. The commissioner must provide information forms that require the name of the person to whom the watercraft use permit was issued, the watercraft description, dates of issue and expiration, and other information prescribed by the commissioner.*

Sec. 228. [361A.07] [DUPLICATE CERTIFICATE.]

*Subdivision 1.* [FORM AND ISSUANCE.] *(a) The commissioner may issue a duplicate certificate of title under this section. The duplicate certificate of title must be a certified copy plainly marked "duplicate" across its face and must contain the legend: "This duplicate certificate of title may be subject to the rights of a person under the original certificate." It must be mailed to the first secured party named in it or, if none, to the owner. The commissioner shall indicate in the department records that a duplicate has been issued.*

*(b) As a condition to issuing a duplicate certificate of title, the commissioner may require a bond from the applicant in the manner and form prescribed in section 224, subdivision 4, paragraph (b).*

*Subd. 2.* [WAITING PERIOD TO ISSUE NEW CERTIFICATE OF TITLE.] *The commissioner may not issue a new certificate of title to a person acquiring a watercraft under an application made on a duplicate certificate of title until at least 15 days after receiving the application.*

*Subd. 3.* [DISAPPEARANCE OF ORIGINAL CERTIFICATE.] *If a certificate of title is lost, stolen, or destroyed, the owner or legal representative of the owner named in the certificate may obtain a duplicate by applying to the commissioner, furnishing information the commissioner requires concerning the original certificate, and the circumstances of its loss or destruction.*

*Subd. 4.* [MUTILATED OR ILLEGIBLE CERTIFICATE.] *If an original*

*certificate of title is mutilated or rendered illegible, the person in possession of the title must return it to the commissioner with the application for a duplicate.*

*Subd. 5.* [RECOVERY OF LOST OR STOLEN CERTIFICATE.] *If a lost or stolen certificate of title for which a duplicate has been issued is recovered, the lost or stolen certificate of title must be surrendered promptly to the commissioner for cancellation.*

Sec. 229. [361A.08] [SUSPENSION OR REVOCATION OF CERTIFICATE.]

*Subdivision 1.* [SUSPENSION OR REVOCATION.] *The commissioner shall suspend or revoke a certificate of title upon notice and reasonable opportunity to be heard if authorized by law or if the commissioner finds that:*

*(1) the certificate of title was fraudulently procured or erroneously issued; or*

*(2) the watercraft has been scrapped, dismantled, or destroyed.*

*Subd. 2.* [DUTIES OF OWNER.] *If the commissioner suspends or revokes a certificate of title, the owner or person in possession of the certificate of title, immediately upon receiving notice of the suspension or revocation, shall mail or deliver the certificate to the commissioner.*

*Subd. 3.* [SEIZURE OR IMPOUNDMENT.] *The commissioner may seize and impound a certificate of title that has been suspended or revoked.*

*Subd. 4.* [SUBSEQUENT GOOD FAITH PURCHASER.] *Suspension or revocation of a certificate of title does not affect the validity of a subsequent transfer to a purchaser relying in good faith on the assignment of a suspended or revoked title if the certificate of title was not surrendered to or seized by the commissioner under subdivisions 2 and 3, and the commissioner shall issue a new certificate of title to an applicant who is a good faith purchaser for value in those circumstances.*

Sec. 230. [361A.09] [RESPONSIBILITIES OF COMMISSIONER.]

*The commissioner shall prescribe and provide suitable forms of applications, certificates of title, notices of security interests, and other notices and forms necessary to implement this chapter. In addition, the commissioner may:*

*(1) make necessary investigations to procure information required to implement this chapter;*

*(2) assign a new hull identification number to a watercraft if the watercraft does not have a number or the number is destroyed or obliterated; or*

*(3) adopt and enforce rules necessary to implement this chapter.*

Sec. 231. [361A.10] [PENALTIES.]

*Subdivision 1.* [FELONY.] *A person is guilty of a felony and punishable by imprisonment for a term of not more than four years, or payment of a fine of not more than $5,000, or both, if the person with fraudulent intent:*

*(1) uses a false or fictitious name or address, makes a material false statement, fails to disclose a security interest, or conceals any other material fact in an application for a certificate of title; or*

*(2) submits a false, forged, or fictitious document in support of an application for a certificate of title.*

*Subd. 2.* [MISDEMEANOR.] *A person is guilty of a misdemeanor if that person:*

*(1) with fraudulent intent permits another to use or possess a certificate of title who is not entitled to use or possess the certificate of title;*

*(2) willfully fails to mail or deliver a certificate of title to the commissioner or a deputy registrar within ten days after the time required;*

*(3) willfully fails to deliver to a person acquiring a watercraft a certificate of title within ten days after the time required;*

*(4) commits a fraud in an application for a certificate of title; or*

*(5) fails to notify the commissioner of a fact as required by law.*

Sec. 232. [361A.11] [TITLE FEES.]

*Subdivision 1.* [FEES.] *(a) The fee to be paid to the commissioner:*

*(1) for issuing an original certificate of title, including the concurrent notation of an assignment of the security interest and its subsequent release or satisfaction, is $15;*

*(2) for each security interest when first noted upon a certificate of title, including the concurrent notation of an assignment of the security interest and its subsequent release or satisfaction, is $10;*

*(3) for transferring the interest of an owner and issuing a new certificate of title, is $10;*

*(4) for each assignment of a security interest when first noted on a certificate of title, unless noted concurrently with the security interest, is $1; and*

*(5) for issuing a duplicate certificate of title, is $4.*

*(b) In addition to other statutory fees and taxes, a filing fee of $3.25 is imposed on every application. The filing fee must be shown as a separate item on title renewal notices sent by the commissioner.*

*Subd. 2.* [CONCURRENT APPLICATIONS.] *If a person applies for an original or a new certificate of title for a watercraft concurrently with an application for transfer of license of the watercraft to the applicant, the fee prescribed in subdivision 1 is in lieu of the fee prescribed by section 361.03 for a transfer of ownership or license of the watercraft to the applicant.*

*Subd. 3.* [FEES PAID BEFORE TITLE ISSUED.] *Subject to subdivision 2, the commissioner may not issue a certificate of title for a watercraft until the fees prescribed by subdivision 1 and section 361.03 for a prior transfer of ownership or license of the watercraft have been paid.*

*Subd. 4.* [DEPOSIT OF FEE.] *Fees collected under this section must be deposited in the state treasury and credited to the water recreation account, except a deputy registrar who originates an application shall retain the filing fee under subdivision 1, paragraph (b).*

Sec. 233. [361A.12] [INAPPLICABLE LIENS AND SECURITY INTERESTS.]

*The requirements of this chapter relating to security interests and certificate of title do not apply to or affect:*

*(1) a lien given by statute or rule of law to a supplier of services or materials for the watercraft while the watercraft is in the possession of the lienholder;*

*(2) a lien given by statute to the United States, this state, or a political subdivision of this state; or*

*(3) a security interest in a watercraft created by a manufacturer or dealer who holds the watercraft for sale.*

Sec. 234. [361A.13] [SECURITY INTERESTS.]

*Subdivision 1.* [VALIDITY.] *Unless excepted by section 233, a security interest in a titled watercraft is not valid against creditors of the owner or subsequent transferees or secured parties of the watercraft unless perfected as provided in this chapter.*

*Subd. 2.* [PERFECTION.] *A security interest is perfected by the delivery to the commissioner of the existing certificate of title, if any, or an application for a certificate of title, containing the name and address of the secured party, the date of the security agreement, and the required fee. It is perfected as of the time of its creation if the delivery is completed within the following ten days. In other instances it is perfected as of the time of the delivery. The method provided in this chapter is exclusive.*

Sec. 235. [361A.14] [OWNER-CREATED SECURITY INTEREST.]

*Paragraphs (a) to (d) apply if an owner creates a security interest in a titled watercraft.*

*(a) The owner shall immediately execute the application in the space provided on the certificate of title or on a separate form prescribed by the commissioner, show the name and address of the secured party on the certificate, and have the certificate, application, and required fee delivered to the secured party.*

*(b) The secured party shall immediately have the certificate, application, and required fee mailed or delivered to the commissioner.*

*(c) Upon request of the owner or subordinate secured party, a secured party in possession of the certificate of title shall either (1) mail or deliver the certificate to the subordinate secured party for delivery to the commissioner, or (2) upon receiving from the subordinate secured party the owner's application and the required fee, mail or deliver them to the commissioner with the certificate. The delivery of the certificate does not affect the rights of the first secured party under the security agreement.*

*(d) Upon receiving the certificate of title, application, and required fee, the commissioner shall either endorse on the certificate or issue a new certificate containing the name and address of the new secured party, and mail or deliver the certificate to the first secured party named on it.*

Sec. 236. [361A.15] [LICENSED WATERCRAFT PREVIOUSLY PERFECTED.]

*If a security interest in a previously licensed watercraft is perfected under other applicable Minnesota law on January 1, 1991, the security interest continues perfected:*

*(1) until its perfection lapses under the law under which it was perfected or would lapse in the absence of a further filing; or*

*(2) until a certificate of title for the watercraft is issued and the security interest is perfected under section 234.*

*The assignment, release, or satisfaction of a security interest in a previously licensed watercraft is governed by the laws under which it was perfected.*

Sec. 237. [361A.16] [SATISFACTION OF SECURITY INTEREST.]

*Subdivision 1.* [RELEASE.] *Upon the satisfaction of a security interest in a watercraft for which the certificate of title is in the possession of the secured party, the secured party, within 15 days, shall execute a release of the security interest in the space provided on the certificate or as prescribed by the commissioner, and mail or deliver the certificate and release to the next secured party named or, if none, to the owner or a person who delivers to the secured party an authorization from the owner to receive the certificate. The owner, other than a dealer holding the watercraft for resale, shall promptly have the certificate, the release, and the required fee mailed or delivered to the commissioner, who shall release the secured party's rights on the certificate or issue a new certificate.*

*Subd. 2.* [RELEASE OF SUBORDINATE SECURITY INTEREST.] *Upon the satisfaction of a security interest in a watercraft for which the certificate of title is in the possession of a prior secured party, the secured party whose security interest is satisfied shall execute a release in the form prescribed by the commissioner and, within 15 days after satisfaction, deliver the release to the owner or a person who delivers to the secured party.*

Sec. 238. [361A.17] [DISCLOSURE OF SECURITY AGREEMENT.]

*A secured party named in a certificate of title, upon written request of the owner or other secured party named on the certificate, must disclose pertinent information about the security agreement and the indebtedness secured by it.*

Sec. 239. [361A.18] [EFFECT OF SUSPENSION OR REVOCATION ON SECURITY INTEREST.]

*Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.*

Sec. 240. [361A.19] [PREVIOUSLY LICENSED WATERCRAFT UNDISCLOSED SECURITY INTERESTS.]

*If the commissioner is not satisfied that there are no undisclosed security interests created before the watercraft is initially titled, the commissioner may, in addition to its options under section 224, subdivision 4, issue a distinctive certificate of title for the watercraft containing the legend: "This watercraft may be subject to an undisclosed lien," and any other information the commissioner prescribes.*

Sec. 241. [361A.20] [LIENS ATTACHING TO WATERCRAFT.]

*(a) A nonpossessory lien on a titled watercraft is not perfected unless a lien statement is filed with the commissioner.*

*(b) The lien statement must include:*

*(1) the watercraft owner's name and address;*

*(2) the statute under which the lien is taken;*

*(3) the name and address of the lienholder; and*

*(4) the title number of the watercraft.*

*(c) The commissioner shall note the time and date of filing the lien statement.*

Sec. 242. [361A.21] [STOLEN WATERCRAFT.]

*Subdivision 1.* [DUTY OF PEACE OFFICERS.] *A peace officer aware of a stolen or converted watercraft shall immediately furnish the commissioner with information concerning the theft or conversion.*

*Subd. 2.* [DUTY OF COMMISSIONER.] *The commissioner, upon receiving a report of the theft or conversion of a watercraft, shall record the report information, including the make of the stolen or converted watercraft and its builder's hull identification number, if any. The commissioner shall prepare a list of watercraft reported stolen and those recovered as disclosed by the reports submitted. The report may be distributed as the commissioner deems advisable.*

*Subd. 3.* [DUTY OF OWNER.] *If a stolen or converted watercraft is recovered, the owner shall immediately notify the commissioner.*

Sec. 243. Minnesota Statutes 1988, section 363.01, is amended by adding a subdivision to read:

*Subd. 41.* [BUSINESS.] *The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its department, agencies, and political subdivisions.*

Sec. 244. Minnesota Statutes 1988, section 363.073, subdivision 1, is amended to read:

Subdivision 1. [SCOPE OF APPLICATION.] No department or agency of the state shall ~~receive, enter into, or~~ accept any bid or proposal for a contract ~~nor~~ *or agreement or* execute any contract *or agreement* for goods~~,~~ *or* services~~, or the performance of any function, or any agreement to transfer funds for any reason~~ in excess of $50,000 with any ~~person~~ *business* having more than 20 full-time employees ~~in Minnesota~~ at any time during the previous 12 months, unless the ~~person~~ *firm or business* has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a ~~person~~ *firm or business* has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years. *A municipality as defined in section 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the disabled and submit the plan to the commissioner of human rights.*

Sec. 245. Minnesota Statutes 1988, section 383A.65, is amended to read:

383A.65 [RAMSEY COUNTY; AUTHORIZATION FOR BONDS.]

Ramsey county may issue general obligation bonds in one or more series in an amount not to exceed $2,000,000, in the aggregate, to finance the restoration of the concourse of the St. Paul union depot as a facility for the exhibition of works of art, the proceeds of which may not be used for that purpose until $500,000 in operational funding has been ~~committed by nonpublic sources~~ *provided*. The bonds shall be issued pursuant to chapter 475, except that the bonds shall not be subject to its election requirements or debt limits. They shall not be subject to any other debt or tax levy limitations applicable to the county and shall not be considered in calculating amounts subject to any other debt or tax levy limitations. Levies by the county for debt servicing payment for the retirement of the bonds shall be exempt from and disregarded in the calculation of all tax levy limitations applicable to the county.

Sec. 246. Minnesota Statutes 1988, section 469.175, subdivision 2, is amended to read:

Subd. 2. [CONSULTATIONS; COMMENT AND FILING.] Before formation of a tax increment financing district, the authority shall provide an opportunity to the members of the county boards of commissioners of any county in which any portion of the proposed district is located and the members of the school board of any school district in which any portion of the proposed district is located to meet with the authority. The authority shall present to the members of the county boards of commissioners and the school boards its estimate of the fiscal and economic implications of the proposed tax increment financing district. The information on the fiscal and economic implications of the plan must be provided to the county and school district boards at least 30 days before the public hearing required by subdivision 3. The 30-day requirement is waived if the county and school district submit written comments on the proposal and any modification of the proposal to the authority after receipt of the information. The members of the county boards of commissioners and the school boards may present their comments at the public hearing on the tax increment financing plan required by subdivision 3. Upon adoption of the tax increment financing plan, the authority shall file a copy of the plan with the commissioner of ~~trade and economic development~~ *revenue*. The authority must also file with the commissioner a copy of the development plan for the project area.

Sec. 247. Minnesota Statutes 1988, section 469.175, subdivision 5, is amended to read:

Subd. 5. [ANNUAL DISCLOSURE.] For all tax increment financing districts, whether created prior or subsequent to August 1, 1979, on or before July 1 of each year, the authority shall submit to the county board, the school board, the commissioner of ~~trade and economic development~~ *revenue* and, if the authority is other than the municipality, the governing body of the municipality, a report of the status of the district. The report shall include the following information: the amount and the source of revenue in the account, the amount and purpose of expenditures from the account, the amount of any pledge of revenues, including principal and interest on any outstanding bonded indebtedness, the original gross tax capacity of the district, the captured gross tax capacity retained by the authority, the captured gross tax capacity shared with other taxing districts, the tax increment received, and any additional information necessary to demonstrate compliance with any applicable tax increment financing plan. An annual statement showing the tax increment received and expended in that year, the original gross tax capacity, captured gross tax capacity, amount

of outstanding bonded indebtedness, and any additional information the authority deems necessary shall be published in a newspaper of general circulation in the municipality.

Sec. 248. [473.155] [METROPOLITAN WATER USE AND SUPPLY PLAN.]

*Subdivision 1.* [PLAN COMPONENTS.] *The metropolitan council shall develop a short-term and long-term plan for existing and expected water use and supply in the metropolitan area. The plan shall be submitted to and reviewed by the state planning agency. At a minimum, the plans must:*

*(1) update the data and information on water supply and use within the metropolitan area;*

*(2) identify alternative courses of action, including water conservation initiatives and economic alternatives, in case of drought conditions; and*

*(3) recommend approaches to resolving problems that may develop because of water use and supply. Consideration must be given to problems that occur outside of the metropolitan area, but which have an effect within the area.*

*Subd. 2.* [COMPLETION AND REPORT.] *The short-term plan must be completed by February 1, 1990. The long-term plan must be completed by July 1, 1990, and continually updated as the need arises. The plans must be prepared in consultation with the Army Corps of Engineers, the Leech Lake Reservation business committee, the Mississippi headwaters board, department of natural resources, and the environmental quality board. Both plans must be given to the metropolitan affairs and natural resources committees of the house of representatives and senate, and be available to the public.*

Sec. 249. Minnesota Statutes 1988, section 473.877, is amended by adding a subdivision to read:

*Subd. 4.* [APPROPRIATIONS FROM SMALL WATERCOURSES.] *This subdivision applies in Hennepin and Ramsey counties to the following public waters:*

*(1) a public water basin or wetland wholly within the county that is less than 500 acres; or*

*(2) a protected watercourse that has a drainage area of less than 50 square miles.*

*An appropriation of water that is below the minimum established in section 105.41, subdivision 1b, for a nonessential use, as defined under section 105.418, is prohibited unless a permit is obtained from the watershed district or watershed management organization having jurisdiction over the public water basin, wetland, or watercourse. The watershed district or watershed management organization may impose a fee to cover the cost of issuing the permit. This subdivision must be enforced by the home rule charter or statutory city where the appropriation occurs. Violation of this subdivision is a petty misdemeanor, except that a second violation within a year is a misdemeanor. Affected cities shall mail notice of this law to adjoining landowners.*

Sec. 250. Minnesota Statutes 1988, section 474A.02, subdivision 5a, is amended to read:

Subd. 5a. [COMMISSIONER.] "Commissioner" means the commissioner of ~~trade and economic development~~ *finance*.

Sec. 251. [TRANSFER OF RESPONSIBILITIES.]

*The program responsibilities of the commissioner of trade and economic development for the allocation of bonding authority under Minnesota Statutes, chapter 474A, are transferred under Minnesota Statutes, section 15.039, to the commissioner of finance.*

Sec. 252. Minnesota Statutes 1988, section 480.01, is amended to read:

480.01 [JUSTICES; TERMS; *TRAVEL EXPENSES.*]

*Subdivision 1.* [JUSTICES; TERMS.] The supreme court shall consist of one chief justice and six associate justices, who shall hold one term of court each year, at the seat of government, commencing on the first Tuesday after the first Monday in January, with such continuations or adjournments thereof during the year as may be necessary for the dispatch of the business coming before the court. When the chief justice of the court shall be absent from the state, or shall be, for any reason, incapacitated from acting as such, the associate justice present within the state and not incapacitated who shall have served the longest time, or when there are two or more associate justices of equal terms of service, then the associate justice, whom the chief justice shall designate as senior associate justice as such, shall have and exercise all the powers, duties, and functions of the chief justice during the absence or incapacity and shall be, during such absence or incapacity, the presiding justice of the court.

*Subd. 2.* [TRAVEL EXPENSES.] *Travel expenses shall be paid by the state in the same manner and amount as provided for judges of the district court in section 484.54.*

Sec. 253. Minnesota Statutes 1988, section 480.241, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF SURCHARGE; COLLECTION BY COURT ADMINISTRATORS.] A plaintiff, petitioner, defendant, respondent, intervenor or moving party in any ~~district, county, or municipal~~ *trial* court civil action or civil proceeding in which an initial filing fee is payable by that party, except a marriage dissolution or conciliation court action, shall pay to the court administrator ~~of district or county court or court administrator of the municipal courts of Hennepin county or Ramsey county~~ a surcharge of ~~$10~~ *$25* in addition to the initial filing fee otherwise prescribed. ~~For such a civil action or civil proceeding commenced on and after July 1, 1987, the surcharge is $20.~~ A plaintiff, defendant, or moving party in any conciliation court action in which an initial filing fee is payable shall pay to the court administrator of conciliation court a surcharge of ~~$2~~ *$3* in addition to the initial filing fee otherwise prescribed. Notwithstanding any other law or rule to the contrary, no surcharge shall be paid by any governmental unit of the state of Minnesota, any local unit of government, or agency thereof~~, when the governmental unit, local government, or agency thereof is a party to any civil action or civil proceeding in the municipal courts of Hennepin or Ramsey counties, or in any county court~~.

Sec. 254. Minnesota Statutes 1988, section 480.241, subdivision 2, is amended to read:

Subd. 2. [TRANSMITTAL OF SURCHARGE TO ~~SUPREME COURT~~

*STATE TREASURER.*] Notwithstanding any other law or rule to the contrary, all surcharges collected pursuant to subdivision 1 shall be transmitted monthly by the ~~district, county, and conciliation court~~ court administrators ~~and municipal court administrators~~ to the ~~supreme court~~ *state treasurer* for deposit in the state treasury and credit to the general fund.

Sec. 255. Minnesota Statutes 1988, section 480.242, is amended to read:

480.242 [DISTRIBUTION OF ~~SURCHARGE~~ *CIVIL LEGAL SERVICES* FUNDS TO QUALIFIED LEGAL SERVICES PROGRAMS.]

Subdivision 1. [ADVISORY COMMITTEE.] The supreme court shall establish an advisory committee to assist it in performing its responsibilities under sections 480.24 to 480.244. The advisory committee shall consist of 11 members appointed by the supreme court including seven attorneys-at-law who are well acquainted with the provision of legal services in civil matters, two public members who are not attorneys and two persons who would qualify as eligible clients. Four of the attorney-at-law members shall be nominated by the state bar association in the manner determined by it, and three of the attorney-at-law members shall be nominated by the programs in Minnesota providing legal services in civil matters on July 1, 1982, with funds provided by the federal Legal Services Corporation in the manner determined by them. In making the appointments of the attorney-at-law members, the supreme court shall not be bound by the nominations prescribed by this section. In making appointments to the advisory committee, the supreme court shall ensure that urban and rural areas of the state are represented. The supreme court shall adopt by rule policies and procedures for the operation of the advisory committee including, but not limited to, policies and procedures governing membership terms, removal of members, and the filling of membership vacancies.

Subd. 2. [REVIEW OF APPLICATIONS; SELECTION OF RECIPIENTS.] At times and in accordance with any procedures as the supreme court adopts in the form of court rules, applications for the expenditure of *civil legal services* funds ~~collected pursuant to section 480.241~~ shall be accepted from qualified legal services programs or from local government agencies and nonprofit organizations seeking to establish qualified alternative dispute resolution programs. The applications shall be reviewed by the advisory committee, and the advisory committee, subject to review by the supreme court, shall distribute the funds received pursuant to section 480.241, subdivision 2 to qualified legal services programs or to qualified alternative dispute resolution programs submitting applications. Subject to the provisions of subdivision 4, the funds shall be distributed in accordance with the following formula:

(a) Eighty-five percent of the funds distributed shall be distributed to qualified legal services programs that have demonstrated an ability as of July 1, 1982, to provide legal services to persons unable to afford private counsel with funds provided by the federal Legal Services Corporation. The allocation of funds among the programs selected shall be based upon the number of persons with incomes below the poverty level established by the United States Census Bureau who reside in the geographical area served by each program, as determined by the supreme court on the basis of the 1980 national census. All funds distributed pursuant to this clause shall be used for the provision of legal services in civil matters to eligible clients.

(b) Fifteen percent of the funds distributed may be distributed (1) to

other qualified legal services programs for the provision of legal services in civil matters to eligible clients, including programs which organize members of the private bar to perform services and programs for qualified alternative dispute resolution, or (2) to programs for training mediators operated by nonprofit alternative dispute resolution corporations. Grants may be made pursuant to this clause only until June 30, 1987. If all the funds to be distributed pursuant to this clause cannot be distributed because of insufficient acceptable applications, the remaining funds shall be distributed pursuant to clause (a).

Subd. 3. [TIMING OF DISTRIBUTION OF FUNDS.] The funds to be distributed to recipients selected in accordance with the provisions of subdivision 2 shall be distributed by the supreme court no less than twice per calendar year.

Subd. 4. [ADMINISTRATION.] The supreme court may retain up to five percent of the ~~funds received pursuant to section 480.241, subdivision 2~~ *money appropriated for civil legal services* to defray the costs incurred in executing its responsibilities and the responsibilities of the advisory committee under sections 480.24 to 480.244.

Sec. 256. Minnesota Statutes 1988, section 480A.08, subdivision 3, is amended to read:

Subd. 3. [DECISIONS.] *(a)* A decision shall be rendered in every case within 90 days after oral argument or after the final submission of briefs or memoranda by the parties, whichever is later. The chief justice or the chief judge may waive the 90-day limitation for any proceeding before the court of appeals for good cause shown. In every case, the decision of the court, including any written opinion containing a summary of the case and a statement of the reasons for its decision, shall be indexed and made readily available.

*(b) The decision of the court need not include a written opinion. A statement of the decision without a written opinion must not be officially published and must not be cited as precedent, except as law of the case, res judicata, or collateral estoppel.*

*(c)* The court of appeals may publish only those decisions that:

(1) establish a new rule of law;

(2) overrule a previous court of appeals' decision not reviewed by the supreme court;

(3) provide important procedural guidelines in interpreting statutes or administrative rules;

(4) involve a significant legal issue; or

(5) would significantly aid in the administration of justice.

Unpublished opinions of the court of appeals are not precedential. Unpublished opinions must not be cited unless the party citing the unpublished opinion provides a full and correct copy to all other counsel at least 48 hours before its use in any pretrial conference, hearing, or trial. If cited in a brief or memorandum of law, a copy of the unpublished opinion must be provided to all other counsel at the time the brief or memorandum is served, and other counsel may respond.

Sec. 257. Minnesota Statutes 1988, section 484.54, subdivision 2, is

amended to read:

Subd. 2. A judge shall be paid travel *and subsistence* expenses for travel from the judge's place of residence to and from the judge's permanent chambers only for a period of two years after July 1, 1977 or the date the judge initially assumes office, whichever is later.

Sec. 258. Minnesota Statutes 1988, section 540.152, is amended to read:

540.152 [SERVICE OF PROCESS ON UNIONS, GROUPS, OR ASSOCIATIONS.]

The transaction of any acts, business, or activities within the state of Minnesota by any officer, agent, representative, employee, or member of any union or other groups or associations having officers, agents, members, or property without the state on behalf of the union or other groups or associations or any of its members or affiliated local unions shall be deemed an appointment by the union or other groups or associations of the secretary of state of the state of Minnesota to be the true and lawful attorney of the union or other groups or associations, upon whom may be served all legal processes or notices in any action or proceeding against or involving the union or other groups or associations growing out of any acts, business or activities within the state of Minnesota resulting in damage or loss to person or property or giving rise to any cause of action under the laws of the state of Minnesota or to any matters or proceedings arising under the Minnesota labor relations act. Such acts, business, or activities shall be a signification of the agreement of the union or other groups or associations and its members that any process or notice in any action, matter, or proceeding against or involving it, which is so served, shall be of the same legal force and validity as if served upon the union or other groups or associations and its members personally. Service of process or notice shall be made by filing a copy thereof in the office of the secretary of state, together with payment of a fee of ~~$25~~ *$35* and together with an affidavit stating that no officer or managing agent of the union or other group or association has been found in this state and setting forth an address to which the service shall be forwarded. The service shall be sufficient service upon the union or other groups or associations and its members. Notice of service and a copy of the process or notice shall, within ten days thereafter, be sent by mail by the person who caused it to be served on the union or other groups or associations at its last known address and an affidavit of compliance with the provisions of this chapter shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending.

Sec. 259. Minnesota Statutes 1988, section 543.08, is amended to read:

543.08 [SUMMONS, SERVICE UPON CERTAIN CORPORATIONS.]

If a private domestic corporation has no officer at the registered office of the corporation within the state upon whom service can be made, of which fact the return of the sheriff of the county in which that office is located, or the affidavit of a private person not a party, that none can be found in that county shall be conclusive evidence, service of the summons upon it may be made by depositing two copies, together with a fee of ~~$25~~ *$35* with the secretary of state, which shall be deemed personal service upon the corporation. One of the copies shall be filed by the secretary, and the other forthwith mailed by the secretary to the corporation by certified mail, if the place of its main office is known to the secretary or is disclosed

by the files in the office.

If the defendant is a foreign insurance corporation, the summons may be served by two copies delivered to the commissioner of commerce, who shall file one in the commissioner's office and forthwith mail the other postage prepaid to the defendant at its home office.

Sec. 260. Minnesota Statutes 1988, section 611.17, is amended to read:

611.17 [FINANCIAL INQUIRY; STATEMENTS.]

Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit~~, unless waived in whole or in part by the court,~~ a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, source or sources of income, and any other information required by the court. The state public defender shall furnish appropriate forms for the financial statements. The information contained in the statement shall be confidential and for the exclusive use of the court, except for any prosecution under section 609.48. A refusal to execute the financial statement constitutes a waiver of the right to the appointment of a public defender.

Sec. 261. Minnesota Statutes 1988, section 611.21, is amended to read:

611.21 [SERVICES OTHER THAN COUNSEL.]

*(a)* Counsel, whether or not appointed by the court, for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in the case may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. The court may establish a limit on the amount which may be expended or promised for such services. The court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained, but such ratification shall be given only in unusual situations. The court shall determine reasonable compensation for the services and direct payment by the county in which the prosecution originated, to the organization or person who rendered them, upon the filing of a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.

*(b)* The compensation to be paid to a person for such service rendered to a defendant under this section, or to be paid to an organization for such services rendered by an employee ~~thereof~~, ~~shall~~ *may* not exceed ~~$300~~ *$1,000*, exclusive of reimbursement for expenses reasonably incurred, *unless payment in excess of that limit is certified by the court as necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the chief judge of the district. The chief judge of the judicial district may delegate approval authority to an active district judge.*

*(c) If the court denies authorizing counsel to obtain services on behalf of the defendant, the court shall make written findings of fact and conclusions of law that state the basis for determining that counsel may not obtain services on behalf of the defendant. When the court issues an order denying*

*counsel the authority to obtain services, the defendant may appeal immediately from that order to the court of appeals and may request an expedited hearing.*

Sec. 262. Minnesota Statutes 1988, section 611.215, subdivision 2, is amended to read:

Subd. 2. [DUTIES AND RESPONSIBILITIES.] (a) The state board of public defense shall appoint the state public defender, who serves full time for a term of four years. The board ~~must~~ *shall* prepare an annual report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and ~~appointed counsel systems~~ *public defense corporations*. The board shall approve and recommend to the legislature a budget for the board, the office of state public defender, *the judicial district public defenders,* and the public defense corporations. The board shall establish procedures for distribution of state funding under this chapter to the state and district public defenders, including Hennepin and Ramsey county public defenders, and to the public defense corporations.

(b) The board shall establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The standards must include, but are not limited to:

(1) standards needed to maintain and operate an office of public defender including requirements regarding the qualifications, training, and size of the legal and supporting staff for a public defender or appointed counsel system;

(2) standards for public defender caseloads;

(3) standards and procedures for the eligibility for appointment, assessment, and collection of the costs for legal representation provided by public defenders or appointed counsel;

(4) standards for contracts between a board of county commissioners and a county public defender system for the legal representation of indigent persons;

(5) standards prescribing minimum qualifications of counsel appointed under the board's authority or by the courts; and

(6) standards ensuring the economical and efficient delivery of legal services, including alternatives to the present geographic boundaries of the public defender districts.

The board may require the reporting of statistical data, budget information, and other cost factors by the state and district public defenders and appointed counsel systems.

*The state board of public defense shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded in section 611.26.*

Sec. 263. Laws 1988, chapter 686, article 2, section 5, subdivision 2, is amended to read:

Subd. 2. [ORGANIZATION SELECTION.] The commissioner shall select and contract with a marketplace assistance organization to administer the Minnesota marketplace program. The organization must:

(1) be a nonprofit corporation;

(2) have officers and employees who are knowledgeable on the subject of community-based economic development and development strategies on a statewide basis; and

(3) have demonstrated the capability of providing informational and technical services to communities and economic development organizations.

~~The contract may not extend beyond June 30, 1990.~~

Sec. 264. Laws 1988, chapter 686, article 2, section 10, is amended to read:

Sec. 10. [REPEALER.]

Sections 1 to 3 are repealed July 1, 1991. Sections 4 to 8 are repealed July 1, ~~1990~~ *1991*.

Sec. 265. [CAREER DEVELOPMENT GRANTS.]

*Subdivision 1.* [AUTHORITY.] *The commissioner of employee relations may make career development grants to state employees in the executive, judicial, or legislative branch who have at least three years of state service.*

*Subd. 2.* [PURPOSE OF GRANTS.] *The grants may be used to fund projects that examine government practices in Minnesota, other states, the United States, and foreign countries. The projects must be short-term and designed to investigate new methods for delivering state services.*

*Subd. 3.* [AMOUNT OF GRANT MATCHING.] *The maximum grant amount is $3,000. The grant must be matched by the agency employing the grantee.*

*Subd. 4.* [GRANT APPLICATIONS.] *The commissioner must publicize the grant program to eligible grant applicants. The commissioner shall develop and make available a grant application form. Only persons applying for grants on the application form are eligible for grants.*

*Subd. 5.* [GRANT CRITERIA.] *The commissioner shall award grants to those projects which the commissioner decides have the best prospects for improving delivery of state services. The decision of the commissioner is final with no right of appeal.*

*Subd. 6.* [REPORT TO LEGISLATURE.] *The commissioner shall report on the grant program to the legislature by January 1, 1991.*

Sec. 266. [SHORELAND MANAGEMENT GRANTS.]

*Subdivision 1.* [PURPOSES.] *The commissioner of natural resources may make grants to local governments:*

*(1) to administer, monitor, and enforce state approved shoreland management ordinances;*

*(2) to adopt shoreland management ordinances consistent with statewide standards;*

*(3) to develop comprehensive lake by lake or river shoreland management strategies that provide a unique plan to guide activities on and adjacent to a lake or river; and*

*(4) to implement elements of a comprehensive lake or river management strategy.*

*Subd. 2.* [ACTION ON GRANT APPLICATIONS.] *Upon receipt of a request for a shoreland management grant, the commissioner of natural resources must confer with the local government requesting the grant and may make a grant based on the following considerations:*

*(1) the number and classification of lakes and rivers in the jurisdiction of the local government;*

*(2) the extent of current shoreland development;*

*(3) the development trends for the lakes and rivers;*

*(4) the miles of lake and river shoreline;*

*(5) whether the shoreland management ordinance or regulation adopted by the local government meets the minimum standards established by the commissioner;*

*(6) the degree and effectiveness of administration, enforcement, and monitoring of the existing shoreland ordinances;*

*(7) the ability of the local government to finance the program or project; and*

*(8) the degree to which the program considers a comprehensive approach to lake or river management including land use, recreation, water levels, surface water use, fish, wildlife, and water quality that may be secondary to the other elements.*

*Subd. 3.* [LIMITATIONS.] *The maximum annual shoreland management grant to local government for purposes of subdivision 1, clauses (1) and (2), may not exceed the local contribution to the shoreland management activity. Any federal program aid for shoreland management shall serve to reduce the state and local contribution to the activity.*

Sec. 267. [ADJUTANT GENERAL.]

*Section 181 does not apply to the person who is adjutant general on the effective date of section 181.*

Sec. 268. [EXOTIC SPECIES MANAGEMENT AND MONITORING.]

*Subdivision 1.* [DEFINITION.] *For the purpose of this section, "exotic species" means nonnative plants or wild animals that have the potential to harm the environment, or threaten native plants or wild animals.*

*Subd. 2.* [TASK FORCE.] *(a) An interagency task force is created to establish a long-term program on exotic species management. The task force shall be composed of the commissioner or director of the departments of natural resources, agriculture, health, transportation, and board of water and soil resources, and three people with special expertise in the private sector on exotic plants or animals, to be appointed by the commissioner of natural resources who shall also serve as chair.*

*(b) Each commissioner or director may designate a delegate from their respective state agencies to represent that commissioner on the task force.*

*(c) The three private citizens on the task force may be reimbursed for their necessary expenses in attending task force meetings according to Minnesota Statutes, section 15.0575.*

*Subd. 3.* [DUTIES; RESPONSIBILITIES.] *The task force shall:*

*(1) identify the existing and potential exotic species threats to the state's*

*environment;*

*(2) rank the exotic species identified according to their degree of threat;*

*(3) develop a long term management program for exotic species control; and*

*(4) report on findings and recommendations to the natural resources committees in the house and senate by January 1, 1990, along with any necessary changes in legislation.*

Sec. 269. [INSTRUCTION TO THE REVISOR.]

*(a) The revisor shall change references to "Minnesota future resources commission" to "legislative commission on Minnesota resources" wherever they appear in the 1990 edition of Minnesota Statutes and subsequent editions of the statutes.*

*(b) If legislation is enacted in the 1989 legislature to change section numbers of provisions governing watercraft licensing or to recodify those provisions into chapter 361A, the revisor of statutes shall correct cross-references to those provisions in this act and renumber the sections of Minnesota Statutes in this act consistent with those changes.*

*(c) The revisor shall change references to "waste management board" to "office of waste management," "board" where it means waste management board to "office," "chair" where it means chair of the waste management board to "director," "chair of the board" where it means chair of the waste management board to "director," and "board, through its chair" where it means waste management board through its chair to "director" in Minnesota Statutes 1990 and subsequent editions of the statutes. Wherever a reference to "waste management board" or "board" where it refers to the waste management board was changed to another board or agency in laws enacted in the 1989 regular session as a result of reorganization order number 155, the revisor shall change the reference to "office of waste management" or "office."*

Sec. 270. [REPEALER.]

*(a) Minnesota Statutes 1988, sections 16A.133, subdivision 3; 85A.01, subdivision 1b; 115A.162; 116J.941; 116J.942; 161.52; 469.012, subdivision 5; 480.242, subdivision 4; 480.245; 611.07; 611.071; 611.25, subdivision 2; Laws 1983, chapter 334, section 7, as amended by Laws 1987, chapters 384, article 3, section 27; 386, article 10, section 8; and 401, section 36; Laws 1988, chapter 686, article 1, section 21, are repealed.*

*(b) Minnesota Statutes 1988, sections 115A.03, subdivision 3; 115A.04; 115A.05; 115A.06, subdivisions 1 and 3; and 115A.11, subdivision 3, are repealed on the day following final enactment.*

Sec. 271. [EFFECTIVE DATES.]

*(a) Section 221 is effective January 1, 1990. Section 180 is effective retroactively to any treatment after May 26, 1988.*

*(b) Sections 67; 79; 81; 83; 84; 85; 182; and 248 are effective the day following final enactment.*

*(c) Section 189 is effective for forms filed for taxable years beginning after December 31, 1989.*

*(d) Except as otherwise provided in this paragraph, sections 214 and*

*222 to 242 are effective January 1, 1991. A watercraft that is owned and licensed under section 361.03 before January 1, 1991, is not required to have a certificate of title under sections 214 and 222 to 242 until the owner transfers part of an interest in the watercraft, grants a security interest in the watercraft, or renews the license.*

*(e) Sections 87 to 123 are effective March 1, 1991, with the exception of section 87, clause (5), which is effective March 1, 1990. Section 125 is effective March 1, 1990.*

*(f) Section 268 is effective June 1, 1989, and is repealed June 30, 1990.*

ARTICLE 2

PROCEEDS OF STRIPPER WELL LITIGATION

Section 1. [STRIPPER WELL LITIGATION.]

*Subdivision 1. The appropriations in this section are added to the appropriations made in Laws 1988, chapter 686, article 1, section 37, and are available immediately after enactment.*

*Subd. 2. $173,500 is appropriated to the commissioner of administration for a grant to Bemidji State University for research on the biotechnical conversion of peat to energy and other useful products.*

*Subd. 3. $272,800 is appropriated to the commissioner of administration for a grant to the University of Minnesota, Crookston, for research on short rotation intensive culture of hybrid poplars for the production of petroleum substitutes.*

*Subd. 4. $272,900 is appropriated to the commissioner of administration for a grant to the city of Minneapolis energy office to develop programs for promoting energy efficiency in multifamily buildings and small businesses.*

*Subd. 5. $336,000 is appropriated to the commissioner of administration for a grant to the University of Minnesota southwest experiment station for research and on farm adoption of energy efficient and conservation farming methods in Minnesota.*

*Subd. 6. $284,000 is appropriated to the commissioner of administration for a grant to the University of Minnesota, St. Anthony Falls hydraulics laboratory for economic hydropower development in Minnesota.*

*Subd. 7. $102,500 is appropriated to the commissioner of administration for a grant to the self-reliance center for a demonstration program on low cost furnace efficiency.*

*Subd. 8. $45,000 is appropriated to the commissioner of administration for a grant to the Staples technical institute for a natural air and low temperature grain drying demonstration project.*

*Subd. 9. $107,500 is appropriated to the commissioner of administration for a grant to the energy resource center for a project evaluating domestic hot water supply options in multifamily buildings.*

*Subd. 10. $255,000 is appropriated to the commissioner of administration for a grant to the upper Minnesota valley regional development commission for research and analysis of the biological, engineering, and economic issues surrounding the lowering of feedstock costs into polyhydroxybutyrate (PHBV) biodegradable plastic resin plants.*

*Subd. 11. $57,000 is appropriated to the commissioner of administration*

*for a grant to the University of Minnesota extension service 4H youth development for a University of Minnesota bicycle promotion program to increase the number of bicycle commuters.*

*Subd. 12. $724,000 is appropriated to the commissioner of administration for a grant to the University of Minnesota cold climate research center for research and demonstration projects using alternative sources of energy and to promote energy efficiency in buildings located in cold climates.*

*Subd. 13. $100,000 is appropriated to the commissioner of administration for administration of the grants program. One complement position is authorized.*

*Subd. 14. It is a condition of acceptance of the appropriations made by this section that the agency or entity receiving the appropriation must submit semiannual progress reports and work plans in the form determined by the legislative commission on Minnesota resources.*

*Subd. 15. $350,000 the first year and $350,000 the second year are for a grant to a cold weather resource center organized as a nonprofit corporation and meeting the conditions prescribed in this item. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.*

*To be eligible for a grant under this subdivision, a cold weather resource center must have its offices in or near the city of International Falls; submit a report to the governor and the legislature by January 15 of each year, including in it a description of the center's activities for the last year, a listing of contracts entered into by the center, and a summary of the center's expenditures; and contract with a certified public accounting firm to perform a financial and compliance audit of the center and any subsidiary.*

*A center receiving a grant under this item must foster economic development by promoting, attracting, and coordinating cold weather research, testing, and related activities throughout this state. The center must provide coordination and services to institutions and companies that conduct cold weather testing and research, but must not directly conduct its own research or testing. It must provide only services that other private-sector enterprises do not provide.*

*A center receiving a grant under this item must be governed by a board of directors including representatives of industries engaged in cold weather testing or research; development organizations involved in applied research and business development; state and local government; the department of transportation; technical institutes; the community colleges system; the University of Minnesota; and the state university system.*

*$150,000 is appropriated to the amateur sports commission by Laws 1988, chapter 868, article 1, section 16, item (b), for operation of the Blaine sports facility is available until June 30, 1990.*

*The commissioner of finance may transfer money from the general fund to the national sports center special revenue account under Minnesota Statutes, section 16A.126. The transfer must be repaid to the general fund by the amateur sports commission from proceeds of the operation of the national sports center by June 30, 1991.*

Sec. 2. [REPEALER.]

*Laws 1988, chapter 686, article 1, section 37, subdivision 10, is repealed.*

Sec. 3. [EFFECTIVE DATE.]

*This article is effective the day after final enactment.*

ARTICLE 3

JUDICIAL SYSTEM

Section 1. Minnesota Statutes 1988, section 3.732, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the housing finance agency, the higher education coordinating board, the higher education facilities authority, the armory building commission, the zoological board, the iron range resources and rehabilitation board, the state agricultural society, the University of Minnesota, state universities, community colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota national guard, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. "Employee of the state" includes a public defender appointed by the state board of public defense ~~or a court-appointed guardian ad litem, whether paid by the state or by a political subdivision~~.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

*(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.*

Sec. 2. Minnesota Statutes 1988, section 43A.02, subdivision 25, is amended to read:

Subd. 25. [JUDICIAL BRANCH.] "Judicial branch" means all judges of the appellate courts, all employees of the appellate courts, including commissions, boards and committees established by the supreme court, the board of law examiners, the law library, the office of the public defender, ~~and~~ all judges of all courts of law, *district court referees, judicial officers, court reporters, law clerks, district administration employees under section 484.68,* and other agencies placed in the judicial branch by law. *Judicial branch does not include district administration employees in the second and fourth judicial districts, court administrators or their staff under chapter 485, guardians ad litem, or other employees within the court system*

*whose salaries are paid by the county, other than employees who remain on the county payroll under section 14, subdivision 2.*

Sec. 3. Minnesota Statutes 1988, section 43A.24, subdivision 2, is amended to read:

Subd. 2. [OTHER ELIGIBLE PERSONS.] The following persons are eligible for state paid life insurance and hospital, medical, and dental benefits as determined in applicable collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the board of regents for employees of the University of Minnesota not covered by collective bargaining agreements. Coverages made available, including optional coverages, are as contained in the plan established pursuant to section 43A.18, subdivision 2.

(a) a member of the state legislature, provided that changes in benefits resulting in increased costs to the state shall not be effective until expiration of the term of the members of the existing house of representatives. An eligible member of the state legislature may decline to be enrolled for state paid coverages by filing a written waiver with the commissioner. The waiver shall not prohibit the member from enrolling the member or dependents for optional coverages, without cost to the state, as provided for in section 43A.26. A member of the state legislature who returns from a leave of absence to a position previously occupied in the civil service shall be eligible to receive the life insurance and hospital, medical, and dental benefits to which the position is entitled;

(b) a permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission or a state employee on leave of absence to work for the legislature, during a regular or special legislative session;

(c) a judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, a judge of county municipal court, or a judge of probate court; *a district court referee, judicial officer, court reporter, or law clerk;* a district administrator; and an employee of the office of the district administrator ~~of the fifth or the eighth judicial districts~~ *that is not in the second or fourth judicial district*;

(d) a salaried employee of the public employees retirement association;

(e) a full-time military or civilian officer or employee in the unclassified service of the department of military affairs whose salary is paid from state funds;

(f) a salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(g) an employee of the regents of the University of Minnesota;

(h) notwithstanding section 43A.27, subdivision 3, an employee of the state of Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service and retires, earlier than required, within 60 days of March 23, 1982; or an employee who is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state service and retires, earlier than required, from employment at Rochester state hospital after July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982, and is

covered by the Minnesota state retirement system correctional employee retirement plan or the state patrol retirement fund, who has at least 20 years of state service and retires, earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person retires when the person terminates active employment in state or University of Minnesota service and applies for a retirement annuity. Eligibility shall cease when the retired employee attains the age of 65, or when the employee chooses not to receive the annuity that the employee has applied for. The retired employee shall be eligible for coverages to which the employee was entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established pursuant to section 43A.18, for employees in positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program; and

(i) An employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A. The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance.

Sec. 4. Minnesota Statutes 1988, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] "State employee" does not include:

(1) elective state officers;

(2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;

(3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval

militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(6) election officers;

(7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;

(9) ~~court employees, referees,~~ receivers, jurors, ~~and~~ notaries public, *and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25,* except ~~employees of the appellate courts and~~ referees and adjusters employed by the department of labor and industry;

(10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;

(11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) employees of the Sibley House Association;

(13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;

(14) operators and drivers employed under section 16.07, subdivision 4;

(15) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is $500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(16) state troopers;

(17) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(18) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(19) persons described in section 352B.01, subdivision 2, clauses (b) and (c) formerly defined as state police officers;

(20) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

(21) trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision 2a, clause (10);

(22) persons whose compensation is paid on a fee basis;

(23) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) chaplains and nuns who have taken a vow of poverty as members of a religious order;

(26) labor service employees employed as a laborer 1 on an hourly basis;

(27) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(28) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(29) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(30) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

(32) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

(33) persons employed in positions designated by the department of employee relations as student workers;

(34) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days after appointment that coverage is desired;

(35) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;

(36) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer

contribution in addition to the required employee contribution;

(37) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5; and

(38) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund.

Sec. 5. 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~~ *persons who elect to remain members under section 14, subdivision 2*;

(3) officers and employees of the public employees retirement association;

(4) employees of the league of Minnesota cities;

(5) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;

(6) employees of a school district who receive separate salaries for driving their own buses;

(7) employees of the association of Minnesota counties;

(8) employees of the metropolitan intercounty association;

(9) employees of the Minnesota municipal utilities association;

(10) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;

(11) employees of the Minneapolis employees retirement fund, if employment initially commenced after June 30, 1979;

(12) employees of the range association of municipalities and schools;

(13) employees of the soil and water conservation districts;

(14) employees of a county historical society who are county employees;

(15) 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) employees of an economic development authority created under sections 458C.01 to 458C.23;

(17) employees of the department of military affairs of the state of Minnesota who are full-time firefighters.

Sec. 6. Minnesota Statutes 1988, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. Every person, including the state of Minnesota and all bodies

politic and corporate, who shall transact any business in the district court, shall pay to the court administrator of said court~~, for the use of said county,~~ the sundry fees ~~hereinafter~~ prescribed~~; provided, however, that no county to which this section applies, being a party to any action or proceeding in the district court established in such county, shall be required to pay fees to the court administrator thereof~~ *in subdivision 2. The court administrator shall transmit the fees monthly to the county treasurer who shall forward the funds to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 7. Minnesota Statutes 1988, section 357.021, subdivision 2, is amended to read:

Subd. 2. [FEE AMOUNTS.] The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~$30~~ *$55*, except that in an action for marriage dissolution, the fee is ~~$55~~ *$75*.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~$30~~ *$55, except that in an action for marriage dissolution, the fee for the respondent is $75*.

The party requesting a trial by jury shall pay $30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under sections 106A.005 to 106A.811, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding $5, plus 25 cents per page after the first page and $3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena $3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, $5.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, $5.

(6) Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, $5.

(7) Certificate as to existence or nonexistence of judgments docketed, $1 for each name certified to and $3 for each judgment certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians or optometrists, $5.

(9) For the filing of each partial, final, or annual account in all trusteeships, $10.

(10) All other services required by law for which no fee is provided such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 8. Minnesota Statutes 1988, section 357.021, subdivision 2a, is amended to read:

Subd. 2a. [CERTAIN FEE PURPOSES.] Of the *petitioner's* marriage dissolution fee collected pursuant to subdivision 1, the court administrator shall pay $35 to the state treasurer to be deposited in the special revenue fund to be used as follows: $15 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96; and $20 is appropriated to the commissioner of corrections for the purpose of funding emergency shelter services and support services to battered women, on a matching basis with local money for 20 percent of the costs and state money for 80 percent. Of the $15 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96, $6.75 is appropriated to the commissioner of corrections and $8.25 is appropriated to the commissioner of jobs and training. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 9. Minnesota Statutes 1988, section 357.021, subdivision 4, is amended to read:

Subd. 4. Nothing in this section shall be construed as amending, modifying, *redistributing,* or repealing the provisions as to library fees contained in chapter 140.

Sec. 10. [357.022] [CONCILIATION COURT FEE.]

*The court administrator in every county shall charge and collect a filing fee of $10 from every plaintiff and from every defendant when the first paper for that party is filed in any conciliation court action. The court administrator shall transmit the fees monthly to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 11. Minnesota Statutes 1988, section 357.08, is amended to read:

357.08 [PAID BY APPELLANT IN APPEAL.]

There shall be paid to the clerk of the appellate courts by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, when initially filed with the clerk of the appellate courts, the sum of ~~$50~~ *$150* to the clerk of the appellate courts. ~~In addition, there shall be paid by the appellant or moving party or person the sum of $10 to the court or agency whose decision is sought to be reviewed. No~~ *An* additional filing fee *of $50* shall be required for a petition for accelerated review by the supreme court. A filing fee of ~~$50~~ *$150* shall be paid to the clerk of the appellate courts upon the filing of a petition for review from a decision of the court of appeals. *A filing fee of $150 shall be paid to the clerk of the appellate courts upon the filing of a petition for permission to appeal. A filing fee of $75 shall be paid to the clerk of the appellate courts upon the filing by a respondent of a notice of review. The clerk shall*

*transmit the fees to the state treasurer for deposit in the state treasury and credit to the general fund.*

The clerk shall not file any paper, issue any writ or certificate, or perform any service enumerated herein, until the payment has been made for it. The clerk shall pay the sum into the state treasury as provided for by section 15A.01.

The charges provided for shall not apply to disbarment proceedings, nor to an action or proceeding by the state taken solely in the public interest, where the state is the appellant or moving party, nor to copies of the opinions of the court furnished by the clerk to the parties before judgment, or furnished to the district judge whose decision is under review, or to such law library associations in counties having a population exceeding 50,000, as the court may direct.

Sec. 12. Minnesota Statutes 1988, section 466.01, subdivision 6, is amended to read:

Subd. 6. [EMPLOYEE, OFFICER, OR AGENT.] For the purposes of sections 466.01 to 466.15, "employee," "officer," or "agent" means a present or former employee, officer, or agent of a municipality, or other person acting on behalf of the municipality in an official capacity, temporarily or permanently, with or without compensation, but does not include an independent contractor. *"Employee" includes court administrators and their staff under chapter 485, district administration staff in the second and fourth judicial districts, guardians ad litem, and other employees within the court system whose salaries are paid by the county, other than employees who remain on the county payroll under section 14, subdivision 2.*

Sec. 13. Minnesota Statutes 1988, section 480.058, is amended to read:

480.058 [RIGHT RESERVED.]

*Subdivision 1.* [BY LEGISLATURE.] Sections 480.051 to 480.058 shall not abridge the right of the legislature to enact, modify, or repeal any statute or modify or repeal any rule of the supreme court adopted pursuant thereto.

*Subd. 2.* [APPELLATE FEES AND FORFEITS.] *Appellate court fees collected under Minnesota Rules of Civil Appellate Procedure Numbers 103, 115, 120, 121, or other law or rule and bond amounts or security deposits forfeit under Minnesota Rules of Civil Appellate Procedure Numbers 107 and 108 must be transmitted to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 14. [480.181] [TRANSFER OF EMPLOYEES TO JUDICIAL BRANCH.]

*Subdivision 1.* [STATE EMPLOYEES; COMPENSATION.] *District court referees, judicial officers, court reporters, law clerks, and district administration staff, other than district administration staff in the second and fourth judicial districts, are state employees and are governed by the judicial branch personnel rules adopted by the supreme court. The supreme court, in consultation with the conference of chief judges, shall establish the salary range of these employees under the judicial branch personnel rules. In establishing the salary ranges, the supreme court shall consider differences in the cost of living in different areas of the state.*

*Subd. 2.* [ELECTION TO RETAIN INSURANCE AND BENEFITS;

RETIREMENT.] *(a) Before a person is transferred to state employment under this section, the person may elect to do either or both of the following:*

*(1) keep life insurance; hospital, medical, and dental insurance; and vacation and sick leave benefits and accumulated time provided by the county instead of receiving benefits from the state under the judicial branch personnel rules; or*

*(2) remain a member of the public employees retirement association or the Minneapolis employees retirement fund instead of joining the Minnesota state retirement system.*

*Employees who make an election under clause (1) remain on the county payroll, but the state shall reimburse the county on a quarterly basis for the salary and cost of the benefits provided by the county. The state shall make the employer contribution to the public employees retirement association or the employer contribution under section 422A.101, subdivision 1a, to the Minneapolis employees retirement fund on behalf of employees who make an election under clause (2).*

*(b) An employee who makes an election under paragraph (a), clause (1), may revoke the election, once, at any time, but if the employee revokes the election, the employee cannot make another election. An employee who makes an election under paragraph (a), clause (2) may revoke the election at any time within six months after the person becomes a state employee. Once an employee revokes this election, the employee cannot make another election.*

*(c) The supreme court, after consultation with the conference of chief judges, the commissioner of employee relations, and the executive directors of the public employees retirement association and the Minnesota state retirement association, shall adopt procedures for making elections under this section.*

*(d) The supreme court shall notify all affected employees of the options available under this section. The executive directors of the public employees retirement association and the Minnesota state retirement system shall provide counseling to affected employees on the effect of making an election to remain a member of the public employees retirement association.*

*Subd. 3.* [ACCUMULATED BENEFITS.] *A person who begins to receive benefits from the state under the judicial branch personnel rules under this section must receive credit for accumulated vacation and sick leave time, as certified by the county auditor and district administrator.*

*Subd. 4.* [DATE OF EMPLOYMENT.] *A person who becomes a state employee under this section is considered to have begun employment with the state on the date the person became a county or judicial district employee to determine eligibility for benefits.*

Sec. 15. Minnesota Statutes 1988, section 480.235, is amended to read:

480.235 [TRIAL COURT INFORMATION SYSTEM.]

The cost of operating the trial court information system in a judicial district ~~must be shared between the state and the participating counties of a judicial district. The state share of operating costs is limited to the following categories: computer and terminal equipment hardware, computer and terminal equipment maintenance, software acquisition and maintenance, durable supplies, communications equipment acquisition and~~

~~maintenance, data communications, and new judicial district systems personnel. The participating counties of a judicial district must pay all other operating costs, including but not limited to: space rental for computer equipment, utilities, consumable supplies, postage, off-site computer disk file storage, and all personnel-related expenses, other than salaries and fringe benefits for judicial district systems personnel~~ *must be paid by the state.*

Sec. 16. Minnesota Statutes 1988, section 484.545, subdivision 2, is amended to read:

Subd. 2. Notwithstanding any law to the contrary, in all judicial districts~~, except the fourth judicial district, a salary range for law clerks shall be established annually by the judicial district administrator with the approval of a majority of judges of the district.~~ the salary for each law clerk shall be set ~~within that range~~ annually by the district administrator ~~after consultation with the chief judge~~ *within the range established under, or referred to in, section 14, as provided in the judicial branch personnel rules.*

~~Nothing herein shall change the manner by which law clerk salaries are paid, the proportions among the various counties of a judicial district by which the funds are allocated or any statutory provision related to law clerk compensation other than the manner of setting salary. Each county shall be required by the order to pay a specified amount thereof in monthly installments which shall be such proportion of the whole salaries as the population of the county is to the total population of the counties to which the judge is assigned as determined by the last census.~~

Sec. 17. Minnesota Statutes 1988, section 484.545, subdivision 3, is amended to read:

Subd. 3. The law clerks, in addition to their salary, shall be paid necessary mileage, traveling and hotel expenses accrued in their discharge of official duties while absent from their permanent work assignment location. ~~The county auditor of the county for which the expenses were incurred,~~ Upon presentation of a verified statement approved by one of the judges, ~~shall issue a warrant in payment thereof~~ *the state shall pay the expenses.*

Sec. 18. Minnesota Statutes 1988, section 484.62, is amended to read:

484.62 [COMPENSATION AND REPORTER.]

When a retired judge undertakes such service, the retired judge shall be provided ~~at the expense of the county of performance of the service~~ with a reporter, selected by the retired judge, *at the expense of the state, and with a deputy* clerk, bailiff, if the judge deems a bailiff necessary, and a courtroom or hearing room for the purpose of holding court or hearings, to be paid for by the county in which the service is rendered and shall receive pay and expenses in the amount and manner provided by law for judges serving on the court to which the retired judge is assigned, less the amount of retirement pay which the judge is receiving, said payment to be made in the same manner as the payment of salaries for judges of the district court, on certification by the chief judge of the judicial district or by the chief justice of the supreme court of the state of Minnesota. A deputy court administrator may act as bailiff when called to do so for the purposes of this section. A retired judge who solemnizes a marriage while not assigned under section 484.61 is not entitled to the compensation provided by this section.

Sec. 19. Minnesota Statutes 1988, section 484.64, subdivision 3, is amended to read:

Subd. 3. The board of county commissioners of Ramsey county shall provide suitable chambers and courtroom space, clerks, ~~reporters,~~ bailiffs, ~~and one or more referees~~ and other personnel to assist said judge, together with necessary library, supplies, stationery and other expenses necessary thereto. *The state shall provide referees, court reporters, and law clerks.*

Sec. 20. Minnesota Statutes 1988, section 484.65, subdivision 3, is amended to read:

Subd. 3. The board of county commissioners of Hennepin county shall provide suitable chambers and courtroom space, clerks, ~~secretaries or reporters,~~ bailiffs, ~~and one or more referees~~ and other personnel to assist said judge, together with necessary library, supplies, stationery and other expenses necessary thereto. *The state shall provide referees, court reporters, and law clerks.*

Sec. 21. Minnesota Statutes 1988, section 484.65, subdivision 7, is amended to read:

Subd. 7. The district court judge, family court division, may, with the consent and approval of the judges of the district court of the fourth judicial district, appoint one or more suitable persons to act as referees. Such referees shall be learned in the law and shall hold office at the pleasure of the judges of the district court. ~~The compensation of a referee shall be fixed by the personnel board of Hennepin county and appropriated by the county board and shall be paid in the same manner as other county employees are paid.~~

Sec. 22. Minnesota Statutes 1988, section 484.68, subdivision 5, is amended to read:

Subd. 5. [BUDGET FOR OFFICE.] The office budget of the district administrator shall be ~~set by the chief judge of the judicial district and apportioned among the counties of the district~~ *paid by the state*. The budget must include sufficient money for the staff authorized by this section and other staff and expenses authorized under law. *A county shall provide office facilities for the district administrator.*

Sec. 23. Minnesota Statutes 1988, section 485.018, subdivision 5, is amended to read:

Subd. 5. [COLLECTION OF FEES.] The court administrator of district court shall charge and collect all fees as prescribed by law and all such fees collected by the court administrator as court administrator of district court shall be paid to the county *treasurer. Except for those portions of forfeited bail paid to victims pursuant to existing law, the county treasurer shall forward all revenue from fees and forfeited bail collected under chapters 357 and 574 to the state treasurer for deposit in the state treasury and credit to the general fund, unless otherwise provided in chapter 611A or other law,* in the manner and at the times prescribed by the ~~county board~~ *state treasurer*, but not less often than once each month. *All other money must be deposited in the county general fund unless otherwise provided by law.* The court administrator of district court shall not retain any additional compensation, per diem or other emolument for services as court administrator of district court, but may receive and retain mileage and expense allowances as prescribed by law.

Sec. 24. Minnesota Statutes 1988, section 485.018, subdivision 7, is amended to read:

Subd. 7. [APPEAL FROM RESOLUTION OF THE BOARD.] The court administrator of district court if dissatisfied with the action of the county board in setting the amount of the court administrator's salary or the amount of the budget for the office of court administrator of district court, may appeal to the district court on the grounds that the determination of the county board in setting such salary or budget was arbitrary, capricious, oppressive or without sufficiently taking into account the extent of the responsibilities and duties of said office, and the court administrator's experience, qualifications, and performance. The appeal shall be taken within 15 days after the date of the resolution setting such salary or budget by serving a notice of appeal on the county auditor and filing same with the court administrator of the district court. The court either in term or vacation and upon ten days notice to the chair of the board shall hear such appeal. On the hearing of the appeal the court shall review the decision or resolution of the board in a hearing de novo and may hear new or additional evidence, or the court may order the officer appealing and the board to submit briefs or other memoranda and may dispose of the appeal on such writings. If the court shall find that the board acted in an arbitrary, capricious, oppressive or unreasonable manner or without sufficiently taking into account the responsibilities and duties of the office of the court administrator, and the court administrator's experience, qualifications, and performance, it shall make such order to take the place of the order appealed from as is justified by the record and shall remand the matter to the county board for further action consistent with the court's findings. After determination of the appeal the county board shall proceed in conformity therewith. *This subdivision is not in effect from July 1, 1989, to July 1, 1991 with respect to the amount of the budget of the office of court administrator of district court.*

Sec. 25. Minnesota Statutes 1988, section 486.05, subdivision 1, is amended to read:

~~Subdivision 1. In all judicial districts a salary range for court reporters shall be established annually by the judicial district administrator with the approval of a majority of judges of the district.~~ The salary for each court reporter shall be set ~~within that range~~ annually by the district administrator ~~after consultation with the chief judge~~ *within the range established under section 14, as provided in the judicial branch personnel rules.* ~~Nothing in this subdivision changes the manner by which court reporters are paid, the proportions among the various counties of a judicial district by which the funds are allocated or any statutory provisions related to court reporter compensation other than the manner of setting salary. Each county shall be required by order to pay a specified amount of the salary in monthly installments, which shall be the proportion of the whole salary as the population in each county bears to the total population in the district in the most recent federal census. If a judge is temporarily transferred to hold court in a county outside of the judge's judicial district then that county shall pay a part of the monthly salary of the judge's reporter equal to the part of the month worked by the reporter in the county.~~ The reporter, in addition to a salary, shall be paid necessary mileage, traveling, and hotel expenses incurred in the discharge of official duties while absent from the home chambers where the judge the reporter serves is assigned. The expenses are to be paid by the county for which the expenses were incurred upon presentation of a verified itemized statement approved by the judge; and

the auditor of the county, upon presentation of the approved statement, shall issue a warrant for payment.

This subdivision supersedes all laws relating to the salary of district court reporters inconsistent with this subdivision, except the manner of setting salary in this subdivision does not apply to the second and fourth judicial districts.

Sec. 26. Minnesota Statutes 1988, section 486.05, as amended by section 25, is amended to read:

486.05 [DISTRICT COURT; REPORTERS' SALARIES *AND EXPENSES*.]

*Subdivision 1.* [SALARIES.] The salary for each court reporter shall be set annually by the district administrator within the range established under section 12 as provided in the judicial branch personnel rules.

*Subd. 1a.* [EXPENSES.] ~~The~~ *A court* reporter, in addition to a salary, shall be paid necessary mileage, traveling, and hotel expenses incurred in the discharge of official duties while absent from the home chambers where the judge the reporter serves is assigned. The expenses are to be paid by the ~~county for which the expenses were incurred~~ *state* upon presentation of a verified itemized statement approved by the judge~~; and the auditor of the county, upon presentation of the approved statement, shall issue a warrant for payment~~.

~~This subdivision supersedes all laws relating to the salary of district court reporters inconsistent with this subdivision, except the manner of setting salary in this subdivision does not apply to the second and fourth judicial districts.~~

Sec. 27. Minnesota Statutes 1988, section 486.055, is amended to read:

486.055 [COURT REPORTER TRANSCRIPT FEE CHARGES; REPORTING REQUIREMENTS.]

Each court reporter who charges a fee for the preparation of transcripts shall by April 15 of each year file with the district administrator of the reporter's judicial district ~~and the county commissioners of the district~~ an accounting of gross receipts and net income from these receipts for the prior calendar year. The accounting report shall specify the amount received in payment for the sale of transcripts.

Sec. 28. Minnesota Statutes 1988, section 486.06, is amended to read:

486.06 [CHARGE FOR TRANSCRIPT.]

In addition to the salary ~~specified~~ *set* in section 486.05, the court reporter may charge for a transcript of a record ordered by any person other than the judge 50 cents per original folio thereof and ten cents per folio for each manifold or other copy thereof when so ordered that it can be made with the original transcript. The chief judge of the judicial district may by order establish new transcript fee ceilings annually.

*A court reporter may impose a fee authorized under this section only if the transcript is delivered to the person who ordered it within a reasonable time after it was ordered.*

Sec. 29. Minnesota Statutes 1988, section 487.08, subdivision 5, is amended to read:

Subd. 5. All judicial officers are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3. They shall be learned in the law, and shall hear and try matters as assigned to them by the chief judge. Their salary shall be fixed by the chief judge~~, with the approval of the county board or boards of the counties in which they hold office, and shall be paid by the county or counties~~ *within the range established under section 14 and must not exceed the salary for referees under section 15A.083, subdivision 6. The supreme court must not approve aggregate performance increases for these employees that exceed an average of five percent per year.*

Sec. 30. Minnesota Statutes 1988, section 487.31, subdivision 1, is amended to read:

Subdivision 1. The fees payable to the court administrator for the following services in civil actions are:

In all civil actions within the jurisdiction of the county court, the fees payable to the court administrator shall be the same as in district court. ~~The county court shall determine by rule the fees payable in cases heard in the conciliation division of the county court.~~ *The fee payable for cases heard in conciliation court division is established under section 10. The filing fees must be transmitted to the county treasurer who shall transmit them to the state treasurer for deposit in the general fund.*

The fees payable to the court administrator for the following services in petty misdemeanors or criminal actions are governed by the following provisions:

In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town within the county court district; all fines, penalties and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution except where a different disposition is provided by law, in which case payment shall be made to the public official entitled thereto. The following fees for services in petty misdemeanor or criminal actions shall be taxed to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be retained by the court administrator for disposing of the matter but in no case shall the fee that is taxed exceed the fine that is imposed. The court administrator shall deduct the fees from any fine collected and transmit the balance in accordance with the law, and the deduction of the total of such fees each month from the total of all such fines collected is hereby expressly made an appropriation of funds for payment of such fees:

(1) In all cases where the defendant pleads guilty at or prior to first appearance and sentence is imposed or the matter is otherwise disposed of without a trial . . . . . $5

(2) Where the defendant pleads guilty after first appearance or prior to trial . . . . . $10

(3) In all other cases where the defendant is found guilty by the court or jury or pleads guilty during trial . . . . . $15

(4) The court shall have the authority to waive the collection of fees in any particular case.

The fees set forth in this subdivision shall not apply to parking violations

for which complaints and warrants have not been issued.

Sec. 31. Minnesota Statutes 1988, section 488A.14, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF ACTION.] An action is commenced against each defendant when the complaint is filed with the court administrator of conciliation court and ~~a~~ *the* filing fee ~~of $9~~ is paid to the court administrator or the prescribed affidavit in lieu of *the* filing fee is filed. *The filing fees must be transmitted to the county treasurer who shall transmit them to the state treasurer for deposit in the general fund.*

Sec. 32. Minnesota Statutes 1988, section 488A.17, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE FOR REMOVAL OF CAUSE.] No cause shall be removed by the aggrieved party unless all of the following acts are performed within 20 days after the date the court administrator mailed to the aggrieved party notice of the order for judgment:

(a) Serving on the opposing party or the opposing party's attorney a demand for removal of the cause to the municipal court for trial de novo stating whether trial by a jury of six persons or by the court without a jury is demanded. Service shall be made upon a party by mail or by personal service in accordance with the provisions for personal service of a summons in the municipal court or shall be made upon the party's attorney in accordance with the provisions for service of a notice of motion upon an attorney in the municipal court. The demand shall show the office address of the attorney for each party and the residence address of each party who does not have an attorney.

(b) Filing with the court administrator of conciliation court the original demand for removal and proof of service thereof. If the opposing party or the opposing party's attorney cannot be found and service of the demand is made within the 20 day period, the aggrieved party may file with the court administrator within the 20 day period the original and a copy of the demand, together with an affidavit by the aggrieved party or the party's attorney showing that due and diligent search has been made and that the opposing party or the opposing party's attorney cannot be found. The filing of this affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the opposing party's last known residence address.

(c) Filing with the court administrator of conciliation court an affidavit by the aggrieved party or the aggrieved party's attorney stating that the removal is made in good faith and not for the purpose of delay.

(d) Paying to the court administrator of conciliation court ~~$2 when the demand is for trial by court or $7 when the demand is for trial by a jury of six persons.~~ *as the fee for removal the amount of the filing fee for a civil action in district court. The fee must be forwarded to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 33. Minnesota Statutes 1988, section 488A.31, subdivision 1, is amended to read:

Subdivision 1. [FILING FEE.] An action is commenced against each defendant when the complaint is filed with the administrator of conciliation court and ~~a~~ *the* filing fee ~~set by the board of Ramsey county commissioners~~ is paid to the administrator or the prescribed affidavit in lieu of filing fee is filed. ~~No filing fee is payable by the county.~~ *The fees must be forwarded to*

*the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 34. Minnesota Statutes 1988, section 488A.34, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE FOR REMOVAL OF CAUSE.] No cause shall be removed by the aggrieved party unless all of the following acts are performed within 20 days after the date the administrator mailed to the aggrieved party notice of the order for judgment:

(a) Serving on the opposing party or the opposing party's attorney a demand for removal of the cause to the municipal court for trial de novo stating whether trial by a jury of six persons or by the court without a jury is demanded. Service shall be made upon a party by mail or by personal service in accordance with the provisions for personal service of a summons in the municipal court or shall be made upon the party's attorney in accordance with the provisions for service of a notice of motion upon an attorney in the municipal court. The demand shall show the office address of the attorney for each party and the residence address of each party who does not have an attorney.

(b) Filing with the administrator of conciliation court the original demand for removal and proof of service thereof. If the opposing party or the opposing party's attorney cannot be found and service of the demand is made within the 20 day period, the aggrieved party may file with the administrator within the 20 day period the original and a copy of the demand, together with an affidavit by the aggrieved party or the aggrieved party's attorney showing that due and diligent search has been made and that the opposing party or the opposing party's attorney cannot be found. The filing of this affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the administrator shall mail the copy of the demand to the opposing party at the opposing party's last known address.

(c) Filing with the administrator of conciliation court an affidavit by the aggrieved party or the opposing party's attorney stating that the removal is made in good faith and not for the purpose of delay.

(d) Paying to the administrator of conciliation court *as* the fee ~~set by the board of Ramsey County commissioners when the demand is for trial by court, and the fee as set by the Ramsey County commissioners when the demand is for trial by a jury of six. The above fee is not payable by the county.~~ *for removal the amount of the filing fee for a civil action in district court. The fees shall be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund.*

Sec. 35. Minnesota Statutes 1988, section 525.033, is amended to read:

525.033 [FEES FOR FILING PETITIONS.]

The probate court shall collect a fee as established by section 357.021, subdivision 2, clause (1), for filing a petition to commence a proceeding under this chapter and chapter 524. The fee for copies of all documents in probate proceedings must be the same as the fee established for certified copies in civil proceedings under section 357.021, subdivision 2. *Fees collected under this section and section 525.031 must be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund.*

Sec. 36. Minnesota Statutes 1988, section 611.26, subdivision 2, is amended to read:

Subd. 2. The state board of public defense shall appoint a district public defender. When appointing a district public defender, the state board of public defense membership shall be increased to include two judges of the district and two county commissioners of the counties within the district. The additional members shall serve only in the capacity of selecting the district public defender. The judges within the district shall elect their two ad hoc members. The two county commissioners within the district shall be selected by the county boards of the counties within the district. The ad hoc state board of public defense shall appoint a district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, the judges of the district, and the county commissioners within the district. Each district public defender shall be a qualified attorney, licensed to practice law in this state. The district public defender shall be appointed for a term of four years, beginning ~~August~~ *November* 1, pursuant to the following staggered term schedule: (1) in 1987, the third and eighth districts; (2) in 1988, the first and tenth districts; (3) in 1989, the fifth and ninth districts; ~~and~~ (4) in 1990, the sixth and seventh districts; *(5) in 1991, the second, fourth, and eighth districts; and (6) in 1992, the first, third, and tenth districts.* The district public defenders shall serve for staggered four-year terms and may be removed for cause upon the order of the state board of public defense. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

Sec. 37. [611.263] [COUNTY IS EMPLOYER OF RAMSEY, HENNEPIN DEFENDERS.]

*Subdivision 1.* [EMPLOYEES.] *(a) The district public defender and assistant public defenders of the second judicial district are employees of Ramsey county in the unclassified service under section 383A.286.*

*(b) The district public defender and assistant public defenders of the fourth judicial district are employees of Hennepin county under section 383B.63, subdivision 6.*

*Subd. 2.* [PUBLIC EMPLOYER.] *(a) Notwithstanding section 179A.03, subdivision 15, clause (c), the Ramsey county board is the public employer under the public employment labor relations act for the district public defender and assistant public defenders of the second judicial district.*

*(b) Notwithstanding section 179A.03, subdivision 15, clause (c), the Hennepin county board is the public employer under the public employment labor relations act for the district public defender and assistant public defenders of the fourth judicial district.*

Sec. 38. [TRANSITION, PUBLIC DEFENDERS; SECOND AND FOURTH DISTRICTS.]

*The district public defender of the second judicial district serving on July 1, 1989, shall continue in office until the expiration of the term to which appointed or until August 1, 1991, whichever date is later.*

*The district public defender of the fourth judicial district serving on July 1, 1989, shall continue in office until the expiration of the term to which appointed or until August 1, 1991, whichever date is later.*

Sec. 39. [631.021] [SPEEDY CRIMINAL TRIALS; CASE DISPOSITION OBJECTIVES.]

*The judges of each judicial district must adopt and administer rules or procedures to ensure that, on and after July 1, 1994, the following timing*

*objectives for the disposition of criminal cases are met by judges within the district:*

*(1) 90 percent of all criminal cases must be disposed of within 120 days;*

*(2) 97 percent of all criminal cases must be disposed of within 180 days; and*

*(3) 99 percent of all criminal cases must be disposed of within 365 days.*

*The time periods referred to in clauses (1) to (3) must be measured from the date the criminal complaint is filed, to the date the defendant is either found not guilty or is sentenced. If the criminal case begins by indictment rather than by criminal complaint, the time period must be measured from the date the indictment is returned.*

Sec. 40. [COURT MANAGEMENT PLAN.]

*On or before January 1, 1990, the judges of each judicial district shall prepare a written caseload management plan to implement the goal of ensuring the right to speedy trial in criminal cases and the expeditious disposition of civil cases. The plan must discuss current caseloads in each judicial district and the time necessary to dispose of the various types of cases, including felonies, gross misdemeanors, misdemeanors, marriage dissolution and other family law matters, probate, juvenile, general civil matters, and conciliation court matters. The plan must be based on the assumption that the judicial and staff resources that will be available are those available on July 1, 1989.*

*In addition to preparing a caseload management plan, the judges of each judicial district shall make written recommendations for any changes in rules of procedure or statutes affecting procedure that they find would improve the expeditious disposition of criminal and civil cases in the district courts.*

*A copy of the caseload management plan, including any recommendations for changes in rules of procedure or statutes affecting procedure, must be filed with the state court administrator and the chairs of the judiciary committees of the house of representatives and of the senate on or before January 1, 1990.*

Sec. 41. [CRIMINAL COURTS STUDY COMMISSION.]

*The supreme court shall establish a commission to study ways to more expeditiously dispose of criminal cases in the district courts, in a manner that preserves the interest of both the defendant and the state in having a fair and just outcome. The commission shall consist of sufficient members to provide adequate representation of the viewpoints and experience of judges, prosecutors, and defense attorneys involved in the disposition of criminal matters. The commission may establish advisory groups to focus on juvenile law or other specific areas of practice.*

*The commission study must include the following:*

*(1) whether model proposals or rules and statutes from other jurisdictions provide any alternatives that might be followed to modify the rules of criminal procedure and statutes affecting criminal procedure in ways that would simplify procedures without sacrificing fair outcome;*

*(2) whether certain kinds of offenses, such as traffic petty misdemeanors and housing code violations, might be better processed if the only possible*

*sentence were a fine rather than incarceration, if a referee or administrative officer rather than a judge presided, and if no prosecuting attorney was involved, with the option of enhancing the matter to a misdemeanor if prior judgments have been entered against a party;*

*(3) whether the petty misdemeanor category should be expanded to replace current misdemeanor offenses in some instances, with criteria for enhancing a petty misdemeanor to a misdemeanor in specified circumstances; and*

*(4) whether other administrative or legislative action can be taken to facilitate the expeditious disposition of criminal cases without sacrifice of due process of law.*

*The commission shall report its conclusions to the supreme court on or before January 1, 1991.*

Sec. 42. [TRANSITIONAL PROVISIONS.]

*Subdivision 1.* [HIRING AND SALARY MORATORIUM.] *A county or a court must not increase the number of referees, judicial officers, court reporters, law clerks, or district administration employees in the county, other than district administration employees in the second or fourth judicial district, without approval of the supreme court unless the increase was authorized before January 30, 1989. Notwithstanding any law to the contrary, the supreme court may authorize an additional complement of up to five law clerks for the seventh judicial district. A county or a court must not increase the salaries of these employees without the approval of the supreme court, unless the increase is made under a plan adopted before January 30, 1989. The supreme court must not approve aggregate performance increases for these employees that exceed an average of four percent.*

*Subd. 2.* [TRANSFER OF PROPERTY.] *The title to all personal property owned by the county that is used by the employees listed in subdivision 1 in the scope of their employment is transferred to the state when they become state employees.*

*Subd. 3.* [RULES.] *The supreme court, in consultation with the conference of chief judges, may adopt rules to implement this article.*

*Subd. 4.* [BUDGETS.] *Notwithstanding any law to the contrary, the budgets for the judicial districts including the number of complement positions and salaries must be submitted by the district administrators to the supreme court. The budgets shall include the current levels of funding and positions at the time of submission as well as the requests for increases in funding and positions. Submission of the budgets for calendar year 1990 must be made to the supreme court. The supreme court shall then submit the budgets to the department of finance, and the legislature by January 15, 1990. Submission of the budgets for calendar year 1991 must be made by October 1, 1990.*

Sec. 43. [CONTINUED STUDY BY SUPREME COURT.]

*The supreme court shall continue to study all county-funded components of the district courts and make recommendations to the governor and the legislature by August 1, 1990, for inclusion in the governor's budget recommendations to the legislature for the 1991 session, regarding their control and financing. The supreme court shall also study the right to legal counsel in juvenile justice matters and recommend criteria for that right*

*to the legislature by July 1, 1990.*

EIGHTH JUDICIAL DISTRICT PROJECT AND RELATED MATTERS

Sec. 44. [APPLICATION.]

*Sections 45 to 54, except the parts of section 54, that by their terms have broader application, apply only in the eighth judicial district for the period from January 1, 1990, to June 30, 1991.*

*Those parts of section 54, having broader application, apply statewide for the period from July 1, 1989, to June 30, 1991.*

Sec. 45. [FINES AND FORFEITED BAIL.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 97A.065, subdivision 2.*

*Subd. 2.* [GAME AND FISH LAWS.] *(a) Fines and forfeited bail collected from prosecutions of violations of the game and fish laws, Minnesota Statutes, sections 84.09 to 84.15, and 84.81 to 84.88, chapter 348, and any other law relating to wild animals, and aquatic vegetation must be paid to the treasurer of the county where the violation is prosecuted. The county treasurer shall submit one-half of the receipts to the commissioner and the balance to the state treasurer for deposit in the state treasury and credit to the general fund, except as provided in paragraph (b).*

*(b) The county treasurer shall indicate the amount of the receipts that are assessments or surcharges imposed under Minnesota Statutes, section 609.101 and shall submit all of those receipts to the commissioner. The receipts must be credited to the game and fish fund to provide peace officer training for persons employed by the commissioner who are licensed under section 626.84, subdivision 1, clause (c), and who possess peace officer authority to enforce game and fish laws.*

Sec. 46. [FINES AND FORFEITED BAIL MONEY.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 299D.03, subdivision 5.*

*Subd. 2.* [STATE PATROL.] *(a) Fines and forfeited bail money from traffic and motor vehicle law violations collected from persons apprehended or arrested by officers of the state patrol must be paid by the collector before the 11th day after the last day of the month in which the money was collected, to the county treasurer of the county where the violation occurred. The receipts must be transmitted by the collector to the state treasurer. Three-eighths of the receipts must be credited to the general fund and five-eighths of the receipts must be credited to the trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts must be credited to the general revenue fund of the state, one-third of the receipts must be paid to the municipality prosecuting the offense, and one-third must be transmitted to the state treasurer to be credited to the trunk highway fund. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota must be paid from appropriations for that purpose.*

*(b) Notwithstanding any other law, fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by the*

*employees, must be paid by the collector before the 11th day after the last day of the month in which the collections were made, to the county treasurer of the county where the violation occurred. The receipts must be transmitted by the collector to the state treasurer. Five-eighths of the receipts must be credited to the highway user tax distribution fund and three-eighths of the receipts must be credited to the general fund.*

Sec. 47. [FEES.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 357.021, subdivision 1a.*

*Subd. 2.* [PROCEDURE.] *A person, including the state of Minnesota and a body politic and corporate, who transacts business in the district court, shall pay to the court administrator the fees prescribed in Minnesota Statutes, section 357.021, subdivision 2. The court administrator shall transmit the fees monthly to the county treasurer who shall forward the money to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 48. [PAID BY APPELLANT IN APPEAL.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 357.08.*

*Subd. 2.* [PROCEDURE.] *$60 must be paid to the clerk of the appellate courts by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, when first filed with the clerk of the appellate courts. An additional filing fee is not required for a petition for accelerated review by the supreme court. A filing fee of $50 must be paid to the clerk of the appellate courts on the filing of a petition for review from a decision of the court of appeals.*

*The clerk must not file a paper, issue a writ or certificate, or perform a service listed in this section, until the payment has been made for it. The clerk shall pay the sum into the state treasury as provided for by Minnesota Statutes, section 15A.01.*

*The charges provided for do not apply to disbarment proceedings, nor to an action or proceeding by the state taken solely in the public interest, where the state is the appellant or moving party, nor to copies of the opinions of the court furnished by the clerk to the parties before judgment, or furnished to the district judge whose decision is under review, or, as the court directs, to law library associations in counties having a population exceeding 50,000.*

Sec. 49. [COLLECTION OF FEES.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 485.018, subdivision 5.*

*Subd. 2.* [PROCEDURE.] *The court administrator of district court shall charge and collect all fees as prescribed by law and the fees collected by the court administrator as court administrator of district court must be paid to the county treasurer. The court shall forward all money collected under Minnesota Statutes, chapter 357, 487, or 574 to the state treasurer for deposit in the state treasury and credit to the general fund in the manner and at the times prescribed by the state treasurer, but not less often than once each month. The court administrator of district court must not keep*

*any additional compensation, per diem or other emolument for services as court administrator of district court, but may receive and keep mileage and expense allowances as prescribed by law.*

Sec. 50. [CONCILIATION COURT.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 487.31, subdivision 1.*

*Subd. 2.* [FEES.] *The fee payable for cases in the conciliation court division is established under section 10. The conciliation court filing fees must be transmitted to the county treasurer who shall forward them to the state treasurer for deposit in the state treasury and credit to the general fund.*

*The fees payable to the court administrator for the following services in petty misdemeanors or criminal actions are governed by the following provisions:*

*In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town located in whole or in part within the county; all fines, penalties, and forfeitures collected must be paid over to the treasurer of the governmental subdivision that submitted a case for prosecution except where a different disposition is provided by law, in which case payment must be made to the public official entitled to it.*

Sec. 51. [REFUNDS.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 487.32, subdivision 3.*

*Subd. 2.* [PROCEDURE.] *A judge of district court may order any forfeited sums to be reinstated and the state treasurer shall then refund accordingly. The state treasurer shall reimburse the court administrator if the court administrator refunds the deposit upon a judge's order and obtains a receipt to be used as a voucher.*

Sec. 52. [OTHER MONEY TO STATE.]

*Money that is collected by the court administrator under Minnesota Statutes, chapter 357, 487, or 574 and not required to be distributed to a city by statute must be paid to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 53. [IF NO SPECIFICS HERE, TO GENERAL FUND.]

*Subdivision 1.* [THIS PREVAILS.] *Subdivision 2 prevails over contrary provisions of Minnesota Statutes, section 574.34, subdivision 1.*

*Subd. 2.* [FINES AND FORFEITURES.] *Fines and forfeitures collected by the court administrator and not specially granted or appropriated in this article or not required to be distributed to a city by statute, must be paid to the county treasurer who shall forward the funds to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 54. [EIGHTH JUDICIAL DISTRICT PROJECT.]

*Subdivision 1.* [APPROPRIATION.] *The appropriation for the eighth district project is for the period of January 1, 1990, to June 30, 1991, and is available until spent and does not cancel. Money for the project must not be used to increase complement above the number set without*

*regard to this article. Funds appropriated in article 1 for the eighth district project may only be used for increased expenses necessitated by salary increases, and other verifiable escalating expenses associated with the operations of the eighth judicial district, and for contingencies as provided in subdivision 3.*

*Subd. 2.* [BUDGETS.] *During the period of the pilot project the court administrators and the judicial district administrator in the eighth judicial district shall each develop a budget in a form prescribed by the supreme court. The budgets must include the costs of operating the courts in the eighth judicial district, but must not include the costs of capital expenditures. The budgets must be submitted to the supreme court with the comments of the district administrator and chief judge. The supreme court shall provide copies of the budgets to the chairs of the house appropriations committee and the senate finance committee and the commissioner of finance.*

*Subd. 3.* [CONTINGENCY FUND.] *The money appropriated in article 1 to the commissioner of finance for a contingency amount for unanticipated cost increases of the eighth judicial district project is to be available on request of the supreme court. Money from this contingency amount is subject to the same process under Minnesota Statutes, section 3.30 as the general contingency appropriation.*

*Subd. 4.* [FEE, FINE, AND FORFEITURE REVENUE.] *During the time of the eighth district project the court administrators in the eighth judicial district shall collect and transmit to the state treasurer each month all filing fee revenue and bail forfeitures, and the county share of fine revenue. The money must be recorded by the state treasurer each month on a county by county basis. Except as otherwise provided in this article, the money must be deposited in the state's general fund as nondedicated receipts.*

*Subd. 5.* [COOPERATION.] *The court employees, county officials, and the county boards of the affected counties shall cooperate with the state and district court administrators in implementing all phases of the pilot project.*

*Subd. 6.* [ACCOUNTING PLAN.] *The supreme court shall consult with all district administrators and appropriate county officials in the other judicial districts and develop a uniform plan for accounting and shall implement detailed reporting of the costs of the various functions of the judicial districts and court costs in the counties. The plan shall also include the costs of items not mentioned in this section that the supreme court believes may be a function that the state could take over if it were to fund the state trial court system. These costs must be included in any report to the legislature on state takeover of the trial court and public defense systems. Counties in all the judicial districts shall cooperate with the supreme court and the state board of public defense in developing these standards and calculating and reporting these costs in a timely and accurate manner.*

*Subd. 7.* [REPORT TO LEGISLATURE.] *The supreme court shall make a report to the legislature by February 1, 1991, on the results of the eighth district project and the potential costs and revenues to be transferred to the state if the state were to fund the takeover of the trial court system statewide. The report shall include an analysis of all the costs of and revenues from the operations of all the trial courts in the state. The analysis must identify appropriate job classifications and salary ranges for court*

*employees, and the costs and benefits associated with a change from county to state employment. The report must also include an evaluation of the improvement of the administration of justice, if any, that results from the eighth district project and that may result as a consequence of the state takeover. The report must also include recommendations for state takeover of trial court costs statewide including a detailed estimate of the costs and benefits, employee status, types of costs that may be associated with a state takeover, and an accounting system for the courts.*

*Subd. 8.* [LEVY.] *During the pilot project the counties that make up the eighth judicial district shall continue to levy for and pay the costs to operate the eighth judicial district and public defense services that the state does not fund during the eighth district project. The supreme court shall certify to the counties on or before October 1 of each year the amount necessary in excess of the state-funded eighth district project costs. The counties are responsible on a per capita prorated basis for the costs that the state is not assuming. These include but are not limited to capital costs, rent, and other associated costs. The county administrator of each of the counties shall consult with the supreme court and the eighth judicial district administrator regarding these costs before setting county budgets and levies for calendar year 1990.*

*Subd. 9.* [LIMITS.] *The costs to the state for the eighth district project are limited to the appropriations in article 1 for the project and for contingencies as provided in subdivision 3.*

Sec. 55. [DO NOT APPLY.]

*Minnesota Statutes 1988, sections 487.31, subdivision 4; and 525.012, subdivisions 1 to 4, do not apply in the eighth judicial district during the period from January 1, 1990, to July 1, 1990.*

Sec. 56. [DE NOVO HEARINGS FROM CONCILIATION COURT.]

*Fees collected under county court rule No. 1.21, and special rules of procedure for county court of St. Louis county No. 29.21, shall be forwarded to the state treasurer for deposit in the state treasury and credit to the general fund.*

Sec. 57. [REPEALERS.]

*Subdivision 1.* [JANUARY 1, 1990.] *Minnesota Statutes 1988, sections 611.07; 611.071; and 611.25, subdivision 2, are repealed January 1, 1990.*

*Subd. 2.* [JULY 1, 1990.] *Minnesota Statutes 1988, sections 383B.63, subdivisions 4 and 5; 487.31, subdivision 4; 525.012, subdivisions 1, 2, 3, and 4; 611.12; and 611.214; and Laws 1975, chapter 258, section 6, subdivisions 1, 3, 4, and 5, are repealed July 1, 1990.*

*Subd. 3.* [JANUARY 1, 1992.] *Minnesota Statutes 1988, sections 486.07; 488A.05; 488A.111; 488A.22; and 488A.281, are repealed January 1, 1992.*

Sec. 58. [EFFECTIVE DATES.]

*Subdivision 1.* [JANUARY 1, 1992; EXCEPTIONS.] *(a) In all judicial districts except the eighth, sections 1, 2, 3, 4, 5, 14, 17, 18, 19, 20, 21, and 26, are effective January 1, 1992; except that these sections are effective to make affected district administration staff, other than district administration staff in the second and fourth judicial districts, state employees on July 1, 1990, and law clerks state employees October 1, 1990.*

*(b) The sections listed in paragraph (a) are effective January 1, 1990, for all court employees in the eighth judicial district including court administrators and staff.*

*(c) Section 1 is effective July 1, 1989, for guardians ad litem.*

*Subd. 2.* [JULY 1, 1990, OUTSIDE 8TH.] *In all judicial districts except the eighth, sections 6, 7, 8, 11, 13, 15, 22, 23, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 56, are effective July 1, 1990.*

ARTICLE 4

FUND CONSOLIDATION

Section 1. [STATEMENT OF PURPOSE.]

*During recent years the state of Minnesota has experienced a significant increase in the number of special revenue accounts and funds that has created a large base of nongeneral fund budget activities. The resulting structure is complicated and at best difficult for the legislature to exercise adequate legislative oversight of. Executive branch agencies are also being faced with increased administrative costs and programmatic restrictions because of the growing number of special revenue funds and accounts. This article is an attempt to simplify the existing accounting structure and develop an accounting organizational structure that is reflective of agency functional organizations.*

*The consolidations in this article are not intended to restructure programs within agencies by reducing the number of special revenue accounts and funds. Fund consolidation in this article shall not be accomplished at the expense of those user groups who pay fees to the current special revenue accounts and funds. Fees currently being paid shall continue to be used for the purposes for which the fees were created.*

Sec. 2. Minnesota Statutes 1988, section 6.48, is amended to read:

6.48 [EXAMINATION OF COUNTIES; COST, FEES.]

All the powers and duties conferred and imposed upon the state auditor shall be exercised and performed by the state auditor in respect to the offices, institutions, public property, and improvements of several counties of the state. At least once in each year, if funds and personnel permit, the state auditor shall visit, without previous notice, each county and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds, including the game and fish funds, and other property. The state auditor shall prescribe and install systems of accounts and financial reports that shall be uniform, so far as practicable, for the same class of offices. A copy of the report of such examination shall be filed and be subject to public inspection in the office of the state auditor and another copy in the office of the auditor of the county thus examined. The state auditor may accept the records and audit, or any part thereof, of the department of human services in lieu of examination of the county social welfare funds, if such audit has been made within any period covered by the state auditor's audit of the other records of the county. If any such examination shall disclose malfeasance, misfeasance, or nonfeasance in any office of such county, such report shall be filed with the county attorney of the county, and the county attorney shall institute such civil and criminal proceedings as the law and the protection of the public interests shall require.

The county receiving such examination, and the division of game and fish of the department of natural resources of the state of Minnesota, in the case of the examination of the game and fish funds, shall pay to the state ~~auditor's revolving~~ *general* fund, notwithstanding the provisions of section 16A.125, the total cost and expenses of such examinations, including the salaries paid to the examiners while actually engaged in making such examination. The state auditor on deeming it advisable may bill counties, having a population of 200,000 or over, monthly for services rendered and the officials responsible for approving and paying claims shall cause said bill to be promptly paid. The ~~revolving~~ *general* fund ~~of the state auditor~~ shall be credited with all collections made for any such examinations.

Sec. 3. Minnesota Statutes 1988, section 6.56, is amended to read:

6.56 [COST OF EXAMINATION, PAYMENT.]

Upon the examination of the books, records, accounts, and affairs of any county, city, town, or school district, as provided by law, such county, city, town, or school district shall be liable to the state for the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The state auditor may bill such county, city, town, or school district monthly for service rendered and the officials responsible for approving and paying claims are authorized to pay said bill promptly. Said payments shall be without prejudice to any defense against said claims that may exist or be asserted. The ~~revolving~~ *general* fund ~~of the state auditor~~ shall be credited with all collections made for any such examinations.

Sec. 4. Minnesota Statutes 1988, section 6.58, is amended to read:

6.58 [~~REVOLVING~~ *GENERAL* FUND.]

The ~~revolving~~ *general* fund ~~established by Laws 1947, chapter 634, section 24,~~ shall be used to provide personnel, pay other expenses, and for the acquisition of equipment used in connection with reimbursable examinations and other duties pursuant to law. When full-time personnel are not available, the state auditor may contract with private persons, firms, or corporations for accounting and other technical services. Notwithstanding any law to the contrary, the acquisition of equipment may include duplicating equipment to be used in producing the reports issued by the department. All receipts from such reimbursable examinations shall be deposited in the *general* fund ~~and are hereby reappropriated to that purpose~~. The state auditor is directed to adjust the schedule of charges for such examinations to provide that such charges shall be sufficient to cover all costs of such examinations and that the aggregate charges collected shall be sufficient to pay all salaries and other expenses including charges for the use of the equipment used in connection with such reimbursable examinations and including the cost of contracting for accounting and other technical services. The schedule of charges shall be based upon an estimate of the cost of performing reimbursable examinations including, but not limited to, salaries, office overhead, equipment, authorized contracts, and other expenses. The state auditor may allocate a proportionate part of the total costs to an hourly or daily charge for each person or class of persons engaged in the performance of an examination. The schedule of charges shall reflect an equitable charge for the expenses incurred in the performance of any given examination. The state auditor shall review and adjust the schedule of charges for such examinations at least annually and have all schedules of charges approved by the commissioner of finance before

they are adopted so as to insure that the amount collected shall be sufficient to pay all the costs connected with such examinations during the fiscal year ~~and that the unobligated balance, including accounts receivable, in the revolving fund at the end of each fiscal year shall not be less than $315,000. The unobligated balance in the revolving fund in excess of $350,000, as of June 30 of each fiscal year, shall be canceled into the general fund~~.

Sec. 5. Minnesota Statutes 1988, section 8.31, subdivision 2c, is amended to read:

Subd. 2c. [CONSUMER EDUCATION ~~ACCOUNT~~ *FUND.*] If a court of competent jurisdiction finds that a sum recovered under this section for the benefit of injured persons cannot reasonably be distributed to the victims, because the victims cannot readily be located or identified, or because the cost of distributing the money would outweigh the benefit to the victims, then the court may order that the money be paid into ~~a consumer education account~~ *the general fund*. All sums recovered must be deposited into the state treasury and credited to the ~~consumer education account~~ *general fund*. ~~The money credited to the account may be expended only as appropriated by law for the following purposes:~~

~~(1) to prepare and distribute educational materials to inform the public regarding consumer protection laws and consumer rights;~~

~~(2) to underwrite educational seminars and other forms of educational projects for the benefit of consumers and businesses;~~

~~(3) to contract for or conduct educational or research projects in the field of consumer protection, to further the purposes of the laws referred to in subdivision 1; and~~

~~(4) to assist the commissioner of education in establishing curriculum guidelines for elementary and secondary schools in the areas of consumer protection and consumer literacy.~~

Sec. 6. Minnesota Statutes 1988, section 8.31, subdivision 3, is amended to read:

Subd. 3. [INJUNCTIVE RELIEF.] In addition to the penalties provided by law for violation of the laws referred to in subdivision 1, specifically and generally, whether or not injunctive relief is otherwise provided by law, the courts of this state are vested with jurisdiction to prevent and restrain violations of those laws, to require the payment of civil penalties, to require payment into ~~a consumer education account~~ *the general fund*, and to appoint administrators as provided in subdivision 3C. On becoming satisfied that any of those laws has been or is being violated, or is about to be violated, the attorney general shall be entitled, on behalf of the state; (a) to sue for and have injunctive relief in any court of competent jurisdiction against any such violation or threatened violation without abridging the penalties provided by law; and (b) to sue for and recover for the state, from any person who is found to have violated any of the laws referred to in subdivision 1, a civil penalty, in an amount to be determined by the court, not in excess of $25,000. All sums recovered by the attorney general under this section shall be deposited in the general fund ~~of the state treasury, but sums recovered and deposited pursuant to subdivision 2C must be credited to a consumer education account as provided in subdivision 2C~~.

Sec. 7. Minnesota Statutes 1988, section 16A.125, subdivision 5, is

amended to read:

Subd. 5. [SUSPENSE ACCOUNT.] The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

The commissioner of finance and the treasurer shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

After a fiscal year, the commissioner of finance shall certify the total costs incurred for forestry during that year under appropriations for the protection, improvement, administration, and management of state forest trust fund lands. The certificate must specify the trust funds interested in the lands. The commissioner of natural resources shall supply the commissioner of finance with the information needed or the certificate.

After a fiscal year, the commissioner and the treasurer shall distribute the receipts credited to the suspense account during that fiscal year as follows:

(a) The amount of the certified costs incurred by the state for forest management during the fiscal year shall be transferred to the ~~state forest development account~~ *general fund*. ~~If these costs exceed $500,000, the amount of the excess shall be transferred to the forest management fund of section 89.04.~~

(b) The balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Sec. 8. [16A.531] [FUNDS CREATED.]

*Subdivision 1.* [ENVIRONMENTAL FUND.] *There is created in the state treasury an environmental fund as a special revenue fund for deposit of receipts from environmentally related fees and activities conducted by the state.*

*Subd. 2.* [NATURAL RESOURCES FUND.] *There is created in the state treasury a natural resources fund as a special revenue fund for deposit of certain receipts from fees and services associated with natural resource management by the state.*

Sec. 9. Minnesota Statutes 1988, section 16B.42, subdivision 4, is amended to read:

Subd. 4. [FUNDING.] Appropriations and other funds made available to the council for staff, operational expenses, and grants must be administered through the department of administration. Fees charged to local units of government for the administrative costs of the council and revenues derived from royalties, reimbursements, or other fees from software programs, systems, or technical services arising out of activities funded by current or prior state appropriations must be credited to ~~an account in~~ the ~~special revenue fund and are appropriated to the council for the purposes enumerated in subdivision 2.~~ general fund ~~appropriations for the council may also be credited by the commissioner of administration to the account in the special revenue fund~~. The unencumbered balance of an appropriation for grants in the first year of a biennium does not cancel but is available

for the second year of the biennium.

Sec. 10. Minnesota Statutes 1988, section 16B.48, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF FUNDS.] Money in the state treasury credited to the general services revolving fund and money which is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) to operate a central duplication and printing service;

(3) to purchase postage and related items and to refund postage deposits as necessary to operate the central mailing service;

(4) to operate a documents service as prescribed by section 16B.51;

(5) to provide advice and other services to political subdivisions for the management of their ~~records, information, and~~ telecommunication systems;

(6) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

(7) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

(8) to provide capitol security services through the department of public safety; and

(9) to perform services for any other agency. Money shall be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services, and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

Sec. 11. Minnesota Statutes 1988, section 16B.70, is amended to read:

16B.70 [SURCHARGE.]

Subdivision 1. [COMPUTATION.] To defray the costs of administering sections 16B.59 to 16B.73, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971, as follows:

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows: (a) if the valuation of the structure, addition, or alteration is $1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration; (b) if the valuation is greater than $1,000,000, the surcharge is $500 plus two-fifths mill (.0004) of the value between $1,000,000 and $2,000,000; (c) if the valuation is greater than $2,000,000 the surcharge is $900 plus three-tenths mill (.0003) of the value between $2,000,000 and $3,000,000; (d) if the valuation is greater than $3,000,000 the surcharge is $1,200 plus one-fifth mill (.0002) of the value between

$3,000,000 and $4,000,000; (e) if the valuation is greater than $4,000,000 the surcharge is $1,400 plus one-tenth mill (.0001) of the value between $4,000,000 and $5,000,000; and (f) if the valuation exceeds $5,000,000 the surcharge is $1,500 plus one-twentieth mill (.00005) of the value which exceeds $5,000,000.

By September 1 of each odd-numbered year, the commissioner shall rebate to municipalities any money received under this section and section 16B.62 in the previous biennium in excess of the cost to the building code division and the passenger elevator inspector in the department of labor and industry in that biennium of carrying out their duties under sections 16B.59 to 16B.73. The rebate to each municipality must be in proportion to the amount of the surcharges collected by that municipality and remitted to the state. The amount necessary to meet the commissioner's rebate obligations under this subdivision is appropriated to the commissioner from the ~~special revenue~~ *general* fund.

Subd. 2. [COLLECTION AND REPORTS.] All permit surcharges must be collected by each municipality and a portion of them remitted to the state. Each municipality having a population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month, but shall retain two percent of the surcharges collected to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter, but shall retain four percent of the surcharges collected to apply against the administrative expenses the municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected. All surcharges and other fees prescribed by sections 16B.59 to 16B.71, which are payable to the state, must be paid to the commissioner who shall deposit them in the state treasury for credit to the ~~special revenue~~ *general* fund.

Sec. 12. Minnesota Statutes 1988, section 41A.02, subdivision 4, is amended to read:

Subd. 4. [MINNESOTA AGRICULTURAL AND ECONOMIC DEVELOPMENT ~~FUND~~ *ACCOUNT*; DEVELOPMENT ~~FUND~~ *ACCOUNT*.] "Minnesota agricultural and economic development ~~fund~~ *account*" or "development ~~fund~~ *account*" means the ~~fund~~ *account* created by section 41A.05.

Sec. 13. Minnesota Statutes 1988, section 41A.05, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF ~~FUND~~ *ACCOUNT*.] The Minnesota agricultural and economic development ~~fund~~ *account* is established ~~as a~~ *in the* special ~~and dedicated~~ *revenue* fund ~~to be held~~ and *may be* invested separately from all other funds of the state. All money appropriated to the ~~fund~~ *account*, and all guaranty fees, retail sales taxes, property tax increments, and other money from any source which may be credited to the ~~fund~~ *account* are appropriated to the board to carry out the purposes of this chapter. The board may maintain or establish within the Minnesota agricultural and economic development ~~fund~~ *account* reserve accounts, project accounts, trustee accounts, special guaranty fund accounts, or other restrictions it determines necessary or appropriate. The board may enter

into pledge and escrow agreements or indentures of trust with a trustee for the purpose of maintaining the accounts.

Sec. 14. [TRANSFER; MINNESOTA AGRICULTURAL AND ECONOMIC DEVELOPMENT FUND.]

*All accounts and all money in the accounts of the Minnesota agricultural and economic development fund established under Minnesota Statutes, section 41A.05, subdivision 1, are transferred to an account in the special revenue fund. All loan repayments, earnings, releases from insurance accounts and trustee accounts, and other income of the account must be credited to the account.*

Sec. 15. [TRANSFER; ECONOMIC DEVELOPMENT FUND.]

*All accounts and money in those accounts of the economic development fund, established under Minnesota Statutes 1986, section 116M.06, subdivision 4, and continued under Minnesota Statutes 1988, section 116J.968, that are related to the certified development company established under Minnesota Statutes 1988, section 41A.065, are transferred to accounts in the special revenue fund. The trustee and insurance accounts related to the energy loan insurance program established under Minnesota Statutes 1986, section 116M.11, are transferred to the energy loan insurance account of the special revenue fund. All repayments, earnings, releases from insurance accounts, and trust accounts of the energy loan insurance account must be credited to the energy loan insurance account. All other money in the economic development account is credited to the general fund.*

Sec. 16. Minnesota Statutes 1988, section 44A.0311, is amended to read:

44A.0311 [WORLD TRADE CENTER CORPORATION ~~FUND~~ *ACCOUNT.*]

The world trade center corporation ~~fund~~ *account* is ~~an account~~ in the ~~state treasury~~ *special revenue fund*. All money received by the corporation, including money generated from the use of the conference and service center, except money generated from the use of the center by the Minnesota trade division, must be deposited in the ~~fund~~ *account*. Money in the ~~fund~~ *account* including interest earned is appropriated to the board and must be used exclusively for corporation purposes.

Sec. 17. Minnesota Statutes 1988, section 84.83, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] There is created in the state treasury an account known as the snowmobile trails and enforcement account *in the natural resources fund*.

Sec. 18. Minnesota Statutes 1988, section 84.922, subdivision 3, is amended to read:

Subd. 3. [REGISTRATION CARD.] The commissioner shall provide to the registrant a registration card that includes the registration number, the date of registration, the make and serial number of the vehicle, the owner's name and address, and additional information the commissioner may require. Information concerning each registration shall be retained by the commissioner. Upon a satisfactory showing that the registration card has been lost or destroyed the commissioner shall issue a replacement registration card upon payment of a fee of $4. The fees collected from replacement

registration cards shall be deposited in the all-terrain vehicle account *in the natural resources fund.*

Sec. 19. Minnesota Statutes 1988, section 84.927, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REVENUE.] Fees from the registration of all-terrain vehicles and the unrefunded gasoline tax attributable to all-terrain vehicle use under section 296.16 shall be deposited in the state treasury and credited to the all-terrain vehicle account *in the natural resources fund.*

Sec. 20. Minnesota Statutes 1988, section 84A.51, subdivision 2, is amended to read:

Subd. 2. [FUNDS TRANSFERRED; APPROPRIATED.] Money in any fund established under section 84A.03, 84A.22, or 84A.32, subdivision 2, is transferred to the consolidated ~~fund~~ *account*, except as provided in subdivision 3. The money in the consolidated ~~fund~~ *account*, or as much of it as necessary, is appropriated for the purposes of sections 84A.52 and 84A.53. *Any remaining balance is transferred to the general fund.*

Sec. 21. Minnesota Statutes 1988, section 84A.55, subdivision 14, is amended to read:

Subd. 14. [SOURCE OF FUNDS.] Salaries and expenses incurred to carry out this section must be paid from money appropriated from the consolidated ~~fund~~ *account* or other fund *or account* designated in the applicable appropriation.

Sec. 22. Minnesota Statutes 1988, section 85.055, subdivision 2, is amended to read:

Subd. 2. [FEE DEPOSIT AND APPROPRIATION.] The fees collected under this section shall be deposited in the state treasury and credited to the ~~state park maintenance and operation account~~ *general fund.* ~~Appropriations from the account shall be for state park maintenance and operation.~~

Sec. 23. Minnesota Statutes 1988, section 85.22, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] The revolving fund ~~heretofore~~ established ~~pursuant to~~ *under* Laws 1941, chapter 548, section 37, subdivision *E, item* 4 ~~shall hereafter be known and designated as~~ *is* the state parks working capital ~~fund, which fund~~ *account. The account* is to be used to maintain and operate the revenue producing facilities in the state parks within the ~~limitations hereinafter established~~ *limits in this section.*

Sec. 24. Minnesota Statutes 1988, section 85.22, subdivision 2a, is amended to read:

Subd. 2a. [RECEIPTS, APPROPRIATION.] All receipts derived from the rental or sale of items in state parks shall be deposited in the state treasury and be credited to the state parks working capital ~~fund, which fund~~ *account. The money in the account* is annually appropriated solely for the purchase and payment of expenses attributable to items for resale or rental. ~~Annually, as of the close of business on June 30, the unencumbered balance in excess of $100,000 shall be canceled into the state park maintenance and operation account.~~

Sec. 25. Minnesota Statutes 1988, section 85A.04, subdivision 1, is

amended to read:

Subdivision 1. [DEPOSIT.] All receipts from ~~the operation of~~ *parking and admission to* the Minnesota zoological garden shall be deposited in the state treasury and credited to ~~a zoo fund~~ *the general fund*. ~~Investment income and investment losses attributable to investment of the zoo fund must be credited to the zoo fund. Money in the zoo fund is appropriated to the board for the operation of the Minnesota zoological garden.~~

Sec. 26. Minnesota Statutes 1988, section 85A.04, subdivision 4, is amended to read:

Subd. 4. [ZOO ~~RIDE~~ *CONCESSION AND REVENUE* ACCOUNT.] All receipts from the operation of ~~the~~ zoo ~~ride shall~~ *concessions, memberships, and donations must* be deposited in a special account in the ~~state treasury~~ *special revenue fund and are appropriated to the board*. ~~All receipts from the zoo ride are appropriated to the board for the purposes of the zoo ride. These receipts are the only money appropriated for zoo ride operating expenses or debt service.~~

Sec. 27. Minnesota Statutes 1988, section 89.035, is amended to read:

89.035 [INCOME FROM STATE FOREST LANDS, DISPOSITION.]

All income which may be received from lands acquired by the state heretofore or hereafter for state forest purposes by gift, purchase or eminent domain and tax-forfeited lands to which the county has relinquished its equity to the state for state forest purposes shall be paid into the state treasury and credited to ~~a fund designated as~~ the state forest ~~fund~~ *account* except where the conveyance to and acceptance by the state of lands for state forest purposes provides for other disposition of receipts.

Sec. 28. Minnesota Statutes 1988, section 89.036, is amended to read:

89.036 [FUNDS APPORTIONED TO COUNTY.]

The state of Minnesota shall ~~hereafter~~ annually on July 1 or as soon thereafter as may be practical, pay from the state forest ~~fund~~ *account* to each county, in which there now are, or hereafter shall be situated, any state forests, a sum equal to 50 percent of the gross receipts of such state forests located within such county, which have been received during the preceding fiscal year and credited to the state forest ~~fund~~ *account*, which payment shall be received and distributed by the county treasurer, as if such payment had been received as taxes on such lands payable in the current year.

After making such payment to the county, the balance of said funds in the state forest ~~fund~~ *account* on July 1 shall be transferred and credited to the ~~forest management~~ *general* fund ~~established under section 89.04~~.

The commissioner of finance shall annually draw warrants upon the state treasurer for the proper amounts in favor of the respective counties entitled thereto and the state treasurer shall pay such warrants from the state forest ~~fund~~ *account*.

The commissioner of finance and the state treasurer shall~~, and are hereby authorized and empowered to~~ devise, adopt, and use ~~such~~ *the* accounting methods ~~as~~ they may deem proper, and to do any and all other things reasonably necessary in carrying out ~~the provisions of~~ this section.

There is ~~hereby~~ appropriated to the counties entitled to such payment,

from the state forest ~~fund~~ *account* in the state treasury, an amount sufficient to make the payments specified ~~herein~~ *in this section.*

Sec. 29. Minnesota Statutes 1988, section 89.21, is amended to read:

89.21 [CAMPGROUNDS, ESTABLISHMENT AND FEES.]

The commissioner is authorized to establish and develop state forest campgrounds and may establish minimum standards not inconsistent with the laws of the state for the care and use of such campgrounds and charge fees for such uses as specified by the commissioner of natural resources.

All fees shall be deposited in the ~~state treasury and appropriated to the division of lands and forestry in the department of natural resources to defray costs of maintenance, operation and development of state forest campgrounds~~ *general fund.*

Sec. 30. Minnesota Statutes 1988, section 93.335, subdivision 4, is amended to read:

Subd. 4. [RENTAL AND ROYALTIES, ANNUAL DISTRIBUTION; APPROPRIATION.] If the lands or minerals and mineral rights covered by any such permit or lease are held by the state in trust for the taxing districts, the rentals and royalties paid under any such permit or lease shall be distributed annually by the commissioner of finance on the first day of September as follows: 20 percent to the ~~mineral lease account established in the state treasury under section 93.221,~~ *general fund* and 80 percent to the respective counties in which the lands lie, to be apportioned among the taxing districts interested therein as follows: county, three-ninths; town, or city, two-ninths; and school district, four-ninths.

There is hereby appropriated from such moneys in the state treasury not otherwise appropriated to such persons or political subdivisions as are entitled to payment herein, an amount sufficient to make the payment.

Sec. 31. Minnesota Statutes 1988, section 106A.661, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF EXPENSES.] The compensation and travel and hotel expenses of the examining accountant must be audited, allowed, and paid into the state treasury by the board. The money must be credited to the ~~revolving~~ *general* fund ~~of the state auditor~~. The county auditor shall apportion the expenses among the drainage systems in the county.

Sec. 32. Minnesota Statutes 1988, section 112.73, is amended to read:

112.73 [ANNUAL AUDIT.]

The managers shall make the reports demanded by the state auditor. The managers shall have the books and accounts of the district audited annually. The audit may be made by either a public accountant or by the state auditor. If the audit is to be made by the state auditor it must be initiated by a petition of the resident freeholders of the district or resolution of the managers of the watershed district requesting the audit under the authority granted municipalities under sections 6.54 and 6.55. If the audit is made by the state auditor the district receiving the examination shall pay to the state the total cost and expenses of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The ~~revolving~~ *general* fund ~~of the state auditor~~ must be credited with all collections made for the examinations.

Sec. 33. Minnesota Statutes 1988, section 115.03, subdivision 1, is amended to read:

Subdivision 1. The agency is hereby given and charged with the following powers and duties:

(a) To administer and enforce all laws relating to the pollution of any of the waters of the state;

(b) To investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as it may deem advisable;

(c) To establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of this chapter and, with respect to the pollution of waters of the state, chapter 116;

(d) To encourage waste treatment, including advanced waste treatment, instead of stream low-flow augmentation for dilution purposes to control and prevent pollution;

(e) To adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities;

(1) Requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter;

(2) Prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(3) Prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(4) Requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person;

(5) Establishing, and from time to time revising, standards of performance for new sources taking into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any nonwater quality

environmental impact and energy requirements. Said standards of performance for new sources shall encompass those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the agency determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication by the agency of proposed rules prescribing a standard of performance which will be applicable to such source. Notwithstanding any other provision of the law of this state, any point source the construction of which is commenced after May 20, 1973 and which is so constructed as to meet all applicable standards of performance for new sources shall, consistent with and subject to the provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent standard of performance for new sources during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first. Construction shall encompass any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(6) Establishing and revising pretreatment standards to prevent or abate the discharge of any pollutant into any publicly owned disposal system, which pollutant interferes with, passes through, or otherwise is incompatible with such disposal system;

(7) Requiring the owner or operator of any disposal system or any point source to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including where appropriate biological monitoring methods, sample such effluents in accordance with such methods, at such locations, at such intervals, and in such a manner as the agency shall prescribe, and providing such other information as the agency may reasonably require;

(8) Notwithstanding any other provision of this chapter, and with respect to the pollution of waters of the state, chapter 116, requiring the achievement of more stringent limitations than otherwise imposed by effluent limitations in order to meet any applicable water quality standard by establishing new effluent limitations, based upon section 115.01, subdivision 5, clause (b), including alternative effluent control strategies for any point source or group of point sources to insure the integrity of water quality classifications, whenever the agency determines that discharges of pollutants from such point source or sources, with the application of effluent limitations required to comply with any standard of best available technology, would interfere with the attainment or maintenance of the water quality classification in a specific portion of the waters of the state. Prior to establishment of any such effluent limitation, the agency shall hold a public hearing to determine the relationship of the economic and social costs of achieving such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained and to determine whether or

not such effluent limitation can be implemented with availabie technology or other alternative control strategies. If a person affected by such limitation demonstrates at such hearing that, whether or not such technology or other alternative control strategies are available, there is no reasonable relationship between the economic and social costs and the benefits to be obtained, such limitation shall not become effective and shall be adjusted as it applies to such person;

(9) Modifying, in its discretion, any requirement or limitation based upon best available technology with respect to any point source for which a permit application is filed after July 1, 1977 upon a showing by the owner or operator of such point source satisfactory to the agency that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants;

(f) To require to be submitted and to approve plans and specifications for disposal systems or point sources, or any part thereof and to inspect the construction thereof for compliance with the approved plans and specifications thereof;

(g) To prescribe and alter rules, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon it by this chapter and, with respect to pollution of waters of the state, in chapter 116, provided that every rule affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state;

(h) To conduct such investigations, issue such notices, public and otherwise, and hold such hearings as are necessary or which it may deem advisable for the discharge of its duties under this chapter and, with respect to the pollution of waters of the state, under chapter 116, including, but not limited to, the issuance of permits, and to authorize any member, employee, or agent appointed by it to conduct such investigations or, issue such notices and hold such hearings;

(i) For the purpose of water pollution control planning by the state and pursuant to the Federal Water Pollution Control Act, as amended, to establish and revise planning areas, adopt plans and programs and continuing planning processes, including, but not limited to, basin plans and areawide waste treatment management plans, and to provide for the implementation of any such plans by means of, including, but not limited to, standards, plan elements, procedures for revision, intergovernmental cooperation, residual treatment process waste controls, and needs inventory and ranking for construction of disposal systems;

(j) To train water pollution control personnel, and charge such fees therefor as are necessary to cover the agency's costs. All such fees received shall be paid into the state treasury and credited to the ~~water pollution control~~ *pollution control agency* training ~~fund of the agency~~ *account*, ~~from which the agency shall have the power to make disbursements to pay expenses relating to such training~~;

(k) To impose as additional conditions in permits to publicly owned disposal systems appropriate measures to insure compliance by industrial and other users with any pretreatment standard, including, but not limited to, those related to toxic pollutants, and any system of user charges ratably as is hereby required under state law or said Federal Water Pollution Control

Act, as amended, or any regulations or guidelines promulgated thereunder;

(l) To set a period not to exceed five years for the duration of any National Pollutant Discharge Elimination System permit; and

(m) To require a governmental subdivision that owns or operates a wastewater disposal system to have a plan to address its ability to pay the costs of making major repairs to the existing system and planning and constructing an adequate replacement system at the end of the existing system's expected useful life.

Sec. 34. Minnesota Statutes 1988, section 115A.14, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The commission shall oversee the activities of the board under this chapter relating to solid and hazardous waste management, the activities of the agency under sections 116.16 to 116.181 relating to water pollution control, and the activities of the metropolitan council relating to metropolitan waste management under sections 473.801 to 473.848, and direct such changes or additions in the work plan of the board and agency as it deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from:

(1) the environmental response, compensation, and compliance ~~fund~~ *account in the environmental fund* under section 115B.20, subdivision 5;

(2) the metropolitan landfill abatement ~~fund~~ *account* under section 473.844; and

(3) the metropolitan landfill contingency action *trust* fund under section 473.845.

(c) The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chair of the respective committee.

Sec. 35. Minnesota Statutes 1988, section 115A.908, subdivision 2, is amended to read:

Subd. 2. [DEPOSIT OF REVENUE.] Revenue collected shall be credited to ~~a motor vehicle transfer~~ *the environmental* fund.

Sec. 36. Minnesota Statutes 1988, section 115B.17, subdivision 7, is amended to read:

Subd. 7. [ACTIONS RELATING TO NATURAL RESOURCES.] For the purpose of this subdivision, the state is the trustee of the air, water and wildlife of the state. An action pursuant to section 115B.04 for damages with respect to air, water or wildlife may be brought by the attorney general in the name of the state as trustee for those natural resources. Any damages recovered by the attorney general pursuant to section 115B.04 or any other law for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, shall be deposited in the ~~fund and credited to a special account for the purposes provided in section 115B.20, subdivision 2, clause (f)~~ *account*.

Sec. 37. Minnesota Statutes 1988, section 115B.20, subdivision 1, is

amended to read:

Subdivision 1. [ESTABLISHMENT.] The environmental response, compensation and compliance ~~fund is created as an~~ account *is in the environmental fund* in the state treasury and may be spent only for the purposes provided in subdivision 2.

Sec. 38. Minnesota Statutes 1988, section 115B.20, subdivision 4, is amended to read:

Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the ~~environmental response, compensation and compliance fund~~ *account*:

(a) The proceeds of the taxes imposed pursuant to section 115B.22, including interest and penalties;

(b) All money recovered by the state under sections 115B.01 to 115B.18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 116.12;

(c) All interest attributable to investment of money deposited in the ~~fund~~ *account*; and

(d) All money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.

Sec. 39. Minnesota Statutes 1988, section 115B.20, subdivision 6, is amended to read:

Subd. 6. [REPORT TO LEGISLATURE.] By November 1, 1984, and each year thereafter, the agency shall submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the ~~environmental response, compensation and compliance fund~~ *account* has been spent during the previous fiscal year.

Sec. 40. Minnesota Statutes 1988, section 115B.22, subdivision 7, is amended to read:

Subd. 7. [DISPOSITION OF PROCEEDS.] The proceeds of the taxes imposed under this section including any interest and penalties shall be deposited in the ~~fund~~ *environmental response, compensation, and compliance account*.

Sec. 41. Minnesota Statutes 1988, section 115B.24, subdivision 10, is amended to read:

Subd. 10. [ADMINISTRATIVE EXPENSES.] Any amount expended by the commissioner from a general fund appropriation to enforce and administer section 115B.22 and this section shall be reimbursed to the general fund and the amount necessary to make the reimbursement is appropriated from the ~~fund~~ *environmental response, compensation, and compliance account* to the commissioner of finance for transfer to the general fund.

Sec. 42. Minnesota Statutes 1988, section 115B.25, subdivision 7, is amended to read:

Subd. 7. [~~FUND~~ *ACCOUNT*.] *Except when another account is specified,*

"~~fund~~ *account*" means the hazardous substance injury compensation ~~fund~~ *account* established in section 115B.26.

Sec. 43. Minnesota Statutes 1988, section 115B.26, is amended to read:

115B.26 [HAZARDOUS SUBSTANCE INJURY COMPENSATION ~~FUND~~ *ACCOUNT.*]

Subdivision 1. [ESTABLISHMENT.] A hazardous substance injury compensation ~~fund~~ *account* is ~~established as an account~~ *in the environmental fund* in the state treasury. Earnings, such as interest, dividends, and any other earnings arising from ~~fund~~ *account* assets, must be credited to the fund.

Subd. 2. [APPROPRIATION.] The amount necessary to pay for staff assistance, administrative services, and office space under section 115B.28, subdivision 4, and to pay claims of compensation granted by the board under sections 115B.25 to 115B.37 is appropriated to the board from the ~~hazardous substance injury compensation fund~~ *account*.

Subd. 3. [PAYMENT OF CLAIMS WHEN ~~FUND~~ *ACCOUNT* INSUFFICIENT.] If the amount of the claims granted exceeds the amount in the ~~fund~~ *account*, the board shall request a transfer from the general contingent account to the hazardous substance injury compensation ~~fund~~ *account* as provided in section 3.30. If no transfer is approved, the board shall pay the claims which have been granted in the order granted only to the extent of the money remaining in the ~~fund~~ *account*. The board shall pay the remaining claims which have been granted after additional money is credited to the ~~fund~~ *account*.

Sec. 44. Minnesota Statutes 1988, section 115C.02, subdivision 6, is amended to read:

Subd. 6. [~~FUND~~ *ACCOUNT.*] "~~Fund~~ *Account*" means the petroleum tank release cleanup *account in the environmental* fund.

Sec. 45. Minnesota Statutes 1988, section 115C.08, subdivision 1, is amended to read:

Subdivision 1. [REVENUE SOURCES.] Revenue from the following sources must be deposited in the state treasury and credited to a petroleum tank release cleanup ~~fund~~ *account in the environmental fund in the state treasury*:

(1) the proceeds of the fee imposed by subdivision 3;

(2) money recovered by the state under sections 115C.04, 115C.05, and 116.491, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement;

(3) interest attributable to investment of money in the ~~fund~~ *account*;

(4) money received by the board and agency in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the ~~fund~~ *account*; and

(5) fees charged for the operation of the tank installer certification program established under section 116.491.

Sec. 46. Minnesota Statutes 1988, section 116.41, subdivision 2, is amended to read:

Subd. 2. [TRAINING AND CERTIFICATION PROGRAMS.] The agency

shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and may charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to ~~a separate waste disposal~~ *the pollution control agency* training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for landspreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 47. Minnesota Statutes 1988, section 116J.64, subdivision 6, is amended to read:

Subd. 6. The remaining 20 percent of the tax revenue received by the county auditor under section 273.165, subdivision 1 shall be remitted by the county auditor to the state treasurer and shall be deposited in ~~a special account called the "Indian business loan account," which shall be a revolving fund created and~~ *an account in the special revenue fund. The account is* established under the jurisdiction and control of the agency, which may engage in a business loan program for American Indians as that term is defined in subdivision 2. The tribal councils may administer the ~~fund~~ *account*, provided that, before making any eligible loans, each tribal council must submit to the agency, for its review and approval, a plan for that council's loan program which specifically describes, as to that program, its content, utilization of ~~funds~~ *money*, administration, operation, implementation, and other matters required by the agency. All such programs must provide for a reasonable balance in the distribution of ~~funds~~ *money* appropriated pursuant to this section ~~for the purpose of making~~ *to make* business loans between Indians residing on and off the reservations within the state. As a condition to the making of such eligible loans, the tribal councils shall enter into a loan agreement and other contractual arrangements with the agency ~~for the purpose of carrying~~ *to carry* out ~~the provisions of~~ this chapter, and shall agree that all official books and records relating to the business loan program shall be subject to audit by the legislative auditor in the same manner prescribed for agencies of state government.

Whenever ~~any moneys are~~ *money is* appropriated by the state treasurer to the agency solely for the ~~above-specified purpose or~~ purposes *in this subdivision*, the agency shall ~~establish a separate bookkeeping account or accounts~~ *record* in the Indian business loan ~~fund to record~~ *account* the receipt and disbursement of ~~such~~ *the* money and of the income, gain and loss from the investment and reinvestment ~~thereof~~ *of the money*.

Sec. 48. Minnesota Statutes 1988, section 116J.873, subdivision 4, is amended to read:

Subd. 4. [GRANT LIMITS.] An economic recovery grant may not be approved for an amount over $500,000. The division may recommend less

funding than requested if, in the opinion of the division, the amount requested is more than is necessary to meet the applicant's needs. If the amount of the grant is reduced, the reasons for the reduction shall be given to the applicant. The portion of an economic recovery grant that exceeds $100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state ~~is appropriated to the commissioner of trade and economic development for the purpose of making additional economic recovery grants~~ *must be credited to the general fund.*

Sec. 49. Minnesota Statutes 1988, section 116J.955, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The rural rehabilitation ~~revolving fund~~ *account* is ~~established as an account~~ in the ~~state treasury~~ *special revenue fund*. The money transferred to the state as a result of liquidating the rural rehabilitation corporation trust, and money derived from transfer of the trust to the state, must be credited to the rural rehabilitation ~~revolving fund~~ *account*. The principal amount of the rural rehabilitation ~~revolving fund~~ *account* must be invested by the state investment board. The income attributable to investment of the principal is appropriated to the commissioner for the purposes of Laws 1987, chapter 386, article 1.

Sec. 50. Minnesota Statutes 1988, section 116J.955, subdivision 2, is amended to read:

Subd. 2. [EXPENDITURE OF ~~FUND~~ *ACCOUNT*.] The commissioner may use the rural rehabilitation ~~revolving fund~~ *account* for the purposes that are allowed under the Minnesota rural rehabilitation corporation's charter and agreement with the United States Secretary of Agriculture as provided in Public Law Number 499, 81st Congress, enacted May 3, 1950 and as allowed under Laws 1987, chapter 386, article 1. Not more than three percent of the book value of the Minnesota rural rehabilitation corporation's assets may be used for administrative purposes in a year without approval of the United States Secretary of Agriculture. ~~The commissioner may create separate accounts within the fund for use in accordance with the fund's purposes.~~

Sec. 51. Minnesota Statutes 1988, section 116J.9673, subdivision 4, is amended to read:

Subd. 4. [WORKING CAPITAL ACCOUNT.] An export finance authority working capital account is created as a special account in the state treasury. All premiums~~,~~ *and* interest~~, and fees~~ collected under subdivision 3, clause (6), must be deposited into this account. *Fees collected must be credited to the general fund.* The balance in the account may exceed $1,000,000 through accumulated earnings. Money in the account including interest earned and appropriations made by the legislature for the purposes of this section, is appropriated annually to the finance authority for the purposes of this section. The balance in the account may decline below $1,000,000 as required to pay defaults on guaranteed loans.

Sec. 52. Minnesota Statutes 1988, section 116N.02, subdivision 6, is amended to read:

Subd. 6. [~~FUND~~ *ACCOUNT* ALLOCATION.] The commissioner shall allocate $6,000,000 from the rural rehabilitation ~~revolving fund~~ *account* to be used for the challenge grant program.

Sec. 53. Minnesota Statutes 1988, section 116N.08, subdivision 4, is amended to read:

Subd. 4. [REVOLVING LOAN FUND.] A regional organization shall establish a board certified revolving loan fund to provide loans to new and expanding businesses in rural Minnesota to promote economic development. Eligible business enterprises include technologically innovative industries, value-added manufacturing, agriprocessing, information industries, and agricultural marketing. Loan applications given preliminary approval by the organization must be forwarded to the commissioner for final approval. The amount of state money allocated for each loan is appropriated from the rural rehabilitation ~~revolving fund~~ *account* established in section 116J.955 to the organization's regional revolving loan fund when the commissioner gives final approval for each loan. The amount of money appropriated from the rural rehabilitation ~~revolving fund~~ *account* may not exceed 50 percent for each loan. The amount of nonpublic money must equal at least 50 percent for each loan.

Sec. 54. Minnesota Statutes 1988, section 116N.08, subdivision 8, is amended to read:

Subd. 8. [LOCAL GOVERNMENTAL UNIT LOANS.] A local governmental unit may receive a loan under this section if the local governmental unit has established a local revolving loan fund and can provide at least an equal match to the loan received from a regional organization. For the purpose of providing the match to establish the local revolving loan fund, the local governmental unit may use any unencumbered money in the general fund of the unit. Revenues from tax increments derived from a district located within the boundaries of the local governmental unit may be used to fund a second local revolving loan fund only if (1) those revenues are loaned in a manner authorized in the district's tax increment financing plan to a business located within the tax increment district, and (2) the revenues are deposited in a loan fund that is separate from the loan fund in which general fund money is established. The local governmental unit may deposit up to $50,000 of local public money in each of the local revolving funds that may be established under this subdivision. The maximum loan available to a local governmental unit under this section is $50,000. The money loaned to a local governmental unit by a regional organization must be matched by the local revolving loan fund and used to provide loans to businesses to promote local economic development. One-half of the money loaned to a local governmental unit under this section by a regional organization must be repaid to the rural rehabilitation ~~revolving fund~~ *account*. One-half of the money may be retained by the local governmental unit's revolving loan fund for further distribution by the local governmental unit.

Sec. 55. Minnesota Statutes 1988, section 116O.03, subdivision 3, is amended to read:

Subd. 3. [BYLAWS.] The board of directors shall adopt bylaws necessary for the conduct of the business of the corporation, consistent with this chapter. *The corporation must publish the bylaws and amendments to the bylaws in the State Register.*

Sec. 56. Minnesota Statutes 1988, section 116O.03, is amended by adding a subdivision to read:

*Subd. 11.* [STATEMENTS OF ECONOMIC INTEREST.] *Directors, officers, and employees of the corporation are public officials for the purpose of section 10A.09, and must file statements of economic interest with the ethical practices board.*

Sec. 57. Minnesota Statutes 1988, section 116O.04, is amended by adding a subdivision to read:

*Subd. 4.* [PERSONNEL POLICIES.] *(a) The corporation must adopt and periodically revise, if necessary, an affirmative action plan similar to the affirmative action plan under section 43A.19, subdivision 1. The corporation is subject to the audit and reporting requirements under section 43A.191, subdivision 3.*

*(b) Employees of the corporation are subject to the prohibition of political activities and required leave of absences under section 43A.32.*

*(c) Employees of the corporation are subject to the code of ethics requirements under section 43A.38.*

Sec. 58. Minnesota Statutes 1988, section 116O.05, is amended to read:

116O.05 [POWERS OF THE CORPORATION.]

(a) Except as otherwise provided in this article, the corporation has the powers granted to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13, except that the corporation may not act as a general partner in any partnership; 14; 15; 16; 17; 18; and 22.

(b) The state is not liable for the obligations of the corporation.

(c) Section 302A.041 applies to this ~~article~~ *chapter* and the corporation in the same manner that it applies to business corporations established under chapter 302A.

*(d) The corporation is a state agency for the purposes of the following accounting and budgeting requirements:*

*(1) financial reports and other requirements under section 16A.06;*

*(2) the state budget system under sections 16A.095, 16A.10, and 16A.11;*

*(3) the state allotment and encumbrance, and accounting systems under sections 16A.14, subdivisions 2, 3, 4, and 5; and 16A.15, subdivisions 2 and 3; and*

*(4) indirect costs under section 16A.127.*

Sec. 59. Minnesota Statutes 1988, section 116O.12, is amended to read:

116O.12 [GREATER MINNESOTA ~~FUND~~ *ACCOUNT.*]

(a) The Greater Minnesota ~~fund~~ *account* is ~~created~~ in the ~~state treasury. The board may require the commissioner of finance to create separate accounts within the fund for use in accordance with the fund's purposes~~ *special revenue fund*. Money in the ~~fund~~ *account* not needed for the immediate purposes of the corporation may be invested by the ~~corporation~~ *state board of investment* in any way authorized by section 11A.24. Money in the ~~fund~~ *account* is appropriated to the corporation to be used as provided in this chapter.

(b) The ~~fund~~ *account* consists of:

(1) money appropriated and transferred from other state funds;

(2) fees and charges collected by the corporation;

(3) income from investments and purchases;

(4) revenue from loans, rentals, royalties, dividends, and other proceeds collected in connection with lawful corporate purposes;

(5) gifts, donations, and bequests made to the corporation; and

(6) through the first five full fiscal years, during which proceeds from the lottery are received, one-half of the net proceeds of the state-operated lottery must be credited to the greater Minnesota corporation ~~fund~~ *account*. Thereafter, up to one-half, as determined by law each biennium, of the net proceeds from the state-operated lottery must be credited to the greater Minnesota corporation ~~fund~~ *account*.

Sec. 60. Minnesota Statutes 1988, section 116O.13, is amended to read:

116O.13 [AGRICULTURAL PROJECT UTILIZATION ~~FUND~~ *ACCOUNT*.]

The agricultural project utilization ~~fund~~ *account* is ~~a fund~~ *an account* in the ~~state treasury~~ *special revenue fund*. Money in the ~~fund~~ *account* is appropriated to the agricultural utilization research institute to be used for agricultural research grants as provided in section 116O.09, subdivision 4, and for the agricultural utilization research institute.

Sec. 61. Minnesota Statutes 1988, section 148B.17, is amended to read:

148B.17 [FEES.]

Each board shall by rule establish fees, including late fees, for licenses or filings and renewals so that the total fees collected by the board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128, plus the prorated costs of the office of social work and mental health boards. Fees must be credited to *accounts in* the special revenue fund.

Sec. 62. Minnesota Statutes 1988, section 169.121, subdivision 5a, is amended to read:

Subd. 5a. [CHEMICAL DEPENDENCY ASSESSMENT CHARGE.] When a court sentences a person convicted of an offense enumerated in section 169.126, subdivision 1, it shall impose a chemical dependency assessment charge of $75. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge would create undue hardship for the convicted person or that person's immediate family.

The court shall collect and forward to the commissioner of finance the total amount of the chemical dependency assessment charge within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the ~~drinking and driving repeat offense prevention account created in section 169.126, subdivision 4a~~ *general fund*.

The chemical dependency assessment charge required under this section is in addition to the surcharge required by section 609.101.

Sec. 63. Minnesota Statutes 1988, section 169.126, subdivision 4, is

amended to read:

Subd. 4. [CHEMICAL USE ASSESSMENT.] (a) Except as otherwise provided in paragraph (d), when an alcohol problem screening shows that the defendant has an identifiable chemical use problem, the court shall require the defendant to undergo a comprehensive chemical use assessment conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the chemical use assessment shall be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The comprehensive chemical use assessment must be completed no later than two weeks after the appointment date.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

(c) The state shall reimburse the county for the entire cost of each chemical use assessment and report at a rate established by the department of human services up to a maximum of $100 in each case. The county may not be reimbursed for the cost of any chemical use assessment or report not completed within the time limit provided in this subdivision. Reimbursement to the county must be made from the ~~special account established in subdivision 4a~~ *general fund*.

(d) If the preliminary alcohol problem screening is conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3, consists of a comprehensive chemical use assessment of the defendant, and complies with the chemical use assessment report requirements of paragraph (b), it is a chemical use assessment for the purposes of this section and the court may not require the defendant to undergo a second chemical use assessment under paragraph (a). The state shall reimburse counties for the cost of alcohol problem screenings that qualify as chemical use assessments under this paragraph in the manner provided in paragraph (c) in lieu of the reimbursement provisions of section 169.124, subdivision 3.

Sec. 64. Minnesota Statutes 1988, section 169.126, subdivision 4a, is amended to read:

Subd. 4a. [DRINKING AND DRIVING REPEAT OFFENSE PREVENTION ACCOUNT.] ~~A special account is established in the state treasury known as the drinking and driving repeat offense prevention account. Money credited to the account is appropriated continuously to~~ The commissioner of public safety ~~and~~ shall ~~be spent by the commissioner to~~ reimburse counties for the entire cost of each chemical use assessment and report completed within the time limit provided under subdivision 4, up to a maximum of $100 in each case.

Sec. 65. Minnesota Statutes 1988, section 190.25, subdivision 3, is amended to read:

Subd. 3. The adjutant general is authorized to sell in the manner provided by law any or all timber, growing crops, buildings and other improvements, if any, situated upon the lands acquired under the authority of subdivision 1 or which may hereafter comprise the Camp Ripley military field training center and not needed for military training purposes. The proceeds of any sales shall be deposited in the ~~military land~~ *general* fund. ~~and the moneys deposited are appropriated to the adjutant general out of the fund for: the acquisition of land as provided in subdivision 1; the payment of expenses of forest management on land forming the Camp Ripley military reservation; and the provision of an enlisted persons' service center.~~

Sec. 66. Minnesota Statutes 1988, section 214.06, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by health-related licensing boards must be credited to the special revenue fund. ~~Any balance remaining in the special revenue fund at the end of each fiscal year, after payment of health-related licensing board expenses including salaries, attorney general fees, and indirect costs, must be credited to the public health fund.~~

Sec. 67. Minnesota Statutes 1988, section 256.482, subdivision 7, is amended to read:

Subd. 7. [COLLECTION OF FEES.] The council is empowered to establish and collect fees for documents or technical services provided to the public. The fees shall be set at a level to reimburse the council for the actual cost incurred in providing the document or service. ~~Notwithstanding the provisions of section 16A.72,~~ All fees collected shall be deposited into the state treasury and credited to ~~a separate dedicated account for council services. All money in this dedicated account is appropriated by law to the council to provide documents and technical services to~~ the ~~public~~ *general fund.*

Sec. 68. Minnesota Statutes 1988, section 260.193, subdivision 8, is amended to read:

Subd. 8. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

(a) Reprimand the child and counsel with the child and the parents;

(b) Continue the case for a reasonable period under such conditions

governing the child's use and operation of any motor vehicles or boat as the court may set;

(c) Require the child to attend a driver improvement school if one is available within the county;

(d) Recommend to the department of public safety suspension of the child's driver's license as provided in section 171.16;

(e) If the child is found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of $100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the commissioner of public safety is hereby authorized to cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(f) Place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(g) Require the child to pay a fine of up to $700. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(h) If the court finds that the child committed an offense described in section 169.121, the court shall order that an alcohol problem screening be conducted and a screening report submitted to the court in the manner prescribed in section 169.126. Except as otherwise provided in section 169.126, subdivision 4, paragraph (d), if the alcohol problem screening shows that the child has an identifiable chemical use problem, the court shall require the child to undergo a comprehensive chemical use assessment in accordance with section 169.126, subdivision 4. If the chemical use assessment recommends a level of care for the child, the court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo a chemical use assessment to pay a chemical dependency assessment charge of $75. The court shall forward the assessment charge to the commissioner of finance to be credited to the ~~special account created in section 169.126, subdivision 4a~~ *general fund*. The state shall reimburse counties for the total cost of the chemical use assessment in the manner provided in section 169.126, subdivision 4.

Sec. 69. Minnesota Statutes 1988, section 270.069, is amended to read:

270.069 [COMMISSIONER TO COLLECT CERTAIN LOCAL TAXES.]

Subdivision 1. [COSTS DEDUCTED; APPROPRIATION.] If the commissioner of revenue agrees to collect a locally imposed tax, the local unit of government must agree that all the direct and indirect costs of the department of revenue for collecting the tax and any other statewide indirect costs will be deducted from the amounts collected and paid to the local unit of government. The amounts deducted must be deposited in the state treasury and credited to ~~a local tax collection account. Money in the account is appropriated to the commissioner of revenue to collect the locally imposed~~

~~tax~~ *the general fund.*

Subd. 2. [DEVELOPMENT COSTS.] If the commissioner determines that a new computer system will be required to collect the locally imposed taxes, the costs of development of the system will be charged to the first local units of government to be included in the system. Any additional local units of government that by agreement are added to the system will be charged for a share of the development costs. The charge will be determined by the commissioner who shall then refund to the original local units of government their portion of the development costs recovered from the additional users. ~~The amounts necessary to make the refunds are appropriated from the local tax collection account to the commissioner of revenue.~~

Sec. 70. Minnesota Statutes 1988, section 270.185, subdivision 1, is amended to read:

Subdivision 1. A ~~permanent~~ reassessment ~~revolving fund~~ *account* of $250,000 is created *in the special revenue fund.* ~~$250,000 is appropriated from the general fund to the permanent reassessment revolving fund.~~ The ~~fund~~ *money in the account* is annually appropriated to the commissioner of revenue for the purposes of this section.

Sec. 71. Minnesota Statutes 1988, section 273.02, subdivision 5, is amended to read:

Subd. 5. [REFUNDS FOR IRON ORE NOT FOUND.] Any taxpayer having paid real estate taxes on valuations of iron ore, considered to be commercially mineable, which was believed to have existed, and was subsequently determined not to exist, may apply to the commissioner of revenue for a refund of taxes paid thereon, as provided herein. Such application for refund shall be filed in the year in which it is determined that the iron ore does not exist. No refund shall be made for taxes paid or payable more than six years previous to the date of said application. The refunds shall be paid from the ~~special~~ *general* fund ~~established in subdivision 6, and so much as is needed to pay such refunds is hereby appropriated~~.

Sec. 72. Minnesota Statutes 1988, section 273.02, subdivision 6, is amended to read:

Subd. 6. [~~SPECIAL~~ *GENERAL* FUND.] The taxes collected in accordance with subdivision 4 shall be transmitted by the county treasurer to the state treasurer and deposited in ~~a special~~ *the general* fund. There shall be paid from ~~this special~~ *the general* fund the amount of refunds determined in accordance with subdivision 5. ~~In the event the amount in such fund is not sufficient to pay such refunds, the refunds shall be paid as soon as sufficient amounts are available in the fund.~~

~~The balance in such fund shall be distributed at the end of each fiscal year to the iron range resources and rehabilitation board account.~~

Sec. 73. Minnesota Statutes 1988, section 284.28, subdivision 8, is amended to read:

Subd. 8. ~~There is established in the state treasury a real estate assurance account. This account is composed of money appropriated by the legislature for this purpose and all money deposited in the state treasury and credited to the account. Money in the state treasury credited to the real estate assurance account from all sources is annually appropriated to the state treasurer for the purpose of paying claims ordered by the district court to be paid from the fund.~~ At the time of sale of a parcel of tax forfeited land,

the county auditor shall charge and collect in full an amount equal to three percent of the total sale price of land. Before filing a notice of expiration of time for redemption, in cases where an auditor's certificate of sale or a state assignment certificate has been issued, the county auditor shall charge and collect in full from the holder of the certificate an amount equal to three percent of the appraised value of the property for tax purposes. The amounts so collected by the auditor shall be deposited in the state treasury and credited to the ~~real estate assurance account~~ *general fund*. ~~Income earned from moneys in the account shall be credited to the account. The state treasurer may separately invest account moneys.~~

In determining compensation for the unjust deprivation suffered by the claimant, which may include severance damages sustained if the claimant owns adjoining land, the court shall take into account delinquent taxes, penalties, costs, and interest which would have been due and owing if the claimant had redeemed the land.

No claimant shall recover the value of improvements made to the land by other persons or the increment in value of land that occurs after the claimant has actual notice of the forfeiture proceeding. All claims ~~against the real estate assurance account and~~ ordered by the district court to be paid ~~therefrom~~ shall be obligations of the state and shall be paid out of the ~~first moneys coming into the assurance~~ *general* fund from legislative appropriations, the collection of money by county auditors or from any other sources as provided by law.

There is appropriated from the general fund to the state treasurer amounts sufficient to pay the amount by which any claims ordered to be paid ~~from the real estate assurance account pursuant to~~ *under* this subdivision. ~~exceed the amount existing in the account at the time of the order, but the total amount appropriated from the general fund shall not exceed the amounts transferred from the real estate assurance account to the general fund pursuant to Laws 1981, chapter 356, section 339, plus interest.~~

Sec. 74. Minnesota Statutes 1988, section 284.28, subdivision 9, is amended to read:

Subd. 9. In any action brought to recover loss or damage from the ~~real estate assurance account~~ *general fund*, the state treasurer, in that official capacity, shall be named as defendant. ~~If the assurance account is insufficient to pay the amount of any judgment, in full, the unpaid balance thereof shall bear interest at the legal rate and shall be paid together with any accrued interest thereon.~~ The attorney general or, at the attorney general's request, the county attorney of the county in which the land or a major part of it lies, shall defend the state treasurer in all such actions.

Sec. 75. Minnesota Statutes 1988, section 284.28, subdivision 10, is amended to read:

Subd. 10. Any action or proceeding pursuant to this section to recover damages ~~out of the real estate assurance fund~~ shall be commenced within ten years after the expiration of the periods within which claims may be asserted pursuant to subdivisions 2 and 3, and not afterwards. If, within this ten year period the person entitled to bring such action or proceeding is under legal disability, such person, or anyone claiming under the person, may commence such action or proceeding within the period expiring two years after such disability is removed or within the ten year period, whichever period is greater.

Sec. 76. Minnesota Statutes 1988, section 296.421, subdivision 8, is amended to read:

Subd. 8. [COMPUTATION AND DISTRIBUTION OF UNREFUNDED TAXES FOR FOREST ROADS.] The amount of unrefunded tax paid on gasoline and special fuel used to operate motor vehicles on forest roads, except gasoline and special fuel used for aviation purposes, is $675,000 annually and is appropriated from the highway user tax distribution fund and must be transferred and credited in equal installments on July 1 and January 1 ~~as follows: $400,000 must be credited~~ to a *the* state forest road account ~~and~~ *established in section 89.70.* $275,000 ~~must be credited to a county management access road account~~ *of this amount must be annually transferred to counties for management and maintenance of county forest roads.*

Sec. 77. Minnesota Statutes 1988, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT.] Revenues received from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue ~~in a separate and special fund, designated as the tobacco tax revenue fund,~~ in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota future resources account;

(2) ~~the revenue produced by two mills of the tax on cigarettes weighing not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;~~

~~(3) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not~~

~~more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;~~

~~(4)~~ the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 78. Minnesota Statutes 1988, section 297.26, is amended to read:

297.26 [REVENUE DISTRIBUTION.]

All revenues derived from taxes, penalties, and interest under sections 297.21 to 297.26 shall be deposited by the commissioner in the ~~tobacco tax revenue fund~~ *state treasury* and disposed of in the same manner as provided by section 297.13 for revenues received under sections 297.01 to 297.13.

Sec. 79. Minnesota Statutes 1988, section 297.32, subdivision 9, is amended to read:

Subd. 9. Revenue derived from the taxes imposed by this section must be deposited by the commissioner in the state treasury and credited ~~as follows:~~

~~(1) the revenue produced by the tax on five percent of the wholesale sales price or cost of the tobacco products except little cigars must be credited to the Minnesota state water pollution control fund created in section 116.16; and~~

~~(2) the balance of the revenue must be credited~~ to the general fund.

Sec. 80. Minnesota Statutes 1988, section 297A.44, subdivision 1, is amended to read:

Subdivision 1. (a) Except as provided in paragraphs (b) and (c) all revenues, including interest and penalties, derived from the excise and use taxes imposed by sections 297A.01 to 297A.44 shall be deposited by the commissioner in the state treasury and credited to the general fund.

(b) All excise and use taxes derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project, from and after the date on which a conditional commitment for a loan guaranty for the project is made pursuant to section 41A.04, subdivision 3, shall be deposited in the Minnesota agricultural and economic ~~development~~ *account in the special revenue* fund. The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty ~~fund~~ *account* shall be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

(c) All revenues, including interest and penalties, derived from the excise and use taxes imposed on sales and purchases included in section 297A.01, subdivision 3, paragraphs (d) and (l), clauses (1) and (2), must be deposited by the commissioner ~~of revenue in a separate and special fund, designated as the sports and health club sales tax revenue fund~~ in the state treasury, and credited as follows:

(1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision

3, paragraph (b); and

(2) after the requirements of clause (1) have been met, the balance must be credited to the general fund.

Sec. 81. Minnesota Statutes 1988, section 336.9-413, is amended to read:

336.9-413 [UNIFORM COMMERCIAL CODE ACCOUNT.]

(a) The uniform commercial code account is established as an account in the state treasury.

(b) The filing officer with whom a financing statement, assignment, or continuation statement is filed, or to whom a request for search is made, shall collect a $2 surcharge on each filing or search. By the 15th day following the end of each fiscal quarter, each county recorder shall forward the receipts from the surcharge accumulated during that fiscal quarter to the secretary of state. The surcharge does not apply to a search request made by a natural person who is the subject of the data to be searched except when a certificate is requested as a part of the search.

(c) The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the ~~uniform commercial code account~~ *general fund*.

(d) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing a service under sections 336.9-411 to 336.9-413 must be deposited in the state treasury and credited to the uniform commercial code account.

(e) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing information contained in the computerized records maintained by the secretary of state must be deposited in the state treasury and credited to the uniform commercial code account.

(f) Money in the uniform commercial code account is continuously appropriated to the secretary of state to implement and maintain the computerized uniform commercial code filing system under section 336.9-411 and to provide electronic-view-only access to other computerized records maintained by the secretary of state.

Sec. 82. Minnesota Statutes 1988, section 357.021, subdivision 2a, is amended to read:

Subd. 2a. [CERTAIN FEE PURPOSES.] Of the marriage dissolution fee collected pursuant to subdivision ~~1~~ 2, the court administrator shall pay $35 to the state treasurer to be deposited in the ~~special revenue~~ *general* fund ~~to be used as follows: $15 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96; and $20 is appropriated to the commissioner of corrections for the purpose of funding emergency shelter services and support services to battered women, on a matching basis with local money for 20 percent of the costs and state money for 80 percent. Of the $15 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs~~

~~established under section 268.96, $6.75 is appropriated to the commissioner of corrections and $8.25 is appropriated to the commissioner of jobs and training. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established~~.

Sec. 83. Minnesota Statutes 1988, section 373.27, subdivision 3, is amended to read:

Subd. 3. All money grants under subdivision 1 shall be deposited in the ~~general~~ *special revenue* fund in the state treasury ~~in a special account in the name of the commission or commissioner named in subdivision 1 to whom it was granted~~, and is appropriated to the commission or commissioner for the purposes specified in the grant. The money shall not cancel but shall remain available until expended for the purpose or purposes for which it was granted. If no specific purpose is named in the grant, the money shall be available to the commission or commissioner for any of the purposes set forth in subdivision 1.

Sec. 84. Minnesota Statutes 1988, section 402.065, is amended to read:

402.065 [BUDGET, LEVY; AUDIT.]

In conjunction with the county budget setting process, the human services board shall submit to each county board of commissioners participating in the human services board an estimate of the amount needed by it to perform its duties, including expenses of administration, and, if approved, each county shall levy a tax as provided by law for these purposes. In the event the estimate is not approved, each county board of commissioners participating in the human services board shall confer with the human services board, develop a budget and levy a tax for the amount required. The state auditor shall audit the books and accounts of the human services board once each year. The human services board shall pay to the state the total cost and expenses of the examination, including the salaries paid to auditors while actually engaged in making the examination. The ~~revolving~~ *general* fund ~~of the state auditor~~ shall be credited with all collections made for any examination.

Sec. 85. Minnesota Statutes 1988, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELEPHONE SERVICE FEE.] (a) Each customer of a local exchange company is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for minimum 911 emergency telephone service, plus administrative and staffing costs of the department of administration related to managing the 911 emergency telephone service program.

(b) The fee may not be less than eight cents nor more than 30 cents a month for each customer access line, including trunk equivalents as designated by the public utilities commission for access charge purposes. The fee must be the same for all customers.

(c) The fee must be collected by each utility providing local exchange telephone service. Fees are payable to and must be submitted to the commissioner of administration monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than $250 a month is due, or annually if less than $25 a month is due. Receipts must be deposited in the state treasury and credited to a 911

emergency telephone service account in the special revenue fund. *The money in the account may only be used for 911 telephone services as provided in paragraph (a).*

(d) The commissioner of administration, with the approval of the commissioner of finance, shall establish the amount of the fee within the limits specified and inform the utilities of the amount to be collected. Utilities must be given a minimum of 45 days notice of fee changes.

Sec. 86. Minnesota Statutes 1988, section 462.396, subdivision 4, is amended to read:

Subd. 4. The commission shall keep an accurate account of its receipts and disbursement. Disbursements of funds of the commission shall be made by check signed by the chair or vice-chair or secretary of the commission and countersigned by the executive director or an authorized deputy thereof after such auditing and approval of the expenditure as may be provided by rules of the commission. The state auditor shall audit the books and accounts of the commission once each year, or as often as funds and personnel of the state auditor permit. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the auditors while actually engaged in making such examination. The ~~revolving~~ *general* fund ~~of the state auditor~~ shall be credited with all collections made for any such examination.

Sec. 87. Minnesota Statutes 1988, section 469.056, subdivision 4, is amended to read:

Subd. 4. [COMPLIANCE EXAMINATIONS.] At the request of the city or upon the auditor's initiative, the state auditor may make a legal compliance examination of the authority for that city. Each authority examined must pay the total cost of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received must be deposited in the ~~revolving~~ *general* fund ~~of the state auditor~~.

Sec. 88. Minnesota Statutes 1988, section 469.100, subdivision 6, is amended to read:

Subd. 6. [COMPLIANCE EXAMINATIONS.] At the request of the city or upon the auditor's initiative, the state auditor may make a legal compliance examination of the authority for that city. Each authority examined must pay the total cost of the examination, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received must be deposited in the ~~revolving~~ *general* fund ~~of the state auditor~~.

Sec. 89. Minnesota Statutes 1988, section 471.699, is amended to read:

471.699 [ENFORCEMENT OF REPORTING REQUIREMENTS.]

Failure of a city to timely file a statement or report under section 471.697 or 471.698 shall, in addition to any other penalties provided by law, authorize the state auditor to send full time personnel to the city or to contract with private persons, firms or corporations pursuant to section 6.58, in order to complete and file the financial statement or report. The expenses related to the completion and filing of the financial statement or report shall be charged to the city. Upon failure by the city to pay the charge

within 30 days of billing, the state auditor shall so certify to the commissioner of finance who shall forward the amount certified to the ~~state auditor's revolving~~ *general* fund and deduct the amount from any state funds due to the city under any shared taxes or aids. The state auditor's annual report on cities shall include a listing of all cities failing to file a statement or report.

Sec. 90. Minnesota Statutes 1988, section 473.13, subdivision 4, is amended to read:

Subd. 4. [ACCOUNTS; AUDITS.] The council shall keep an accurate account of its receipts and disbursements. Disbursements of council money must be made by check, signed by the chair or vice-chair of the council and countersigned by its director or assistant director after whatever auditing and approval of the expenditure may be provided by rules of the council. The state auditor shall audit the books and accounts of the council once each year, or as often as funds and personnel of the state auditor permit. The council shall pay to the state the total cost and expenses of the examination, including the salaries paid to the auditors while actually engaged in making the examination. The ~~revolving~~ *general* fund ~~of the state auditor~~ must be credited with all collections made for any examination.

Sec. 91. Minnesota Statutes 1988, section 473.375, subdivision 17, is amended to read:

Subd. 17. [AUDIT.] The board must be audited at least once each year. The board may elect to be audited by a certified public accountant or by the state auditor. If the board chooses the state auditor, the state auditor shall audit, either directly or by subcontract, the board's financial accounts and affairs at least once each year. The information in the audit must be contained in the annual report and distributed in accordance with section 473.445, subdivision 3. The board shall pay the total cost of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received for the state audits must be deposited in the ~~revolving~~ *general* fund ~~of the state auditor~~.

Sec. 92. Minnesota Statutes 1988, section 473.435, subdivision 2, is amended to read:

Subd. 2. [AUDIT.] The commission must be audited at least once each year. The commission may elect to be audited by a certified public accountant or by the state auditor. If the commission chooses the state auditor, the state auditor shall make an audit, either directly or by subcontract, of the commission's financial accounts and affairs at least once each year. Copies of the auditor's report shall be filed and kept open to public inspection in the offices of the secretary of the commission, the board, and the secretary of state. The information in the audit shall be contained in the annual report and distributed in accordance with section 473.445. The commission shall pay the total cost of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The state auditor may bill monthly or at the completion of the audit. All collections received for the state audits must be deposited in the ~~revolving~~ *general* fund ~~of the state auditor~~.

Sec. 93. Minnesota Statutes 1988, section 473.543, subdivision 5, is amended to read:

Subd. 5. The state auditor shall audit the books and accounts of the

commission at least once each year. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The ~~revolving~~ *general* fund ~~of the state auditor~~ shall be credited with all collections made for any such examination. The council may also require the commission to have an independent audit made by a certified public accountant to be paid for by the commission, and may examine the commission's books and accounts at any time.

Sec. 94. Minnesota Statutes 1988, section 473.843, subdivision 2, is amended to read:

Subd. 2. [DISPOSITION OF PROCEEDS.] After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(a) one-half of the proceeds must be deposited in the *metropolitan* landfill abatement ~~fund~~ *account* established in section 473.844; and

(b) one-half of the proceeds must be deposited in the metropolitan landfill contingency action *trust* fund established in section 473.845.

Sec. 95. Minnesota Statutes 1988, section 473.844, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; PURPOSES.] The metropolitan landfill abatement ~~fund~~ *account* is ~~created as an account~~ in the ~~state treasury~~ *environmental fund* in order to reduce to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area. The ~~fund~~ *account* consists of revenue deposited in the ~~fund~~ *account* under section 473.843, subdivision 2, clause (a), and interest earned on investment of money in the ~~fund~~ *account*. All repayments to loans made under this section must be credited to the ~~fund~~ *account*. The money in the ~~fund~~ *account* may be spent only for purposes of metropolitan landfill abatement as provided in subdivision 1a and only upon appropriation by the legislature.

Sec. 96. Minnesota Statutes 1988, section 473.845, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The metropolitan landfill contingency action *trust* fund is ~~created as~~ an ~~account~~ *expendable trust fund* in the state treasury. The fund consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (b); amounts recovered under subdivision 6; and interest earned on investment of money in the fund.

Sec. 97. Minnesota Statutes 1988, section 480.09, subdivision 5, is amended to read:

Subd. 5. All moneys collected shall be paid into the state treasury and are ~~appropriated to the state law librarian for library purposes~~ *credited to the general fund*. ~~Separate accounts shall be maintained for book sales receipts, the book purchasing service, and computer-assisted legal research.~~

Sec. 98. Minnesota Statutes 1988, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay $30 to the state treasurer to be deposited in the ~~special revenue fund to be~~

~~used as follows: $6.75 is appropriated to the commissioner of corrections for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36, and $23.25 is appropriated to the commissioner of jobs and training for displaced homemaker programs under section 268.96. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established~~ *general fund.*

Sec. 99. Minnesota Statutes 1988, section 609.101, is amended to read:

609.101 [SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES.]

Subdivision 1. [SURCHARGES AND ASSESSMENTS.] When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than $25 nor more than $50. If the sentence for the felony, gross misdemeanor, or misdemeanor includes payment of a fine of any amount, including a fine of less than $100, the court shall impose a surcharge on the fine of ten percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended. The court may not waive payment or authorize payment of the assessment or surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment or surcharge would create undue hardship for the convicted person or that person's immediate family. If the court fails to waive or impose an assessment required by this section, the court administrator shall correct the record to show imposition of an assessment of $25 if the sentence does not include payment of a fine, or if the sentence includes a fine, to show an imposition of a surcharge of ten percent of the fine.

Except for assessments and surcharges imposed on persons convicted of violations described in section 97A.065, subdivision 2, the court shall collect and forward to the commissioner of finance the total amount of the assessment or surcharge and the commissioner shall credit all money so forwarded to ~~a crime victim and witness account, which is established as a special account in the state treasury~~ *the general fund.*

~~Money credited to the crime victim and witness account may be appropriated for but is not limited to the following purposes:~~

~~(1) use for crime victim reparations under sections 611A.51 to 611A.68;~~

~~(2) use by the crime victim and witness advisory council established under section 611A.71; and~~

~~(3) to supplement the federally funded activities of the crime victim ombudsman under section 611A.74.~~

If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance, indicating the part that was imposed for violations described in section 97A.065, subdivision 2, which must be credited to the game and fish fund.

Subd. 2. [MINIMUM FINES.] Notwithstanding any other law:

(1) when a court sentences a person convicted of violating section 609.221, 609.267, or 609.342, it must impose a fine of not less than $500 nor more than the maximum fine authorized by law;

(2) when a court sentences a person convicted of violating section 609.222, 609.223, 609.2671, 609.343, 609.344, or 609.345, it must impose a fine of not less than $300 nor more than the maximum fine authorized by law; and

(3) when a court sentences a person convicted of violating section 609.2231, 609.224, or 609.2672, it must impose a fine of not less than $100 nor more than the maximum fine authorized by law.

The court may not waive payment of the fine or authorize payment of it in installments unless the court makes written findings on the record that the convicted person is indigent or that the fine would create undue hardship for the convicted person or that person's immediate family.

The court shall collect the minimum fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the ~~crime victim and witness account established in subdivision 1~~ *general fund*. If more than one victim assistance program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the ~~crime victim and witness account~~ *general fund*. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims. ~~Fine proceeds credited to the crime victim and witness account may be appropriated to the crime victim and witness advisory council, and the council may use all or part of the proceeds for the purpose of providing grants to establish new victim assistance programs.~~

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any term of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs approved by the department of corrections: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Sec. 100. Minnesota Statutes 1988, section 609.5315, subdivision 5, is amended to read:

Subd. 5. [DISTRIBUTION OF MONEY.] Seventy percent of the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the appropriate agency for deposit ~~as a supplement to its operating fund or similar fund for use in law enforcement~~ *to the general fund*, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the money or proceeds must be forwarded

within 60 days after resolution of the forfeiture to the state treasury and credited to the ~~crime victim and witness account established under section 609.101~~ *general fund*. Any local police relief association organized under chapter 423, which received or was entitled to receive the proceeds of any sale made under this section before the effective date of Laws 1988, chapter 665, sections 1 to 17, shall continue to receive and retain the proceeds of these sales.

Sec. 101. Minnesota Statutes 1988, section 611A.61, subdivision 3, is amended to read:

Subd. 3. [DEPOSIT OF REVENUE TO FUND.] ~~The first $18,000~~ *Amounts* collected under this section in each year of the biennium must be deposited into the general fund. ~~Amounts in excess of $18,000 must be deposited into the crime victim and witness account in the state treasury for the purposes established in section 609.101.~~

Sec. 102. Minnesota Statutes 1988, section 626.861, subdivision 3, is amended to read:

Subd. 3. [COLLECTION BY COURT.] After a determination by the court of the amount of the fine or penalty assessment due, the court administrator shall collect the appropriate penalty assessment and transmit it to the county treasurer separately with designation of its origin as a penalty assessment, but with the same frequency as fines are transmitted. Amounts collected under this subdivision shall then be transmitted to the state treasurer for deposit in the general fund ~~for peace officers training, in the same manner as fines collected for the state by a county~~. The state treasurer shall identify and report to the commissioner of finance all amounts deposited in the general fund under this section.

Sec. 103. Minnesota Statutes 1988, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] Receipts from penalty assessments must be credited to ~~a peace officers training account in the special revenue fund. Money credited to the peace officers training account may be appropriated for but not limited to the following purposes, among others~~ *the general fund. The peace officers standards and training board may allocate from funds appropriated as follows*:

(a) Up to ten percent may be provided for reimbursement to board approved skills courses in proportion to the number of students successfully completing the board's skills licensing examination.

(b) The balance may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214.

Sec. 104. Laws 1987, chapter 386, article 2, section 22, is amended to read:

Sec. 22. [LOAN PROGRAMS TERMINATED; ADMINISTRATION; CREDIT OF REPAYMENTS.]

The following loan programs administered by the Minnesota energy and economic development authority are terminated: the special assistance program under section 116M.07, subdivision 11, except for the small business

development loans; the technology product loan program; the tourism loan program created under section 116M.07; the energy loan insurance program under section 116M.11; the energy development fund program under section 116M.12; and the Minnesota fund program under sections 472.11 to 472.13. Loan repayments, earnings, releases from insurance reserve accounts, and other income from these programs must be paid to the the commissioner of ~~energy~~ *trade* and economic development, who shall deposit them in the state treasury and credit them to the ~~greater Minnesota~~ *general* fund.

Sec. 105. Laws 1987, chapter 386, article 9, section 19, is amended to read:

Sec. 19. [LOAN REPAYMENTS.]

The commissioner of ~~energy~~ *trade* and economic development shall credit money received before July 1, 1987, from loan repayments, earnings, releases from insurance reserve accounts, and other income from the following programs to the Minnesota agricultural and economic development fund: the special assistance program under section 116M.07, subdivision 11, except for the small business development loans; the technology product loan program; the tourism loan program created under section 116M.07; the energy loan insurance program under section 116M.11; the energy development fund program under section 116M.12; and the Minnesota fund program under sections 472.11 to 472.13. The commissioner of ~~energy~~ *trade* and economic development shall credit money received on or after July 1, 1987, to the ~~greater Minnesota~~ *general* fund.

Sec. 106. [INSTRUCTION TO REVISOR.]

*Subdivision 1.* [CHANGES IN THIS SECTION.] *In the next edition of Minnesota Statutes, the revisor of statutes shall make the changes listed in this section.*

*Subd. 2.* ["FUND" TO "ACCOUNT."] *(a) The revisor shall change "fund" to "account" in sections 41A.09, subdivision 3; 84.155; 84A.51, subdivisions 1 and 3; 84A.54; 84A.55, subdivision 10; 115A.15, subdivision 6; 115B.02, subdivision 7; 115B.16, subdivision 4; 115B.19; 115B.20, subdivisions 2 and 5; 115B.30; 115C.04, subdivision 3; 115C.08, subdivisions 2 and 4; 115C.09, subdivision 3; 115C.10, subdivision 1; 116.07, subdivision 4d; 116J.980, subdivision 1; 116N.08, subdivisions 3 and 5; 116O.02, subdivision 4; and 473.844, subdivisions 1a and 3.*

*(b) The revisor shall change "funds" to "accounts" in section 84.155.*

*(c) The revisor shall change references to "Minnesota agricultural and economic development fund" or "agricultural and economic development fund" to "Minnesota agricultural and economic development account" or "agricultural and economic development account" wherever those words appear in Minnesota Statutes 1990 and subsequent editions of the statutes.*

*Subd. 3.* [FUND AND ACCOUNT NAMES.] *The revisor shall make the indicated changes to the sections and subdivisions listed in this subdivision:*

*(1) in section 16B.70, subdivisions 1 and 2, "special revenue fund" to "general fund";*

*(2) in section 43A.21, subdivision 4, "general fund" to "special revenue fund";*

*(3) in section 84.0911, subdivision 2, "wild rice management account" to "game and fish fund";*

*(4) in section 84A.53, subdivision 1, "consolidated fund" to "consolidated account";*

*(5) in section 84A.53, subdivision 2, "consolidated conservation fund" to "consolidated account";*

*(6) in section 85.052, subdivision 4, "state park maintenance and operation account" to "general fund";*

*(7) in section 88.14, subdivision 3, "forest service fund" to "general fund";*

*(8) in section 88.79, subdivision 2, "forest management fund" to "general fund";*

*(9) in section 89.37, subdivision 4, "forest management fund" to "forest nursery account";*

*(10) in section 94.16, subdivision 3, "land acquisition account" to "natural resources fund";*

*(11) in section 106A.615, subdivision 6, "wildlife acquisition fund" to "game and fish fund";*

*(12) in section 116.05, subdivision 2, "pollution control agency fund" to "general fund";*

*(13) in section 116.12, subdivision 1, "special revenue fund" to "special revenue account";*

*(14) in section 183.545, subdivision 9, "special revenue fund" to "general fund";*

*(15) in section 270.185, subdivision 2, "revolving fund" to "account";*

*(16) in section 284.28, subdivisions 4 and 7, "assurance fund" to "general fund";*

*(17) in sections 326.47, subdivision 3, and 326.52, "special revenue fund" to "general fund";*

*(18) in section 385.20, "common school fund" to "general fund"; and*

*(19) in section 403.11, subdivision 1, "special revenue fund" to "special revenue fund."*

Sec. 107. [SPECIAL INSTRUCTION.]

*The department of finance may adjust appropriations made to individual agencies for the 1990-1991 biennium to reflect the fund consolidation structure contained in this article while developing agency spending plans for the biennium. The department shall also have authority to resolve inconsistencies between existing statutes and this article through June 30, 1991. The department shall report adjustments made in agency budgets to implement this article to the chairs of the house appropriations and senate finance committees with specific recommendations on any statutory changes needed to clarify the inconsistency between this article and existing statute.*

Sec. 108. [12 FUND TRANSFER.]

*Unless specifically provided otherwise in this act, fees on deposit in the special revenue fund No. 12 at the close of business June 30, 1989, are transferred to the general fund.*

Sec. 109. [REPEALER.]

*Subdivision 1.* [STATUTORY SECTIONS.] *Minnesota Statutes 1988, sections 11A.22; 84.0911, subdivisions 1 and 3; 85.051; 89.04; 93.221; 116J.968; 190.26; 344.03; and 469.121, subdivision 1, are repealed.*

*Subd. 2.* [COST ACCOUNTING SYSTEM; RECOMMENDATION.] *Notwithstanding the repeal of Minnesota Statutes, section 89.04, during the biennium the department of natural resources shall develop a cost accounting system to keep track of each source of the revenues dedicated under the repealed sections. The commissioner of natural resources shall provide a biennial report to the chairs of the house appropriations and senate finance committees balancing receipts from these sources against expenditures made to ensure the intent that these receipts continue to be used for the purposes for which they have historically been expended.*

Sec. 110. [EFFECTIVE DATE.]

*Section 81 is effective June 30, 1991.*"

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

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

House Conferees: (Signed) Phyllis Kahn, David P. Battaglia, Loren A. Solberg, Doug Carlson, Tom Osthoff

Senate Conferees: (Signed) Carl W. Kroening, William P. Luther, Sam G. Solon, Dennis R. Frederickson, Gene Merriam

Mr. Kroening moved that the foregoing recommendations and Conference Committee Report on H.F. No. 372 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Benson moved that Joint Rule 2.03 be so far suspended as to consideration of H.F. No. 372.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

The motion prevailed.

The question recurred on the motion of Mr. Kroening.

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 372 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 38 and nays 29, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Beckman | Diessner | Langseth | Moe, D.M. | Renneke |
| Berglin | Frederickson, D.J. | Lantry | Moe, R.D. | Samuelson |
| Bertram | Frederickson, D.R. | Larson | Peterson, D.C. | Schmitz |
| Brandl | Freeman | Lessard | Peterson, R.W. | Solon |
| Brataas | Gustafson | Luther | Piper | Spear |
| Chmielewski | Hughes | Marty | Pogemiller | Stumpf |
| Cohen | Johnson, D.J. | Merriam | Purfeerst | |
| Dicklich | Kroening | Metzen | Reichgott | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dahl | Johnson, D.E. | Mehrkens | Ramstad |
| Anderson | Davis | Knaak | Morse | Storm |
| Belanger | Decker | Knutson | Novak | Taylor |
| Benson | DeCramer | Laidig | Olson | Vickerman |
| Berg | Frank | McGowan | Pariseau | Waldorf |
| Bernhagen | Frederick | McQuaid | Pehler | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 470 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 470

A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 470, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 470 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 116.18, subdivision 3a, is amended to read:

Subd. 3a. [STATE INDEPENDENT GRANTS PROGRAM.] (a) *The public facilities authority must adopt the objective of maintaining financial assistance to municipalities that the agency has listed on its annual municipal project list of approximately 50 percent of the eligible cost of construction for municipalities with populations over 25,000 and 80 percent*

*of the eligible cost for municipalities with populations of 25,000 or less. Financial assistance may be provided by the public facilities authority through a combination of low interest loans under the state revolving fund under chapter 446A, independent state grants, and other financial assistance available to the municipality.* The ~~Minnesota~~ public facilities authority may award independent grants for projects certified by the state pollution control commissioner for ~~50~~ *35* percent or, if the population of the municipality is 25,000 or less, ~~80~~ *65* percent of the eligible cost of construction. These grants may be awarded in separate steps for planning and design in addition to actual construction. ~~Until December 31, 1990,~~ Not more than ~~20 percent~~ *$2,000,000* of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded to a single grantee.

(b) Up to ~~ten percent~~ *$1,000,000* of the money to be awarded as grants under this subdivision in any single fiscal year shall be set aside for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements. The agency shall forward its municipal needs list to the authority at the beginning of each fiscal year, and the authority shall review the list and identify those municipalities having substantial economic development projects. After the ~~first 90 percent of the total~~ available money is allocated to municipalities in accordance with agency priorities, the set-aside shall be used by the authority to award grants to remaining municipalities that have been identified.

(c) Grants may also be awarded under this subdivision to reimburse municipalities willing to proceed with projects and be reimbursed in a subsequent year ~~conditioned upon appropriation of sufficient money under subdivision 1 for that year~~ *at the grant percentage determined in paragraph (a).*

(d) ~~A municipality that applies for a state independent grant to be reimbursed for a project must receive an additional five percent of the total eligible cost of construction beyond the normal percentage to which the municipality is entitled under paragraph (a).~~ *Municipalities that entered into an intent to award agreement with the agency under paragraph (c), in the state fiscal years 1985 to 1988, will be reimbursed at 55 percent or, if the population of the municipality is 25,000 or less, 85 percent of the eligible cost of construction.*

Sec. 2. Minnesota Statutes 1988, section 116.18, subdivision 3b, is amended to read:

Subd. 3b. [CAPITAL COST COMPONENT GRANT.] (a) The definitions of "capital cost component," "capital cost component grant," "service fee," "service contract," and "private vendor" in section 471A.02 apply to this subdivision.

(b) Beginning in fiscal year 1989, up to $1,500,000 of the money to be awarded as grants under subdivision 3a in any single fiscal year may be set aside for the award of capital cost component grants to municipalities on the municipal needs list for part of the capital cost component of the service fee under a service contract for a term of at least 20 years with a private vendor for the purpose of constructing and operating wastewater treatment facilities.

(c) The amount granted to a municipality shall be 50 percent of the average total eligible costs of municipalities of similar size recently awarded state and federal grants under the provisions of subdivisions 2a and 3a and

the Federal Water Pollution Control Act, United States Code, title 33, sections 1281 to ~~1289~~ *1299*. Federal and state eligibility requirements for determining the amount of grant dollars to be awarded to a municipality are not applicable to municipalities awarded capital cost component grants. Federal and state eligibility requirements for determining which cities qualify for state and federal grants are applicable, except as provided in this subdivision.

(d) Except as provided in this subdivision, municipalities receiving capital cost component grants shall not be required to comply with federal and state regulations regarding facilities planning and procurement contained in sections 116.16 to 116.18, except those necessary to issue a National Pollutant Discharge Elimination System permit or state disposal system permit and those necessary to assure that the proposed facilities are reasonably capable of meeting the conditions of the permit over 20 years. The municipality and the private vendor shall be parties to the permit. Municipalities receiving capital cost component grants may also be exempted by rules of the agency from other state and federal regulations relating to the award of state and federal grants for wastewater treatment facilities, except those necessary to protect the state from fraud or misuse of state funds.

(e) Funds shall be distributed from the set-aside to municipalities that apply for the funds in accordance with these provisions in the order of their ranking on the municipal needs list.

(f) The authority shall award capital cost component grants to municipalities selected by the state pollution control commissioner upon certification by the state pollution control commissioner that the municipalities' projects and applications have been reviewed and approved in accordance with this subdivision and agency rules adopted under paragraph (g).

(g) The agency shall adopt permanent rules to provide for the administration of grants awarded under this subdivision.

(h) The commissioner of trade and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (f).

Sec. 3. Minnesota Statutes 1988, section 446A.02, subdivision 4, is amended to read:

Subd. 4. [FEDERAL WATER POLLUTION CONTROL ACT.] "Federal Water Pollution Control Act" means the Federal Water Pollution Control Act, as amended, United States Code, title 33, sections ~~1281 to 1299~~ *1251 et seq.*

Sec. 4. Minnesota Statutes 1988, section 446A.07, subdivision 8, is amended to read:

Subd. 8. [OTHER USES OF REVOLVING FUND.] The water pollution control revolving fund may be used as provided in title VI of the Federal Water Pollution Control Act, including the following uses:

(1) to buy or refinance the debt obligation of governmental units for treatment works *where debt was* incurred *and construction begun* after March 7, 1985, at or below market rates;

(2) to guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal

and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loan guarantees for similar revolving funds established by a governmental unit other than state agencies;

(5) to earn interest on fund accounts; and

(6) to pay the reasonable costs incurred by the authority and the agency of administering the fund and conducting activities required under the Federal Water Pollution Control Act, including water quality management planning under section 205(j) of the act and water quality standards continuing planning under section 303(e) of the act.

Amounts spent under clause (6) may not exceed the amount allowed under the Federal Water Pollution Control Act. ~~Five percent of the revolving loan fund repayments may be used by the agency and~~ The authority *may assess a service fee of up to five percent of revolving loan fund repayments for use by the agency and the authority* for the purposes listed in clause (6).

Sec. 5. Minnesota Statutes 1988, section 446A.12, is amended by adding a subdivision to read:

*Subd. 5.* [EXEMPTION.] *The notes and bonds of the authority are not subject to section 16B.06.*

Sec. 6. [REIMBURSEMENT OF CERTAIN MUNICIPAL WASTEWATER TREATMENT PLANTS.]

*Subdivision 1.* [APPLICATION.] *(a) Municipalities that constructed wastewater treatment plants between the years of 1985 and 1988, paid the entire cost of the project with local funds, and elected to not remain on the reimbursement list may apply to the commissioner of the pollution control agency to be placed on the reimbursement list. A municipality must apply to be on the list by January 15, 1990, or the opportunity to apply is terminated. A municipality submitting an application to be placed on the list must provide the commissioner of the pollution control agency with the planning, contracting, construction, and operating records of the project as requested by the commissioner.*

*(b) The commissioner of the pollution control agency must compile a list of the municipalities that make application under paragraph (a) and report the list to the chairs of the house of representatives and senate environment and natural resources committees by February 1, 1990. The commissioner's report to the legislature must indicate where the projects met or differed from the requirements of projects constructed under the state loan program.*

*Subd. 2.* [LEGISLATIVE APPROVAL REQUIRED.] *Municipalities applying to be placed on the reimbursement list may not be placed on the list without legislative approval.*

Sec. 7. [EFFECTIVE DATE.]

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

Amend the title as follows:

Page 1, line 6, delete "; proposing coding" and insert a period

Page 1, delete line 7

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

Senate Conferees: (Signed) Gary M. DeCramer, Randolph W. Peterson, Dennis R. Frederickson

House Conferees: (Signed) Ted Winter, Dave Gruenes, Loren A. Solberg

Mr. DeCramer moved that the foregoing recommendations and Conference Committee Report on S.F. No. 470 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 470 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 417:

H.F. No. 417: A bill for an act relating to solid waste; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, by adding a subdivision; 115A.03, by adding subdivisions; 115A.072; 115A.12, subdivision 1; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, subdivision 2, and by adding a subdivision; 115A.48, subdivision 3, and by adding subdivisions; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 275.50, subdivision 5; 325E.115,

subdivision 1; 400.08, by adding a subdivision; 473.149, subdivision 1; and 473.803, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 18B; 115A; 116C; 116J; 121; 173; and 473.

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

Munger, McLaughlin and Weaver have been appointed as such committee on the part of the House.

House File No. 417 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

Mr. Lessard moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 417, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

## RECESS

Without objection the Senate recessed subject to the call of the President.

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. 417: Messrs. Lessard; Moe, R.D. and Merriam.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1582 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 1582

A bill for an act relating to public finance; providing conditions and requirements for the issuance and use of public debt; making technical corrections to provisions relating to hazardous substance sites and subdistricts; enabling Chisago, Kanabec, Isanti, Pine, and Mille Lacs counties to sell certain bonds at public or private sale; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 469.015, subdivision 4; 469.174, subdivisions 7 and 16; 469.175, subdivision 7; 471.56, subdivision 5; 473.541, subdivision 3, and by adding a subdivision; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; 475.66, subdivision 1; and 475.79; proposing coding for new law in

Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, section 474A.081, subdivision 3.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1582, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1582 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 298.2211, subdivision 4, is amended to read:

Subd. 4. [OBLIGATIONS NOT STATE DEBT.] Bonds and other obligations issued by the commissioner pursuant to this section, *along with all related documents,* are not general obligations of the state of Minnesota *and are not subject to section 16B.06.* The full faith and credit and taxing powers of the state are not and may not be pledged for the payment of these bonds or other obligations, and no person has the right to compel the levy of any state tax for their payment or to compel the appropriation of any moneys of the state for their payment except as specifically provided herein. These bonds and obligations shall be payable solely from the property and moneys derived by the commissioner pursuant to the authority granted in this section that the commissioner pledges to their payment. All these bonds or other obligations must contain the provisions of this subdivision or words to the same effect on their face.

Sec. 2. Minnesota Statutes 1988, section 400.101, is amended to read:

400.101 [BONDS.]

The county, by resolution, may authorize the issuance of bonds to provide funds for the acquisition or betterment of solid waste facilities, *closure, postclosure and contingency costs,* related transmission facilities, or property or property rights for the facilities, for ~~improvements of a capital nature to respond~~ *responses*, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose, and may pledge to the payment of the bonds and the interest thereon, its full faith, credit, and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. *The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989.* Except as otherwise provided in this section, the bonds must be issued and sold in accordance with the provisions of chapter 475. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. ~~Revenue~~ Bonds issued under this section may be sold at public or private sale upon conditions that the county board determines, but any bonds *issued after May 22, 1991,* to which the full faith and credit and taxing powers of the county are pledged

must be sold in accordance with the provisions of chapter 475. No election is required to authorize the issuance of bonds under this section.

Sec. 3. Minnesota Statutes 1988, section 469.015, subdivision 4, is amended to read:

Subd. 4. [~~EXCEPTION; CERTAIN PROJECTS~~ *EXCEPTIONS.*] *(a)* An authority need not require ~~either~~ competitive bidding ~~or performance bonds~~ *in the following circumstances:*

*(1)* in the case of a contract for the acquisition of a low rent housing project*:*

*(i)* for which financial assistance is provided by the federal government~~, and~~*;*

*(ii)* which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance~~.~~*;* and

*(iii)* ~~where~~ *for which* the contract provides for the construction of ~~such a~~ *the* project upon land not owned by the authority at the time of the contract, or owned by the authority for redevelopment purposes, and provides for the conveyance or lease to the authority of the project or improvements upon completion of construction~~. In exercising, pursuant to any general or special law, any power under this chapter, an authority need not require competitive bidding~~*;*

*(2)* with respect to a structured parking facility*:*

*(i)* constructed in conjunction with, and directly above or below, a development*;* and

*(ii)* financed with the proceeds of tax increment or parking ramp revenue bonds~~. An authority need not require competitive bidding~~*; and*

*(3)* in the case of a housing development project ~~that~~ *if:*

~~(1)~~ *(i) the project* is financed with the proceeds of bonds ~~secured by the project and to which the full faith and credit of the authority is not pledged~~ *issued under section 469.034*;

~~(2)~~ *(ii) the project* is located on land *that is not* owned by the authority *at the time the contract is entered into, or is owned by the authority only for development purposes, and provides for conveyance or lease to the authority of the project or improvements upon completion of construction*; *and*

~~(3) is constructed or rehabilitated under agreements with a developer for the construction of the project, guarantee of the bonds, and management of the property; and (4) is found by the authority to require negotiation rather than use of a competitive bidding procedure~~

*(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project* to be economical and feasible.

*(b) An authority need not require a performance bond in the case of a contract described in paragraph (a), clause (1).*

Sec. 4. Minnesota Statutes 1988, section 469.152, is amended to read:

469.152 [PURPOSES.]

The welfare of the state requires the active promotion, attraction, encouragement, and development of economically sound industry and commerce through governmental action for the purpose of preventing the emergence of blighted and marginal lands and areas of chronic unemployment. It is the policy of the state to facilitate and encourage action by local government units to prevent the economic deterioration of such areas to the point where the process can be reversed only by total redevelopment through the use of local, state, and federal funds derived from taxation, necessitating relocating displaced persons and duplicating public services in other areas. By the use of the powers and procedures described in sections 469.152 to 469.165, local government units and their agencies and authorities responsible for redevelopment and economic development may prevent occurrence of conditions requiring redevelopment, or aid in the redevelopment of existing areas of blight, marginal land, and avoidance of substantial and persistent unemployment.

The welfare of the state further requires the provision of necessary health care facilities, so that adequate health care services are available to residents of the state at reasonable cost. The welfare of the state further requires the provision of county jail facilities for the purpose of providing adequately for the care, control, and safeguarding of civil rights of prisoners. The welfare of the state requires that, whenever feasible, employment opportunities made available in part by sections 469.152 to 469.165 or other state law providing for similar financing mechanisms should be offered to individuals who are unemployed or who are economically disadvantaged.

*The welfare of the state further requires that, whenever feasible, action should be taken to reduce the cost of borrowing by local governments for public purposes.*

Sec. 5. Minnesota Statutes 1988, section 469.153, subdivision 2, is amended to read:

Subd. 2. [PROJECT.] (a) "Project" means (1) any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field; (2) any properties, real or personal, used or useful in the abatement or control of noise, air or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry; (3) any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including toll lines, poles, cables, switching and other electronic equipment and administrative, data processing, garage and research and development facilities; (4) any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

(b) "Project" also includes any properties, real or personal, used or

useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged in any business.

(c) "Project" also includes any properties, real or personal, used or useful for the promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts, recreational facilities of the type that may be acquired under section 471.191, and related facilities.

(d) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including hospitals, nursing homes, and related medical facilities.

(e) "Project" does not include any property to be sold or to be affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

(f) "Project" also means the activities of any revenue producing enterprise involving the construction, fabrication, sale, or leasing of equipment or products to be used in gathering, processing, generating, transmitting, or distributing solar, wind, geothermal, biomass, agricultural or forestry energy crops, or other alternative energy sources for use by any person or any residential, commercial, industrial, or governmental entity in heating, cooling, or otherwise providing energy for a facility owned or operated by that person or entity.

(g) "Project" also includes any properties, real or personal, used or useful in connection with a county jail or county regional jail, the plans for which are approved by the commissioner of corrections; provided that the provisions of section 469.155, subdivisions 7 and 13, do not apply to those projects.

(h) "Project" also includes any real properties used or useful in furtherance of the purposes and policies of sections 469.135 to 469.141.

(i) "Project" also includes related facilities as defined by section 471A.02, subdivision 11.

*(j) "Project" also includes an undertaking to purchase the obligations of local governments located in whole or in part within the boundaries of the municipality that are issued or to be issued for public purposes.*

Sec. 6. Minnesota Statutes 1988, section 469.154, subdivision 3, is amended to read:

Subd. 3. [CONDITIONS; APPROVAL.] No municipality or redevelopment agency shall undertake any project authorized by sections 469.152 to 469.165, except a project referred to in section 469.153, subdivision 2, paragraph (g) *or (j)*, unless its governing body finds that the project furthers the purposes stated in section 469.152, nor until the commissioner has approved the project, on the basis of preliminary information the commissioner requires, as tending to further the purposes and policies of sections 469.152 to 469.165. The commissioner may not approve any projects relating to health care facilities except as permitted under subdivision 6. Approval shall not be deemed to be an approval by the commissioner or the state of the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued therefor, and the commissioner shall state this in communicating approval.

Sec. 7. Minnesota Statutes 1988, section 469.154, subdivision 5, is

amended to read:

Subd. 5. [INFORMATION TO ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY.] Each municipality and redevelopment agency upon entering into a revenue agreement, except one pertaining to a project referred to in section 469.153, subdivision 2, paragraph (g) *or (j)*, shall furnish the energy and economic development authority on forms the authority prescribes the following information concerning the project: The name of the contracting party, the nature of the enterprise, the location, approximate number of employees, the general terms and nature of the revenue agreement, the amount of bonds or notes issued, and other information the energy and economic development authority deems advisable. The energy and economic development authority shall keep a record of the information which shall be available to the public at times the authority prescribes.

Sec. 8. Minnesota Statutes 1988, section 469.155, subdivision 2, is amended to read:

Subd. 2. [PROJECT ACQUISITION.] It may acquire, construct, and hold any lands, buildings, easements, water and air rights, improvements to lands and buildings, and capital equipment to be located permanently or used exclusively on a designated site and solid waste disposal and pollution control equipment, and alternative energy equipment and inventory, regardless of where located, that are deemed necessary in connection with a project to be situated within the state, and construct, reconstruct, improve, better, and extend the project. It may also pay part or all of the cost of an acquisition and construction by a contracting party under a revenue agreement.

*In the case of a project described in section 469.153, subdivision 2, paragraph (j), it may purchase obligations issued by a local unit of government that is located in whole or in part within the boundaries of the municipality at public sale, or at private sale if the obligations may be sold in that manner under the law authorizing their issuance. The obligations must be issued under a capital improvement plan or program of at least five years.*

Sec. 9. Minnesota Statutes 1988, section 469.155, subdivision 3, is amended to read:

Subd. 3. [REVENUE BONDS.] *(a)* It may issue revenue bonds, in anticipation of the collection of revenues of a project to be situated within the state, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension thereof.

*(b) It may issue revenue bonds to purchase the obligations of local government units located in whole or in part within the boundaries of the municipality. The proceeds of bonds issued to purchase obligations as provided under this paragraph may be disbursed or otherwise used to pay underwriter's or placement fees, expenses, or other costs of issuance and sale for the bonds only on a pro rata basis determined with respect to the portion of the proceeds that are used to purchase the obligations. The municipality may not pay the underwriter's or placement fees, expenses or other costs of issuance and sale out of other money.*

Sec. 10. Minnesota Statutes 1988, section 469.155, subdivision 5, is amended to read:

Subd. 5. [REVENUE AGREEMENTS.] It may enter into a revenue agreement with any person, firm, or public or private corporation or federal or

state governmental subdivision or agency so that payments required thereby to be made by the contracting party are fixed and revised as necessary to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued hereunder when due. The revenue agreement must also provide that the contracting party is required to pay all expenses of the operation and maintenance of the project including adequate insurance thereon and insurance against all liability for injury to persons or property arising from its operation, and all taxes and special assessments levied upon or with respect to the project and payable during the term of the revenue agreement. During the term of the revenue agreement, except as provided in subdivision 17, a tax shall be imposed and collected upon the project or, pursuant to the provisions of section 272.01, subdivision 2, for the privilege of using and possessing the project, in the same amount and to the same extent as though the contracting party were the owner of all real and personal property comprising the project. *No revenue agreement is required in connection with a project described in section 469.153, subdivision 2, paragraph (j).*

Sec. 11. Minnesota Statutes 1988, section 471.56, subdivision 5, is amended to read:

Subd. 5. In addition to other authority granted by this section, a county containing a city of the first class, a statutory or home rule charter city of the first or second class, and a metropolitan ~~commission~~ *agency*, as defined in section 473.121, may*:*

*(1)* sell futures contracts but only with respect to securities owned by it, including securities which are the subject of reverse repurchase agreements under section 475.76 which expire at or before the due date of the futures contract~~.~~*; and*

*(2) enter into option agreements to buy or sell securities described in section 475.66, subdivision 3, clause (a) but only with respect to securities owned by it, including securities which are the subject of reverse repurchase agreements under section 475.76 which expire at or before the due date of the option agreement.*

Sec. 12. [473.132] [SHORT-TERM INDEBTEDNESS.]

*The council may issue certificates of indebtedness or capital notes to purchase equipment to be owned and used by the council and having an expected useful life of at least as long as the terms of the certificates or notes. The certificates or notes shall be payable in not more than five years and shall be issued on such terms and in such manner as the council may determine, and for this purpose the council may secure payment of the certificates or notes by resolution or by trust indenture entered into by the council with a corporate trustee within or outside the state, and by a mortgage in the equipment financed. The total principal amount of the notes or certificates issued in a fiscal year should not exceed one-half of one percent of the tax capacity of the metropolitan area for that year. The full faith and credit of the council shall be pledged to the payment of the certificates or notes, and a tax levy shall be made for the payment of the principal and interest on the certificates or notes, in accordance with section 475.61, as in the case of bonds issued by a municipality. The tax levy authorized by this section must be deducted from the amount of taxes the council is otherwise authorized to levy under section 473.249.*

Sec. 13. Minnesota Statutes 1988, section 473.541, is amended by adding a subdivision to read:

*Subd. 4.* [REVENUE BONDS.] *(a) The council may, by resolution, authorize the issuance of revenue bonds for any purpose for which general obligation bonds may be issued under subdivision 3. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for bonds payable solely from revenues, except as otherwise provided in this subdivision, and the council shall have the same powers and duties as a municipality and its governing body in issuing bonds under that chapter. The bonds shall be payable from and secured by a pledge of all or any part of revenues receivable under section 473.517, shall not, and shall state they do not, represent or constitute a general obligation or debt of the council, and shall not be included in the net debt of any city, county, or other subdivision of the state for the purpose of any net debt limitation. The proceeds of the bonds may be used to pay credit enhancement fees.*

*(b) The bonds may be secured by a bond resolution, or a trust indenture entered into by the council with a corporate trustee within or outside the state, which shall define the revenues and bond proceeds pledged for the payment and security of the bonds. The pledge shall be a valid charge on the revenues received under section 473.517. No mortgage of or security interest in any tangible real or personal property shall be granted to the bondholders or the trustee, but they shall have a valid security interest in the revenues and bond proceeds received by the council and pledged to the payment of the bonds as against the claims of all persons in tort, contract, or otherwise, irrespective of whether such parties have notice thereof and without possession or filing as provided in the uniform commercial code or any other law, subject, however, to the rights of the holders of any general obligation bonds issued under subdivision 3. In the bond resolution or trust indenture, the council may make such covenants as it determines to be reasonable for the protection of the bondholders, including a covenant to issue general obligation bonds to refund the revenue bonds if and to the extent required to pay principal and interest on the bonds and to certify a deficiency tax levy as provided in section 473.521, subdivision 4.*

*(c) Neither the council, nor any council member, officer, employee, or agent of the council, nor any person executing the bonds shall be liable personally on the bonds by reason of their issuance. The bonds shall not be payable from nor a charge upon any funds other than the revenues and bond proceeds pledged to the payment thereof, nor shall the council be subject to any liability thereon or have the power to obligate itself to pay or to pay the bonds from funds other than the revenues and bond proceeds pledged, and no holder or holders of bonds shall ever have the right to compel any exercise of the taxing power of the council (except any deficiency tax levy the council covenants to certify under section 473.521, subdivision 4) or any other public body, to the payment of principal of or interest on the bonds, nor to enforce payment thereof against any property of the council or other public body other than that expressly pledged for the payment thereof.*

Sec. 14. Minnesota Statutes 1988, section 473.811, subdivision 2, is amended to read:

Subd. 2. [COUNTY FINANCING OF FACILITIES.] Each metropolitan county may by resolution authorize the issuance of bonds to provide funds

for the acquisition or betterment of solid waste facilities, *closure, postclosure and contingency costs,* related transmission facilities, or property or property rights for the facilities, for ~~improvements of a capital nature to respond~~ *responses*, as defined in section 115B.02, to releases from closed solid waste facilities, or for refunding any outstanding bonds issued for any such purpose. *The proceeds of bonds issued under this section for closure, postclosure, and contingency costs and noncapital responses to releases may be used only for solid waste facilities in existence on May 15, 1989.* The county may pledge to the payment of the bonds and the interest thereon, its full faith, credit and taxing powers, or the proceeds of any designated tax levies, or the gross or net revenues or charges to be derived from any facility operated by or for the county, or any combination thereof. Taxes levied for the payment of the bonds and interest shall not reduce the amounts of other taxes which the county is authorized by law to levy. The proceeds of the bonds may be used in part to establish a reserve as further security for the payment of the principal and interest of the bonds when due. ~~Revenue~~ Bonds issued pursuant to this section may be sold at public or private sale upon such conditions as the county board shall determine, but any bonds *issued after May 22, 1991,* to which the full faith and credit and taxing powers of the county are pledged shall be sold in accordance with the provisions of chapter 475. No election shall be required to authorize the issuance of the bonds. Except as otherwise provided, the bonds shall be issued and sold in accordance with the provisions of chapter 475.

Sec. 15. Minnesota Statutes 1988, section 475.51, is amended by adding a subdivision to read:

*Subd. 13.* [OTHER GOVERNMENTAL UNIT.] *"Other governmental unit" means any public corporation, authority, governmental unit, or other political subdivision of the state of Minnesota that is not a municipality.*

Sec. 16. Minnesota Statutes 1988, section 475.51, is amended by adding a subdivision to read:

*Subd. 14.* [BOND REINVESTMENT PROGRAM.] *"Bond reinvestment program" means a program under which a municipality, either directly or through an agent employed for the purpose, offers and sells its obligations to the holders of other obligations of the municipality. These offers and sales are directed at the reinvestment in new obligations of funds derived from maturing principal and interest and may also include offers and sales of additional newly issued obligations in addition to the reinvestment of principal and interest paid or to be paid on outstanding obligations and provision for the temporary investment of funds received for the purchase of new obligations in tax-exempt securities pending the issuance of the new obligations.*

Sec. 17. Minnesota Statutes 1988, section 475.54, subdivision 4, is amended to read:

Subd. 4. [REDEMPTION.] Any obligation may be issued reserving the right of redemption and payment thereof prior to maturity, at par and accrued interest or at such premium and at such time or times as shall be determined by the governing body. Notice of the call of any prepayable obligation shall be published in a daily or weekly periodical published in a Minnesota city of the first class, or its metropolitan area, which circulates throughout the state and furnishes financial news as a part of its service; *provided that published notice of the call need not be given if the obligation is in registered form and notice has been mailed to the registered holder*

*of the obligation.* When any such obligation has been validly called for redemption in accordance with its terms, and the principal thereof and all interest thereon to the date of redemption have been paid or deposited with the paying agent, interest thereon shall cease; provided that no obligation issued subsequent to July 1, 1967, shall be deemed validly called for redemption unless the notice herein required has been published *or so mailed* prior to the date fixed for its redemption. *If actual notice of the call has been given through a different means of communication, the holder of an obligation may waive published or mailed notice.*

Sec. 18. Minnesota Statutes 1988, section 475.54, is amended by adding a subdivision to read:

*Subd. 6a.* [FOREIGN CURRENCY OBLIGATIONS.] *Any obligation issued as part of a series in a principal amount of $25,000,000 or more may be payable in currency other than currency of the United States if at the time of issue of the obligation the municipality enters into an agreement with a bank or dealer described in section 475.66, subdivision 1, that provides for payments to the municipality in the foreign currency at the times and in the amounts necessary to pay principal and interest on the obligations when due and payable in the foreign currency and corresponding payments by the municipality in United States currency of a determinate amount or amounts and at the times the agreement specifies. For purposes of chapter 475, the outstanding amount of the municipality's obligations payable in a foreign currency is the principal component of all remaining payments to be made by the municipality in United States currency under the agreement and the amount or rate of interest on the obligations is the interest component of the payments.*

Sec. 19. Minnesota Statutes 1988, section 475.55, subdivision 6, is amended to read:

Subd. 6. [REGISTRATION DATA PRIVATE.] All information contained in any register maintained by a municipality or by a corporate registrar with respect to the ownership of municipal obligations is nonpublic data as defined in section 13.02, subdivision 9, or private data on individuals as defined in section 13.02, subdivision 12. The information is not public and is accessible only to the individual or entity that is the subject of it, except if disclosure:

(1) is necessary for the performance of the duties of the municipality or the registrar;

(2) is requested by an authorized representative of the state commissioner of revenue or attorney general or of the commissioner of internal revenue of the United States for the purpose of determining the applicability of a tax;

(3) is required under section 13.03, subdivision 4; or

(4) is requested at any time by the corporate trust department of a bank or trust company acting as a tender agent pursuant to documents executed at the time of issuance of the obligations to purchase obligations described in section 475.54, subdivision 5a, or obligations to which a tender option has been attached in connection with the performance of such person's duties as tender agent, or purchaser of the obligations.

*A municipality or its agent may use the information in a register for purposes of offering obligations under a bond reinvestment program.*

Sec. 20. Minnesota Statutes 1988, section 475.55, is amended by adding a subdivision to read:

*Subd. 8.* [BOND REINVESTMENT PROGRAMS.] *In connection with a bond reinvestment program the governing body may by resolution delegate to any appropriate officer of the municipality authority to establish from time to time the interest rate or rates, subject to limitations imposed by law, on such obligations and other terms of obligations issued under a bond reinvestment program. Obligations issued under a bond reinvestment program may be in any denomination as determined by the governing body or an officer acting pursuant to delegation from the governing body.*

Sec. 21. Minnesota Statutes 1988, section 475.60, subdivision 1, is amended to read:

Subdivision 1. [ADVERTISEMENT.] All obligations shall be negotiated and sold by the governing body, except when authority therefor is delegated by the governing body or by the charter of the municipality to a board, department, or officers of the municipality. Except as provided in section 475.56, obligations shall be sold at not less than par value plus accrued interest to date of delivery. Except as provided in subdivision 2 all obligations shall be sold at public sale after notice given at least ten days in advance by publication in a legal newspaper having general circulation in the municipality and ten days in advance by publication in a daily or weekly periodical~~,~~ published in a Minnesota city of the first class, *or its metropolitan area,* which circulates throughout the state and furnishes financial news as a part of its service.

Sec. 22. Minnesota Statutes 1988, section 475.60, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS WAIVED.] The requirements as to public sale shall not apply to:

(1) obligations issued under the provisions of a home rule charter or of a law specifically authorizing a different method of sale, or authorizing them to be issued in such manner or on such terms and conditions as the governing body may determine;

(2) obligations sold by an issuer in an amount not exceeding the total sum of $1,200,000 in any 12-month period;

(3) obligations issued by a governing body other than a school board in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;

(4) obligations sold to any board, department, or agency of the United States of America or of the state of Minnesota, in accordance with rules or regulations promulgated by such board, department, or agency;

(5) obligations issued to fund pension and retirement fund liabilities under section 475.52, subdivision 6, obligations issued with tender options under section 475.54, subdivision 5a, crossover refunding obligations referred to in section 475.67, subdivision 13, and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in section 475.56; ~~and~~

(6) obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the governing body of the municipality,

on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation~~.~~;

*(7) obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement; and*

*(8) obligations sold under a bond reinvestment program.*

Sec. 23. Minnesota Statutes 1988, section 475.60, subdivision 3, is amended to read:

Subd. 3. [PUBLISHED NOTICE.] Published notice, where required, shall specify the maximum principal amount of the obligations, the place of receipt and consideration of bids and such other details as to the obligations and terms of sale as the governing body deems suitable. The published notice shall either specify the date and time for receipt of bids or provide that the bids will be received at a date and time not less than ten nor more than 60 days after the date of publication. If the published notice does not state the specific date or amount for the sale, it shall specify the manner in which notice of the date or amount of the sale will be given to prospective bidders. Notification of prospective bidders shall be given by electronic data transmission or other form of communication common to the municipal bond trade at least four days (omitting Saturdays, Sundays, and legal holidays) before the date for receipt of bids. If within five days after the date of publication a prospective bidder requests in writing to be notified by mail, the municipality shall do so. Failure to give the notice as described in the preceding sentence to a bidder shall not affect the validity of the sale or of the obligations. The governing body may employ an agent to receive and open the bids at any place within or outside the corporate limits of the municipality, in the presence of an officer of the municipality *or the officer's designee*, but the obligations shall not be sold except by action of the governing body or authorized officers of the municipality after communication of the bids to them. Additional notice may be given for such time and in such manner as the governing body deems suitable. At the time and place so fixed, the bids shall be opened and the offer complying with the terms of sale and deemed most favorable shall be accepted, but the governing body may reject any and all such offers, in which event, or if no offers have been received, it may award the obligations to any person who within 30 days thereafter presents an offer complying with the terms of sale and deemed more favorable than any received previously, or upon like notice the governing body may invite other bids upon the same or different terms and conditions, except that if the original published notice does not state the specific date or amount for the sale and if the material terms and conditions of the sale remain the same, except for the date and amount, notice of the date or amount may be given in the manner provided above.

Sec. 24. Minnesota Statutes 1988, section 475.79, is amended to read:

475.79 [POWERS AVAILABLE TO OTHER POLITICAL SUBDIVISIONS.]

Any powers granted to a municipality under this chapter, other than the power to issue general obligation bonds and levy taxes, may be exercised by any other ~~public corporation, authority,~~ governmental unit~~, or other political subdivision of the state of Minnesota that is not a municipality~~. This grant of authority does not limit the powers granted to an entity under

any other law.

Sec. 25. [APPLICATION.]

*Sections 12, 13, and 15 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.*

Sec. 26. [EFFECTIVE DATE.]

*Sections 1 to 25 are effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to public finance; providing conditions and requirements for the issuance of debt; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 400.101; 469.015, subdivision 4; 469.152; 469.153, subdivision 2; 469.154, subdivisions 3 and 5; 469.155, subdivisions 2, 3, and 5; 471.56, subdivision 5; 473.541, by adding a subdivision; 473.811, subdivision 2; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; and 475.79; proposing coding for new law in Minnesota Statutes, chapter 473."

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

Senate Conferees: (Signed) Lawrence J. Pogemiller, Donna C. Peterson, John Bernhagen

House Conferees: (Signed) Ann H. Rest, Dee Long, Peter McLaughlin

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1582 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1582 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Reichgott voted in the negative.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 895 and the Conference Committee Report thereon were reported to the Senate.

## CONFERENCE COMMITTEE REPORT ON S.F. NO. 895

A bill for an act relating to natural resources; amending provisions relating to the conservation reserve program; changing authority over the conservation reserve program from the commissioner of agriculture to the board of water and soil resources; defining certain terms; changing criteria for eligible land; prohibiting grazing of land under future agreements; providing conditions and payment for wetland restoration; providing for enforcement and liability for damages for violation of the terms of a conservation easement or agreement; authorizing the board to adopt rules; authorizing the commissioner of agriculture to allow town boards to suspend the duty of owners and occupants to control noxious weeds under certain conditions; withdrawing certain marginal land and wetlands from sale by the state unless restricted by a conservation easement under certain conditions; requiring certain acquisition procedures before the commissioner of natural resources accepts agricultural land or farm homesteads in fee from the federal government; authorizing aliens and non-Americans to own certain agricultural land to comply with pollution control laws or rules; amending Minnesota Statutes 1988, sections 40.42; 40.43; 40.44; 40.45; 84.95, subdivision 2; 282.018; 500.221, subdivision 2; Laws 1986, chapter 383, section 17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 18; 40; 84; and 92.

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 895, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 895 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [18.189] [LOCAL SUSPENSION OF NOXIOUS WEED CONTROL.]

*During a drought the commissioner of agriculture may authorize town boards to suspend the duty of owners and occupants of land to control noxious weeds under sections 18.191 to 18.272, except under order by the commissioner or the local weed inspector.*

Sec. 2. Minnesota Statutes 1988, section 40.42, is amended to read:

40.42 [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 40.42 to ~~40.45~~ *40.46*.

Subd. 2. [~~COMMISSIONER~~ *BOARD*.] ~~"Commissioner" means the commissioner of agriculture~~ *"Board" means the board of water and soil*

*resources.*

Subd. 3. [CONSERVATION EASEMENT.] "Conservation easement" means a conservation easement as defined in section 84C.01.

Subd. 4. [CONSERVATION RESERVE PROGRAM.] "Conservation reserve program" means the program established under section 40.43.

Subd. 5. [DRAINED WETLAND.] *"Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.*

*Subd. 6.* [LANDOWNER.] "Landowner" means individuals, family farms, *family farm partnerships, authorized farm partnerships,* family farm corporations ~~as defined under section 500.24, subdivision 2, paragraph (c), and~~, authorized farm corporations as defined under section 500.24, subdivision 2, ~~paragraph (d),~~ *and estates and testamentary trusts,* which either own eligible land or are purchasing eligible land under a contract for deed.

Subd. ~~6~~ *7.* [MARGINAL AGRICULTURAL LAND.] "Marginal agricultural land" means land that is: (1) composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture; or (2) similar to land described under (1) and identified under a land classification system selected by the ~~commissioner~~ *board.*

*Subd. 8.* [PUBLIC WATERS.] *"Public waters" means waters and wetlands as defined in section 105.37 and inventoried under section 105.391.*

*Subd. 9.* [SENSITIVE GROUNDWATER AREA.] *"Sensitive groundwater area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the board of water and soil resources. Wellhead protection areas may be designated as a sensitive groundwater area.*

Subd. ~~7~~ *10.* [WETLAND.] "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions.

Subd. ~~8~~ *11.* [WINDBREAK.] "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

Sec. 3. Minnesota Statutes 1988, section 40.43, is amended to read:

40.43 [CONSERVATION RESERVE PROGRAM.]

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The *board, in consultation with the* commissioner of agriculture~~, in consultation with~~ *and* the commissioner of natural resources, shall establish and administer a conservation reserve program. The ~~commissioner of agriculture shall contract with the~~ board ~~of water and soil resources to~~ *shall* implement sections 40.40 to 40.44. Selection of land for the conservation reserve program must be based on its potential for fish and wildlife production,

reducing erosion, and protecting water quality.

Subd. 2. [ELIGIBLE LAND.] *(a)* Land may be placed in the conservation reserve program if the land *meets the requirements of paragraphs (b) and (c).*

*(b) Land is eligible if the land:*

(1) is marginal agricultural land~~, or~~;

*(2)* is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description~~, or~~;

*(3)* consists of a drained wetland~~, or~~;

*(4)* is land that with a windbreak would be beneficial to resource protection~~.~~;

*(5) is cropland in a sensitive groundwater area;*

*(6) is cropland adjacent to public waters;*

*(7) is* cropland adjacent to ~~the~~ restored ~~wetland may also be enrolled~~ *wetlands* to the extent of up to four acres of cropland for each acre of wetland restored;

*(8) is a woodlot on agricultural land;*

*(9) is an abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; or*

*(10) is land on a hillside used for pasture.*

*(c) Eligible land under paragraph (a) must:*

~~(2) was~~ *(1) have been* owned by the landowner on January 1, 1985, or ~~was~~ *be* owned by the landowner, or a parent or other blood relative of the landowner, for at least ~~three years~~ *one year* before the date of application;

~~(3) is~~ *(2) be* at least five acres in size, except for a windbreak, *woodlot, abandoned building site,* or ~~is~~ *be* a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

~~(4) is~~ *(3)* not *be* set aside, enrolled or diverted under another federal or state government program; and

~~(5) was~~ *(4) have been* in agricultural crop production for at least two years during the period 1981 to 1985, *except drained wetlands, woodlots, abandoned building sites, or land on a hillside used for pasture.*

*(d)* ~~The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land the amount that may be enrolled in the conservation reserve is:~~

~~(a) all agricultural land owned, if 20 acres or less; or~~

~~(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.~~ *The enrolled land of a landowner may not exceed 20 percent of the average farm size in the county where the land is being enrolled according to the average farm size determined by the United States Department of Agriculture, Census of Agriculture.*

*(e) In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.*

*(f)* In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 40.41.

Subd. 3. [CONSERVATION EASEMENTS.] The ~~commissioner~~ *board* may acquire conservation easements on eligible land. An easement may be permanent or of limited duration. *An easement acquired on land for windbreak purposes, under subdivision 2, may be only of permanent duration.* An easement of limited duration may not be acquired if it is for a period less than 20 years. The negotiation and acquisition of easements authorized by this section are exempt from the contractual provisions of chapter 16B.

Subd. 4. [NATURE OF PROPERTY RIGHTS ACQUIRED.] (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the ~~commissioner~~ *board*;

(2) agricultural crop production, unless specifically approved by the ~~commissioner~~ *board* for wildlife management purposes;

(3) grazing of livestock ~~unless~~ *except, for agreements entered before the effective date of this act, grazing of livestock may be allowed only if* approved by the ~~commissioner~~ *board* after consultation with the commissioner of natural resources, in the case of severe drought, or a local emergency declared under section 12.29; and

(4) spraying with chemicals or mowing, except as necessary to comply with noxious weed control laws or emergency control of pests necessary to protect public health.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

Subd. 5. [AGREEMENTS BY LANDOWNER.] The ~~commissioner~~ *board* may enroll eligible land in the conservation reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the ~~commissioner~~ *board*; or to plant trees or carry out other long-term capital improvements approved by the ~~commissioner~~ *board* for soil and water conservation or wildlife management;

(3) ~~to restore any drained wetland and~~ to convey to the state a permanent easement for the wetland *restoration*;

(4) that other land supporting natural vegetation owned or leased as part

of the same farm operation at the time of application, if it supports natural vegetation or has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; *and*

(5) ~~to the enforcement of the terms of the easement and agreements in this subdivision by an action for specific performance, a mandatory injunction, or for damages in an amount not to exceed the total amount paid by the state to the landowner under subdivision 6, with interest from the date of each default under the agreement; and~~

~~(6)~~ that the easement duration may be lengthened through mutual agreement with the *board in consultation with the* commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or ~~to facilitate~~ *facilitates* its administration.

Subd. 6. [PAYMENTS FOR CONSERVATION EASEMENTS AND ESTABLISHMENT OF COVER.] *(a)* The ~~commissioner~~ *board* must make the following payments to the landowner for the conservation easement and agreement:

(1) to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed $75 per acre for limited duration easements, ~~and~~ 100 percent of the total eligible cost not to exceed $100 per acre for perpetual easements, *and 100 percent of the total eligible cost of wetland restoration not to exceed $300 per acre*;

(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed $200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $300 per acre for perpetual easements;

(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;

(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or

(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the ~~commissioner~~ *board*.

~~The commissioner may not pay more than $50,000 to a landowner for all the landowner's conservation easements and agreements.~~

*(b) For hillside pasture conservation easements, the payments to the landowner for the conservation easement and agreement must be reduced to reflect the value of similar property.*

Subd. 7. [EASEMENT RENEWAL.] When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the ~~commissioner~~ *board* and the landowner, under the terms of this section. The ~~commissioner~~ *board* may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

Subd. 8. [CORRECTION OF CONSERVATION EASEMENT BOUNDARY LINES.] To correct errors in legal descriptions for easements obtained

that affect the ownership interests in the state and adjacent landowners, the ~~commissioner~~ *board* may, in the name of the state, with the approval of the attorney general, convey, without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

*Subd. 9.* [ENFORCEMENT AND DAMAGES.] *(a) A landowner who violates the terms of a conservation easement or agreement under this section, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.*

*(b) Upon the request of the board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce sections 40.41 to 40.45 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.*

Sec. 4. Minnesota Statutes 1988, section 40.44, is amended to read:

40.44 [COOPERATION AND TECHNICAL ASSISTANCE; SUPPLEMENTAL CONSERVATION PAYMENT.]

Subdivision 1. [COOPERATION.] In implementing sections 40.41 to 40.44 the ~~commissioner~~ *board* must share information and cooperate with the *department of agriculture, the* department of natural resources, the pollution control agency, the United States Fish and Wildlife Service, the Agricultural Stabilization and Conservation Service and Soil Conservation Service of the United States Department of Agriculture, the Minnesota extension service, the University of Minnesota, county boards, and interested private organizations and individuals.

Subd. 2. [TECHNICAL ASSISTANCE.] The ~~commissioners~~ *board and the commissioners* of agriculture and natural resources must provide necessary technical assistance to landowners enrolled in the conservation reserve program. The commissioner of natural resources must provide technical advice and assistance to the ~~commissioner~~ *board* on (1) the form and content of the conservation easement and agreement; (2) forestry and agronomic practices; and (3) hydrologic and hydraulic design relating to the establishment and maintenance of permanent cover, or other conservation improvements. The commissioner of transportation must provide technical advice and assistance to the ~~commissioners~~ *board and the commissioner* of ~~agriculture and~~ natural resources on the planting of windbreaks adjacent to highways. The ~~commissioners of agriculture~~ *board* and *the commissioners of agriculture and* natural resources shall jointly prepare an informational booklet on the conservation reserve program and other state and federal programs for land acquisition, conservation, and retirement to be made available to eligible landowners and the general public.

Subd. 3. [SUPPLEMENTAL CONSERVATION PAYMENTS.] The ~~commissioner~~ *board* may supplement payments made under federal land retirement programs to the extent of available appropriations other than bond proceeds. The supplemental payments must be used to establish perennial cover on land enrolled or increase payments for land enrollment in programs approved by the ~~commissioner~~ *board*, including the federal conservation

reserve program and federal and state waterbank program.

*Subd. 4.* [FOOD PLOTS IN WINDBREAKS.] *The board, in cooperation with the commissioner of natural resources, may authorize wildlife food plots on land with windbreaks.*

Sec. 5. Minnesota Statutes 1988, section 40.45, is amended to read:

40.45 [RULEMAKING.]

The ~~commissioner~~ *board* may adopt ~~emergency~~ rules to implement ~~Laws 1987, chapter 357. The emergency rules adopted on August 27, 1986, shall remain in effect until December 31, 1987, or until amended or replaced by emergency or permanent rules~~ *sections 40.41 to 40.45*. The rules must include standards for tree planting so that planting does not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage ditches.

Sec. 6. [40.46] [RESERVATION OF MARGINAL LAND AND WETLANDS.]

*Subdivision 1.* [RESERVATION OF MARGINAL LAND AND WETLANDS.] *Notwithstanding any other law, marginal land and wetlands are withdrawn from sale by the state unless use of the marginal land or wetland is restricted by a conservation easement as provided in this section. This section does not apply to transfers of land by the board of water and soil resources to correct errors in legal descriptions under section 40.43, subdivision 8, or to transfers by the commissioner of natural resources for:*

*(1) land that is currently in nonagricultural commercial use if a conservation easement would interfere with the commercial use;*

*(2) land in platted subdivisions;*

*(3) conveyances of land to correct errors in legal descriptions under section 84.0273;*

*(4) exchanges of nonagricultural land with the federal government, or exchanges of Class A, Class B, and Class C nonagricultural land with local units of government under sections 94.342, 94.343, 94.344, and 94.349;*

*(5) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10; and*

*(6) land not needed for trail purposes that is sold to adjacent property owners and lease holders under section 85.015, subdivision 1, paragraph (b).*

*Subd. 2.* [DELINEATION OF WETLAND OR MARGINAL LAND.] *(a) Before state land is sold, the land must be submitted to the board of water and soil resources to determine and delineate the marginal land and wetlands to be reserved or restricted by a conservation easement. The delineation of the reservation or conservation easement need not be by legal description and may be a description in general terms that identifies the marginal land or wetlands.*

*(b) Marginal land and wetlands may not be sold unless restricted by a conservation easement with the restrictions provided in section 40.43, subdivision 4, paragraphs (a) and (c), and other restrictions determined necessary by the board of water and soil resources.*

*Subd. 3.* [SCHOOL TRUST LAND.] *If the sale of school trust land as defined in section 92.025 is restricted by a conservation easement and the restriction results in a reduction of the amount received from the sale, the commissioner of natural resources must determine the amount of the reduction. The amount of the reduction in sale price must be paid from appropriations to acquire conservation easements and shall be credited to the account to which the proceeds from the sale are credited.*

*Subd. 4.* [RELEASE AND ALTERATION OF CONSERVATION EASEMENT.] *The board of water and soil resources may alter, release, or terminate a conservation easement created under this section after consultation with the commissioners of agriculture and natural resources. The board of water and soil resources may alter, release, or terminate a conservation easement only if the board determines the public interests and general welfare are better served by the alteration, release, or termination.*

Sec. 7. [84.0276] [LAND TRANSFERS BY A FEDERAL AGENCY.]

*Before the commissioner of natural resources accepts agricultural land or a farm homestead transferred in fee by a federal agency, the commissioner must consult with the board of water and soil resources for a determination of marginal land, tillable farmland, and farm homestead. The commissioner must comply with the acquisition procedure under section 97A.145, subdivision 2, if the agricultural land or farm homestead was in an agricultural preserve as provided in section 40A.10.*

Sec. 8. Minnesota Statutes 1988, section 84.95, subdivision 2, is amended to read:

Subd. 2. [PURPOSES AND EXPENDITURES.] Money from the reinvest in Minnesota resources fund may only be spent for the following fish and wildlife conservation enhancement purposes:

(1) development and implementation of the comprehensive fish and wildlife management plan under section 84.942;

(2) implementation of the conservation reserve program established by section 40.43;

(3) soil and water conservation practices to improve water quality, reduce soil erosion and crop surpluses;

(4) enhancement of fish and wildlife habitat on lakes, streams, wetlands, and public and private forest lands;

(5) acquisition and development of public access sites and recreation easements to lakes, streams, and rivers for fish and wildlife oriented recreation;

(6) matching funds with government agencies, federally recognized Indian tribes and bands, and the private sector for acquisition and improvement of fish and wildlife habitat;

(7) research and surveys of fish and wildlife species and habitat;

(8) enforcement of natural resource laws and rules;

(9) information and education;

(10) implementing the aspen recycling program under section 88.80 *and for other forest wildlife management projects*; and

(11) necessary support services to carry out these purposes.

Sec. 9. Minnesota Statutes 1988, section 282.018, is amended to read:

282.018 [TAX-FORFEITED LAND; MEANDERED LAKES, *NONFORESTED MARGINAL LAND, AND WETLANDS*; SALE; EXCEPTION.]

*Subdivision 1.* [PROPERTY ON OR ADJACENT TO PUBLIC WATERS.] All land which is the property of the state as a result of forfeiture to the state for nonpayment of taxes, regardless of whether the land is held in trust for taxing districts, and which borders on or is adjacent to meandered lakes and other public waters and watercourses, and the live timber growing or being thereon, is hereby withdrawn from sale except as hereinafter provided. The authority having jurisdiction over the timber on any such lands may sell the timber as otherwise provided by law for cutting and removal under such conditions as the authority may prescribe in accordance with approved, sustained yield forestry practices. The authority having jurisdiction over the timber shall reserve such timber and impose such conditions as the authority deems necessary for the protection of watersheds, wildlife habitat, shorelines, and scenic features. Within the area in Cook, Lake, and St. Louis counties described in the Act of Congress approved July 10, 1930 (46 Stat. 1020), the timber on tax-forfeited lands shall be subject to like restrictions as are now imposed by that act on federal lands.

Of all tax-forfeited land bordering on or adjacent to meandered lakes and other public waters and watercourses and so withdrawn from sale, a strip two rods in width, the ordinary high-water mark being the water side boundary thereof, and the land side boundary thereof being a line drawn parallel to the ordinary high-water mark and two rods distant landward therefrom, hereby is reserved for public travel thereon, and whatever the conformation of the shore line or conditions require, the authority having jurisdiction over such lands shall reserve a wider strip for such purposes.

Any tract or parcel of land which has 50 feet or less of waterfront may be sold by the authority having jurisdiction over the land, in the manner otherwise provided by law for the sale of such lands, if the authority determines that it is in the public interest to do so. If the authority having jurisdiction over the land is not the commissioner of natural resources, the land may not be offered for sale without the prior approval of the commissioner of natural resources.

*Subd. 2.* [MARGINAL LAND AND WETLANDS.] *Nonforested marginal land and wetlands on land that is property of the state as a result of forfeiture to the state for nonpayment of taxes is withdrawn from sale as provided in section 40.46 unless restricted by a conservation easement as provided in section 40.46.*

Sec. 10. Minnesota Statutes 1988, section 500.221, subdivision 2, is amended to read:

Subd. 2. [ALIENS AND NON-AMERICAN CORPORATIONS.] Except as hereinafter provided, no natural person shall acquire directly or indirectly any interest in agricultural land unless the person is a citizen of the United States or a permanent resident alien of the United States. In addition to the restrictions in section 500.24, no corporation, partnership, limited partnership, trustee, or other business entity shall directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial or otherwise, in any title to agricultural land unless at least 80 percent of each class of stock issued and outstanding or 80 percent of the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States

or permanent resident aliens. This section shall not apply:

(1) to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise. All agricultural land acquired in the collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership;

(2) to citizens or subjects of a foreign country whose rights to hold land are secured by treaty;

(3) to lands used for transportation purposes by a common carrier, as defined in section 218.011, subdivision 2;

(4) to lands or interests in lands acquired for use in connection with mining and mineral processing operations. Pending the development of agricultural land for mining purposes the land may not be used for farming except under lease to a family farm, a family farm corporation or an authorized farm corporation;

(5) to agricultural land operated for research or experimental purposes if the ownership of the agricultural land is incidental to the research or experimental objectives of the person or business entity and the total acreage owned by the person or business entity does not exceed the acreage owned on May 27, 1977; ~~or~~

(6) to the purchase of any tract of 40 acres or less for facilities incidental to pipeline operation by a company operating a pipeline as defined in section 116I.01, subdivision 3; *or*

*(7) to agricultural land and land capable of being used as farmland used for processing operations of agricultural commodities reasonably necessary to meet the requirements of pollution control laws or rules.*

Sec. 11. Laws 1986, chapter 383, section 17, subdivision 4, is amended to read:

Subd. 4. [COMMISSIONER OF NATURAL RESOURCES.] $3,600,000 is appropriated to the commissioner of natural resources:

| | |
|---|---|
| (a) from the bond proceeds account of the reinvest in Minnesota resources fund for fish and wildlife habitat improvements and acquisition of interests in land under the comprehensive fish and wildlife management plan under section 8, to be available until expended | $2,500,000 |
| (b) from the bond proceeds account of the reinvest in Minnesota resources fund for aspen recycling *and other forest wildlife management projects* under section 12, to be available until expended | $1,000,000 |
| (c) from the general fund for the development of a fish and wildlife research center, to be available until June 30, 1987 | $100,000 |

Sec. 12. [92.70] [LAND USE TRESPASS.]

*Subdivision 1.* [PUBLIC LAND DEFINITION.] *"Public land" means*

*publicly owned land or interests in land including land and interests in land that are owned by the state, counties, or road authorities, administered by the commissioner of natural resources, owned by the state as beds of navigable waters, acquired as conservation easements with benefits running to the state, a county, or the public under the conservation reserve program, water bank program, or other state or county programs.*

*Subd. 2.* [CASUAL TRESPASS.] *(a) A person who uses public land for personal use or personal economic gain where the use is prohibited is guilty of trespass and a petty misdemeanor and shall be subject to a penalty not to exceed $50 per occurrence and is subject to a civil penalty for twice the amount of actual damages.*

*(b) A person violating paragraph (a) may be issued a ticket by a sheriff, conservation officer, or personnel of the department designated by the commissioner. The ticket must identify the trespass, where the trespass occurred, and the official observing the trespass. A copy of the ticket must be sent to the public agency responsible for managing the land.*

*(c) The civil penalty shall be paid to the public agency responsible for managing the public land. A civil penalty paid to the state is appropriated to the state agency responsible for managing the land to restore the damage and improve state land.*

*(d) Within 60 days after a ticket is issued, the public agency responsible for managing the public land where the trespass occurred must make a determination of whether a civil penalty will be sought for the trespass and notify the person.*

*Subd. 3.* [WILLFUL TRESPASS.] *(a) A person who willfully and knowingly uses public land for personal use or personal economic gain where the use is prohibited is guilty of trespass and a misdemeanor and is liable to the state or county for a civil penalty three times the amount of the damage.*

*(b) A person violating paragraph (a) may be issued a ticket and summons for a court appearance. The prosecuting authority shall prosecute the misdemeanor and shall bring an action for the civil penalty or, on failure to do so, the attorney general at the request of the public agency responsible for managing the land may prosecute the misdemeanor and shall bring an action for the civil penalty.*

*(c) Damages must be determined as the greater of:*

*(1) the cost to restore the public land to the condition it was in before the trespass occurred plus an amount to compensate the public for the loss of use; or*

*(2) the economic gain realized by the person committing the trespass.*

*(d) The civil penalty shall be paid to the court and the court administrator shall pay:*

*(1) for a trespass on county land, the entire amount to the county to be used for restoration of the trespass and county land improvement purposes;*

*(2) for a trespass on state land, the civil penalty to the state agency responsible for managing the public land which is appropriated for restoration of the trespass and state land improvement purposes.*

*Subd. 4.* [SEPARATE ACTIONS.] *The prosecution for criminal trespass*

*and the civil penalty are separate criminal and civil actions. If a trespass occurs, an action may be commenced for the criminal penalty, the civil penalty, or the civil penalty and the criminal penalty.*

Sec. 13. [EFFECTIVE DATE.]

*This act is effective July 1, 1989. Sections 6 and 9 apply to state land and tax-forfeited land sold after March 15, 1990."*

Amend the title accordingly

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

Senate Conferees: (Signed) Steven G. Novak, Charles R. Davis, Dennis R. Frederickson

House Conferees: (Signed) Willard Munger, Bob Johnson, Elton R. Redalen

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on S.F. No. 895 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 895 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1425, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1425 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1425

A bill for an act relating to privacy of communications; modifying standards for disclosure of communications by electronic communications services; limiting use of contract personnel; modifying reporting requirements; modifying procedures for the use of pen registers and trap and trace devices; requiring orders for the use of mobile tracking devices; providing for a civil cause of action; removing the sunset on the privacy of communications act; authorizing the attorney general and county attorneys to issue administrative subpoenas; creating crimes that prohibit warning subjects of investigations, electronic surveillance, or search warrants; imposing penalties; amending Minnesota Statutes 1988, sections 626A.02, subdivision 3; 626A.04; 626A.06, subdivisions 1 and 4a; 626A.11, subdivisions 1 and 2; 626A.12, subdivision 1; 626A.17; 626A.35; 626A.36; 626A.37; 626A.38, subdivision 1; 626A.39, by adding a subdivision; and 626A.40; Laws 1988, chapter 577, section 63; proposing coding for new law in Minnesota Statutes, chapters 8, 388, 609, and 626A; repealing Minnesota Statutes 1988, sections 626A.12, subdivision 1a; 626A.22; 626A.23; 626A.24; and 626A.38, subdivision 5; Laws 1988, chapter 577, section 62.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1425, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1425 be further amended as follows:

Page 7, delete section 9 and insert:

"Sec. 9. Minnesota Statutes 1988, section 626A.36, is amended to read:

626A.36 [APPLICATION FOR AN ORDER FOR A PEN REGISTER ~~OR A~~, TRAP AND TRACE DEVICE, *OR MOBILE TRACKING DEVICE*.]

Subdivision 1. [APPLICATION.] An investigative or law enforcement officer *with responsibility for an ongoing criminal investigation* may make application for an order or an extension of an order under section 626A.37 authorizing or approving the installation and use of a pen register ~~or a~~, trap and trace device, *or mobile tracking device* under sections 626A.35 to 626A.39, in writing under oath or equivalent affirmation, to a district court.

Subd. 2. [CONTENTS OF APPLICATION.] An application under subdivision 1 must include:

(1) the identity of the law enforcement or investigative officer making the application, *the identity of any other officer or employee authorizing*

*or directing the application,* and the identity of the law enforcement agency conducting the investigation; and

(2) ~~a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency~~ *a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that an order should be issued.*"

Page 8, delete lines 17 to 24 and insert:

"Subdivision 1. [IN GENERAL.] Upon an application made under section 626A.36, the court ~~shall~~ *may* enter an ex parte order authorizing the installation and use of a pen register ~~or a~~, trap and trace device, *or mobile tracking device* within the jurisdiction of the court if the court finds ~~that the law enforcement or investigative officer has certified to the court~~ *on the basis of the information submitted by the applicant that there is reason to believe* that the information likely to be obtained by the installation and use is relevant to an ongoing criminal investigation."

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

House Conferees: (Signed) Thomas W. Pugh, Randy C. Kelly, Phil Carruthers

Senate Conferees: (Signed) Randolph W. Peterson, Gene Merriam, Fritz Knaak

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1425 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1425 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 661, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 661 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

### CONFERENCE COMMITTEE REPORT ON H.F. NO. 661

A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 661, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 661 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [116.75] [CITATION.]

*Sections 2 to 9 may be cited as the "infectious waste control act."*

Sec. 2. [116.76] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *The definitions in this section apply to sections 2 to 9.*

*Subd. 2.* [AGENCY.] *"Agency" means the pollution control agency.*

*Subd. 3.* [BLOOD.] *"Blood" means waste human blood and blood products in containers, or solid waste saturated and dripping human blood or blood products. Human blood products include serum, plasma, and other blood components.*

*Subd. 4.* [COMMERCIAL TRANSPORTER.] *"Commercial transporter" means a person who transports infectious or pathological waste for compensation.*

*Subd. 5.* [COMMISSIONER.] *"Commissioner" means the commissioner of the pollution control agency.*

*Subd. 6.* [DECONTAMINATION.] *"Decontamination" means rendering*

*infectious waste safe for routine handling as a solid waste.*

*Subd. 7.* [DEPARTMENT.] *"Department" means the department of health.*

*Subd. 8.* [FACILITY.] *"Facility" means a site where infectious waste is generated, stored, decontaminated, incinerated, or disposed.*

*Subd. 9.* [GENERATOR.] *"Generator" means a person whose activities produce infectious waste. "Generator" does not include a person who produces sharps as a result of administering medication to oneself.*

*Subd. 10.* [HOUSEHOLD.] *"Household" means a single detached dwelling unit or a single unit of a multiple dwelling.*

*Subd. 11.* [INFECTIOUS AGENT.] *"Infectious agent" means an organism that is capable of producing infection or infectious disease in humans.*

*Subd. 12.* [INFECTIOUS WASTE.] *"Infectious waste" means laboratory waste, blood, regulated body fluids, sharps, and research animal waste that have not been decontaminated.*

*Subd. 13.* [LABORATORY WASTE.] *"Laboratory waste" means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans.*

*Subd. 14.* [PATHOLOGICAL WASTE.] *"Pathological waste" means human tissues and body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.*

*Subd. 15.* [PERSON.] *"Person" means an individual, partnership, association, public or private corporation, or other legal entity, the United States government, an interstate body, the state, and an agency, department, or political subdivision of the state.*

*Subd. 16.* [REGULATED HUMAN BODY FLUIDS.] *"Regulated human body fluids" means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid that are in containers or that drip freely from body fluid soaked solid waste items.*

*Subd. 17.* [RESEARCH ANIMAL WASTE.] *"Research animal waste" means carcasses, body parts, and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.*

*Subd. 18.* [SHARPS.] *"Sharps" means:*

*(1) discarded items that can induce subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities, and industrial operations; and*

*(2) discarded glass or rigid plastic vials containing infectious agents.*

Sec. 3. [116.77] [COVERAGE.]

*Sections 1 to 9 and section 609.671, subdivision 10, cover any person who generates, treats, stores, transports, or disposes of infectious or pathological waste except infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically*

*provided, sections 1 to 9 do not limit or alter treatment or disposal methods for infectious or pathological waste.*

Sec. 4. [116.78] [WASTE MANAGEMENT.]

*Subdivision 1.* [SEGREGATION.] *All untreated infectious waste must be segregated from other waste material at its point of generation and maintained in separate packaging throughout collection, storage, and transport. Infectious waste must be packaged, contained, and transported in a manner that prevents release of the waste material.*

*Subd. 2.* [LABELING.] *All bags, boxes, and other containers used to collect, transport, or store infectious waste must be clearly labeled with a biohazard symbol or with the words "infectious waste" written in letters no less than one inch in height.*

*Subd. 3.* [REUSABLE CONTAINERS.] *Containers which have been in direct contact with infectious waste must be disinfected prior to reuse.*

*Subd. 4.* [SHARPS.] *Sharps, except those generated from a household or from a farm operation or agricultural business:*

*(1) must be placed in puncture-resistant containers;*

*(2) may not be compacted or mixed with other waste material whether or not the sharps are decontaminated; and*

*(3) may not be disposed of at refuse-derived fuel facilities or at other facilities where waste is hand sorted.*

*Subd. 5.* [PATHOLOGICAL WASTE.] *Pathological waste must be managed according to sanitary standards established by state and federal laws or regulations for the disposal of the waste.*

*Subd. 6.* [STORAGE.] *Infectious and pathological waste must be stored in a specially designated area that is designed to prevent the entry of vermin and that prevents access by unauthorized persons.*

*Subd. 7.* [COMPACTION AND MIXTURE WITH OTHER WASTES.] *Infectious waste may not be compacted or mixed with other waste materials prior to incineration or disposal.*

*Subd. 8.* [DISPOSAL.] *Except for disposal procedures specifically prescribed, this section and section 7 do not limit disposal methods for infectious and pathological waste.*

Sec. 5. [116.79] [MANAGEMENT PLANS.]

*Subdivision 1.* [PREPARATION OF MANAGEMENT PLANS.] *(a) To the extent applicable to the facility, a person in charge of a facility that generates, stores, decontaminates, incinerates, or disposes of infectious or pathological waste must prepare a management plan for the infectious or pathological waste handled by the facility.*

*(b) The management plan must describe, to the extent the information is applicable to the facility:*

*(1) the type of infectious waste and pathological waste that the person generates or handles;*

*(2) the segregation, packaging, labeling, collection, storage, and transportation procedures for the infectious waste or pathological waste that will be followed;*

*(3) the decontamination or disposal methods for the infectious or pathological waste that will be used;*

*(4) the transporters and disposal facilities that will be used for the infectious waste;*

*(5) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of disposing of infectious or pathological wastes; and*

*(6) the name of the individual responsible for the management of the infectious waste or pathological waste.*

*(c) The management plan must be kept at the facility.*

*(d) To the extent applicable to the facility, management plans must be accompanied by a statement of the quantity of infectious and pathological waste generated, decontaminated, stored, incinerated, or disposed of at the facility during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers. The commissioner of health shall prepare a summary of the quantities of infectious and pathological waste generated, by facility type.*

*(e) A management plan must be updated and resubmitted at least once every two years.*

*Subd. 2.* [COMPLIANCE WITH MANAGEMENT PLANS.] *A person who prepares a management plan must comply with the management plan.*

*Subd. 3.* [GENERATORS' PLANS.] *(a) Management plans prepared by facilities that generate infectious or pathological waste must be submitted to the commissioner of health with a fee of $225 for facilities with 25 or more employees, or a fee of $40 for facilities with less than 25 employees. The fee must be deposited in the state treasury and credited to the general fund.*

*(b) A person who begins the generation of infectious or pathological waste after January 1, 1990, must submit to the commissioner of health a copy of the person's management plan prior to initiating the handling of the infectious or pathological waste.*

*(c) If a generator also incinerates infectious or pathological waste, a separate management plan must be prepared for the incineration activities.*

*(d) The commissioner of health must establish a procedure for randomly reviewing the plans.*

*(e) The commissioner of health may require a management plan of a generator to be modified if the commissioner of health determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the infectious or pathological waste.*

*Subd. 4.* [PLANS FOR STORAGE, DECONTAMINATION, INCINERATION, AND DISPOSAL FACILITIES.] *(a) A person who stores or decontaminates infectious or pathological waste, other than at the facility where the waste was generated, or a person who incinerates or disposes of infectious or pathological waste, must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of $225. A person who incinerates on site at a hospital must submit a fee of $100. The fee must be deposited in the state treasury and credited to the*

*general fund.*

*(b) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.*

Sec. 6. [116.80] [TRANSPORTATION OF INFECTIOUS WASTE.]

*Subdivision 1.* [TRANSFER OF INFECTIOUS WASTE.] *(a) A generator may not transfer infectious waste to a commercial transporter unless the transporter is registered with the commissioner.*

*(b) A transporter may not deliver infectious waste to a facility prohibited to accept the waste.*

*(c) A person who is registered to transport infectious waste may not refuse waste generated from a facility that is properly packaged and labeled as "infectious waste."*

*Subd. 2.* [PREPARATION OF MANAGEMENT PLANS.] *(a) A commercial transporter in charge of a business that transports infectious waste must prepare a management plan for the infectious waste handled by the commercial transporter.*

*(b) The management plan must describe, to the extent the information is applicable to the commercial transporter:*

*(1) the type of infectious waste that the commercial transporter handles;*

*(2) the transportation procedures for the infectious waste that will be followed;*

*(3) the disposal facilities that will be used for the infectious waste;*

*(4) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of transporting and disposing of infectious waste; and*

*(5) the name of the individual responsible for the transportation and management of the infectious waste.*

*(c) The management plan must be kept at the commercial transporter's principal place of business.*

*(d) Management plans must be accompanied by a statement of the quantity of infectious waste transported during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers.*

*(e) A management plan must be updated and resubmitted at least once every two years.*

*(f) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.*

*Subd. 3.* [REGISTRATION REQUIRED.] *(a) A commercial transporter must register with the commissioner.*

*(b) To register, a commercial transporter must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of $225. The fee must be deposited in the state treasury and credited*

*to the general fund.*

*(c) The registration is valid for two years.*

*(d) The commissioner shall issue a registration card with a unique registration number to a person who has submitted a transporter's management plan unless the commissioner finds that registrant has outstanding unresolved violations of this section or a history of serious violations of chapter 115, 115A, 115B, or 116. The registration card must include the date the card expires.*

*Subd. 4.* [WASTE FROM OTHER STATES.] *A person may not transport infectious waste into the state for decontamination, storage, incineration, or disposal without complying with sections 2 to 8.*

Sec. 7. [116.81] [RULES.]

*Subdivision 1.* [AGENCY RULES.] *The agency, in consultation with the commissioner of health, may adopt rules to implement sections 2 to 8. The agency has primary responsibility for rules relating to transportation of infectious waste and facilities storing, transporting, decontaminating, incinerating, and disposing of infectious waste. The agency before adopting rules affecting animals or research animal waste must consult the commissioner of agriculture and the board of animal health.*

*Subd. 2.* [HEALTH RULES.] *The commissioner of health after consulting with the agency may adopt rules to implement sections 2 to 8. The commissioner of health has primary responsibility for rules relating to facilities generating infectious waste. The commissioner of health before adopting rules affecting animals or research animal waste must consult the commissioner of agriculture and the board of animal health.*

Sec. 8. [116.82] [AUTHORITY OF LOCAL GOVERNMENT.]

*Subdivision 1.* [PREEMPTION OF REGULATION.] *A county, municipality, or other political subdivision of the state may not adopt a definition of infectious or pathological waste that differs from the definitions in section 2, or management requirements for infectious or pathological waste that differ from the requirements of sections 4 and 5.*

*Subd. 2.* [LOCAL SOLID WASTE AUTHORITY.] *(a) Sections 2 to 7 do not affect local implementation of collection, storage, or disposal of solid waste that does not contain infectious waste.*

*(b) Sections 2 to 7 do not affect county authority under other law to regulate and manage solid waste that does not contain infectious waste.*

*(c) A political subdivision, as defined in section 115A.03, subdivision 24, may not require a refuse-derived fuel facility to accept infectious waste.*

*Subd. 3.* [LOCAL ENFORCEMENT.] *Sections 2 to 7 may be enforced by a county by delegation of enforcement authority granted to the commissioner of health and the agency in section 9. Separate enforcement actions may not be brought by a state agency and a county for the same violations. The state or county may not bring an action that is being enforced by the federal Office of Safety and Health Administration.*

Sec. 9. [116.83] [ENFORCEMENT.]

*Subdivision 1.* [STATE RESPONSIBILITIES.] *The agency or the commissioner of health may enforce sections 2 to 7. The commissioner of health is primarily responsible for enforcement involving generators. The*

*agency is primarily responsible for enforcement involving other persons subject to sections 2 to 7.*

*Subd. 2.* [ENFORCEMENT AUTHORITY.] *The commissioner of health has the authority of the agency to enforce sections 2 to 7 under section 115.071.*

*Subd. 3.* [ACCESS TO INFORMATION AND PROPERTY.] *Subject to section 144.651, the commissioner of the pollution control agency or the commissioner of health may on presentation of credentials, during regular business hours:*

*(1) examine and copy any books, records, memoranda, or data that is related to compliance with sections 2 to 7; and*

*(2) enter public or private property regulated by sections 2 to 7 for the purpose of taking an action authorized by this section including obtaining information and conducting investigations.*

Sec. 10. [STUDIES.]

*(a) The pollution control agency, in consultation with the commissioner of health, shall study the management of sharps generated by households including the feasibility of establishing a collection system for sharps generated by households.*

*(b) The pollution control agency, in consultation with the commissioner of agriculture and the board of animal health, shall study the feasibility of establishing a collection system for sharps generated by farm operations or agricultural businesses.*

Sec. 11. Minnesota Statutes 1988, section 388.051, subdivision 2, is amended to read:

Subd. 2. [SPECIAL PROVISIONS.] (a) In Anoka, Carver, Dakota, Hennepin, Scott, and Washington counties, only the county attorney shall prosecute gross misdemeanor violations of sections 290.53, subdivisions 4 and 11; 290.92, subdivision 15; 290A.11, subdivision 2; 297A.08; 297A.39, subdivisions 4 and 8; 297B.10; 609.255, subdivision 3; 609.377; 609.378; 609.41; and 617.247.

(b) The county attorney shall prosecute failure to report physical or sexual child abuse or neglect as provided under section 626.556, subdivision 6, ~~and shall prosecute~~ violations of fifth-degree criminal sexual conduct under section 609.3451, *and environmental law violations under sections 115.071, 299F.098, and 609.671.*

Sec. 12. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

*Subd. 10.* [INFECTIOUS WASTE.] *A person who knowingly, or with reason to know, disposes of or arranges for the disposal of infectious waste as defined in section 2 at a location or in a manner that is prohibited by section 4 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $25,000, or both.*

Sec. 13. [APPROPRIATIONS.]

*Subdivision 1.* [POLLUTION CONTROL AGENCY.] *$265,000 is appropriated from the general fund to the commissioner of the pollution control agency for the biennium ending June 30, 1991, to carry out the requirements of sections 1 to 10. The approved complement of the pollution control agency is increased by two positions in fiscal year 1990 and one additional position in fiscal year 1991.*

*Subd. 2.* [DEPARTMENT OF HEALTH.] *$200,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, to carry out the requirements of sections 1 to 10. The approved complement of the department of health is increased by two and one-half positions.*

*Subd. 3.* [HEALTH DEPARTMENT.] *$10,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, to prepare educational material for distribution to infectious and pathological waste generators and transporters; treatment, storage, and disposal facility operators; households that generate infectious waste; and to the general public.*

Sec. 14. [EFFECTIVE DATE.]

*Sections 2, 3, 7, and 8 are effective the day after final enactment. Sections 1, 4, 5, 6 and 9 are effective January 1, 1990. Section 12 is effective January 1, 1990, and applies to crimes committed on or after that date."*

Delete the title and insert:

"A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, sections 388.051, subdivision 2; and 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116."

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

House Conferees: (Signed) Phyllis Kahn, Steve Dille, Lee Greenfield

Senate Conferees: (Signed) Gregory L. Dahl, Glen Taylor, Gene Merriam

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 661 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 661 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1532, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1532 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1532

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; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1532, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1532 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [216B.095] [DISCONNECTION DURING COLD WEATHER.]

*The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during*

*cold weather to include the following:*

*(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;*

*(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;*

*(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total heating energy costs where the customer receives service from more than one provider;*

*(4) that a customer's household income does not include any amount received for energy assistance;*

*(5) verification of income by the local energy assistance provider, unless the customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and*

*(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.*

*For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis.*

Sec. 2. Minnesota Statutes 1988, section 216B.241, subdivision 1, is amended to read:

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

(a) "Commission" means the public utilities commission, department of public service;

(b) *"Department" means the department of public service;*

*(c)* "Energy conservation improvement" means the purchase or installation of any device, method or material that increases the efficiency in the use of electricity or natural gas including, but not limited to:

(1) insulation and ventilation;

(2) storm or thermal doors or windows;

(3) caulking and weatherstripping;

(4) furnace efficiency modifications;

(5) thermostat or lighting controls;

(6) awnings; or

(7) systems to turn off or vary the delivery of energy. The term "energy conservation improvement" includes any device or method which creates, converts or actively uses energy from renewable sources such as solar, wind

and biomass providing such device or method conforms with national or state performance and quality standards whenever applicable.

~~(c)~~ *(d)* "Investments and expenses of a public utility" includes the investments and expenses incurred by a public utility in connection with an energy conservation improvement including, but not limited to:

(1) the differential in interest cost between the market rate and the rate charged on a no interest or below market interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement;

(2) the difference between the utility's cost of purchase or installation of energy conservation improvements and any price charged by a public utility to a customer for such improvements.

~~(d)~~ *(e)* "Public utility" has the same meaning as given that term in section 216B.02, subdivision 4. For the purposes of this section, "public utility" shall not include cooperative electric associations that become subject to rate regulation after April 16, 1980.

Sec. 3. Minnesota Statutes 1988, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] The ~~commission~~ *department* may ~~order~~ *by rule require* public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements ~~shall~~ *must* be offered to the customers. *The required programs must cover a two-year period.* The ~~commission~~ *department* shall ~~order~~ *require* at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass. The ~~commission~~ *department* shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The ~~order~~ *rules* of the ~~commission shall~~ *department must* provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. The ~~commission~~ *department* may ~~order~~ *require* a utility to make an energy conservation improvement investment or expenditure whenever the ~~commission~~ *department* finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The ~~commission~~ *department* shall nevertheless insure that every public utility ~~with operating revenues in excess of $50,000,000~~ operate one or more programs, under periodic review by the ~~commission~~ *department*, ~~which~~ *that* make significant investments in and expenditures for energy conservation improvements. *The department shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization.* The ~~commission~~ *department* shall ~~give special consideration to~~ *ensure that at least half the money spent on residential programs is devoted to programs that directly address* the needs of renters and low income families and individuals *unless an insufficient number of appropriate programs are available.* ~~Provisions of the previous sentences shall expire on January 1, 1993.~~ *For purposes of this*

*section, "low income" means an income less than 185 percent of the federal poverty level.* Investments and expenditures made ~~pursuant to an order shall~~ *under this subdivision must* be treated for ratemaking purposes in the manner prescribed in section 216B.16, subdivision 6b. No utility shall make an energy conservation improvement pursuant to this section to a building envelope unless it is the primary supplier of energy used for either space heating or cooling in the building *or unless the department determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise. A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, or the attorney general acting on behalf of consumers and small business interests, may petition the commission to modify or revoke a department decision to require a program under this subdivision, and the commission may do so if it determines that the program is ineffective, does not adequately address the needs of renters and low-income families and individuals, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.*

*The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department.*

Sec. 4. Minnesota Statutes 1988, section 216C.02, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] *(a)* The commissioner may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

(2) apply for, accept, and disburse grants and other aids from public and private sources;

(3) contract for professional services if work or services required or authorized to be carried out by the commissioner cannot be satisfactorily performed by employees of the department or by another state agency;

(4) enter into interstate compacts to carry out research and planning jointly with other states or the federal government when appropriate;

(5) upon reasonable request, distribute informational material at no cost to the public; and

(6) enter into contracts for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government and educational institutions, including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16B.

*(b) The commissioner shall collect information on conservation and other energy-related programs carried on by other agencies, by public utilities, by cooperative electric associations, by municipal power agencies, by other fuel suppliers, by political subdivisions, and by private organizations. Other agencies, cooperative electric associations, municipal power agencies, and political subdivisions shall cooperate with the commissioner by providing information requested by the commissioner. The commissioner may by rule require the submission of information by other program operators. The commissioner shall make the information available to other agencies and to the public and, as necessary, shall recommend to*

*the legislature changes in the laws governing conservation and other energy-related programs to ensure that:*

*(1) expenditures on the programs are adequate to meet identified needs;*

*(2) the needs of low-income energy users are being adequately addressed;*

*(3) duplication of effort is avoided or eliminated;*

*(4) a program that is ineffective is improved or eliminated; and*

*(5) voluntary efforts are encouraged through incentives for their operators.*

*The commissioner shall appoint an advisory task force to help evaluate the information collected and formulate recommendations to the legislature. The task force must include low-income energy users as defined in section 216B.241, subdivision 2.*

*(c) By January 15 of each year, the commissioner shall report to the legislature on the projected amount of federal money likely to be available to the state during the next fiscal year, including grant money and money received by the state as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations. The report must also estimate the amount of money projected as needed during the next fiscal year to finance a level of conservation and other energy-related programs adequate to meet projected needs, particularly the needs of low-income persons and households, and must recommend the amount of state appropriations needed to cover the difference between the projected availability of federal money and the projected needs.*

Sec. 5. Minnesota Statutes 1988, section 216C.10, is amended to read:

216C.10 [POWERS.]

The commissioner may:

~~(a)~~ *(1)* adopt rules ~~pursuant to~~ *under* chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30 and, when necessary for the purposes of section 216C.15, adopt emergency rules ~~pursuant to~~ *under* sections 14.29 to 14.36;

~~(b)~~ *(2)* make all contracts ~~pursuant to~~ *under* sections 216C.05 to 216C.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept, and disburse any grant intended for the administration of sections 216C.05 to 216C.30~~. Notwithstanding any other law the commissioner is designated the state agent to apply for, receive and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30~~;

~~(c)~~ *(3)* provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

~~(d)~~ *(4)* administer for the state, energy programs ~~pursuant to~~ *under* federal law, regulations, or guidelines, except for the ~~crisis fuel~~ *low-income home energy* assistance *program* and ~~low income~~ *low-income* weatherization programs administered by the department of jobs and training, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

~~(e) design and administer a statewide program for the energy and economic development authority and actively involve major organizations and community leaders in its work and shall solicit funds from all sources;~~

~~(f)~~ *(5)* develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

~~(g)~~ *(6)* perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

~~(h)~~ *(7)* assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

~~(i)~~ *(8)* manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

~~(j)~~ *(9)* intervene in certificate of need proceedings before the public utilities commission; ~~and~~

~~(k)~~ *(10)* collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations, which fees ~~shall~~ *must* be used to pay the department's costs in administering those financial aids; *and*

*(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the reviewal, evaluation, or approval and in developing additional programs for others to operate.*

*Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30.*

Sec. 6. Minnesota Statutes 1988, section 216C.11, is amended to read:

216C.11 [ENERGY CONSERVATION INFORMATION CENTER.]

The commissioner shall establish an energy information center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The energy information center shall serve as the official Minnesota alcohol fuels information center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

*The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs*

*required by law or rule and programs developed and carried on voluntarily. In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by Minnesota Rules, parts 7820.1500 to 7820.2300, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.*

Sec. 7. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

*Subd. 2a.* [BENEFITS OF WEATHERIZATION.] *In the case of any grant made to an owner of a rental dwelling unit for weatherization, the commissioner shall require that (1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low income family that resides in the unit; (2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and (3) no undue or excessive enhancement will occur to the value of the dwelling unit.*

Sec. 8. [STUDY, CONSERVATION IMPROVEMENT PROGRAMS; GRANTS.]

*The department of public service shall study the feasibility of requiring heating fuel suppliers, including fuel oil distributors and retailers and propane dealers, to undertake conservation improvement programs. In addition, the department shall study the feasibility of basing grants to low-income energy users on their total energy costs. The department shall report its findings and recommendations to the legislature by January 15, 1990.*

Sec. 9. [CONSERVATION IMPROVEMENT PROGRAMS.]

*Notwithstanding section 216B.241, subdivision 2, the department of public service may permit utilities governed by that section to carry on programs currently approved by the public utilities commission and the commission may continue to approve programs until the department has adopted rules and approved new programs to cover a two-year program beginning in 1990.*

Sec. 10. [APPROPRIATION.]

*$22,000 is appropriated from the general fund to the commissioner of public service for the purposes of rulemaking.*

Sec. 11. [OIL OVERCHARGE MONEY; APPROPRIATION.]

*Subdivision 1.* [LIMITATION.] *The money appropriated by this section is money received by the state, or to be made available to the state in the future, as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise appropriated by law or dedicated by court order.*

*Subd. 2.* [ENERGY RELATED PROJECTS.] *$3,100,000 of the money specified in subdivision 1 is appropriated for transfer to the housing development fund for home energy loans. Of that amount, $2,200,000 must be made available as soon as federal approval is received. The balance must be made available from money received later in the fiscal years ending June 30, 1990, and June 30, 1991.*

*Subd. 3.* [OTHER PROJECTS.] *One-half of the remainder of the money*

*specified in subdivision 1 must be appropriated to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans. Money appropriated under subdivision 2 and under this subdivision is not governed by Minnesota Statutes, section 4.071, and is available until spent.*

Sec. 12. [EFFECTIVE DATE.]

*This act is effective July 1, 1989, except that sections 1, 9, and 11 are effective the day following final enactment.*"

Delete the title and insert:

"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; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B."

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

House Conferees: (Signed) Andy Dawkins, Joel Jacobs, Paul Anders Ogren, Bob Haukoos, Doug Carlson

Senate Conferees: (Signed) Ronald R. Dicklich, Douglas J. Johnson, John J. Marty, Pat Piper, Dean E. Johnson

Mr. Dicklich moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1532 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1532 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1408, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1408 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1408

A bill for an act relating to metropolitan transit; requiring joint planning for light rail transit; establishing a joint planning board; requiring approval of light rail transit plans by the regional transit board; specifying the composition of the regional transit board and the metropolitan transit commission; changing various provisions relating to metropolitan transit programs and authorities; amending Minnesota Statutes 1988, sections 398A.04, subdivision 9; 473.169, subdivisions 1, 3, 4, and 5; 473.17; 473.373, subdivisions 1a, 4, 5, and by adding a subdivision; 473.375, subdivisions 8 and 13; and 473.404, subdivisions 2, 3, and 5; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, sections 473.1691 and 473.398.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1408, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1408 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 174.32, subdivision 2, is amended to read:

Subd. 2. [TRANSIT ASSISTANCE FUND; DISTRIBUTION.] (a) ~~A~~ *The* transit assistance fund ~~is created for the purpose of receiving~~ *receives* money distributed under section 297B.09. Eighty percent of the receipts of the fund must be placed into a metropolitan account for distribution to recipients located in the metropolitan area and 20 percent into a separate account for distribution to recipients located outside of the metropolitan area. Except as otherwise provided in this subdivision, the regional transit board created by section 473.373 is responsible for distributing assistance from the metropolitan account, and the commissioner is responsible for distributing assistance from the other account. Money placed in the metropolitan account is available for distribution to regional railroad authorities established under

chapter 398A in the metropolitan area, by the commissioner of transportation as provided in paragraph (b).

(b) The commissioner shall request applications from all eligible regional railroad authorities. The commissioner shall establish a reasonable deadline for submittal of applications. The commissioner may not distribute more than 60 percent of the available funds to a single recipient. Before distributing money to any regional railroad authority, the commissioner shall ~~request review and comment on the applications from the metropolitan council and the regional transit board. The council and the board have 60 days to comment. The commissioner shall consider the comments of the council and the board in evaluating applications and distributing funds~~ *submit the applications to the regional transit board for approval. The commissioner may distribute funds only with the approval of the board.* Before ~~distributing~~ *approving* any *application for* funds for construction, the ~~commissioner~~ *board* shall report to the legislature on the use and planned distribution of construction funds.

Sec. 2. Minnesota Statutes 1988, section 398A.04, subdivision 9, is amended to read:

Subd. 9. [~~MUNICIPAL~~ AGREEMENTS.] The authority may enter into *joint powers agreements under section 471.59 or other* agreements with the municipality or municipalities named in the organization agreement, or with other municipalities situated in the counties named in the resolution, respecting the matters referred to in section 398A.06 *or with another authority about any matter subject to this chapter.*

Sec. 3. Minnesota Statutes 1988, section 473.169, subdivision 2, is amended to read:

Subd. 2. [PRELIMINARY DESIGN PLANS; PUBLIC HEARING.] Before preparing final design plans for a light rail transit facility, the political subdivision proposing the facility must hold a public hearing on the *physical design component of the* preliminary design plans. The proposer must provide appropriate public notice of the hearing and publicity to ensure that affected parties have an opportunity to present their views at the hearing.

Sec. 4. Minnesota Statutes 1988, section 473.169, subdivision 3, is amended to read:

Subd. 3. [PRELIMINARY DESIGN PLANS; LOCAL APPROVAL.] At least 30 days before the hearing under subdivision 2, the proposer ~~must~~ *shall* submit the *physical design component of the* preliminary design plans to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located. The city, county, or town ~~must~~ *shall* hold a public hearing, *except that a county board need not hold a hearing if the county board membership is identical to the membership of the regional railroad authority submitting the plan for review.* Within 45 days after the hearing under subdivision 2, the city, county, or town ~~must~~ *shall* review and approve or disapprove the plans for the route to be located in the city, county, or town. *A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval.* Failure to approve or disapprove the plans in writing within 45 days after the hearing is deemed to be approval, unless an extension of time is agreed to by the city, county, or town and the proposer. ~~If the preliminary design~~

~~plans are approved by each city, county, and town in which the route is proposed to be located, the proposer may proceed with final design plans under subdivision 5.~~

Sec. 5. Minnesota Statutes 1988, section 473.169, subdivision 4, is amended to read:

Subd. 4. [PRELIMINARY DESIGN PLANS; ~~METROPOLITAN COUNCIL~~ *REGIONAL TRANSIT BOARD* REFERRAL.] If the governing body of one or more cities, counties, or towns disapproves the preliminary design plans within the period allowed under subdivision 3, the proposer may refer the plans, *along with any comments of local jurisdictions,* to the ~~metropolitan council~~ *regional transit board.* The ~~council must~~ *board shall* hold a hearing *on the plans*, giving the proposer ~~and the~~, *any* disapproving local governmental units, *and other persons* an opportunity to present ~~the case for or against approval of~~ *their views on* the plans. The ~~council~~ *board* may conduct independent study as it deems desirable and may mediate and attempt to resolve disagreements about the plans. Within 90 days after the referral, the ~~council~~ *board* ~~must either approve~~ *shall review* the plans ~~as~~ submitted by the proposer ~~or~~ *and may* recommend amended plans to accommodate the objections presented by the disapproving local governmental units. ~~Failure to respond within the time period is deemed to be approval, unless an extension of time is agreed to by the council and the proposer.~~

~~Following approval or recommendation of preliminary design plans by the council, the proposer may proceed with final design plans under subdivision 5.~~

Sec. 6. Minnesota Statutes 1988, section 473.169, subdivision 5, is amended to read:

Subd. 5. [FINAL DESIGN PLANS.] (a) ~~After the approval of preliminary design plans under subdivision 3 or review by the council following referral to the council under subdivision 4, the proposer may prepare final design plans.~~

~~(b)~~ Before ~~proceeding with~~ *beginning* construction, the proposer ~~must~~ *shall* submit the *physical design component of* final design plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. Within 60 days after the submission of the plans, the city, county, or town ~~must~~ *shall* review and approve or disapprove the plans for the route located in the city, county, or town. *A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval.* Failure to approve or disapprove the plans in writing within the time period is deemed to be approval, unless an extension is agreed to by the city, county, or town and the proposer. ~~If the final design plans are approved by each city, county, and town in which the route is proposed to be located, the proposer may proceed with construction on that route.~~

~~(c)~~ *(b)* If the governing body of one or more cities, counties, or towns disapproves the ~~final design~~ plans within the period allowed under paragraph ~~(b)~~ *(a)*, the proposer may refer the plans, *along with any comments of local jurisdictions,* to the ~~metropolitan council~~ *regional transit board.* The ~~council must~~ *board shall* review the final design plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans.

~~Following approval of final design plans by the council, the proposer may proceed with construction.~~

Sec. 7. Minnesota Statutes 1988, section 473.373, subdivision 1a, is amended to read:

Subd. 1a. [~~PURPOSE~~ *DUTIES OF THE BOARD.*] (a) The ~~purposes~~ *duties* of the board are:

(1) to foster effective delivery of existing transit services and encourage innovation in transit service;

(2) *to increase transit service in suburban areas;*

*(3)* to prepare implementation and financial plans for the metropolitan transit system;

~~(3)~~ *(4)* to set policies and standards for implementing the transit policies and programs of the state and the transit policies of the metropolitan council in the metropolitan area;

*(5) to advise and work cooperatively with local governments, regional rail authorities, and other public agencies, transit providers, developers, and other persons in order to coordinate all transit modes and to increase the availability of transit services;*

~~(4)~~ *(6)* to conduct transit research and evaluation; and

~~(5)~~ *(7)* to administer state and metropolitan transit subsidies.

(b) The board shall arrange with others for the delivery and provision of transit services and facilities. *To the greatest extent possible,* the board shall avoid~~, to the greatest extent possible,~~ direct operational planning, administration, and management of specific transit services and facilities.

*(c) The board shall advise the council, the council's transportation advisory board, the department of transportation, political subdivisions, and private developers on the transit aspects and effects of proposed transportation plans and development projects and on methods of improving the coordination, availability, and use of transit services as part of an efficient and effective overall transportation system.*

Sec. 8. Minnesota Statutes 1988, section 473.373, is amended by adding a subdivision to read:

*Subd. 4a.* [MEMBERSHIP.] *(a) The board consists of 11 members with governmental or management experience. Appointments are subject to the advice and consent of the senate. Terms of members are four years commencing on the first Monday in January of the first year of the term.*

*(b) The council shall appoint eight members, one from each of the following agency districts:*

*(1) district A, consisting of council districts 1 and 2;*

*(2) district B, consisting of council districts 3 and 7;*

*(3) district C, consisting of council districts 4 and 5;*

*(4) district D, consisting of council districts 6 and 11;*

*(5) district E, consisting of council districts 8 and 10;*

*(6) district F, consisting of council districts 9 and 13;*

*(7) district G, consisting of council districts 12 and 14; and*

*(8) district H, consisting of council districts 15 and 16.*

*At least six must be elected officials of statutory or home rule charter cities, towns, or counties. Two of these officials must be county board members, each from a different county, and four must be elected officials of cities or towns. Service on the board of a person who is appointed as an elected official may continue only as long as the person holds the office. At least 30 days before the expiration of a term or upon the occurrence of a vacancy, the council shall request nominations for the position from relevant organizations of local elected officials, such as the association of metropolitan municipalities, the metropolitan intercounty association, the association of urban counties, and where applicable, the association of townships. Each relevant organization shall nominate at least two persons for each position. A local governmental unit that is not a member of an organization may submit nominations independently. The council shall make its appointments from the nominations submitted to it to the extent possible consistent with the other requirements of this paragraph and with the appointment of a board that fairly reflects the diverse areas and constituencies affected by transit.*

*(c) The governor shall appoint, in addition to the chair, two persons, one who is age 65 or older at the time of appointment, and one with a disability. These appointments must be made following the procedures of section 15.0597. In addition, at least 30 days before the expiration of a term or upon the occurrence of a vacancy in the office held by a senior citizen or a person with a disability, the governor shall request nominations from organizations of senior citizens and persons with disabilities. Each organization shall nominate at least two persons. The governor shall consider the nominations submitted.*

*(d) No more than three of the members appointed under paragraphs (b) and (c) may be residents of the same statutory or home rule city or town, and none may be a member of the joint light rail transit advisory committee established under section 13.*

Sec. 9. Minnesota Statutes 1988, section 473.375, subdivision 8, is amended to read:

Subd. 8. [GIFTS; GRANTS.] The board may apply for, accept and disburse gifts, grants, or loans from the United States, the state, or from any person on behalf of itself or any of its contract recipients, for any of its purposes. It may enter into an agreement required for the gifts, grants, or loans and may hold, use, and dispose of money or property received therefrom according to the terms of the gift, grant, or loan. The board may not be a recipient of federal operating or capital assistance distributed by formula or block grant. ~~The board may not be a recipient of federal discretionary capital grants for light rail and other fixed guideway transit systems.~~

No political subdivision within the metropolitan area may apply for federal transit assistance unless its application has been submitted to and approved by the board.

Sec. 10. Minnesota Statutes 1988, section 473.375, subdivision 13, is amended to read:

Subd. 13. [FINANCIAL ASSISTANCE.] The board may provide financial assistance to the commission and other providers as provided in sections 473.371 to 473.449 in furtherance of and in conformance with the implementation plan of the board. *The board may not use the proceeds of bonds issued by the council under section 473.39 to provide capital assistance to private, for-profit operators of public transit.*

Sec. 11. [473.385] [TRANSIT SERVICE AREAS.]

*Subdivision 1.* [DEFINITIONS.] *(a) "Fully developed service area" means the fully developed area, as defined in the metropolitan council's development investment framework, plus the cities of Mendota Heights, Maplewood, North St. Paul, and Little Canada.*

*(b) "Regular route transit" has the meaning given it in section 174.22, subdivision 8, except that, for purposes of this section, the term does not include services on fixed routes and schedules that are primarily intended to provide circulator service within a community or adjacent communities rather than feeder service to the system of metropolitan regular route transit operated by the commission.*

*Subd. 2.* [SERVICE AREAS.] *The regional transit board may provide financial assistance (whether directly or through another entity) to private, for-profit operators of public transit only for the following services:*

*(1) services that are not regular route services;*

*(2) regular route services provided on the effective date of this section by a private for-profit operator under contract with the board or under a certificate of convenience and necessity issued by the transportation regulation board;*

*(3) regular route services outside of the fully developed service area that are not operated on the effective date of this section by the commission;*

*(4) regular route services provided under section 473.388;*

*(5) regular route services to recipients who, as part of a negotiated cost-sharing arrangement with the board, pay at least 50 percent of the cost of the service that directly benefits the recipient as an institution or organization; or*

*(6) regular route services that the board and the commission agree are not or will not be operated for a reasonable subsidy by the commission.*

Sec. 12. [473.399] [LIGHT RAIL TRANSIT; REGIONAL PLAN.]

*Subdivision 1.* [GENERAL REQUIREMENTS.] *(a) The transit board shall adopt a regional light rail transit plan, as provided in this section, to ensure that light rail transit facilities in the metropolitan area will be acquired, developed, owned, and capable of operation in an efficient, cost-effective and coordinated manner as an integrated and unified system on a multicounty basis in coordination with buses and other transportation modes and facilities. To the extent practicable the board shall incorporate into its plan appropriate elements of the plans of regional railroad authorities in order to avoid duplication of effort.*

*(b) The regional plan required by this section must be adopted by the board before any regional railroad authority may begin construction of light rail transit facilities and before any authority is eligible for state financial assistance for constructing light rail transit facilities. Following*

*adoption of the regional plan, each regional railroad authority or other developer of light rail transit in the metropolitan area shall act in conformity with the plan. Each authority or proposer shall prepare or amend its comprehensive plan and preliminary and final design plans as necessary to make the plans consistent with the regional plan.*

*(c) Throughout the development and implementation of the plan, the board shall contract for or otherwise obtain engineering services to assure that the plan adequately addresses the technical aspects of light rail transit.*

*Subd. 2.* [DEVELOPMENT AND FINANCIAL PLAN.] *(a) The board shall adopt a regional development and financial plan for light rail transit composed of the following elements:*

*(1) a staged development plan of light rail transit corridors;*

*(2) a statement of needs, objectives, and priorities for capital development and service for a prospective ten-year period, considering service needs, ridership projections, and other relevant factors for the various segments of the system, along with a statement of the fiscal implications of these objectives and priorities, and policies and recommendations for long term capital financing;*

*(3) a capital investment component for a five-year period following the commencement of construction of facilities, with policies and recommendations for ownership of facilities and for financing capital and operating costs;*

*(b) For any segments of rail line that may be constructed below the surface elevation, the plan must estimate the additional capital costs, debt service, and subsidy level that are attributable to the below grade construction. The plan must include a method of financing the operation of light rail transit that depends on property tax revenue for no more than 35 percent of the operations cost.*

*(c) The board shall prepare the plan in consultation with its light rail transit advisory committee. The board shall submit the plan and amendments to the plan to the metropolitan council for review and approval or disapproval, for conformity with the council's transportation plan. The council has 90 days to complete its review.*

*Subd. 3.* [COORDINATION PLAN.] *(a) The board shall adopt a regional coordination plan for light rail transit. The plan must include:*

*(1) a method for organizing and coordinating acquisition, construction, ownership, and operation of light rail transit facilities, including in particular, coordination of vehicle specifications, provisions for a single light rail transit operator for the system, and the organization and coordination method required if a turn-key approach to facility acquisition is used by a regional railroad authority;*

*(2) specifications and standards to ensure joint or coordinated procurement of rights-of-way, track, vehicles, electrification, communications and ticketing facilities, yards and shops, stations, and other facilities that must be or should be operated on a systemwide basis;*

*(3) systemwide operating and performance specifications and standards;*

*(4) bus and park-and-ride coordination policies, standards, and plans to assure maximum use of light rail transit and the widest possible access to light rail transit in both urban and suburban areas;*

*(5) a method for ensuring ongoing coordination of development, design, and operational plans for light rail facilities;*

*(6) provision for the operation of light rail transit by the metropolitan transit commission; and*

*(7) other matters that the board deems prudent and necessary to ensure that light rail transit facilities are acquired, developed, owned, and capable of operation in an efficient, cost-effective and coordinated manner as an integrated and unified system on a multicounty basis in coordination with buses and other transportation modes and facilities.*

*(b) The joint light rail transit advisory committee shall prepare and recommend the plan to the board. The board shall review the plan within 90 days and either adopt it or disapprove it and return it to the committee with the modifications that the board recommends before adoption of the plan. The committee shall take into consideration the board's recommendations and resubmit the plan to the board for review and adoption or disapproval.*

*(c) The metropolitan council shall review and comment on the plan.*

Sec. 13. [473.3991] [JOINT LIGHT RAIL TRANSIT ADVISORY COMMITTEE.]

*Subdivision 1.* [CREATION; PURPOSE.] *The transit board shall establish a joint light rail transit advisory committee, to assist the board in planning light rail transit facilities and in coordinating the light rail transit activities of the county regional railroad authorities and the transit commission. The committee shall perform the duties specified in sections 12 and 20 and shall otherwise assist the board upon request of the board.*

*Subd. 2.* [MEMBERSHIP] *The committee consists of:*

*(1) two members of the governing board of each regional railroad authority that applies for and receives state funding for preliminary engineering of light rail transit facilities;*

*(2) one member, in addition to those under clause (1), of the governing board of the Hennepin county regional railroad authority;*

*(3) one member of the governing board of each regional railroad authority not represented under clause (1) that applies for and receives state funding for planning of light rail transit facilities;*

*(4) two members of the metropolitan transit commission; and*

*(5) the commissioner of transportation or an employee of the department designated by the commissioner.*

*Appointments under clauses (1) to (3) are made by the respective authorities, and appointments under clause (4) are made by the commission. The regional transit board shall make the appointment for any appointing authority that fails to make the required appointments. Members serve at the pleasure of the agency making the appointment.*

*Subd. 3.* [CHAIR.] *The committee shall annually elect a chair from among its members.*

*Subd. 4.* [ADMINISTRATION.] *The regional transit board shall provide staff and administrative services for the committee. The organizations represented on the committee shall provide information, staff, and technical*

*assistance for the committee as needed.*

Sec. 14. [473.3993] [LIGHT RAIL TRANSIT FACILITY PLANS; DEFINITIONS.]

*Subdivision 1.* [APPLICATION.] *The definitions in this section apply to section 473.169 and section 15.*

*Subd. 2.* [PRELIMINARY DESIGN PLAN.] *"Preliminary design plan" means a light rail transit plan that identifies:*

*(1) preliminary plans for the physical design of facilities, including location, length, and termini of routes; general dimension, elevation, alignment, and character of routes and crossings; whether the track is elevated, on the surface, or below ground; approximate station locations; and related park and ride, parking, and other transportation facilities; and a plan for handicapped access; and*

*(2) preliminary plans for intermodal coordination with bus operations and routes; ridership; capital costs; operating costs and revenues; funding for final design, construction, and operation; and an implementation method.*

*Subd. 3.* [FINAL DESIGN PLAN.] *"Final design plan" means a light rail transit plan that includes the items in the preliminary design plan for the facilities proposed for construction, but with greater detail and specificity. The final design plan must include, at a minimum:*

*(1) final plans for the physical design of facilities, including the right-of-way definition; environmental impacts and mitigation measures; intermodal coordination with bus operations and routes; and civil engineering plans for vehicles, track, stations, parking, and access, including handicapped access; and*

*(2) final plans for civil engineering for electrification, communication, and other similar facilities; operational rules, procedures and strategies; capital costs; ridership; operating costs and revenues; financing for construction and operation; an implementation method; and other similar matters.*

*The final design plan must be stated with sufficient particularity and detail to allow the proposer to begin the acquisition and construction of operable facilities. If a turn-key implementation method is proposed, instead of civil engineering plans the final design plan must state detailed design criteria and performance standards for the facilities.*

Sec. 15. [473.3996] [LIGHT RAIL TRANSIT FACILITY DESIGN PLANS; REVIEW BY BOARD.]

*Subdivision 1.* [PRELIMINARY DESIGN PLANS.] *Before submitting the physical design component of final design plans of a light rail transit facility for local review under section 473.169, subdivision 5, the proposer shall submit preliminary design plans to the regional transit board for review. The board shall review the preliminary design plans to determine the compatibility of the plans with other light rail transit plans and facilities in the metropolitan area, the adequacy of the plans for handicapped accessibility, and the conformity of the plans with the regional light rail transit plan prepared under section 12. The board may comment on any aspect of the plans. The board has 90 days to complete its review, unless an extension of time is agreed to by the proposer. If the board determines that the plans do not satisfy the standards stated in this subdivision, the board*

*shall recommend modifications in the plans that are necessary in order to satisfy the board. After adopting or amending the regional plan required by section 12, the board may again review any previously reviewed preliminary design plans and recommend modifications that are necessary to satisfy the board.*

*Subd. 2.* [FINAL DESIGN PLANS.] *Before acquiring or constructing light rail transit facilities, other than land for right of way, the proposer shall submit final design plans to the regional transit board for review. The board shall review the final design plans under the same schedule and according to the same standards as provided for its review of preliminary design plans. The board shall either approve the plans, or if it determines that the plans do not satisfy the standards, disapprove the plans, in whole or in part, and recommend modifications in the plans that are necessary to secure approval. A proposer may not proceed with acquisition or construction of a light rail transit facility, other than land for right of way, unless the final design plans for the facility have been approved by the board. Following approval of final design plans by the board, if a regional railroad authority wishes to select a bid or a response to a request for proposal that is more than ten percent higher than the capital costs indicated in the final design plans for the facility, the authority may not proceed with construction until it has resubmitted the final design plans to the transit board for further review and approval or disapproval. The board has 10 working days to review and approve or disapprove and recommend modification, unless an extension of time is agreed to by the authority.*

Sec. 16. Minnesota Statutes 1988, section 473.404, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The transit commission consists of ~~three~~ *five* members appointed by the transit board. One member must be a resident of the city of Minneapolis, one must be a resident of the city of St. Paul, ~~and one~~ *two* must reside in the service area of the commission outside ~~of~~ Minneapolis and St. Paul, *and one may reside anywhere in the metropolitan area. At least one of the members from outside of Minneapolis and St. Paul must reside in the commission's full-peak and off-peak service area, as defined for tax purposes in section 473.446.* Appointments are ~~not~~ subject to the advice and consent of the senate.

Sec. 17. Minnesota Statutes 1988, section 473.404, subdivision 3, is amended to read:

Subd. 3. [TERMS.] The term of each member of the commission is three years and until a successor is appointed and qualified. The ~~initial~~ terms of members commence on ~~the first day after~~ August 1~~, 1984, that all three members have been appointed and qualified~~ *of the first year of a term.* ~~One member must be appointed to an initial term of one year, one to an initial term of two years, and one to an initial term of three years. The terms of members of the transit commission appointed and serving on August 1, 1984, pursuant to Minnesota Statutes 1982, section 473.141, expire on the day that the terms of members appointed pursuant to this section commence.~~

Sec. 18. Minnesota Statutes 1988, section 473.404, subdivision 5, is amended to read:

Subd. 5. [QUALIFICATION.] Each member of the commission must have *transit, governmental, or* management experience. A member shall

not during a term of office be a member of the metropolitan council, the regional transit board, the metropolitan waste control commission, the metropolitan airports commission, the metropolitan sports facilities commission, or any other independent regional commission, board, or agency, or hold any judicial office. Each member shall qualify by taking and subscribing to the oath of office prescribed by the Minnesota Constitution, article 5, section 5. The oath, duly certified by the official administering it, must be filed with the metropolitan council.

Sec. 19. Minnesota Statutes 1988, section 473.4051, is amended to read:

473.4051 [LIGHT RAIL TRANSIT OPERATION.]

The transit commission ~~may enter into an agreement to provide for the operation of a~~ *shall operate* regional ~~rail~~ *railroad* authority light rail transit ~~system~~ *facilities and services* upon completion of construction of the ~~system by the regional rail authority~~ *facilities and the commencement of revenue service using the facilities.* ~~If a regional rail authority enters into an agreement with the transit commission for~~ *The regional railroad authority and the commission may not allow the commencement of revenue service until after an appropriate period of acceptance testing to ensure satisfactory performance. In assuming* the operation of the system, the transit commission must comply with ~~the provisions of~~ section 473.415. *The commission shall coordinate operation of the light rail transit system with bus service to avoid duplication of service on a route served by light rail transit and to ensure the widest possible access to light rail transit lines in both suburban and urban areas by means of a feeder bus system. If the regional plan prepared by the transit board under section 12 calls for construction and operation of light rail transit facilities in a jurisdiction whose governing body has chosen not to organize and proceed under chapter 398A, the board may authorize the transit commission to implement the plan in that area.*

Sec. 20. [LIGHT RAIL PLANNING REQUIREMENTS.]

*Subdivision 1.* [DEVELOPMENT AND FINANCIAL PLAN.] *The regional transit board shall complete the initial light rail transit development and financial plan required in section 12, subdivision 2, by January 1, 1990. The metropolitan council has 45 days to complete its review of the initial plan. The transit board shall report to the legislature by February 15, 1990, on the plan and on the board's capital development and financing recommendations.*

*Subd. 2.* [COORDINATION PLAN.] *The board's light rail transit advisory committee shall prepare and recommend to the regional transit board the initial light rail transit coordination plan required by section 12, subdivision 3, by July 1, 1990. Before adopting the initial coordination plan, the transit board shall:*

*(1) submit the plan to the council and the commissioner of transportation for review and comment;*

*(2) assemble a peer review panel of transit and light rail transit experts of national stature to review and comment on the plan; and*

*(3) hold a public hearing on the plan to receive the comments and suggestions of the public.*

*The transit board may not include on the peer review panel any person who is employed by, or under contract as a consultant or for professional*

*services to, regional railroad authorities, a firm employed as a consultant to regional railroad authorities, the transit commission, or the transit commission's management contractor.*

*Subd. 3.* [TRANSPORTATION PLAN.] *Notwithstanding the provisions of section 473.146, by January 1, 1990, the council shall revise the light rail transit element of its transportation plan, taking into consideration all comprehensive plans and studies of corridors and preliminary design plans of regional railroad authorities.*

Sec. 21. [METROPOLITAN REGIONAL RAILROAD AUTHORITIES.]

*Subdivision 1.* [AUTHORITY.] *Nothing in this act should be interpreted to require the elimination of the regional railroad authorities in the metropolitan area or to forbid one or more authorities to act independently, so long as their activities are consistent with the regional light rail transit plan.*

*Subd. 2.* [ELIGIBILITY FOR FEDERAL FUNDS; SPECIAL PROVISION.] *(a) A regional railroad authority in the metropolitan area is specifically authorized to apply for and receive, in its own name, federal financial assistance.*

*(b) Nothing in this act may be interpreted or relied on by any person, political subdivision, or agency to forbid, restrict, or delay an application for federal financial assistance of any regional railroad authority in the metropolitan area acting independently, or to transfer to another entity the authority of a regional railroad authority to receive such assistance individually, independently, and directly for the planning, engineering, or construction of a regional railroad authority's light rail transit system.*

*(c) If a regional railroad authority in the metropolitan area has made application for a federal construction or capital grant for light rail transit by April 1, 1989, and the secretary of transportation preliminarily awards or indicates an intent to award federal funds to the regional railroad authority for that grant application, then the location of the light rail transit line, stations, yards and shops contained in that application is not subject to approval by the regional transit board, if the grant is awarded or a notice of intent to award the grant is received.*

Sec. 22. [SPECIAL TRANSIT SERVICES; DELIVERY STUDY.]

*Subdivision 1.* [STUDY REQUIRED.] *The regional transit board shall conduct a study of methods to improve the delivery of transportation services for the elderly, handicapped, and disabled, including persons with permanent sensory or mental impairments, whose transit needs cannot be fully accommodated through the use of existing public transit alternatives. The board shall direct its staff to:*

*(1) evaluate the potential for integrating metro mobility with other specialized transit;*

*(2) assess the role of nonprofits in providing cost-effective service;*

*(3) identify transit issues for special populations in suburban areas; and*

*(4) evaluate the efficiency and usefulness of the current metro mobility administrative center computer system and identify suggestions for improvement.*

*Subd. 2.* [COMMUNITY INVOLVEMENT.] *The board shall actively*

*involve interested parties in this process, including but not limited to:*

*(1) members of the transportation handicapped advisory committee;*

*(2) representatives of the department of human services;*

*(3) members of the transit providers advisory committee;*

*(4) representatives of nonprofit transit and social service providers;*

*(5) organizations representing the elderly, handicapped, and disabled communities; and*

*(6) interested members of the general public.*

*Subd. 3.* [REPORT.] *The board shall report to the legislature on the study and the board's findings and recommendations by December 1, 1989.*

Sec. 23. [APPOINTMENTS.]

*(a) Notwithstanding section 8, the terms of the initial members of the transit board appointed under section 8 begin July 1, 1989, and end as follows:*

*(1) for members representing districts A, B, C, and D, for the chair, and for the disabled person, on the first Monday in January of 1993;*

*(2) for all other members, on the first Monday in January of 1991.*

*The terms of members of the board appointed and serving on the effective date of this act expire on the day that the terms of members appointed under this section and section 8 commence.*

*(b) Notwithstanding sections 16 and 17, the initial term of one of the members added to the transit commission by section 16 is two years. At the time of appointment, the board shall designate the member appointed under section 16 to a two-year term and the member appointed to a three-year term. The board may not appoint the added members under this section and section 16 until the initial members of the transit board appointed under this section and section 8 have been appointed and have began serving their terms.*

Sec. 24. [REPEALER.]

*Minnesota Statutes 1988, sections 473.169, subdivision 1; 473.1691; 473.17; 473.373, subdivision 4; and 473.398, are repealed.*

Sec. 25. [APPLICATION.]

*Sections 1 to 24 are effective the day following final enactment. Sections 4 to 24 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."*

Delete the title and insert:

"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 board to establish a joint light rail transit advisory committee; directing the commission to operate light rail transit systems; changing various provisions relating to metropolitan transit plans, programs, and authorities; amending Minnesota Statutes 1988, sections 174.32, subdivision 2; 398A.04, subdivision 9; 473.169, subdivisions 2, 3, 4, and

5; 473.373, subdivision 1a, and by adding a subdivision; 473.375, subdivisions 8 and 13; 473.404, subdivisions 2, 3, and 5; and 473.4051; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, sections 473.169, subdivision 1; 473.1691; 473.17; 473.73, subdivision 4; and 473.398."

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

House Conferees: (Signed) Phil Carruthers, Peter McLaughlin, Don Valento

Senate Conferees: (Signed) Steven G. Novak, James Metzen, Phyllis W. McQuaid

Mr. Novak moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1408 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1408 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 1, as follows:

Those who voted in the affirmative were:

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

Mr. Waldorf voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 306, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 306 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 306

A bill for an act relating to trusts; providing for their creation, validity, administration, and supervision; providing for the sale of real property; relating to legal estates in real and personal property; relating to estates; amending Minnesota Statutes 1988, sections 500.17, subdivision 2; and 502.73; proposing coding for new law as Minnesota Statutes, chapter 501B; proposing coding for new law in Minnesota Statutes, chapter 525; repealing Minnesota Statutes 1988, sections 500.13; 501.01; 501.02; 501.03; 501.04; 501.05; 501.06; 501.07; 501.08; 501.09; 501.10; 501.11; 501.115; 501.12; 501.125; 501.13; 501.14; 501.15; 501.155; 501.16; 501.17; 501.18; 501.19; 501.195; 501.20; 501.21; 501.211; 501.22; 501.23; 501.24; 501.25; 501.26; 501.27; 501.28; 501.29; 501.30; 501.31; 501.32; 501.33; 501.34; 501.35; 501.351; 501.36; 501.37; 501.38; 501.39; 501.40; 501.41; 501.42; 501.43; 501.44; 501.45; 501.46; 501.461; 501.48; 501.49; 501.50; 501.51; 501.52; 501.53; 501.54; 501.55; 501.56; 501.57; 501.58; 501.59; 501.60; 501.61; 501.62; 501.63; 501.64; 501.65; 501.66; 501.67; 501.71; 501.72; 501.73; 501.74; 501.75; 501.76; 501.77; 501.78; 501.79; 501.80; 501.805; 501.81; 501A.01; 501A.02; 501A.03; 501A.04; 501A.05; 501A.06; and 501A.07.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 306, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 306, the first engrossment, be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRUSTS

Section 1. [501B.01] [PURPOSES FOR WHICH EXPRESS TRUSTS MAY BE CREATED.]

*An active express trust may be created for any lawful purpose.*

Sec. 2. [501B.02] [PASSIVE TRUSTS ABOLISHED.]

*Passive express trusts of real or personal property are abolished. An attempt to create a passive trust vests the entire estate granted in the beneficiary.*

Sec. 3. [501B.03] [TERMINATION OF TRUST PURPOSES.]

*If the purposes for which an active express trust is created have been accomplished, or become impossible of accomplishment or illegal, the trust will be terminated.*

Sec. 4. [501B.04] [REVERSION IN GRANTOR.]

*Every legal estate and interest not embraced in an express trust and not otherwise disposed of remains in the grantor.*

Sec. 5. [501B.05] [BONA FIDE PURCHASERS PROTECTED.]

*An express trust not declared in the disposition to the trustee or a constructive or resulting trust does not defeat the title of a purchaser from the trustee for value and without notice of the trust, or the rights of a creditor who extended credit to the trustee in reliance upon the trustee's apparent ownership of the trust property.*

Sec. 6. [501B.06] [MISAPPLICATION OF PAYMENT TO TRUSTEE.]

*A person who actually and in good faith makes a payment to a trustee that the trustee, as such, is authorized to receive, is not responsible for the proper application of the payment according to the trust. No right or title derived by the person from the trustee, in consideration of the payment, may be impeached or called in question because of a misapplication of the payment by the trustee.*

Sec. 7. [501B.07] [PURCHASE MONEY RESULTING TRUSTS.]

*If a transfer of property is made to one person and the purchase price is paid by another, a resulting trust is presumed to arise in favor of the person by whom the purchase price is paid, except:*

*(1) if the person by whom the purchase price is paid manifests a contrary intention, no resulting trust is presumed to arise;*

*(2) if the transferee is a spouse, child, or other natural object of bounty of the payor, a gift in favor of the transferee is presumed and no resulting trust is presumed to arise; and*

*(3) if the transfer is made to accomplish an illegal purpose, no resulting trust is presumed to arise unless it is needed to prevent unjust enrichment of the transferee.*

Sec. 8. [501B.08] [APPOINTMENT OF AND ACQUISITION OF TITLE BY SUCCESSOR TRUSTEES AND CONFIRMATION OF ACTS PERFORMED DURING VACANCIES IN TRUSTEESHIP.]

*If the terms of a trust provide for the appointment of a successor trustee and direct how the successor is to qualify, title to the trust assets vests in the successor trustee upon qualification, unless the terms of the trust expressly provide otherwise.*

*If the terms of a trust do not effectively provide for the appointment of a successor trustee and appointment of a successor is required, or if title to the trust assets does not vest in a successor trustee, the district court may appoint a successor trustee or vest title in a successor trustee.*

*The district court may confirm an act performed by a person in execution of the trust while there was no acting trustee.*

Sec. 9. [501B.09] [SUSPENSION OF THE POWER OF ALIENATION.]

*Subdivision 1.* [SUSPENSION; EXCEPTIONS.] *The power of alienation is suspended if there are no persons in being who, alone or in conjunction with others, can convey an absolute fee in possession or absolute ownership of real property or absolute ownership of personal property.*

*(a) There is no suspension of the power of alienation by the terms of a trust or by interests in property held in trust if there is an unlimited power in one or more persons then in being to terminate the trust, by revocation or otherwise, and to acquire an absolute fee in possession or absolute ownership of the trust property.*

*(b) There is no suspension of the power of alienation by the terms of a trust or by interests in property held in trust if the trustee has power to sell an absolute fee in possession or absolute ownership of the trust property.*

*Subd. 2.* [SUSPENSION FOR 21 YEARS.] *The power of alienation of property held in trust may be suspended, by the terms of the trust, for a period of not more than 21 years. During any period of suspension of the power of alienation of real property, section 38 applies. Notwithstanding any contrary term of a trust, suspension of the power of alienation by the terms of a trust ceases after a period of 21 years, after which the trustee has the power to convey an absolute fee in possession or absolute ownership of the trust property, and to mortgage, pledge, and lease the same. A provision in the terms of a trust for forfeiture of the interest of a trustee or beneficiary if the trustee or beneficiary participates in or seeks to convey, mortgage, pledge, or lease trust property after the expiration of a 21-year period of suspension is void.*

*Subd. 3.* [VOID FUTURE INTERESTS.] *Every future interest in real or personal property not held in trust is void in its creation if it might suspend the power of alienation for a period longer than a life or lives in being plus 21 years.*

Sec. 10. [501B.10] [KINDS OF PROPERTY A TRUSTEE MAY ACQUIRE.]

*Subdivision 1.* [GENERAL PROPERTIES AND INVESTMENTS.] *(a) A trustee may invest in every kind of real or personal property and every kind of investment that a prudent person would invest in having in mind the preservation of the trust estate and the amount and regularity of the income derived. This permission includes, but is not limited to, bonds, debentures, and other individual or corporate obligations, mutual funds, and corporate stocks. In considering an investment, a trustee shall exercise the care, skill, and judgment under the circumstances then prevailing that a person of ordinary prudence would exercise in the management of the person's own property and shall consider the role that the investment plays within the trust's overall portfolio of assets. If the trustee has greater skills than a person of ordinary prudence, the trustee is under a duty to use those skills.*

*(b) Among the factors to be considered by a trustee in determining the prudence of a particular investment are the following:*

*(1) the probable income of the trust and the probable safety of the capital of the trust;*

*(2) the composition of the portfolio of the trust with regard to diversification;*

*(3) the length of the term of investments of the trust;*

*(4) the duration of the trust;*

*(5) the liquidity and current return of the trust's portfolio relative to the anticipated cash requirements of the trust;*

*(6) other assets of the beneficiary or beneficiaries known to the trustees, including earning capacity;*

*(7) the relative interests of income and remainder beneficiaries; and*

*(8) the tax consequences.*

*(c) If a trustee is a national banking association or national trust company or holds a certificate under section 48.37 or if a trustee retains or employs an investment advisor registered under the Investment Advisors Act of 1940, an investment that is otherwise prudent is not imprudent solely because it is in new, unproven, untried, or other enterprises with a potential for significant growth, or in a limited partnership or commingled fund investing in these enterprises.*

*Subd. 2.* [DISPOSAL OF PROPERTY.] *Unless the trust instrument or a court order specifically directs otherwise, a trustee need not dispose of any property, real, personal, or mixed, or any kind of investment, in the trust, however acquired, until the trustee determines in the exercise of a sound discretion that it is advisable to dispose of the property. Nothing in this subdivision excuses the trustee from the duty to exercise discretion at reasonable intervals and to determine at those intervals the advisability of retaining or disposing of property.*

*Subd. 3.* [ALTERATION OF TERMS OF WILL.] *This section does not authorize any departure from or variation of express terms or limitations in a will, agreement, court order, or other instrument creating or defining the trustee's duties and powers, but the terms "authorized securities," "authorized investments," or "legal investments," or words of similar import, as used in a will, agreement, court order, or instrument or in the statutes of this state in relation to the investment of trust funds by corporate or individual trustees, mean every kind of property, real, personal, or mixed, and every kind of investment, that a trustee is authorized to acquire under the terms of subdivision 1.*

*Subd. 4.* [NO LIMITATION ON POWERS OF COURT.] *This section does not restrict the power of a court of proper jurisdiction to permit a trustee to deviate from the terms of a will, agreement, court order, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of trust property.*

*Subd. 5.* [TRUSTEES DEFINED.] *As used in this section, "trustee" means individual trustees and corporations having trust powers acting under wills, agreements, court orders, and other instruments, whether existing on the effective date of this section or made at a later time.*

*Subd. 6.* [INVESTMENT COMPANIES.] *(a) In the absence of an express prohibition in the trust instrument, the trustee may acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940.*

*(b) This subdivision does not alter the degree of care and judgment required of trustees by subdivision 1.*

Sec. 11. [501B.11] [EMPLOYEES AND AGENTS OF TRUSTEE.]

*Unless prohibited by the terms of the trust instrument, a trustee may employ attorneys, accountants, investment advisors, agents, or other persons, even if they are associated with the trustee, to advise or assist the trustee in the performance of duties. The trustee may act without independent investigation upon their recommendations or, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary. If the terms of the trust instrument do not address the authority of the trustee to delegate:*

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

*(2) the employment does not relieve the trustee of liability for the acts of a person that, if done by the trustee, would result in liability of the trustee; and*

*(3) the employment does not relieve the trustee of the duty to select and retain a person with reasonable care.*

Sec. 12. [501B.12] [GRANTOR AND AGENTS OF GRANTOR.]

*If a trust instrument reserves to the grantor, in a nonfiduciary capacity, the control over any or all investment decisions, the trustee is not responsible for the investment decisions made by the grantor or an agent of the grantor.*

COURT PROCEEDINGS

Sec. 13. [501B.16] [PETITION FOR COURT ORDER.]

*A trustee of an express trust by will or other written instrument or a person interested in the trust may petition the district court for an order:*

*(1) to confirm an action taken by a trustee;*

*(2) upon filing of an account, to settle and allow the account;*

*(3) to determine the persons having an interest in the income or principal of the trust and the nature and extent of their interests;*

*(4) to construe, interpret, or reform the terms of a trust, or authorize a deviation from the terms of a trust, including a proceeding involving section 23;*

*(5) to approve payment of the trustee's fees, attorneys' fees, accountants' fees, or any other fees to be charged against the trust;*

*(6) to confirm the appointment of a trustee;*

*(7) to accept a trustee's resignation and discharge the trustee from the trust;*

*(8) to require a trustee to account;*

*(9) to remove a trustee for cause;*

*(10) to appoint a successor trustee when required by the terms of the trust instrument or when by reason of death, resignation, removal, or other cause there is no acting trustee;*

*(11) to confirm an act performed in execution of the trust by a person while there was no acting trustee;*

*(12) to subject a trust to continuing court supervision under section 20;*

*(13) to remove a trust from continuing court supervision under section 20;*

*(14) to mortgage, lease, sell, or otherwise dispose of real property held by the trustee notwithstanding any contrary provision of the trust instrument;*

*(15) to suspend the powers and duties of a trustee in military service or war service in accordance with section 75 and to order further action authorized in that section;*

*(16) to secure compliance with the provisions of sections 25 to 37, in*

*accordance with section 33;*

*(17) to determine the validity of a disclaimer filed under section 70;*

*(18) to change the situs of a trust;*

*(19) to redress a breach of trust;*

*(20) to terminate a trust; or*

*(21) to instruct the trustee, beneficiaries, and any other interested parties in any matter relating to the administration of the trust and the discharge of the trustee's duties.*

Sec. 14. [501B.17] [VENUE.]

*A petition under section 13 or 19 may be filed:*

*(1) in the case of a trust created by will, in the district court for the county where the will was probated, or in the district court for the county where a trustee having custody of part or all of the trust assets resides or has a main place of business;*

*(2) in the case of a nontestamentary trust, in the district court for the county where a trustee having custody of part or all of the trust assets resides or has a main place of business; or*

*(3) in the case of a trust holding real property, in the district court for any county in which the real estate is situated.*

*In the case of a trust with respect to which there have been prior court proceedings in this state, a petition under section 13 or 19 must be filed in the court in which the prior proceedings were held.*

Sec. 15. [501B.18] [ORDER FOR HEARING.]

*Upon the filing of a petition under section 13, the court shall, by order, fix a time and place for a hearing, unless notice and hearing have been waived in writing by the beneficiaries of the trust then in being. Unless waived, notice of the hearing must be given as follows: (1) by publishing, at least 20 days before the date of the hearing, a copy of the order for hearing one time in a legal newspaper for the county in which the petition is filed; and (2) by mailing, at least 15 days before the date of the hearing, a copy of the order for hearing to those beneficiaries of the trust who are known to or reasonably ascertainable by the petitioner. In the case of a beneficiary who is a minor or an incapacitated person as defined in section 525.54 and for whom a conservator, guardian, or guardian ad litem known to the petitioner has been appointed, notice must be mailed to that fiduciary. Notice may be given in any other manner the court orders.*

Sec. 16. [501B.19] [REPRESENTATION OF PERSONS WHO ARE UNBORN, UNASCERTAINED, UNKNOWN, OR MINORS OR INCAPACITATED PERSONS.]

*If an interested person is a minor or an incapacitated person as defined in section 525.54 and has no guardian or conservator within the state, or if an interested person is unborn, unascertained, or a person whose identity or address is unknown to the petitioner, the court shall represent that person, unless the court, upon the application of the trustee or any other interested person, appoints a guardian ad litem to represent the person.*

Sec. 17. [501B.20] [HOLDER OF A GENERAL POWER.]

*For purposes of giving notice, waiving notice, initiating a proceeding, granting consent or approval, or objecting with regard to any proceedings under this chapter, the sole holder or all coholders of a presently exercisable or testamentary general power of appointment, power of revocation, or unlimited power of withdrawal are deemed to represent the act for beneficiaries to the extent that their interests as objects, takers in default, or otherwise are subject to the power.*

Sec. 18. [501B.21] [ORDER AND APPEAL.]

*Upon hearing a petition filed under section 13, the court shall make an order it considers appropriate. The order is final as to all matters determined by it and binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, even though unascertained or not in being, except that appeal may be taken under the rules of appellate procedure.*

Sec. 19. [501B.22] [CONFIRMATION OF APPOINTMENT OF TRUSTEE.]

*A person appointed as trustee of an express trust by a will or other written instrument or any interested person may file in the district court an ex parte petition to confirm the appointment of the trustee and specify the manner in which the trustee must qualify. Upon consideration of the petition, the court shall make an order it considers appropriate. A trustee whose appointment is confirmed under this section is subject to section 20.*

Sec. 20. [501B.23] [INVENTORY; ANNUAL ACCOUNT; CONTINUING COURT SUPERVISION.]

*A trustee whose appointment has been confirmed by court order under section 19 or a trustee otherwise subject to continuing court supervision by court order shall file with the court administrator of the district court an inventory containing a list of all property then belonging to the trust. The trustee shall then render to the court at least annually a verified account containing a complete inventory of the trust assets and itemized principal and income accounts. This section does not apply to trusts established in connection with bonds issued under chapter 474.*

Sec. 21. [501B.24] [JURISDICTION.]

*Once a district court has assumed jurisdiction of a trust, the district court has jurisdiction as a proceeding in rem, until jurisdiction is transferred to another court or terminated by court order. This chapter does not limit or abridge the power or jurisdiction of the district court over trusts and trustees.*

Sec. 22. [501B.25] [APPLICATION.]

*Sections 13 to 20 do not apply to trusts in the nature of mortgages or to trusts commonly known as voting trusts. Sections 13 to 20 apply, however, unless otherwise provided in the trust instrument, to trusts established in connection with bonds issued under chapter 474. As used in sections 13 to 20, "person" includes an artificial as well as a natural person, and "beneficiary" includes a bondholder.*

CHARITABLE TRUSTS AND THEIR SUPERVISION

Sec. 23. [501B.31] [CHARITABLE TRUSTS.]

*Subdivision 1.* [VALIDITY AND CONSTRUCTION.] *No charitable trust is invalid because of indefiniteness or uncertainty of the object of the trust or of its beneficiaries designated in the instrument creating the trust or because the trust violates a statute or rule against perpetuities. No charitable trust may prevent or limit the free alienation of the title to any of the trust estate by the trustee in the administration of the trust, except as may be permitted under existing or subsequent statutes.*

*Subd. 2.* [LIBERAL INTERPRETATION; ADMINISTRATION.] *A charitable trust must be liberally construed by the courts so that the intentions of the donor are carried out when possible, and the trust must not fail solely because the donor has imperfectly outlined the purpose and object of the charity or the method of administration. If the district court of the proper county determines that the purpose and object of the donor's charity are imperfectly expressed, the method of administration is incomplete or imperfect, or circumstances have so changed since the execution of the instrument creating the trust as to render impracticable, inexpedient, or impossible a literal compliance with the terms of the instrument, the court may, upon the petition of the trustee under section 13, make an order directing that the trust must be administered or expended in a manner the court determines will, as nearly as possible, accomplish the general purposes of the instrument and the object and intention of the donor without regard to, and free from any specific restriction, limitation, or direction it contains.*

*Subd. 3.* [LAWS NOT AFFECTED.] *Nothing in this section impairs, limits, or abridges the operation and efficacy of the whole or any part of a statute that authorizes the creation of a corporation for charitable purposes or that permits a municipal corporation to act as trustee for a public or charitable purpose. Nothing in subdivisions 1 to 3 of this section applies to a gift, bequest, devise, or trust made, created, or arising by or under the provisions of the will of a person who died before April 15, 1927.*

*Subd. 4.* [DETERMINATION OF TRUST, GIFT, BEQUEST, DEVISE.] *(a) This subdivision applies to a gift or trust made or created by a living person before April 15, 1927, or a gift, bequest, devise, or trust made or created by or under the will of a person who died before April 15, 1927.*

*(b) If a gift, trust, or devise has been made for a charitable, benevolent, educational, religious, or other public use or trust, or upon a condition, limitation, or restriction of any kind, the property given, entrusted, or devised may be used only for that use or trust and in accordance with the condition, limitation, or restriction. The grantee, devisee, trustee, or other holder of property may petition the court under section 13 for determination of the legal rights and relationship of the holder, the public, the grantor, and the grantor's heirs, representatives, or assigns in and to the property.*

*(c) If the court determines that circumstances have so changed since the execution of the instrument as to render impracticable, inexpedient, or impossible a literal compliance with the terms or conditions of the instrument, but the terms and purposes of the instrument may be substantially performed, the court may order that the terms of the instrument be performed and the property be administered or expended in a manner that*

*will, in the judgment of the court, as nearly as possible, accomplish the general purposes of the instrument and the intention of the grantor without regard to, and free from any, specific restriction, limitation, condition, or direction contained in the instrument.*

*Subd. 5.* [ATTORNEY GENERAL.] *In cases arising under this section, the attorney general must be given notice of any court proceedings pursuant to section 15. The attorney general shall represent the beneficial interests in those cases and shall enforce affected trusts.*

Sec. 24. [501B.32] [PRIVATE FOUNDATIONS; CHARITABLE TRUSTS; SPLIT-INTEREST TRUSTS.]

*Subdivision 1.* [INCORPORATED PROVISIONS.] *A will or trust instrument that creates a trust that is: (1) a "private foundation," as defined in section 501(a) of the Internal Revenue Code of 1986; or (2) a "charitable trust," as defined in section 4947(a)(1) of the Internal Revenue Code of 1986; or (3) a "split-interest trust," as defined in section 4947(a)(2) of the Internal Revenue Code of 1986, and any other instrument governing the trustee of one of those trusts or the use, retention, or disposition of any of the income or property of one of those trusts, must be considered to have incorporated within it the provisions in paragraphs (a) to (e) with respect to the trust and its trustee. Except as provided in subdivision 2, paragraphs (a) to (e) govern the administration and distribution of the trust notwithstanding provisions of the governing instrument, statute, or law of this state to the contrary.*

*(a) The trustee shall distribute for each taxable year of the trust amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1986.*

*(b) The trustee shall not engage in an act of "self-dealing," as defined in section 4941(d) of the Internal Revenue Code of 1986, which would give rise to liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1986.*

*(c) The trustee shall not keep "excess business holdings," as defined in section 4943(c) of the Internal Revenue Code of 1986, that would give rise to liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1986.*

*(d) The trustee shall not make investments that would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 1986, so as to give rise to liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1986.*

*(e) The trustee shall not make a "taxable expenditure," as defined in section 4945(d) of the Internal Revenue Code of 1986, that would give rise to liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1986.*

*Subd. 2.* [EXCEPTION.] *Subdivision 1 does not apply to the extent that a court of competent jurisdiction determines that application would be contrary to the terms of the will, trust instrument, or other governing instrument described in subdivision 1 and that the will, trust instrument, or other governing instrument may not be changed to conform to subdivision 1.*

*Subd. 3.* [RIGHTS AND POWERS OF COURTS, ATTORNEY GENERAL.] *Nothing in this section impairs the rights and powers of the attorney general or the courts of this state with respect to a trust.*

Sec. 25. [501B.33] [CITATION.]

*Sections 25 to 37 may be cited as the "supervision of charitable trusts and trustees act."*

Sec. 26. [501B.34] [CHARITABLE TRUSTS; SUPERVISION BY ATTORNEY GENERAL.]

*Sections 25 to 37 apply to trustees holding property for charitable purposes. In connection with the supervision, administration, and enforcement of charitable trusts, the attorney general has the rights, duties, and powers in sections 25 to 37, and common law and statutory rights, duties, and powers.*

Sec. 27. [501B.35] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *The definitions in this section apply to sections 23 to 37 and do not modify or abridge any law or rule respecting the nature of a charitable trust or the nature and extent of the duties of a trustee except duties imposed by sections 23 to 37.*

*Subd. 2.* [CHARITABLE PURPOSE.] *"Charitable purpose" means an actual or purported charitable, philanthropic, religious, social service, educational, eleemosynary, or other public use or purpose.*

*Subd. 3.* [CHARITABLE TRUST.] *"Charitable trust" means a fiduciary relationship with respect to property that arises as a result of a manifestation of an intention to create it, and that subjects the person by whom the property is held to equitable duties to deal with the property for a charitable purpose.*

*Subd. 4.* [TRUSTEE.] *"Trustee" means a person or group of persons either in an individual or a joint capacity, or a director, officer, or other agent of an association, foundation, trustee corporation, corporation, or other legal entity who is vested with the control or responsibility of administering property held for a charitable purpose.*

Sec. 28. [501B.36] [REGISTRATION AND REPORTING.]

*The registration and reporting provisions of sections 29 and 30 apply to a charitable trust, or an organization with a charitable purpose, that has gross assets of $25,000 or more, except that the provisions do not apply to:*

*(1) a charitable trust administered by the United States or a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any of their agencies or subdivisions;*

*(2) a religious association organized under chapter 315 or chapter 317;*

*(3) a charitable trust organized and operated exclusively for religious purposes and administered by a religious association organized under chapter 315 or chapter 317;*

*(4) an organization described in section 509(a)(3) of the Internal Revenue Code of 1986 and operated, supervised, or controlled by or in connection with one or more organizations described in clauses (2) to (5); a pooled income fund as defined in section 642(c)(5) of the Internal Revenue*

*Code of 1986 maintained by an organization described in clauses (2) to (5); or a charitable remainder annuity trust or unitrust, as defined in section 664 of the Internal Revenue Code of 1986;*

*(5) a trust in which the only charitable interest is a contingent interest for which no charitable deduction has been allowed for Minnesota income, inheritance, or gift tax purposes or a trust in which not all of the unexpired interests are devoted to one or more charitable purposes and in which the only charitable interest is an annuity or an income interest with respect to which a charitable deduction is allowed the trust under applicable Minnesota income tax laws;*

*(6) an organization subject to sections 309.50 to 309.61;*

*(7) a trust for individual and charitable beneficiaries that is described in section 4947(a)(2) of the Internal Revenue Code of 1986, also known as a split-interest trust; or*

*(8) a charitable gift, bequest, or devise not held and continued by a private express trust or corporation even though the gift, bequest, or devise creates a fiduciary relationship, unless there is no named charitable beneficiary in existence or unless a named charitable beneficiary elects in a writing filed with the attorney general and with the fiduciary to come within the provisions of sections 29 and 30.*

Sec. 29. [501B.37] [REGISTER OF TRUSTS AND TRUSTEES.]

*Subdivision 1.* [ESTABLISHMENT OF REGISTER; TRANSFER TO ATTORNEY GENERAL.] *The attorney general shall establish and maintain a register of charitable trusts and trustees subject to sections 25 to 37.*

*Subd. 2.* [FILING OF INSTRUMENTS.] *A charitable trust subject to sections 25 to 37 must register and file with the attorney general a copy of the instrument that created the charitable trust, including any amendments, within three months after the charitable trust first receives possession or control of property authorized or required to be applied, either at present or in the future, for charitable purposes.*

Sec. 30. [501B.38] [FILING OF ANNUAL REPORTS.]

*Subdivision 1.* [REPORTS REQUIRED; DEADLINES; EXTENSIONS.] *A charitable trust subject to sections 25 to 37 must file with the attorney general written reports containing any information the trust is required to report under sections 6056(b), 6033, 6034, and 6056 of the Internal Revenue Code of 1986. The reports must be filed annually on or before the 15th day of the fifth month following the close of the charitable trust's taxable year as established for federal tax purposes. The time for filing may be extended by application to the attorney general, but no extension may be for more than six months. A charitable trust that files the information required under this subdivision with the attorney general is not required to file the same information with the commissioner of revenue.*

*Subd. 2.* [SUSPENSION OF FILING.] *The attorney general may suspend the filing requirements under subdivision 1 for a particular charitable trust for a reasonable, specifically designated time on written application of the trustee filed with the attorney general. If the filing requirements are suspended, the attorney general shall file in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced by the suspension and that annual reports are not required for*

*proper supervision by the attorney general's office.*

Sec. 31. [501B.39] [PUBLIC INSPECTION OF RECORDS.]

*The register, copies of instruments, and the reports filed with the attorney general must be open to public inspection.*

Sec. 32. [501B.40] [INVESTIGATORY POWERS OF THE ATTORNEY GENERAL; CUSTODIANS TO FURNISH COPIES OF RECORDS.]

*Subdivision 1.* [DISCOVERY.] *The attorney general may conduct investigations that are reasonably necessary for: (1) the administration of sections 25 to 37; or (2) determining whether property held for charitable purposes is properly administered. In connection with an investigation under this section, the attorney general may obtain discovery from an agent, trustee, fiduciary, beneficiary, institution, association, corporation, or other person regarding a matter, fact, or circumstance, not privileged, that is relevant to the subject matter involved in the investigation. The discovery may be obtained without commencement of a civil action and without leave of court, except as expressly required by subdivision 2. The applicable protective provisions of Rules 26.02, 30.02, and 30.04, of the Rules of Civil Procedure for the District Court apply to discovery procedures instituted under this section. The attorney general or a person to whom discovery is directed may apply to and obtain leave of the district court in order to reduce or extend the time requirements of this subdivision, and, upon a showing of good cause, the district court shall order a reduction or extension. In order to obtain discovery, the attorney general may:*

*(1) serve written interrogatories on a person. Within 20 days after service of interrogatories, separate written answers and objections to each interrogatory must be mailed to the attorney general;*

*(2) upon reasonable written notice of no less than 15 days, require a person to produce for inspection and copying documents, papers, books, accounts, letters, photographs, objects, or tangible things in the person's possession, custody, or control; and*

*(3) upon reasonable written notice of no less than 15 days, take the testimony of a person by deposition as to a fact or opinion relevant to the subject matter involved in the pending investigation.*

*Subd. 2.* [ORDER BY COURT.] *If a person fails or refuses to answer interrogatories, produce materials, or be examined under oath, the attorney general may, upon notice to the person, apply to the district court in the county where the person resides or is found, for an order to compel compliance. On a showing of cause by the attorney general, the court may issue an order to compel compliance with the discovery procedures authorized by this section.*

*Subd. 3.* [PUBLIC RECORDS.] *A custodian of records of a court having jurisdiction of probate matters or of charitable trusts, and a custodian of records of a department, agency, or political subdivision of this state shall, upon request, furnish to the attorney general, free of charge, copies of records relating to the subject of sections 25 to 37.*

*Subd. 4.* [REPORT OF APPLICATIONS FOR TAX EXEMPTION.] *Every officer, agency, board, or commission of this state that receives an application for exemption from taxation from a charitable trust subject to sections 25 to 37 shall annually file with the attorney general a list of all applications received during the year and shall notify the attorney general*

*of the suspension or revocation of a tax exempt status previously granted.*

Sec. 33. [501B.41] [BREACH OF TRUST; PROCEEDINGS TO SECURE COMPLIANCE.]

*Subdivision 1.* [ENFORCEMENT POWERS.] *The attorney general may institute appropriate proceedings to obtain compliance with sections 25 to 37 and the proper administration of a charitable trust. The powers and duties of the attorney general in this section are in addition to all other powers and duties.*

*Subd. 2.* [PARTICIPATION BY ATTORNEY GENERAL.] *The attorney general must be notified of, and has the right to participate as a party in, all court proceedings:*

*(1) to terminate a charitable trust or to liquidate or distribute its assets;*

*(2) to modify or depart from the objects or purposes of a charitable trust as contained in the instrument governing the trust, including a proceeding for the application of the doctrine of cy pres;*

*(3) to construe the provisions of an instrument with respect to a charitable trust;*

*(4) to review an accounting of a charitable trust submitted by a trustee; or*

*(5) involving a charitable trust when the interests of the uncertain or indefinite charitable beneficiaries may be affected.*

*Subd. 3.* [EXEMPTION FROM NOTICE REQUIREMENT.] *The attorney general need not be provided with notice under subdivision 2 of a charitable gift, devise, or bequest (1) for which the donor or testator has named as a charitable beneficiary an organization that is then in existence; or (2) that is not held and continued by a private express trust or corporation, whether or not the gift, devise, or bequest creates a fiduciary relationship.*

*This subdivision does not affect any other notice to the attorney general required by this chapter.*

*Subd. 4.* [FAILURE TO GIVE NOTICE.] *If proceedings are commenced without service of process and service of the pleadings upon the attorney general, a judgment or order rendered in the proceedings is voidable, unenforceable, and, upon the attorney general's motion seeking relief, may be set aside. With respect to the proceedings, no compromise, settlement agreement, contract, or judgment agreed to by any or all of the parties having or claiming to have an interest in a charitable trust is valid unless the attorney general was made a party to the proceedings and joined any agreement or the attorney general, in writing, waived the right to participate. The attorney general may enter into a compromise, settlement agreement, contract, or judgment that the attorney general believes is in the best interests of the people of the state and the uncertain or indefinite beneficiaries.*

*Subd. 5.* [WILLS.] *The personal representative shall send to the attorney general a copy of the petition or application for probate together with a copy of the will and any codicils that are being offered for probate:*

*(1) when a will provides for a bequest or devise for a charitable purpose for which there is no named charitable beneficiary or for which there is*

*then in existence no named charitable beneficiary;*

*(2) when a will provides for bequests or devises for charitable purposes in excess of $150,000;*

*(3) when a will provides for a bequest or devise to a named charitable beneficiary that is in receivership; or*

*(4) upon a written request served on the personal representative by a named charitable beneficiary prior to the order allowing the final account or, in unsupervised proceedings, within 30 days after service of the final account on the charitable beneficiary.*

*The personal representative shall serve the documents on the attorney general and file with the appropriate court a copy of the affidavit of service on the attorney general. If the personal representative was requested to notify the attorney general of the probate proceedings according to clause (4), the requesting party shall file with the court a copy of the request and the affidavit of service on the personal representative.*

*If objections are filed to a will or codicil containing any bequest or devise to a charitable trust, the person filing the objections, at least 14 days before the hearing, shall send to the attorney general a copy of the objections, a copy of the petition or application for probate, a copy of the will, and any codicil that has been offered for probate.*

*Any service upon the attorney general under this section must be made personally or by registered or certified mail, return receipt requested. The attorney general may become a party in the estate proceedings.*

*Subd. 6.* [BREACH OF TRUST.] *The failure of a trustee to register under section 29, to file annual reports under section 30, or to administer and manage property held for charitable purposes in accordance with law or consistent with fiduciary obligations constitutes a breach of trust.*

*Subd. 7.* [CIVIL ACTIONS.] *The attorney general may begin a civil action in order to remedy and redress a breach of trust, as described in subdivision 6 or as otherwise provided by law, committed by a trustee subject to sections 25 to 37. If it appears to the attorney general that a breach of trust has been committed, the attorney general may sue for and obtain:*

*(1) injunctive relief against the breach of trust or threatened breach of trust;*

*(2) the removal of a trustee who has committed or is committing a breach of trust;*

*(3) the recovery of damages; and*

*(4) another appropriate remedy.*

Sec. 34. [501B.42] [CONTRARY PROVISIONS OF INSTRUMENT INVALID.]

*Sections 25 to 37 apply regardless of contrary provisions of an instrument.*

Sec. 35. [501B.43] [COST OF INVESTIGATIONS AND PROCEEDINGS; REGISTRATION AND FILING FEES.]

*Subdivision 1.* [EXPENSES PAYABLE.] *In a proceeding brought by the attorney general or in which the attorney general intervenes under sections 25 to 37, the judgment or order may provide that the trustee must pay the*

*reasonable expenses necessarily incurred by the attorney general in the investigation and prosecution of the action, including attorneys' fees, if it is determined in the proceeding that the trustee has been guilty of an intentional or grossly negligent breach of trust.*

*Subd. 2.* [DISPOSITION OF MONEY.] *All money received by the attorney general under this section must be deposited in the state treasury and credited to the general fund.*

Sec. 36. [501B.44] [IMMUNITY OF CHARITABLE TRUSTS.]

*A charitable trust is an "organization" for purposes of section 317.201, and that section applies to charitable trusts.*

Sec. 37. [501B.45] [SALE OF BANKS OWNED BY CHARITABLE TRUSTS.]

*Subdivision 1.* [DEFINITIONS.] *For the purpose of this section, "charitable trust" means a charitable trust subject to supervision by the attorney general under the supervision of charitable trusts and trustees act, sections 25 to 37, that is required to divest excess business holdings by section 4943 of the Internal Revenue Code of 1986 and that owned 100 percent of a bank holding company on May 26, 1969, the date of enactment of section 4943 of the Internal Revenue Code of 1954.*

*Subd. 2.* [AUTHORIZATION.] *The stock or assets of one or more banks or a bank holding company owned directly or indirectly by a charitable trust may be sold, assigned, merged, or transferred by the charitable trust under the procedures in section 48.93 to a bank holding company, bank, or other qualified entity as permitted by applicable banking laws without regard to whether the entity acquiring the stock or assets is located in a reciprocating state.*

*Subd. 3.* [LEGISLATIVE INTENT.] *It is the express intention of the Minnesota legislature to act pursuant to United States Code, title 12, section 1842(d), to permit certain charitable trusts to sell, assign, or transfer certain financial institutions' assets without regard to whether the entity acquiring the assets of the charitable trust is located outside of this state.*

*Subd. 4.* [ADDITIONAL ACQUISITIONS.] *A bank holding company, other than a reciprocating state bank holding company as defined in section 48.92, subdivision 8, that directly or indirectly acquires control of a bank located in this state under the provisions of this section may acquire additional bank assets through the expenditure of an annual amount not to exceed five percent of the Minnesota assets of the acquired bank holding company as of December 31 of the preceding year. The restrictions within this subdivision apply only until the bank holding company making an acquisition under this section becomes a reciprocating state bank holding company. This section does not prohibit the bank holding company from being granted a charter for a de novo bank or from establishing de novo detached facilities pursuant to Minnesota law.*

SALES AND LEASES OF REAL PROPERTY

Sec. 38. [501B.46] [PETITION FOR COURT ORDER TO SELL, MORTGAGE, OR LEASE REAL PROPERTY HELD IN TRUST.]

*(a) If the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms*

*of the trust, then permitted to sell, mortgage, or lease, and if section 20 is applicable to the trust, the trustee or a beneficiary of the trust may petition the court then having jurisdiction of the trust for an order directing the trustee to sell, mortgage, or lease the real property or any of the real property.*

*(b) If the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms of the trust, then permitted to sell, mortgage, or lease, and if section 20 is not applicable to the trust, the trustee or a beneficiary of the trust may petition an appropriate district court under section 13 for an order directing the trustee to sell, mortgage, or lease the real property or a part of the real property.*

Sec. 39. [501B.47] [PETITION BY OWNER OF PRESENT OR FUTURE INTEREST FOR COURT ORDER TO SELL, MORTGAGE, OR LEASE INTERESTS IN REAL PROPERTY.]

*Notwithstanding a contrary provision in the instrument creating the interests, when the ownership of real property situated in this state is divided into one or more possessory interests and one or more future interests, the owner of an interest may petition the district court for the county in which any of the real property is situated for an order directing that the real property or part of the real property be sold, mortgaged, or leased. If an owner is a minor or incapacitated person as defined in section 525.54, the petition may be made on behalf of the owner by a custodian, conservator, or guardian.*

Sec. 40. [501B.48] [WHEN PETITION MAY BE GRANTED.]

*Subdivision 1.* [PETITION UNDER SECTION 38.] *The court to which a petition to sell, mortgage, or lease has been made under section 38 may grant the petition, on terms it considers appropriate, if the court determines that:*

*(1) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by trust beneficiaries, were inadequate; or*

*(2) an order directing a sale or mortgage would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.*

*The court to which a petition to lease has been made under section 38 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the term of the trust, if the court determines that an order directing a lease would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.*

*Subd. 2.* [PETITION UNDER SECTION 39.] *The court to which a petition to sell or mortgage has been made under section 39 may grant the petition on terms it considers appropriate if the court determines that:*

*(1) were the real property held in trust for the owners of the possessory and future interests in the property, retention of the real property by the*

*trustee without the sale or mortgage would be inconsistent with a trustee's common law duty to administer the trust impartially as between the holders of successive interests in income and principal;*

*(2) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by possessory owners, were inadequate; or*

*(3) an order directing a sale or mortgage would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.*

*The court to which a petition to lease has been made under section 39 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the duration of the possessory interests in the real property, if the court determines that an order directing a lease would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.*

Sec. 41. [501B.49] [NOTICE OF HEARING.]

*Subdivision 1.* [HEARING REQUIRED.] *On the filing of a petition under section 38 or 39, the court shall, by order, fix a time and place for a hearing on the petition unless a hearing has been waived in writing. In the case of a petition under section 38, each beneficiary of the trust then in being must join in the waiver. In the case of a petition under section 39, each person in being who owns an interest in the real property must join in the waiver.*

*Subd. 2.* [NOTICE.] *Notice of hearing must be given by publishing a copy of the order for hearing one time in a legal newspaper for the county in which the petition is filed at least 20 days before the date of the hearing, and by mailing copies of the order for hearing in the manner specified in this subdivision or in another manner ordered by the court. In the case of a petition under section 38, mailed notice must be given by mailing a copy of the order for hearing to those beneficiaries of the trust then in being who are known to or reasonably ascertainable by the petitioner and, in the case of a beneficiary who is a minor or an incapacitated person as defined in section 525.54, to the conservator or guardian, or if none is acting within the state, to the guardian ad litem of the beneficiary, at least 15 days before the date of the hearing. In the case of a petition under section 39, mailed notice must be given by mailing a copy of the order for hearing to those persons owning an interest in the real property then in being who are known to or reasonably ascertainable by the petitioner and, in the case of a person who is a minor or an incapacitated person as defined in section 525.54, to the conservator or guardian, or if none is acting within the state, to the guardian ad litem of the person, at least 15 days before the date of the hearing.*

Sec. 42. [501B.50] [REPRESENTATION OF PERSONS WHO ARE UNBORN, UNASCERTAINED, UNKNOWN, OR MINORS OR INCAPACITATED PERSONS.]

*If an interested person is a minor or an incapacitated person as defined in section 525.54 and does not have a guardian or conservator within the*

*state, the court shall appoint a guardian ad litem for the person. If an interested person is unborn, unascertained, or a person whose identity or address is unknown to the petitioner, the court shall represent the person, but the court may, upon the application of the petitioner or another interested person or on its own motion, appoint a guardian ad litem to represent the person.*

Sec. 43. [501B.51] [ORDER UPON PETITION; EXECUTION OF TRANSACTION.]

*Subdivision 1.* [FORM OF ORDER; CONCLUSIVENESS.] *At a hearing under section 41, the court shall make an order it considers appropriate. If the petition is granted in whole or in part, the order must specify the real property to be sold, mortgaged, or leased and the terms and conditions on which the transaction is to be consummated. The order is final and conclusive as to all matters determined by it and binding in rem on all persons interested in the real property, whether their interests are vested or contingent, even though the person is a minor, incapacitated as defined in section 525.54, unascertained, or not in being, except that appeal may be taken in the manner provided in the rules of appellate procedure.*

*Subd. 2.* [EXECUTION OF ORDER.] *(a) In the case of a petition under section 38, all transactions required by the order must be executed by the trustee.*

*(b) In the case of a petition under section 39, the court shall appoint a suitable person as receiver to act for the court in executing each transaction required by the order. Each required transaction must be executed by the receiver.*

Sec. 44. [501B.52] [REPORT OF AGREEMENT FOR CONFIRMATION.]

*Before a sale, mortgage, or lease is made under an order described in section 43, the trustee or receiver shall enter into an agreement for the sale, mortgage, or lease, subject to the approval of the court, and must report the agreement to the court under oath. At least 15 days before the hearing on the confirmation of the agreement, the trustee or receiver shall mail a copy of the agreement to each interested party to whom mailed notice was given under section 41 and to any interested party who did not receive notice but appeared at the hearing on the petition.*

Sec. 45. [501B.53] [ORDER OF CONFIRMATION; CONTENTS AND SUBSEQUENT PROCEDURES; DISTRIBUTION OF ASSETS.]

*Subdivision 1.* [ORDER TO EXECUTE AGREEMENT.] *If an agreement reported to the court under section 44 is found by the court to conform to the order described in section 43, the court shall make an order approving and confirming the agreement and directing the trustee or receiver to execute and deliver the deed, mortgage, or lease of real property required by the agreement.*

*Subd. 2.* [COSTS; ALLOWANCES.] *The order of confirmation may direct that each participant in the proceeding be paid reasonable costs of the proceeding incurred by the participant. The order of confirmation may make appropriate allowances to persons who have served in the proceeding as receiver, guardian ad litem, or counsel, and may direct the manner of payment of these allowances.*

*Subd. 3.* [SAFEKEEPING, MANAGEMENT, AND DISTRIBUTION OF ASSETS.] *The order of confirmation must include appropriate provisions*

*for the safekeeping, management, and distribution of assets derived from the ordered transaction. In the case of assets derived from a transaction executed by a trustee under section 43, subdivision 2, paragraph (a), distribution must be made to the trustee for administration as trust assets. In the case of assets derived from a transaction executed by a receiver under section 43, subdivision 2, paragraph (b), distribution must be made to the owners, at the time of the sale or mortgage, of present possessory interests in the real property that was sold or mortgaged, and to the owners of leased real property who would be entitled to possession on the present termination of the lease. Notwithstanding any contrary provision in the terms of the instrument creating the interests in real property sold, mortgaged, or leased under this subdivision, the same possessory and future interests exist in the assets distributed as existed in the real property, and any provision in the creating instrument for forfeiture of an interest in real property upon a sale or other assignment must be disregarded by the court in directing distribution or other assignment of interests in the proceeds of a sale.*

*Subd. 4.* [HEARING ON CONFIRMATION ORDER.] *The trustee or receiver shall obtain from the court a time and place for the court's hearing on the confirmation of the agreement and shall give mailed notice of the time and place of the hearing to the interested parties described in section 43 at least 15 days before the date of that hearing. The order of confirmation is final and conclusive as to all matters determined by it and binding in rem on all persons interested in the real property, whether their interests are vested or contingent, even though a person is a minor, incapacitated as defined in section 525.54, unascertained, or not in being, except that appeal may be taken in the manner provided in the rules of appellate procedure.*

*Subd. 5.* [COMBINED PROCEEDINGS.] *In appropriate circumstances, proceedings under this section and section 44 may be combined with proceedings under sections 38 to 43.*

Sec. 46. [501B.54] [LEGAL EFFECT OF DEED, MORTGAGE, OR LEASE MADE UNDER SECTION 45.]

*A deed, mortgage, or lease executed and delivered in accordance with an order of confirmation under section 45 binds the interests of the applicant for the order and of all other persons interested in the real property sold, mortgaged, or leased.*

Sec. 47. [501B.55] [DATE OF CREATION OF INTERESTS AFFECTED BY THE PROCEDURES IN SECTIONS 38 TO 46.]

*The procedures in sections 38 to 46 apply to proceedings initiated after January 1, 1990, with respect to interests created before, on, or after January 1, 1990.*

UNIFORM PRINCIPAL AND INCOME ACT

Sec. 48. [501B.59] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *The definitions in this section apply to sections 48 to 65.*

*Subd. 2.* [INCOME BENEFICIARY.] *"Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income.*

*Subd. 3.* [INVENTORY VALUE.] *"Inventory value" means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax.*

*Subd. 4.* [REMAINDERPERSON.] *"Remainderperson" means the person entitled to principal, including income accumulated and added to principal.*

*Subd. 5.* [TRUSTEE.] *"Trustee" means an original trustee and any successor or added trustee.*

Sec. 49. [501B.60] [DUTY OF TRUSTEE AS TO RECEIPTS AND EXPENDITURE.]

*Subdivision 1.* [GENERAL RULES OF ADMINISTRATION.] *A trust must be administered with due regard to the respective interests of income beneficiaries and remainderpersons. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:*

*(1) in accordance with the terms of the trust instrument, notwithstanding contrary provisions of sections 48 to 65;*

*(2) in the absence of contrary terms of the trust instrument, in accordance with sections 48 to 65;*

*(3) if neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which persons of ordinary prudence, discretion, and judgment would act in the management of their own affairs.*

*Subd. 2.* [TRUSTEE'S DISCRETION.] *If a trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to sections 48 to 65.*

Sec. 50. [501B.61] [INCOME; PRINCIPAL; CHARGES.]

*Subdivision 1.* [INCOME DEFINED.] *"Income" means the return in money or property derived from the use of principal, including return received as:*

*(1) rent of real or personal property, including sums received for cancellation or renewal of a lease;*

*(2) interest on money lent, including sums received as consideration for the privilege of prepayment of principal, except as provided in section 54 on bond premium and bond discount;*

*(3) income earned during administration of a decedent's estate as provided in section 52;*

*(4) corporate distributions as provided in section 50;*

*(5) accrued increment on bonds or other obligations issued at discount as provided in section 54;*

*(6) receipts from business and farming operations as provided in section 55;*

*(7) receipts from disposition of natural resources as provided in sections 56 and 57;*

*(8) receipts from other principal subject to depletion as provided in section 58; and*

*(9) receipts from disposition of underproductive property as provided in section 59.*

*Subd. 2.* [PRINCIPAL DEFINED.] *"Principal" means the property set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderperson while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes:*

*(1) consideration received by the trustee on the sale or other transfer of principal, on repayment of a loan, or as a refund, replacement, or change in the form of principal;*

*(2) proceeds of property taken on eminent domain proceedings;*

*(3) proceeds of insurance on property forming part of the principal, except proceeds of insurance on a separate interest of an income beneficiary;*

*(4) stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 53;*

*(5) receipts from the disposition of corporate securities as provided in section 54;*

*(6) royalties and other receipts from disposition of natural resources as provided in sections 56 and 57;*

*(7) receipts from other principal subject to depletion as provided in section 58;*

*(8) profit resulting from a change in the form of principal, except as provided in section 59 on underproductive property;*

*(9) receipts from disposition of underproductive property as provided in section 59; and*

*(10) allowances for depreciation established under sections 55 and 60, subdivision 1, clause (2).*

*Subd. 3.* [CHARGES.] *After determining income and principal in accordance with the terms of the trust instrument or of sections 48 to 65, the trustee shall charge to income or principal expenses and other charges as provided in section 60.*

Sec. 51. [501B.62] [WHEN RIGHT TO INCOME ARISES; APPORTIONMENT OF INCOME.]

*Subdivision 1.* [GENERAL RULE.] *An income beneficiary is entitled to income from the date specified in the trust instrument or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset that becomes subject to a trust because of a will, it becomes subject to the trust as of the date of the death of the testator or date of receipt in the estate if acquired after death, even though there is an intervening period of administration of the testator's estate during which the beneficiary may have no right to a distribution of the income.*

*Subd. 2.* [RECEIPTS DUE BUT NOT PAID; PERIODIC PAYMENTS.]

*In the administration of a decedent's estate or an asset that becomes subject to a trust by reason of a will:*

*(1) receipts due but not paid at the date of death of the testator are principal;*

*(2) receipts in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due at the date of the death of the testator must be treated as accruing from day to day. That portion of the receipt that accrues before the date of death is principal, and the balance is income.*

*Subd. 3.* [OTHER RECEIPTS.] *In all other cases, any receipt from an income-producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.*

*Subd. 4.* [TERMINATION OF INCOME INTEREST.] *On termination of an income interest, the income beneficiary whose interest is terminated, or the income beneficiary's estate, is entitled to:*

*(1) income undistributed on the date of termination;*

*(2) income due but not paid to the trustee on the date of termination; and*

*(3) income in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due on the date of termination, accrued from day to day.*

*Subd. 5.* [CORPORATE DISTRIBUTIONS TO STOCKHOLDERS.] *Corporate distributions to stockholders must be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.*

Sec. 52. [501B.63] [INCOME EARNED DURING ADMINISTRATION OF A DECEDENT'S ESTATE.]

*Subdivision 1.* [EXPENSES.] *Unless a will provides otherwise and subject to subdivision 2, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs must be charged against the principal of the estate.*

*Subd. 2.* [INCOME.] *Unless the will provides otherwise, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, must be determined in accordance with the rules applicable to a trustee and distributed as follows:*

*(1) to specific devisees, the income from the property devised to them respectively, less property taxes, ordinary repairs, interest, and other expenses of management and operation of the property, and less an appropriate portion of taxes imposed on income, excluding taxes on capital gains, that accrue during the period of administration;*

*(2) to all other devisees, except devisees of pecuniary devises not in trust, the balance of the income, less the balance of property taxes, ordinary repairs, interest, and other expenses of management and operation of all*

*property from which the estate is entitled to income, and taxes imposed on income, excluding taxes on capital gains, that accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value.*

*Subd. 3.* [INCOME RECEIVED BY TRUSTEE.] *Income received by a trustee under subdivision 2 must be treated as income of the trust.*

Sec. 53. [501B.64] [CORPORATE DISTRIBUTIONS.]

*Subdivision 1.* [SHARES; STOCK SPLITS; STOCK DIVIDENDS; SUBSCRIPTION RIGHTS.] *Distributions of shares of a distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A shareholder's right to subscribe to shares or other securities of the distributing corporation and the proceeds of any sale of that right are principal.*

*Subd. 2.* [CALL OF SHARES; MERGER; LIQUIDATION.] *Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:*

*(1) a call of shares;*

*(2) a merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or*

*(3) a total or partial liquidation of the corporation, including a distribution the corporation indicates is a distribution in total or partial liquidation or distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.*

*Subd. 3.* [REGULATED INVESTMENT COMPANY; REAL ESTATE INVESTMENT TRUST.] *Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.*

*Subd. 4.* [OTHER DISTRIBUTIONS.] *Except as provided in subdivisions 1, 2, and 3, all corporate distributions are income. "Corporate distributions" includes cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subdivisions 2 and 3, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.*

*Subd. 5.* [RELIANCE ON STATEMENTS.] *The trustee may rely on a statement of the distributing corporation as to a fact relevant under a provision of sections 48 to 65 concerning the source or character of dividends or distributions of corporate assets.*

Sec. 54. [501B.65] [BOND PREMIUM AND DISCOUNT.]

*Subdivision 1.* [PRINCIPAL.] *Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subdivision 2 for discount bonds. No provision may be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.*

*Subd. 2.* [INCOME.] *The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued, is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal must be reimbursed for the increment when realized.*

Sec. 55. [501B.66] [BUSINESS AND FARMING OPERATIONS.]

*Subdivision 1.* [BUSINESS INCOME OR LOSSES.] *If a trustee uses part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and must not be carried into any other fiscal or calendar year for purposes of calculating new income.*

*Subd. 2.* [AGRICULTURAL INCOME.] *Generally accepted accounting principles must be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.*

Sec. 56. [501B.67] [DISPOSITION OF NATURAL RESOURCES.]

*Subdivision 1.* [ALLOCATION OF RECEIPTS.] *If a part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on, or under land, the receipts from taking the natural resources from the land must be allocated under paragraphs (a) to (c).*

*(a) If received as rent on a lease or extension payments on a lease, the receipts are income.*

*(b) If received from a production payment carved out of a mineral property, the receipts are income to the extent of a factor for interest or its equivalent provided in the governing instrument or a greater amount determined by the trustee to be reasonable and equitable in view of the interests of those entitled to income as well as those entitled to principal. The receipts not allocated to income are principal.*

*(c) If received as a royalty, overriding or limited royalty, or bonus or from a working, net profit, or other interest in minerals or other natural resources, receipts not provided for in paragraph (a) or (b) must be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. The receipts from these properties must be allocated in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal must be presumed to be reasonable and*

*equitable if it is not less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986. Any allocated amount must be added to principal as an allowance for depletion of the asset. The balance of the gross receipts, after payment from the receipts of all direct and indirect expenses, is income.*

*Subd. 2.* [TIMBER EXCEPTED.] *This section does not apply to timber.*

Sec. 57. [501B.68] [TIMBER.]

*If a part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land must be allocated in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal must be presumed to be reasonable and equitable if it is not less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986.*

Sec. 58. [501B.69] [OTHER PROPERTY SUBJECT TO DEPLETION.]

*Except as provided in sections 56 and 57, if part of the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, the receipts from the property must be allocated in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal. The amount allocated to principal is presumed to be reasonable and equitable if it is not less than the amount allowable as a deduction for depletion, amortization, depreciation, or similar costs under the Internal Revenue Code of 1986.*

Sec. 59. [501B.70] [UNDERPRODUCTIVE PROPERTY.]

*Subdivision 1.* [PORTION OF PROCEEDS AS INCOME.] *Except as otherwise provided in this section, a portion of the net proceeds of a sale of a part of the principal that has not produced an average net income of at least one percent per year of its inventory value for more than a year, including as income the value of any beneficial use of the property by the income beneficiary, must be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in the disposition and less any carrying charges paid while the property was underproductive.*

*Subd. 2.* [CALCULATION OF DELAYED INCOME.] *The sum allocated as delayed income is the difference between the net proceeds and the amount that would have produced the net proceeds, had it been invested at simple interest at four percent per year while the property was underproductive. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.*

*Subd. 3.* [ACCRUAL OF DELAYED INCOME.] *An income beneficiary or the income beneficiary's estate is entitled to delayed income under this*

*section as if accrued from day to day.*

*Subd. 4.* [DIFFICULT-TO-APPORTION PROPERTY.] *If principal subject to this section is disposed of by conversion into property that cannot be apportioned easily, including, but not limited to, land, mortgages, or realty acquired by or in lieu of foreclosure, the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section may be made.*

Sec. 60. [501B.71] [CHARGES AGAINST INCOME AND PRINCIPAL.]

*Subdivision 1.* [INCOME.] *The following charges must be made against income:*

*(1) ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against a portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderperson, or trustee, interest paid by the trustee, and ordinary repairs;*

*(2) a reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance may be made for depreciation of that portion of real property used by a beneficiary as a residence or for depreciation of property held by the trustee on January 1, 1970, for which the trustee is not then making an allowance for depreciation;*

*(3) one-half of the court costs, attorneys' fees, and other fees on periodic accountings or judicial proceedings, unless the court directs otherwise;*

*(4) court costs, attorneys' fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;*

*(5) one-half of the trustee's regular compensation for services performed for the income beneficiary or in the production of income whether based on a percentage of principal or income, and all expenses reasonably incurred for current management of principal and application of income; and*

*(6) any tax levied on receipts defined as income under sections 48 to 65 or the trust instrument and payable by the trustee.*

*Subd. 2.* [UNUSUAL CHARGES.] *If charges against income are of an unusual amount, the trustee may charge them over a reasonable period of time or, by means of reserves or other reasonable means, withhold from distribution sufficient sums to regularize distributions.*

*Subd. 3.* [PRINCIPAL.] *The following charges must be made against principal:*

*(1) trustee's compensation not chargeable to income under subdivision 1, clause (5), special compensation of the trustee, expenses reasonably incurred in connection with principal, court costs and attorneys' fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;*

*(2) charges not provided for in subdivision 1, including the cost of*

*investing and reinvesting principal, the payments on principal of an indebtedness, including a mortgage amortized by periodic payments of principal, expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;*

*(3) extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but a trustee may establish an allowance for depreciation out of income to the extent permitted by subdivision 1, clause (2), and by section 52;*

*(4) any tax levied on profit, gain, or other receipts allocated to principal, even if the taxing authority calls the tax an income tax;*

*(5) any amount apportioned to a trust, including interest and penalties, if an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderperson have an interest.*

*Subd. 4.* [REGULAR CHARGES PAYABLE FROM INCOME.] *Regularly recurring charges payable from income must be apportioned to the same extent and in the same manner that income is apportioned under section 51.*

Sec. 61. [501B.72] [NONTRUST ESTATES.]

*Subdivision 1.* [LIMITATIONS.] *Sections 48 to 65 apply to nontrust estates, subject to:*

*(1) agreement of the parties;*

*(2) specific direction in the instrument creating the nontrust estates;*

*(3) subdivision 2; and*

*(4) other applicable statutes.*

*References in sections 48 to 65 to trusts and trustees must be read as applying to nontrust estates and to tenants and remainderpersons as the context requires.*

*Subd. 2.* [APPLICATION.] *In applying sections 48 to 65 to nontrust estates, the rules in paragraphs (a) to (c) must be followed.*

*(a) A legal life tenant or a remainderperson who has incurred a charge for the tenant's or remainderperson's benefit without the consent or agreement of the other, shall pay the charge in full.*

*(b) Costs of an improvement, including special taxes or assessments representing an addition to value of property forming part of the principal that cannot reasonably be expected to outlast the legal life estate, must be paid by the legal life tenant.*

*(c) If the improvement can reasonably be expected to outlast the legal life estate, only a portion of the costs must be paid by the legal life tenant and the balance by the remainderperson.*

*(1) The portion payable by the legal life tenant is that fraction of the total found by dividing the present value of the legal life estate by the present value of an estate of the same form as that of the legal life estate but limited to a period corresponding to the reasonably expected duration of the improvement.*

*(2) The present value of the legal life estate must be computed by applying the federal estate tax regulations for the calculation of the value of life estates under section 2031 of the Internal Revenue Code of 1986. The federal estate tax regulations applied must be those in force on the date when the costs of the improvement are initially determined by assessment, agreement, or otherwise. No other evidence of duration or expectancy may be considered.*

Sec. 62. [501B.73] [APPLICATION.]

*Except as specifically provided in the governing instrument, Minnesota Statutes 1988, sections 501.48 to 501.63, apply to a receipt or expense received or incurred after January 1, 1970, and before January 1, 1990, by any trust or decedent's estate whether established before or after January 1, 1970, and whether the asset involved was acquired by the trustee before or after January 1, 1970.*

*Except as specifically provided in the governing instrument, sections 48 to 65 apply to a receipt or expense received or incurred after December 31, 1989, by a trust or decedent's estate whether established before, on, or after January 1, 1990, and whether the asset involved or legal estate was acquired by the trustee, personal representative, legal life tenant, or remainderperson before, on, or after January 1, 1990.*

Sec. 63. [501B.74] [ASCERTAINMENT OF INCOME OR PRINCIPAL.]

*Sections 48 to 65 do not govern the ascertainment of what constitutes the receipt of income or principal by the estate or trust for income tax purposes.*

Sec. 64. [501B.75] [UNIFORMITY OF INTERPRETATION.]

*Sections 48 to 65 must be so construed as to effectuate their general purpose to make uniform the law of those states that enact them.*

Sec. 65. [501B.76] [SHORT TITLE.]

*Sections 48 to 65 may be cited as the uniform principal and income act.*

MINNESOTA TRUSTEES' POWERS ACT

Sec. 66. [501B.79] [TRUSTEE DEFINED.]

*As used in sections 66 to 69, "trustee" means a corporation, individual, or other legal entity acting as an original, added, or successor trustee of a trust created under a written instrument, whichever in a particular case is appropriate.*

Sec. 67. [501B.80] [INCORPORATION BY REFERENCE.]

*By a clear expression in a written instrument of the intention of the grantor, one or more of the powers in section 68, as they exist at the time of the signing of the written instrument, may be incorporated by reference as though that language were set forth verbatim in the instrument.*

Sec. 68. [501B.81] [ENUMERATED POWERS OF TRUSTEE.]

*Subdivision 1.* [TRUST ASSETS.] *The trustee may retain trust assets until, in the judgment of the trustee, disposition of the assets should be made, without regard to any effect retention may have on the diversification of the assets of the trust. The property may be retained even though it includes an asset in which the trustee is personally interested.*

*Subd. 2.* [ADDITIONS TO TRUST ASSETS.] *The trustee may receive from any source additions to the assets of the trust.*

*Subd. 3.* [BUSINESS OR ENTERPRISE.] *The trustee may continue or participate in the operation of a business or other enterprise, and to effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise.*

*Subd. 4.* [UNDIVIDED INTEREST IN TRUST ASSET.] *The trustee may acquire an undivided interest in a trust asset in which the trustee, in a trust capacity, holds an undivided interest.*

*Subd. 5.* [INVESTMENT OF TRUST ASSETS.] *The trustee may invest and reinvest trust assets in any property or any undivided interest in the property. These investments include but are not limited to bonds, debentures, secured or unsecured notes, preferred or common stocks of corporations, mutual funds, real estate or real estate improvements or interests, wherever located, oil and mineral leases, royalty or similar interests, and interests in trusts, including investment trusts and common trust funds maintained by a corporate trustee, and insurance upon the life of a person who is or may become a trust beneficiary. These investments may be made without regard to diversification.*

*Subd. 6.* [DEPOSITS.] *The trustee may deposit trust funds in a bank, including a bank operated by the trustee, or in a state or federal savings and loan association.*

*Subd. 7.* [PURCHASE AND SALE.] *The trustee may acquire, sell, or otherwise dispose of an asset, at public or private sale, for cash or on credit, with or without security as the trustee deems advisable, and manage, develop, exchange, partition, change the character of, or abandon a trust asset or any interest in it.*

*Subd. 8.* [OPTIONS.] *The trustee may grant an option for the sale or other disposition of a trust asset, or take an option for the acquisition of an asset.*

*Subd. 9.* [LEASES.] *The trustee may enter into a lease as lessor or lessee, with or without option to purchase or renew, though the term of the lease, renewal, or option extends beyond the terms of the trust.*

*Subd. 10.* [REPAIRS; IMPROVEMENTS; ALTERATIONS.] *The trustee may make ordinary or extraordinary repairs, improvements, or alterations in buildings or other structures or in other trust assets, and remove or demolish improvements.*

*Subd. 11.* [BUILDINGS; PARTY WALLS.] *The trustee may raze existing or erect new party walls or buildings, alone or jointly with owners of adjacent property.*

*Subd. 12.* [SUBDIVISION; DEVELOPMENT; DEDICATION TO PUBLIC USE.] *The trustee may subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; on exchange or partition, adjust differences in valuation by giving or receiving consideration; and dedicate easements to public use without consideration.*

*Subd. 13.* [EXPLORATION AND REMOVAL OF NATURAL RESOURCES.] *The trustee may enter into a lease or arrangement for exploration for and removal of oil, gas, and other minerals or natural resources, and may enter into pooling and unitization agreements.*

*Subd. 14.* [INSURANCE.] *The trustee may insure the assets of the trust against damage or loss and the trustee against liability with respect to third persons.*

*Subd. 15.* [VOTING STOCK OR SECURITIES.] *The trustee may vote shares of stock or other securities held by the trustee, in person or by general or limited proxy, and enter into voting trust agreements on terms and for periods the trustee considers advisable.*

*Subd. 16.* [SECURITIES CALLS, ASSESSMENTS, AND CHARGES.] *The trustee may pay calls, assessments, and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures, or other corporate securities in the hands of the trustee.*

*Subd. 17.* [STOCK RIGHTS.] *The trustee may sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers, or liquidations, and consent, directly or through a committee or other agent, to corporate sales, leases, and encumbrances. In the exercise of these powers the trustee may, if the trustee considers it expedient, deposit stocks, bonds, or other securities with a protective or other similar committee, on terms and conditions respecting the deposit that the trustee approves.*

*Subd. 18.* [OWNERSHIP IN OTHER NAME.] *The trustee may hold any asset in the name of a nominee or nominees, without disclosure of a fiduciary relationship, but the trustee is liable for acts and omissions of the nominee relating to those assets.*

*Subd. 19.* [BORROWING; MORTGAGES.] *The trustee may borrow money and mortgage or otherwise encumber or pledge trust assets for a term within or extending beyond the term of the trust, in connection with the exercise of a power vested in the trustee.*

*Subd. 20.* [CONTRACTS.] *The trustee may enter into contracts binding on the trust that are reasonably incident to the administration of the trust and that the trustee believes to be for the best interests of the trust.*

*Subd. 21.* [SETTLEMENT OF CLAIMS.] *The trustee may pay, compromise, contest, submit to arbitration, or otherwise settle claims in favor of or against the trust or the trustee.*

*Subd. 22.* [RELEASE OF CLAIMS.] *The trustee may release, in whole or in part, a claim or lien belonging to the trust.*

*Subd. 23.* [TRUST EXPENSES.] *The trustee may pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the trust.*

*Subd. 24.* [RESERVES.] *The trustee may create reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties.*

*Subd. 25.* [PAYMENTS TO MINORS AND THOSE UNDER LEGAL DISABILITY.] *The trustee may pay a sum distributable to a minor or other beneficiary under legal disability, without liability to the trustee, in one or more of the following ways:*

*(1) directly to the beneficiary;*

*(2) to the legal guardian or conservator of the beneficiary;*

*(3) directly for the maintenance, education, and general welfare of the*

*beneficiary;*

*(4) to a parent of the beneficiary;*

*(5) to a person who has custody and care of the person of the beneficiary; or*

*(6) to a custodian under a uniform transfers to minors statute.*

*Subd. 26.* [DISTRIBUTION OF INTERESTS.] *The trustee may distribute property and money in divided or undivided interests and adjust resulting differences in valuation.*

*Subd. 27.* [EMPLOYMENT OF ADVISORS, ASSISTANTS.] *The trustee may employ attorneys, accountants, investment advisors, agents, or other persons, even if they are associated with the trustee, to advise or assist the trustee in the performance of duties. The trustee may act without independent investigation upon their recommendations, and instead of acting personally, may employ one or more agents to perform any act of administration whether or not discretionary.*

*Subd. 28.* [LEGAL ACTIONS.] *The trustee may prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of duties.*

*Subd. 29.* [ADVANCES TO BENEFICIARIES.] *The trustee may advance income to or for the use of a beneficiary, for which advance the trustee has a lien on the future benefits of that beneficiary.*

*Subd. 30.* [ADVANCES BY TRUSTEE; REPAYMENT.] *The trustee may advance money for the protection of the trust or its assets, for all expenses and liabilities sustained or incurred in or about the administration or protection of the trust, or because of the holding or ownership of any trust assets, for which advances the trustee has a lien on the trust assets, and may be reimbursed out of the trust assets with interest.*

*Subd. 31.* [EXECUTION AND DELIVERY OF INSTRUMENTS.] *The trustee may execute and deliver instruments that will accomplish or facilitate the exercise of the powers vested in the trustee.*

*Subd. 32.* [MULTIPLE TRUSTS.] *The trustee may hold two or more trusts or parts of trusts created by the same instrument, as an undivided whole, without separation between the trusts or parts of trusts, if the separate trusts or parts of trusts have undivided interests and if no holding defers the vesting of an estate in possession or otherwise.*

Sec. 69. [501B.82] [CITATION.]

*Sections 66 to 69 may be cited or referred to as the "Minnesota trustees' powers act."*

MISCELLANEOUS

Sec. 70. [501B.86] [DISCLAIMER OF INTERESTS PASSING BY DEED, ASSIGNMENT, UNDER CERTAIN NONTESTAMENTARY INSTRUMENTS, OR UNDER CERTAIN POWERS OF APPOINTMENT.]

*Subdivision 1.* [DEFINITIONS.] *As used in this section, unless otherwise clearly required by the context:*

*(a) "beneficiary" means a person entitled, but for the person's disclaimer, to take an interest:*

*(1) as grantee;*

*(2) as donee;*

*(3) under an assignment or instrument of conveyance or transfer;*

*(4) by succession to a disclaimed interest, other than by will, intestate succession, or through the exercise or nonexercise of a testamentary power of appointment;*

*(5) as beneficiary of an inter vivos trust or insurance contract;*

*(6) pursuant to the exercise or nonexercise of a nontestamentary power of appointment;*

*(7) as donee of a power of appointment created by a nontestamentary instrument; or*

*(8) otherwise under a nontestamentary instrument;*

*(b) "interest" means:*

*(1) the whole of any property, real or personal, legal or equitable;*

*(2) a fractional part, share, particular portion, or specific assets of property;*

*(3) an estate in property;*

*(4) a power to appoint, consume, apply, or expend property; or*

*(5) any other right, power, privilege, or immunity relating to property; and*

*(c) "disclaimer" means a written instrument that declines, refuses, releases, or disclaims an interest that would otherwise be succeeded to by a beneficiary, if the instrument defines the nature and extent of the interest disclaimed and is signed, witnessed, and acknowledged by the disclaimant in the manner provided for deeds of real estate.*

*Subd. 2.* [WHO MAY DISCLAIM.] *A beneficiary may disclaim an interest in whole or in part, or with reference to specific parts, shares, portions, or assets, by filing a disclaimer in court in the manner provided in this section. A guardian or conservator of the estate of a minor or an incapacitated person under section 525.54, or the personal representative of the estate of a deceased beneficiary may execute and file a disclaimer on behalf of the beneficiary if that representative considers it not detrimental to the best interests of the beneficiary and in the best interests of those interested in the beneficiary's estate and of those who take the beneficiary's interest by virtue of the disclaimer. The representative may file the disclaimer with or without a court order within the time specified in subdivision 3. A beneficiary may file a disclaimer by an attorney or attorney-in-fact.*

*Subd. 3.* [FILING DEADLINE.] *A disclaimer under subdivision 2 may be filed at any time after the creation of the interest, but it must be filed within nine months after the effective date of the nontestamentary instrument creating the interest, or, if the disclaimant is not then finally ascertained as a beneficiary or the disclaimant's interest has not then become indefeasibly fixed both in quality and in quantity, the disclaimer must be filed not later than nine months after the event that would cause the disclaimant to become finally ascertained and the interest to become indefeasibly fixed both in quality and quantity.*

*Subd. 4.* [EFFECTIVE DATE.] *(a) A disclaimer under subdivision 2 is effective on being filed in a district court of the state of Minnesota. A copy of the disclaimer must be delivered or mailed to the trustee of a trust in which the interest disclaimed exists or to any other person who has legal title to, or possession of, the property in which the interest disclaimed exists. The trustee or person is not liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer.*

*(b) If an interest in or relating to real estate is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the court administrator of the district court where the disclaimer has been filed, must also be filed with the county recorder or with the registrar of titles, as appropriate, in the county or counties where the real estate is situated. The filed disclaimer is notice to all persons after the time of filing. If title to the real estate has not been registered under chapter 508, the disclaimer or certified copy must be filed with the county recorder. If title to the real estate has been registered under chapter 508, the disclaimer or certified copy must be filed with the registrar of titles.*

*Subd. 5.* [DISTRIBUTION OF DISCLAIMED PROPERTY.] *Unless otherwise provided in the nontestamentary instrument creating the interest with reference to the possibility of a disclaimer by the beneficiary, the interest disclaimed must be distributed or otherwise disposed of in the same manner as if the disclaimant had died immediately preceding the death or other event that causes the disclaimant to become finally ascertained as a beneficiary and the interest to become indefeasibly fixed both in quality and quantity. The disclaimer relates for all purposes to that date, whether filed before or after the death or other event. Unless the disclaimer provides otherwise, a person disclaiming an interest in a nonresiduary gift under a trust instrument or otherwise is not excluded from sharing in a gift of the residue even though, through lapse, the residue includes the assets disclaimed.*

*Subd. 6.* [BARS TO RIGHT TO DISCLAIM.] *The right to disclaim is barred if the beneficiary: (1) is insolvent; (2) assigns or transfers, or contracts to assign or transfer, an interest in the property to be disclaimed; (3) in writing, waives the right to disclaim the succession to an interest in the property; or (4) sells or otherwise disposes of an interest in the property.*

*Subd. 7.* [EFFECT OF RESTRICTIONS.] *The right to disclaim granted by this section exists despite a limitation imposed on the interest of the disclaimant in the nature of an express or implied spendthrift provision or similar restriction. A disclaimer, when filed under this section, or a written waiver of the right to disclaim, is binding on the disclaimant or waiving beneficiary and all parties later claiming by, through, or under the disclaimant or waiving beneficiary, except that a waiving beneficiary may later transfer, assign, or release the waiving beneficiary's interest if it is not prohibited by an express or implied spendthrift provision. If an interest in real estate is disclaimed and the disclaimer is filed in accordance with subdivision 4, the spouse of the disclaimant, if the spouse has consented to the disclaimer in writing, is automatically debarred from the spouse's statutory or common law right or estate by curtesy or in dower or otherwise in the real estate to which the spouse, except for the disclaimer, would have been entitled.*

*Subd. 8.* [OTHER LAW.] *This section does not abridge the right of a person, apart from this section, under an existing or future statute or rule*

*of law, to disclaim an interest or to assign, convey, release, renounce, or otherwise dispose of an interest.*

*Subd. 9.* [INTERESTS IN EXISTENCE ON MAY 22, 1965.] *If an interest existed on May 22, 1965, it may be disclaimed under this section if it had not then become indefeasibly fixed both in quality and quantity or if its taker had not then become finally ascertained.*

*Subd. 10.* [BANK DEPOSITS.] *The survivor or survivors of a bank deposit held in the names of the decedent and the survivor or survivors may at any time disclaim that interest by authorizing the inclusion of the proceeds of the bank deposit in the inventory and appraisal required by law to be filed by the representative or executor of the estate of the decedent. For purposes of this subdivision, "bank deposit" includes a checking or savings account or time deposit in any financial institution authorized to accept deposits.*

Sec. 71. [501B.87] [TRUSTS FORMING PART OF RETIREMENT PLANS FOR PARTICIPATING MEMBERS.]

*If a trust forms part of a retirement plan created by and for the benefit of self-employed persons for the purpose of receiving their contributions and investing, accumulating, and distributing to the persons or their beneficiaries the corpus, profits, and earnings of the trust in accordance with the plan, the power of a person beneficially interested in the trust to sell, assign, or transfer that beneficial interest, to anticipate payments under the plan, or to terminate the trust, may be limited or withheld in accordance with the provisions of the plan, whether or not the person furnished consideration for the creation of the trust.*

Sec. 72. [501B.88] [TRUSTS NOT AFFECTED.]

*Notwithstanding other law to the contrary, a trust created before June 1, 1973, relating to one's "minority" or "majority" or other related terms is governed by the definitions of those terms existing at the time of the creation of the trust.*

Sec. 73. Minnesota Statutes 1988, section 500.17, subdivision 2, is amended to read:

Subd. 2. [ACCUMULATION.] Where the controlling will or other written instrument permits accumulation, either expressly or by necessary implication, ~~rents and profits from real estate may be accumulated to the same extent and for the same period permitted by law for the accumulation of income from personal property~~ *income from personal property and rents and profits from real estate may be accumulated for the period during which the power of alienation may be suspended by future interests in real or personal property not held in trust under section 9, subdivision 3.* Where any will or other instrument authorizes accumulation beyond the period permissible under this section, such authorization shall be void only as to the excess period.

Reasonable sums set aside for depreciation and depletion shall not be deemed an accumulation within the meaning of this section.

Sec. 74. Minnesota Statutes 1988, section 502.73, is amended to read:

502.73 [RIGHT OF ALIENATION SUSPENDED, WHEN.]

The period during which the ~~absolute right~~ *power* of alienation, *within the meaning of section 9,* may be suspended by any instrument in execution

of a power is to be computed from the time of the creation of the power and not from the date of the instrument, except that in the case of a general power presently exercisable, the period is to be computed from the date of the instrument.

Sec. 75. [525.95] [FIDUCIARY POWERS, SUSPENSION DURING WAR SERVICE.]

*Subdivision 1.* [DEFINITIONS.] *The definitions in this subdivision apply to this section.*

*(a) "War service" includes the following, during a period when the United States is engaged in war or other major military engagement with a foreign nation:*

*(1) active membership in the military forces of the United States or any of its allies;*

*(2) acceptance for membership in the military forces of the United States or any of its allies and awaiting induction into that service;*

*(3) participation in work abroad in connection with a governmental agency of the United States or any of its allies, with the Red Cross, or with a similar service;*

*(4) internment by an enemy or absence from the United States and inability to return; and*

*(5) service arising out of or in connection with the war or other major military engagement, which in the opinion of the court prevents the fiduciary from giving the proper attention to duties.*

*(b) "Fiduciary" refers to a trustee of a testamentary trust or of an express trust, a guardian or conservator of the person or estate of a person, an executor of a will, an administrator of the estate of the decedent, a custodian under the Minnesota uniform transfers to minors act, or an advisor or consultant in a testamentary or express trust.*

*Subd. 2.* [POWERS OF FIDUCIARY MAY BE SUSPENDED; PETITION.] *A fiduciary who contemplates entering war service, a fiduciary who is engaged in war service, a cofiduciary, or an interested person may petition the proper court having jurisdiction in matters of that nature for the suspension of the powers and duties of the fiduciary during the period of war service and until the further order of the court, and may petition for the reinstatement of the fiduciary upon the fiduciary's return.*

*Subd. 3.* [NOTICE OF HEARING.] *Notice of the hearing on a petition under subdivision 2 must be given to persons and in the manner the court directs.*

*Subd. 4.* [HEARING; ORDER.] *After a hearing on a petition under subdivision 2 or in the case of an executor, administrator, or guardian on the court's own motion, the court may:*

*(1) order the suspension of the powers and duties of the fiduciary who is in war service for the period of the war service and until the further order of the court;*

*(2) appoint a successor fiduciary to serve for the period of suspension of the powers and duties of the fiduciary and until the further order of the court, if upon suspension of powers and duties, there is no fiduciary to exercise the powers and duties of the fiduciary who is in war service, or*

*if in the opinion of the court the appointment of a cofiduciary is advisable;*

*(3) decree that the ownership and title to the trust property vests in the successor fiduciary or cofiduciary, as the case may be, and that the duties, powers, and discretions, or those of the powers and discretions that are not personal to the fiduciary, may be exercised by the cofiduciary or successor fiduciary;*

*(4) make other orders the court considers advisable with respect to the trust estate or its administration, and authorize a reasonable compensation to the successor fiduciary; or*

*(5) reserve jurisdiction for the entry of further orders and for the reinstatement of the fiduciary.*

*Upon petition, the court shall order the reinstatement of the fiduciary when the fiduciary's war service has terminated if it appears that the trust is not fully executed or administration of the estate is not completed.*

*Subd. 5.* [RESPONSIBILITY OF FIDUCIARY.] *The fiduciary has no responsibility for the acts and doings of the cofiduciary or successor fiduciary during the period of the suspension of the fiduciary's powers and duties, but is not relieved of responsibility for the fiduciary's own acts or doings in the administration of the trust fund or estate. A successor fiduciary appointed under this section is not responsible for the acts of the predecessor fiduciary.*

Sec. 76. [EFFECTIVE DATE.]

*Except as required by section 645.35 or as otherwise provided in sections 47, 60, 62, 70, subdivision 9, and 72, this article is effective January 1, 1990, and applies to trusts, property interests, and powers of appointment whenever created to the extent permitted under the United States Constitution and the Minnesota Constitution.*

Sec. 77. [REPEALER.]

*Minnesota Statutes 1988, sections 500.13; 501.01; 501.02; 501.03; 501.04; 501.05; 501.06; 501.07; 501.08; 501.09; 501.10; 501.11; 501.115; 501.12; 501.125; 501.13; 501.14; 501.15; 501.155; 501.16; 501.17; 501.18; 501.19; 501.195; 501.20; 501.21; 501.211; 501.22; 501.23; 501.24; 501.25; 501.26; 501.27; 501.28; 501.29; 501.30; 501.31; 501.32; 501.33; 501.34; 501.35; 501.351; 501.36; 501.37; 501.38; 501.39; 501.40; 501.41; 501.42; 501.43; 501.44; 501.45; 501.46; 501.461; 501.48; 501.49; 501.50; 501.51; 501.52; 501.53; 501.54; 501.55; 501.56; 501.57; 501.58; 501.59; 501.60; 501.61; 501.62; 501.63; 501.64; 501.65; 501.66; 501.67; 501.71; 501.72; 501.73; 501.74; 501.75; 501.76; 501.77; 501.78; 501.79; 501.80; 501.805; and 501.81, are repealed.*

## ARTICLE 2

## MISCELLANEOUS SECTIONS

Section 1. Minnesota Statutes 1988, section 315.365, subdivision 3, is amended to read:

Subd. 3. [CONTINUATION OF CORPORATE IDENTITIES.] When a merger and consolidation takes effect, the corporate identity of each party to it continues in the surviving corporation. The legal title to assets held or owned by any property corporation that is a party to the merger and consolidation vests in the surviving corporation. The surviving corporation

is entitled to receive gifts, devises, bequests, legacies, or other transfers or assignments of money or property, real, personal, or mixed, made after the merger directly or in trust to or intended for any of the constituent property corporations. Except as provided in ~~section 501.12~~ *article 1, section 23*, no properties or assets and no income of properties or assets held or received by a party to the merger and consolidation or by the surviving corporation shall be diverted from the uses and purposes for which they were received and held by the property corporations or from the uses and purposes for which they were expressed and intended.

Sec. 2. Minnesota Statutes 1988, section 501A.06, is amended to read:

501A.06 [SUPERSESSION; REPEAL.]

Sections 501A.01 to 501A.07 supersede the rule of the common law known as the rule against perpetuities ~~and repeals Minnesota Statutes, section 500.13~~.

Sec. 3. Minnesota Statutes 1988, section 524.1-404, is amended to read:

524.1-404 [NOTICE TO CHARITABLE BENEFICIARIES.]

If a will includes a gift, devise or bequest to a named charitable beneficiary, the initial written notice of the probate proceedings given to the beneficiary shall state that the beneficiary may request notice of the probate proceedings be given to the attorney general pursuant to ~~section 501.79~~ *article 1, section 33*, subdivision 5.

Sec. 4. Minnesota Statutes 1988, section 525.56, subdivision 4, is amended to read:

Subd. 4. [DUTIES OF GUARDIAN OR CONSERVATOR OF THE ESTATE.] The court may appoint a guardian of the estate if it determines that all the powers and duties listed in this subdivision are needed to provide for the needs of the incapacitated person. The court may appoint a conservator of the estate if it determines that a conservator is necessary to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this subdivision. The duties and powers of a guardian or those which the court may grant to a conservator include, but are not limited to:

(1) The duty to pay the reasonable charges for the support, maintenance, and education of the ward or conservatee in a manner suitable to the ward's or conservatee's station in life and the value of estate. Nothing herein contained shall release parents from obligations imposed by law for the support, maintenance, and education of their children. The guardian or conservator has no duty to pay for these requirements out of personal funds. Wherever possible and appropriate, the guardian or conservator should meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal, but the guardian or conservator shall have no personal or monetary liability;

(2) The duty to pay out of the ward's or conservatee's estate all just and lawful debts of the ward or conservatee and the reasonable charges incurred for the support, maintenance, and education of the ward's or conservatee's spouse and dependent children and, upon order of the court, pay such sum as the court may fix as reasonable for the support of any person unable to earn a livelihood who is legally entitled to support from the ward or

conservatee;

(3) The duty to possess and manage the estate, collect all debts and claims in favor of the ward or conservatee, or, with the approval of the court, compromise them, institute suit on behalf of the ward or conservatee and represent the ward or conservatee in any court proceedings, and invest all funds not currently needed for the debts and charges named in clauses (1) and (2) and the management of the estate, in accordance with the provisions of ~~sections~~ *section* 48.84 and ~~501.125~~ *article 1, section 10*, subdivision 1, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all investments by a guardian or conservator. A guardian or conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause (b);

(4) Where a ward or conservatee has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the ward or conservatee, may authorize an exchange or sale of the ward's or conservatee's interest or a purchase by the ward or conservatee of any interest other heirs may have in the real estate.

Sec. 5. Minnesota Statutes 1988, section 525.831, is amended to read:

525.831 [NOTICE TO ATTORNEY GENERAL OF DEVISES FOR CHARITABLE PURPOSES.]

Whenever a will provides for a devise for a charitable purpose, as defined in ~~section~~ ~~501.73~~ *article 1, section 27*, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by ~~section~~ ~~501.79~~ *article 1, section 33*, subdivision 5.

Sec. 6. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, article 1, section 28, is amended to read:

Sec. 28. [501B.36] [REGISTRATION AND REPORTING.]

The registration and reporting provisions of sections 29 and 30 apply to a charitable trust, or an organization with a charitable purpose, that has gross assets of $25,000 or more, except that the provisions do not apply to:

(1) a charitable trust administered by the United States or a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any of their agencies or subdivisions;

(2) a religious association organized under chapter 315 or chapter ~~317~~ *317A*;

(3) a charitable trust organized and operated exclusively for religious purposes and administered by a religious association organized under chapter 315 or chapter ~~317~~ *317A*;

(4) an organization described in section 509(a)(3) of the Internal Revenue Code of 1986 and operated, supervised, or controlled by or in connection with one or more organizations described in clauses (2) to (5); a pooled income fund as defined in section 642(c)(5) of the Internal Revenue Code of 1986 maintained by an organization described in clauses (2) to (5); or a charitable remainder annuity trust or unitrust, as defined in section 664 of the Internal Revenue Code of 1986;

(5) a trust in which the only charitable interest is a contingent interest

for which no charitable deduction has been allowed for Minnesota income, inheritance, or gift tax purposes or a trust in which not all of the unexpired interests are devoted to one or more charitable purposes and in which the only charitable interest is an annuity or an income interest with respect to which a charitable deduction is allowed the trust under applicable Minnesota income tax laws;

(6) an organization subject to sections 309.50 to 309.61;

(7) a trust for individual and charitable beneficiaries that is described in section 4947(a)(2) of the Internal Revenue Code of 1986, also known as a split-interest trust; or

(8) a charitable gift, bequest, or devise not held and continued by a private express trust or corporation even though the gift, bequest, or devise creates a fiduciary relationship, unless there is no named charitable beneficiary in existence or unless a named charitable beneficiary elects in a writing filed with the attorney general and with the fiduciary to come within the provisions of sections 29 and 30.

Sec. 7. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, article 1, section 36, is amended to read:

Sec. 36. [501B.44] [IMMUNITY OF CHARITABLE TRUSTS.]

A charitable trust is an "organization" for purposes of section ~~317.201~~ *317A.257*, and that section applies to charitable trusts.

Sec. 8. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 22, subdivision 24, is amended to read:

Subd. 24. [MAY INVEST TRUST PROPERTY.] Except where the trust instrument prescribes otherwise, a corporation may invest trust property or its proceeds in accordance with ~~section 501.125~~ *article 1, section 10.*

Sec. 9. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 93, is amended to read:

Sec. 93. [317A.671] [CERTAIN ASSETS NOT TO BE DIVERTED.]

Except as provided in ~~section 501.12~~ *article 1, section 23*, when a corporation dissolves, merges or consolidates, transfers its assets, or grants a mortgage or other security interest in its assets, assets of the corporation or a constituent corporation, and assets subsequently received by a single corporation after a merger or consolidation, may not be diverted from the uses and purposes for which the assets have been received and held, or from the uses and purposes expressed or intended by the original donor.

Sec. 10. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 104, subdivision 4, is amended to read:

Subd. 4. [REMAINDER.] The distribution of assets held for or devoted to a charitable or public use or purpose is subject to ~~section 501.12~~ *article 1, section 23.*

Sec. 11. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 119, is amended to read:

Sec. 119. [317A.813] [REMEDIAL POWERS OF ATTORNEY GENERAL.]

The attorney general has the powers in ~~sections~~ *section* 8.31~~, 501.78,~~ and ~~501.79~~ *article 1, sections 32 and 33*, to supervise and investigate

corporations under this chapter and to bring proceedings to secure compliance.

Sec. 12. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 123, subdivision 2, is amended to read:

Subd. 2. [ATTORNEY GENERAL POWERS CONTINUED.] A corporation dissolved under this section continues for three years after the dissolution date for the sole purpose of supervision, investigation, and other actions by the attorney general under ~~sections~~ *section* 8.31~~, 501.78,~~ and ~~501.79~~ *article 1, sections 32 and 33*.

Sec. 13. [EFFECTIVE DATE.]

*This article is effective January 1, 1990.*

ARTICLE 3

RULE AGAINST PERPETUITIES

Section 1. Minnesota Statutes 1988, section 501A.05, is amended to read:

501A.05 [PROSPECTIVE APPLICATION.]

(a) Except as extended by subsection (b), sections 501A.01 to 501A.07 apply to a nonvested property interest or a power of appointment that is created after December 31, ~~1989~~ *1990*. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) If a nonvested property interest or a power of appointment was created before January 1, ~~1990~~ *1991*, and is determined in a judicial proceeding, commenced after December 31, ~~1989~~ *1990*, to violate this state's rule against perpetuities as that rule existed before January 1, ~~1990~~ *1991*, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

Sec. 2. Laws 1987, chapter 60, section 10, as amended by Laws 1988, chapter 482, section 2, is amended to read:

Sec. 10. [TIME OF TAKING EFFECT.]

This act takes effect January 1, ~~1990~~ *1991*."

Delete the title and insert:

"A bill for an act relating to trusts; providing for their creation, validity, administration, and supervision; providing for the sale of real property; relating to legal estates in real and personal property; relating to estates; amending Minnesota Statutes 1988, sections 315.365, subdivision 3; 500.17, subdivision 2; 501A.05; 501A.06; 502.73; 524.1-404; 525.56, subdivision 4; and 525.831; Laws 1987, chapter 60, section 10, as amended; proposing coding for new law as Minnesota Statutes, chapter 501B; proposing coding for new law in Minnesota Statutes, chapter 525; repealing Minnesota Statutes 1988, sections 500.13; 501.01; 501.02; 501.03; 501.04; 501.05; 501.06; 501.07; 501.08; 501.09; 501.10; 501.11; 501.115; 501.12; 501.125; 501.13; 501.14; 501.15; 501.155; 501.16; 501.17; 501.18; 501.19; 501.195; 501.20; 501.21; 501.211; 501.22; 501.23; 501.24; 501.25; 501.26; 501.27; 501.28;

501.29; 501.30; 501.31; 501.32; 501.33; 501.34; 501.35; 501.351; 501.36; 501.37; 501.38; 501.39; 501.40; 501.41; 501.42; 501.43; 501.44; 501.45; 501.46; 501.461; 501.48; 501.49; 501.50; 501.51; 501.52; 501.53; 501.54; 501.55; 501.56; 501.57; 501.58; 501.59; 501.60; 501.61; 501.62; 501.63; 501.64; 501.65; 501.66; 501.67; 501.71; 501.72; 501.73; 501.74; 501.75; 501.76; 501.77; 501.78; 501.79; 501.80; 501.805; and 501.81."

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

House Conferees: (Signed) Thomas W. Pugh, Joe Quinn, Dave Bishop

Senate Conferees: (Signed) Randolph W. Peterson, Ember D. Reichgott, Gene Merriam

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 306 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 306 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1443, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1443 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1443

A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1443, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1443 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [SMALL BUSINESS PROCUREMENTS COMMISSION.]

*Subdivision 1.* [CREATION.] *A small business procurements commission is created to study the small business procurement programs in Minnesota Statutes, sections 16B.189; 16B.19, subdivisions 2, 4, 5, and 6; 16B.21, subdivision 2; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivision 3; 161.321, subdivisions 2, 3, and 6; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 473.406, subdivisions 1, 2, 4, 5, and 6; and 645.445, subdivision 5, in order to propose amendments that will conform the programs to recent United States Supreme Court decisions. The commission shall take steps to at least:*

*(1) assure that minority and women's businesses and organizations know of its existence and purpose;*

*(2) determine the existence and extent of discrimination in Minnesota business, trade, and industry;*

*(3) recommend appropriate statutory or regulatory changes; and*

*(4) recommend programs targeted to small businesses in need of assistance.*

*Subd. 2.* [MEMBERSHIP.] *The commission shall consist of 11 members: three members, one of which shall be of the minority caucus of the house of representatives appointed by the speaker, three members, one of which shall be of the minority caucus of the senate appointed by the committee on committees; three members appointed by the governor; and two members from the socially or economically disadvantaged community appointed by the commissioner of administration. The attorney general or the attorney general's designee shall serve as a nonvoting member. Any vacancy shall be filled by the appointing authority.*

*Subd. 3.* [REPORT.] *The commission shall report its findings and recommendations for legislative action to the governor and the legislature by*

*January 31, 1990, and shall cease to function after that date.*

*Subd. 4.* [POWERS; OFFICERS.] *The commission shall hold hearings and meetings as necessary to accomplish its purposes and may enter into contracts and subpoena witnesses and records. It shall select from its members a chair or co-chairs and other officers it considers necessary.*

*Subd. 5.* [COMPENSATION, SUPPORT SERVICES.] *(a) Legislative members of the commission shall be compensated in the same manner as for other legislative meetings. Other members shall be compensated as provided in Minnesota Statutes, section 15.059, subdivision 3.*

*(b) The legislative coordinating commission shall provide administrative and support services for the commission.*

Sec. 2. Minnesota Statutes 1988, section 16B.189, is amended to read:

16B.189 [CITATION AND PURPOSE.]

Sections 16B.19 to 16B.22 may be cited as the "Minnesota small business procurement act." These sections prescribe procurement practices and procedures to assist in the economic development of small businesses and *economically disadvantaged* small businesses ~~owned and operated by socially or economically disadvantaged persons~~.

Sec. 3. Minnesota Statutes 1988, section 16B.19, is amended to read:

16B.19 [DESIGNATION OF PROCUREMENTS FROM SMALL BUSINESSES.]

Subdivision 1. [SMALL BUSINESS PROCUREMENTS.] The commissioner shall for each fiscal year ensure that small businesses receive at least 25 percent of the value of anticipated total state procurement of goods and services, including printing and construction. The commissioner shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses. In making the annual designation of such procurements the commissioner shall attempt (1) to vary the included procurements so that a variety of goods and services produced by different small businesses are obtained each year, and (2) to designate small business procurements in a manner that will encourage proportional distribution of such awards among the geographical regions of the state. To promote the geographical distribution of set-aside awards, the commissioner may designate a portion of the small business set-aside procurement for award to bidders from a specified congressional district or other geographical region specified by the commissioner. The failure of the commissioner to designate particular procurements shall not be deemed to prohibit or discourage small businesses from seeking the procurement award through the normal solicitation and bidding processes.

*Subd. 1a.* [SMALL BUSINESS.] *For purposes of sections 16B.189 to 16B.22, "small business" means a small business, as defined in section 645.445, with its principal place of business in Minnesota.*

Subd. 2. [CONSULTANT, PROFESSIONAL AND TECHNICAL PROCUREMENTS.] Every state agency shall for each fiscal year designate for awarding to small businesses ~~with their principal place of business in Minnesota~~ at least 25 percent of the value of anticipated procurements of that agency for consultant services or professional and technical services. The set-aside under this subdivision is in addition to that provided by subdivision

1, but shall otherwise comply with section 16B.17. ~~At least six percent of all these procurements for consultant services or professional or technical services shall be set aside for small businesses owned and operated by socially or economically disadvantaged persons.~~

Subd. 3. [NEGOTIATED PRICE OR BID CONTRACT.] The commissioner may elect to use either a negotiated price or bid contract procedure as may be appropriate in the awarding of a procurement contract under the set-aside or preference program established in sections 16B.19 to 16B.22. The amount of an award may not exceed by more than five percent the commissioner's estimated price for the goods or services, if they were to be purchased on the open market and not under this set-aside program. Surety bonds guaranteed by the federal Small Business Administration and second party bonds are acceptable security for a construction award under this section. "Second party bond" means a bond ~~which~~ *that* designates as principal, guarantor, or both, a person or persons in addition to the person to whom the contract is proposed for award.

Subd. 4. [DETERMINATION OF ABILITY TO PERFORM.] Before making an award under the ~~set-aside or~~ preference programs *established in subdivision 5* for *economically disadvantaged* small businesses ~~owned and operated by socially or economically disadvantaged persons~~, the commissioner shall evaluate whether the small business scheduled to receive the award is able to perform the contract. This determination shall include consideration of production and financial capacity and technical competence.

Subd. 5. [CERTAIN SMALL BUSINESS PREFERENCES ~~AND SET-ASIDES~~.) ~~At least nine percent of the value of all procurements shall be awarded, if possible, for award to businesses owned and operated by socially or economically disadvantaged persons as defined in section 645.445 with their principal place of business in Minnesota. The commissioner shall designate set-aside procurements in a manner that will encourage proportional distribution of set-aside awards among the geographical regions of the state. To promote the geographical distribution of set-aside awards, the commissioner may designate a portion of the set-aside for small businesses owned and operated by socially or economically disadvantaged persons for award to bidders from a specified congressional district or other geographical region specified by the commissioner and shall report annually to the governmental operations committees of the house of representatives and the senate on the use and impact of this provision. To reach a goal of nine percent, the commissioner must set aside at least three percent of all procurements for bidding only by small businesses owned and operated by socially or economically disadvantaged persons, may~~ *The commissioner shall* award a five percent preference in the amount bid on ~~selected~~ *all* state procurements to *economically disadvantaged* small businesses ~~owned and operated by socially or economically disadvantaged persons, or may utilize any other bidding process authorized by this chapter~~ *to encourage the participation of economically disadvantaged small businesses in state procurement*. ~~In the event small businesses owned and operated by socially or economically disadvantaged persons are unable to perform at least nine percent of the value of all procurements, the commissioner shall award the remainder to other small businesses.~~ At least ~~50~~ *75* percent of the value of the procurements awarded to *economically disadvantaged small* businesses ~~owned and operated by socially or economically disadvantaged persons shall~~ *must* actually be performed by the business to which the award is made or another *economically disadvantaged small* business ~~owned~~

~~and operated by a socially or economically disadvantaged person or persons. The commissioner may not designate more than 20 percent of any commodity class for set-aside or preference awards to businesses owned and operated by socially or economically disadvantaged persons. A~~ *An economically disadvantaged small* business ~~owned and operated by socially or economically disadvantaged persons~~ that has been awarded more than three-tenths of one percent of the value of the total anticipated procurements for a fiscal year under this subdivision is disqualified from receiving further ~~set-aside or~~ preference advantages for that fiscal year.

Subd. 6. [CONTRACTS IN EXCESS OF $200,000; ~~SET-ASIDE~~ *SUBCONTRACTS.*] The commissioner, as a condition of awarding state procurements for construction contracts or approving contracts for consultant, professional, or technical services ~~pursuant to~~ *under* section 16B.17 in excess of $200,000, ~~shall require that at least ten percent of the contract award to a prime contractor be subcontracted to a business owned and operated by a socially or economically disadvantaged person or persons or that at least ten percent of the contract award be expended in purchasing materials or supplies from said person or persons. If there is no socially or economically disadvantaged person or persons or other small businesses able to perform the subcontract or to provide the supplies or materials, the construction contract or contract for consultant, professional, or technical services may be awarded notwithstanding the ten percent requirement provided that the ten percent requirement is made up in other such contracts awarded or to be awarded by the same agency. Any subcontracting or purchasing of supplies and materials pursuant to this subdivision may not be included in determining the total amount of awards required by subdivisions 1, 2, and 5. In the event small businesses owned and operated by socially and economically disadvantaged persons are unable to perform ten percent of the prime contract award, the commissioner shall require that other small businesses perform at least ten percent of the prime contract award. The commissioner may determine that small businesses owned and operated by socially and economically disadvantaged persons are unable to perform at least ten percent of the prime contract award prior to the advertising for bids~~ *may set goals which require that the prime contractor subcontract a portion of the contract to economically disadvantaged small businesses*. Each construction contractor bidding on a project over $200,000 *on which this subcontracting is required* shall submit with the bid a list of the *economically disadvantaged small* businesses ~~owned and operated by socially or economically disadvantaged persons~~ that are proposed to be utilized on the project with a statement indicating the portion of the total bid to be performed by each business. The commissioner shall reject any bid to which this subdivision applies that does not contain this information. Prime contractors receiving construction contract awards in excess of $200,000 shall furnish to the commissioner the name of each ~~business owned and operated by a socially or~~ economically disadvantaged ~~person or persons or other~~ small business that is performing work or supplying supplies and materials on the prime contract and the dollar amount of the work performed or to be performed or the supplies and materials to be supplied. Once the contract has been awarded, the prime contractor must use the ~~socially and~~ economically disadvantaged *small business* subcontractors proposed to be utilized on the project, unless the subcontractors are unable to perform in accordance with the award.

This subdivision does not apply to prime contractors that are themselves *economically disadvantaged* small businesses ~~owned and operated by socially~~

~~or economically disadvantaged persons~~, as ~~duly~~ certified ~~pursuant to~~ *under* section 16B.22.

~~Subd. 8. [RECOURSE TO OTHER BUSINESSES.] In the event that subdivisions 1 to 6 do not operate to extend a contract award to a small business the award must be placed pursuant to the normal solicitation and award provisions in this chapter. The commissioner shall then designate for small businesses additional state procurements corresponding in approximate value to the contract unable to be awarded pursuant to subdivisions 1 to 6.~~

Subd. 9. [PROCUREMENT PROCEDURES.] All laws and rules pertaining to solicitations, bid evaluations, contract awards, and other procurement matters apply equally to procurements designated for small businesses. In the event of conflict with other rules, section 16B.18 and rules adopted under it govern, if section 16B.18 applies. If it does not apply, sections 16B.19 to 16B.22 and rules adopted under those sections govern.

Subd. 10. [APPLICABILITY.] This section does not apply to construction contracts or contracts for consultant, professional, or technical services ~~pursuant to~~ *under* section 16B.17 ~~which~~ *that* are financed in whole or in part with federal funds and ~~which~~ *that* are subject to federal disadvantaged business enterprise regulations.

Sec. 4. Minnesota Statutes 1988, section 16B.20, subdivision 2, is amended to read:

Subd. 2. [ADVISORY COUNCIL.] A small business procurement advisory council is created. The council consists of 13 members appointed by the commissioner of administration. A chair of the advisory council shall be elected from among the members. The appointments are subject to the appointments program provided by section 15.0597. The terms, *compensation,* and removal of members are as provided in section 15.059~~, but members do not receive per diem. The council expires as provided in section 15.059, subdivision 5~~.

Sec. 5. Minnesota Statutes 1988, section 16B.21, is amended to read:

16B.21 [REPORTS.]

Subdivision 1. [COMMISSIONER OF ADMINISTRATION.] The commissioner shall submit an annual report pursuant to section 3.195 to the governor and the legislature with a copy to the commissioner of trade and economic development indicating the progress being made toward the objectives and goals of sections 16B.19 to 16B.22 during the preceding fiscal year. The commissioner shall also submit a quarterly report to the small business procurement advisory council. These reports shall include the following information:

(1) the total dollar value and number of potential set-aside awards identified during this period and the percentage of total state procurement this figure reflects;

(2) the number of small businesses identified by and responding to the ~~set-aside~~ *small business procurement* program, the total dollar value and number of set-aside *and other* contracts actually awarded to small businesses ~~with appropriate designation as to the total number and value of set-aside contracts awarded to each small business~~, and the total number of small businesses that were awarded set-aside *and other* contracts;

(3) the total dollar value and number of contracts awarded to *economically disadvantaged* small businesses ~~owned and operated by economically or socially disadvantaged persons~~ pursuant to each bidding process authorized by section 16B.19, subdivision 5; the total number and value of these contracts awarded to each *economically disadvantaged* small business and to each category of economically ~~or socially~~ disadvantaged ~~persons as defined by section 645.445 and agency rules~~ *small business*, and the percentages of the total state procurements the figures ~~of total dollar value and the number of contracts awarded by each bidding process;~~ *represent.*

~~(4) for each set-aside or preference contract awarded to a small business, the estimated additional cost to the state of awarding the contract; and~~

~~(5) the number of contracts which were designated and set aside pursuant to section 16B.19 but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business, and the price at which these contracts were awarded pursuant to the normal procurement procedures.~~

The information required by paragraphs (1) and (2) must be presented on a statewide basis and also broken down by geographic regions within the state.

Subd. 2. [COMMISSIONER OF TRADE AND ECONOMIC DEVELOPMENT.] The commissioner of trade and economic development shall submit an annual report to the governor and the legislature pursuant to section 3.195 with a copy to the commissioner of administration. This report shall include the following information:

(1) the efforts undertaken to publicize the provisions of the ~~set-aside~~ *small business procurement* program during the preceding fiscal year;

(2) the efforts undertaken to identify *economically disadvantaged* small businesses ~~including those owned and operated by socially or economically disadvantaged persons,~~ and the efforts undertaken to encourage participation in the set-aside *bid preference* program;

(3) the efforts undertaken by the commissioner to remedy the inability of small businesses to perform on potential set-aside *or other contract* awards; and

(4) the commissioner's recommendations for strengthening the ~~set-aside program~~ *small business and economically disadvantaged small business procurement program* and delivery of services to small businesses.

Sec. 6. Minnesota Statutes 1988, section 16B.22, is amended to read:

16B.22 [ELIGIBILITY; RULES.]

Subdivision 1. [ELIGIBILITY.] A small business *certified as* ~~owned and operated by socially or~~ economically disadvantaged *under section 645.445, subdivision 5, clause (1) or (2),* ~~persons~~ is eligible to participate under the requirements of sections 16B.19 to 16B.22 for a maximum of five years from the date of receipt of the first ~~set-aside~~ award *under this program* and after that period is not eligible to participate for another five years. ~~A small business that received its first set-aside award more than five years before July 1, 1985 is not eligible to participate for five years after July 1, 1985. The five-year maximum does not apply to sheltered workshops and work activity programs.~~ *An economically disadvantaged small business is not eligible to participate in this program if:*

*(1) The owner of the business has previously participated in the program and the business exceeded the time limit specified in section 645.445, subdivision 5, clause (4) or this subdivision.*

*(2) The business has exceeded the time limit specified in section 645.445, subdivision 5, clause (4) or this subdivision, and has been renamed, restructured, or otherwise reorganized.*

Subd. 2. [RULES.] (a) The commissioner shall adopt by rule additional standards and procedures for certifying that small businesses and *economically disadvantaged* small businesses ~~owned and operated by socially or economically disadvantaged persons~~ are eligible to participate under the requirements of sections 16B.19 to 16B.22. The commissioner shall adopt by rule standards and procedures for hearing appeals and grievances and other rules necessary to carry out the duties set forth in sections 16B.19 to 16B.22.

(b) The commissioner may make rules which exclude or limit the participation of nonmanufacturing business, including third-party lessors, *brokers, franchises,* jobbers, manufacturers' representatives, and others from eligibility under sections 16B.19 to 16B.22.

Sec. 7. [16B.226] [CERTIFICATION.]

*A business that is certified by the commissioner of administration as a small business or an economically disadvantaged small business is eligible to participate under the requirements of sections 137.31, 161.321, 471.345, and, if certified under section 645.445, subdivision 5, clauses (3) to (5), under section 473.142 without further certification by the contracting agency. Personnel in state agencies currently involved in certifying small businesses shall be reduced accordingly.*

Sec. 8. Minnesota Statutes 1988, section 116J.68, subdivision 1, is amended to read:

Subdivision 1. The bureau of small business within the business assistance center shall serve as a clearinghouse and referral service for information needed by small businesses including ~~those operated by a socially or~~ economically disadvantaged ~~person~~ *small businesses.*

Sec. 9. Minnesota Statutes 1988, section 136.27, is amended to read:

136.27 [CAPITAL PROJECTS BIDDING PROCEDURES.]

In awarding contracts for capital projects under section 16B.09, the board must consider the documentation provided by the bidders regarding their qualifications including evidence of having successfully completed similar work, or delivering services or products comparable to that being requested. The board shall formulate procedures to administer this section which include practices that will assist in the economic development of small businesses and ~~small businesses owned and operated by socially or economically disadvantaged persons~~ *economically disadvantaged small businesses.*

Sec. 10. Minnesota Statutes 1988, section 136.72, is amended to read:

136.72 [CAPITAL PROJECTS BIDDING PROCEDURES.]

In awarding contracts for capital projects under section 16B.09, the state board for community colleges shall consider the documentation provided by the bidders regarding their qualifications, including evidence of having

successfully completed similar work, or delivering services or products comparable to that being requested. The board shall set procedures to administer this section, which must include practices that will assist in the economic development of small businesses and ~~small businesses owned and operated by socially or economically disadvantaged persons~~ *economically disadvantaged small businesses.*

Sec. 11. Minnesota Statutes 1988, section 137.31, is amended by adding a subdivision to read:

*Subd. 3a.* [BID PREFERENCE.] *The regents shall award a five percent preference in the amount bid on all university procurement to economically disadvantaged small businesses, as defined in section 645.445. At least 75 percent of the value of the procurements awarded to economically disadvantaged small businesses must actually be performed by the business to which the award is made or another economically disadvantaged small business. An economically disadvantaged small business that has been awarded more than three-tenths of one percent of the value of the total anticipated procurements for a fiscal year under this subdivision is disqualified from receiving further bid preferences for that fiscal year. An economically disadvantaged small business is not eligible to participate in the bid preference established under this subdivision under conditions specified in section 16B.22, subdivision 1.*

Sec. 12. Minnesota Statutes 1988, section 137.31, subdivision 4, is amended to read:

Subd. 4. [REPLACEMENT CONTRACTS.] If a procurement contract designated for the set-aside program cannot be awarded to a small business under the conditions prescribed in subdivisions 1 ~~to 3,~~ *and 2* the award shall be placed in accordance with the regular procurement policies of the university. In this event, the university shall designate as a replacement a procurement contract of comparable value to be included in the university set-aside program during that fiscal year if practicable.

Sec. 13. Minnesota Statutes 1988, section 137.31, subdivision 6, is amended to read:

Subd. 6. [ANNUAL REPORT.] The University of Minnesota shall submit an annual report as provided in section 3.195, to the governor and the legislature, with a copy to the commissioner of trade and economic development, indicating the progress being made toward the objectives and goals of this section. The report shall include the following information:

(a) The total dollar value and number of procurement contracts identified and set aside during this period and the percentage of total value of university procurements that this figure reflects;

(b) The number of small businesses identified by and responding to the university set-aside program, the total dollar value and number of procurement contracts actually awarded to small businesses with appropriate designation as to the total number and value of procurement contracts awarded to each small business, and the total number of small businesses that were awarded procurement contracts;

(c) The total dollar value and number of procurement contracts awarded to *economically disadvantaged* small businesses ~~owned and operated by economically or socially disadvantaged persons~~ with appropriate designation as to the total number and value of procurement contracts awarded

to each small business, and the percentages of the total value of university procurements the figures of total dollar value and the number of procurement contracts reflect; and

(d) The number of procurement contracts which were designated and set aside pursuant to this section but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to regular procurement procedures.

Sec. 14. Minnesota Statutes 1988, section 161.321, subdivision 2, is amended to read:

Subd. 2. [SMALL BUSINESS SET ASIDES.] The commissioner shall set aside, on a fiscal year basis, at least ~~two~~ *five* percent of the construction work to be performed by contract for award to small businesses~~, small businesses owned and operated by socially or economically disadvantaged persons and small businesses owned and operated by physically handicapped persons~~ *or economically disadvantaged small businesses* or for award to businesses which guarantee use of ~~such~~ small businesses *or economically disadvantaged small businesses* as subcontractors.

Sec. 15. Minnesota Statutes 1988, section 161.321, subdivision 3, is amended to read:

Subd. 3. [AWARDS TO ~~MINORITY~~ SMALL BUSINESSES.] At least ~~50~~ *75* percent of the amount so set aside ~~shall~~ *must* be awarded, if possible, either to *economically disadvantaged* small businesses ~~owned and operated by socially and economically disadvantaged persons~~ as direct contracts or as part of contracts awarded to businesses which guarantee the use, as subcontractors, of *economically disadvantaged* small businesses ~~owned and operated by socially and economically disadvantaged persons. Any funds subject to this subdivision which are not awarded according to this subdivision shall be awarded to other small businesses and small businesses owned and operated by physically handicapped persons~~. *For purposes of this section, economically disadvantaged small business has the meaning defined in section 645.445, subdivision 5, except that a business is also eligible under clause (4) if it filed its first annual federal and state income tax returns within the preceding ten years.*

Sec. 16. Minnesota Statutes 1988, section 161.321, subdivision 6, is amended to read:

Subd. 6. [RULES.] The commissioner may promulgate by rule, standards and procedures for certifying that small businesses, *and economically disadvantaged* small businesses ~~owned and operated by physically handicapped persons and small businesses owned and operated by socially or economically disadvantaged persons~~ are eligible to participate in the set aside program authorized in ~~subdivision~~ *subdivisions 2 and 3*. The commissioner may promulgate other rules as may be necessary to carry out the provisions of this section.

Sec. 17. Minnesota Statutes 1988, section 161.3211, is amended to read:

161.3211 [REPORT BY COMMISSIONER OF TRANSPORTATION.]

The commissioner of transportation shall submit an annual report pursuant to section 3.195, to the governor and the legislature indicating the progress being made toward the objectives and goals of section 161.321

during the preceding fiscal year. This report shall include the following information:

(a) The total dollar value and number of potential set-aside awards identified during this period and the percentage of total construction work this figure reflects;

(b) The number of small businesses identified and responding to the set-aside program, the total dollar value and number of set-aside contracts actually awarded to small businesses with an approximate designation as to the total number and value of set-aside contracts awarded to each small business, and the total number of small businesses that were awarded set-aside contracts;

(c) The total dollar value and number of set-aside contracts awarded to *economically disadvantaged* small businesses ~~owned and operated by economically or socially disadvantaged persons~~ with an approximate designation as to the total number and value of ~~set-aside~~ contracts awarded to each such small business, and the percentages of the total construction work the figures of the total dollar value and the number of ~~set-asides~~ *contracts* reflect;

(d) The number of contracts which were designated and set-aside pursuant to section 161.321, but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest bid on each of these awards made by a small business and the price at which these contracts were awarded pursuant to the normal procedures.

Sec. 18. Minnesota Statutes 1988, section 241.27, subdivision 2, is amended to read:

Subd. 2. [REVOLVING FUND; USE OF FUND.] There is established in the department of corrections under the control of the commissioner of corrections the Minnesota correctional industries revolving fund to which shall be transferred the revolving funds authorized in Minnesota Statutes 1978, sections 243.41, 243.85, clause (f), and any other industrial revolving funds heretofore established at any state correctional facility under the control of the commissioner of corrections. The revolving fund established shall be used for the conduct of the industrial and commercial activities now or hereafter established at any state correctional facility, including but not limited to the purchase of equipment, raw materials, the payment of salaries, wages and other expenses necessary and incident thereto. The purchase of materials and commodities for resale are not subject to the competitive bidding procedures of section 16B.07, but are subject to all other provisions of chapter 16B. When practical, purchases must be made from ~~socially and economically disadvantaged~~ *economically disadvantaged small* businesses. Additionally, the expenses of inmate vocational training and the inmate release fund may be financed from the correctional industries revolving fund in an amount to be determined by the commissioner. The proceeds and income from all industrial and commercial activities conducted at state correctional facilities shall be deposited in the correctional industries revolving fund subject to disbursement as hereinabove provided. The commissioner of corrections may request that money in the fund be invested pursuant to section 11A.25; the proceeds from the investment not currently needed shall be accounted for separately and credited to the fund.

Sec. 19. Minnesota Statutes 1988, section 471.345, subdivision 8, is

amended to read:

Subd. 8. [PROCUREMENT FROM ~~SOCIALLY OR~~ ECONOMICALLY DISADVANTAGED PERSONS.] For purposes of this subdivision, the following terms shall have the meanings herein ascribed to them:

(a) ~~"socially and economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. This disadvantage may arise from cultural, social or economic circumstances or background, physical location if the person resides or is employed in an area declared as a labor surplus area by the United States department of commerce, physical handicap, or other similar cause~~ *"economically disadvantaged small business" has the meaning given it in section 645.445.*

(b) "business entity" means an entity organized for profit, including an individual, partnership, corporation, joint venture, association, or cooperative.

Nothing in this section shall be construed to prohibit any municipality from adopting a resolution, rule, regulation or ordinance which on an annual basis designates and sets aside for awarding to ~~business entities controlled by socially or economically disadvantaged persons~~ *economically disadvantaged small businesses* a percentage of the value of its anticipated total procurement of goods and services, including construction, and which uses either a negotiated price or bid contract procedure in the awarding of a procurement contract under a set-aside program as allowed in this subdivision, provided that any award based on a negotiated price shall not exceed by more than five percent the municipality's estimated price for the goods and services if they were purchased on the open market and not under the set-aside program.

Sec. 20. Minnesota Statutes 1988, section 473.142, is amended to read:

473.142 [~~SOCIALLY AND ECONOMICALLY DISADVANTAGED~~ *SMALL* BUSINESSES.]

(a) The metropolitan council and agencies specified in section 473.143, subdivision 1, shall attempt to award at least nine percent of the value of all procurement, other than contracts under paragraph (c), to *economically disadvantaged small* businesses ~~owned and operated by socially or economically disadvantaged persons~~. For purposes of this section, ~~"socially or~~ economically disadvantaged ~~person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic conditions. This disadvantage may arise from cultural, social or economic circumstances, background, or other similar cause. It includes racial minorities, women, persons with a disability as defined in section 363.01, subdivision 25, rehabilitation facilities, and work activity programs. To the extent practicable, the council and agencies shall attempt to meet this goal through procurement from businesses with their principal place of business in Minnesota~~ *small business has the meaning defined in section 645.445, clauses (3) to (5).* In furtherance of this goal, the council or an agency shall set aside a percentage of all procurements for bidding only by these businesses. The council or an agency ~~may also~~ *shall* award a five percent preference to ~~these businesses~~ *economically disadvantaged small businesses, as defined in section 645.445,* in the amount bid on ~~selected~~ procurements. *At least 75 percent of the value of the procurements awarded to economically disadvantaged small*

*businesses must actually be performed by the business to which the award was made or another economically disadvantaged small business. An economically disadvantaged small business that has been awarded more than three-tenths of one percent of the value of the total anticipated procurements for a fiscal year from the agency is disqualified from receiving further preference advantages for that fiscal year from that agency. An economically disadvantaged small business is not eligible to participate in the bid preference established under this subdivision under conditions specified in section 16B.22, subdivision 1.*

(b) The council and each agency specified in section 473.143, subdivision 1, as a condition of awarding procurements for construction, consultant, professional, or technical service contracts in excess of $200,000, shall attempt to assure that ~~at least ten percent~~ *a portion* of the contract award to a prime contractor be subcontracted to ~~a~~ *an economically disadvantaged small* business ~~owned and operated by a socially or economically disadvantaged person~~, or that ~~at least ten percent~~ *a portion* of the contract award be expended in purchasing materials or supplies from ~~this type of~~ *an economically disadvantaged small* business. ~~This paragraph does not apply if the council or agency determines that there is no business owned and operated by a socially or economically disadvantaged person able to perform the subcontract or provide the supplies, or if the prime contractor is a business owned and operated by a socially or economically disadvantaged person.~~ Subcontracting or purchasing of supplies under this subdivision is not included in determining achievement of goals under paragraph (a) or (c).

(c) The council and each agency specified in section 473.143, subdivision 1, shall attempt to award at least six percent of the value of all procurements for consultant services or professional or technical services to *economically disadvantaged small* businesses ~~owned and operated by socially or economically disadvantaged persons~~.

(d) In implementing paragraphs (a) and (c), the council and each agency specified in section 473.143, subdivision 1, shall attempt to purchase a variety of goods and services from different *economically disadvantaged small* businesses ~~owned and operated by socially or economically disadvantaged persons~~.

(e) The council and each agency may adopt rules to implement this section.

(f) This section does not apply to procurement financed in whole or in part with federal funds if the procurement is subject to federal disadvantaged, minority, or women business enterprise regulations. The council and each agency shall report annually to the legislature on compliance with this subdivision. The reports must include the information specified in section 16B.21 that pertains to purchasing from *economically disadvantaged small* businesses ~~owned by socially or economically disadvantaged persons~~.

Sec. 21. Minnesota Statutes 1988, section 645.445, subdivision 5, is amended to read:

Subd. 5. "~~Socially or~~ Economically disadvantaged ~~person~~ *business*" means a ~~person who~~ *business that is not an affiliate or subsidiary of a business dominant in its field of operation and that* has been deprived of

the opportunity to develop and maintain a competitive position in the economy because of ~~social or~~ economic conditions. ~~This disadvantage may arise from cultural, social or economic circumstances, or background, physical location~~ *A business is economically disadvantaged* if:

*(1)* the ~~person~~ *owner* resides or is employed in a county in which the median income for married couples is less than 70 percent of the state median income for married couples; or

*(2) the owner resides or is employed in* an area designated a labor surplus area by the United States Department of Labor~~, or other similar cause~~. For purposes of this subdivision, an area designated a labor surplus area retains that status for 120 days after certified small businesses in the area are notified of the termination of the designation by the United States Department of Labor~~. It includes racial minorities, women, or persons who have suffered a substantial physical disability.~~; *or*

*(3) the owner lacks adequate external support necessary to operate a competitive business enterprise as evidenced by diminished ability to secure long-term or working capital financing; equipment, raw material, or supplier trade credit; bonding and insurance, or if the business has not captured a proportionate share of the market for its goods or services; or*

*(4) the business filed its first annual federal and state income tax returns which reflected its operation as a business within the preceding five years or will file its first annual return which reflects its operation as a business within the next 12 months; or*

*(5)* for purposes of sections 16B.19 to 16B.22 and 137.31, ~~the definition of "socially or economically disadvantaged person"~~ ~~includes~~ *the business is a* rehabilitation ~~facilities and~~ *facility or* work activity ~~programs~~ *program*.

Sec. 22. [STUDY OF SMALL BUSINESS PROGRAM.]

*The commissioner of administration shall assist the commission created in section 1 in its study of small business procurement programs. The commissioner shall review recent United States Supreme Court decisions to determine whether there is sufficient justification under a strict scrutiny standard to establish a narrowly tailored purchasing program for the benefit of any socially disadvantaged groups, and shall make recommendations to the commission regarding legislation and program operation where justification exists. The commissioner shall make recommendations:*

*(1) for revising the definition of small business contained in Minnesota Statutes, section 645.445; and*

*(2) for alternative programs to stimulate growth opportunities for small businesses.*

*The commissioner shall also assess the feasibility of establishing a preference program that incorporates urban and rural areas of high unemployment.*

Sec. 23. [RULES.]

*The commissioner of administration may adopt emergency rules to implement sections 3 to 6. For the purpose of certifying economically disadvantaged small businesses, the commissioner of administration may use, without further rulemaking, Minnesota Rules, Parts 1230.1400,*

*1230.1500, subparts 1, 2, 4-11, 1230.1600, 1230.1700, 1230.1900, subparts 1 to 5. The phrase "socially or economically disadvantaged" in those rules must be read to mean "economically disadvantaged" as defined in section 645.445, subdivision 5. The phrase "set-aside program" in those rules must be read to mean the preference programs created in this act.*

Sec. 24. [APPROPRIATIONS.]

*(a) The following amounts are appropriated from the general fund to the commissioner of administration for the purposes indicated.*

*(1) $125,000 in fiscal year 1990 for the study required in section 22.*

*(2) $85,000 in fiscal year 1990 and $105,000 in fiscal year 1991 and two positions for the purposes of certifying small businesses and administering the provisions of this act.*

*(b) $75,000 is appropriated from the general fund to the legislative coordinating commission to administer section 1.*

Sec. 25. [REPEALER.]

*(a) Minnesota Statutes 1988, section 137.31, subdivision 3, is repealed.*

*(b) Laws 1984, chapter 654, article 2, section 49, is repealed.*

*(c) Sections 1 and 22 are repealed on January 4, 1990.*

*(d) Minnesota Statutes 1988, section 473.406, is repealed.*

*(e) The amendments to Minnesota Statutes, made by sections 2 to 21, are repealed June 30, 1990, and the revisor shall reinstate the stricken language and delete the new language in those sections.*

*(f) Notwithstanding Minnesota Statutes, section 645.36, section 25, paragraphs (a) and (d), are repealed June 30, 1990, and Minnesota Statutes 1988, sections 137.31, subdivision 3; and 473.406, are revived on that date.*

Sec. 26. [EFFECTIVE DATE.]

*Sections 1 to 25 are effective on the day following enactment and apply only to contracts for which notice of invitation to bid or requests for proposals are issued after that time."*

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

House Conferees: (Signed) Richard H. Jefferson, Peter McLaughlin, Sidney Pauly

Senate Conferees: (Signed) Donald M. Moe, Michael O. Freeman, Dennis R. Frederickson

Mr. Moe, D.M. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1443 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1443 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 13, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 13 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 13

A bill for an act relating to courts; raising the jurisdictional limit on claims heard in conciliation court; permitting bail in civil contempt cases to be used to satisfy the judgment; requiring a report; amending Minnesota Statutes 1988, sections 487.30, subdivisions 1 and 5; 488A.12, subdivision 3; 488A.14, subdivision 6; 488A.16, subdivision 8; 488A.29, subdivision 3; 488A.31, subdivision 6; and 488A.33, subdivision 7.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 13, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 13 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 487.30, subdivision 1, is amended to read:

Subdivision 1. *(a) Except as provided in paragraph (b),* the conciliation court shall hear and determine civil claims if the amount of money or property which is the subject matter of the claim does not exceed ~~$2,000~~ *$3,500* for the determination thereof without jury trial and by a simple and informal procedure. The rules of the supreme court shall provide for a right of appeal from the decision of the conciliation court to the county court for a trial on the merits. The territorial jurisdiction of a conciliation court shall be coextensive with the county in which the court is established.

*(b) If the claim involves a consumer credit transaction, the amount of money or property that is the subject matter of the claim may not exceed $2,000. "Consumer credit transaction" means a sale of personal property, or a loan arranged to facilitate the purchase of personal property, in which:*

*(1) credit is granted by a seller or a lender who regularly engages as a seller or lender in credit transactions of the same kind;*

*(2) the buyer is a natural person;*

*(3) the claimant is the seller or lender in the transaction; and*

*(4) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose.*

Sec. 2. Minnesota Statutes 1988, section 487.30, subdivision 3a, is amended to read:

Subd. 3a. [JURISDICTION; STUDENT LOANS.] Notwithstanding the provisions of subdivision 1 or any rule of court to the contrary, the conciliation court has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state university or community college, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of the county under the following conditions:

(a) the student loan or loans were originally awarded in the county in which the conciliation court is located;

(b) the loan or loans are overdue at the time the action is commenced;

(c) the amount sought in any single action does not exceed ~~$2,000~~ *$3,500*;

(d) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(e) the notice states that the educational institution may commence a conciliation court action in the county where the loan was awarded to recover the amount of the loan.

Notwithstanding any law or rule or civil procedure to the contrary, a summons in any action commenced under this subdivision may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the overdue loan or loans to the summons before it is issued.

Sec. 3. Minnesota Statutes 1988, section 487.30, subdivision 5, is amended to read:

Subd. 5. [SATISFACTION OF JUDGMENT.] If (1) a conciliation court

judgment has been docketed in county court for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the county court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 4. Minnesota Statutes 1988, section 487.30, subdivision 8, is amended to read:

Subd. 8. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ ON REMOVAL.] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs as provided by rules of the supreme court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~county~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to county court~~.

*(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as provided by rules of the supreme court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~county~~ *district* court *if:*

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in county court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~county~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~

*in* conciliation ~~judge,~~ *court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~county~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge,~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~county~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in county court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~county~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision.

Sec. 5. Minnesota Statutes 1988, section 488A.12, subdivision 3, is amended to read:

Subd. 3. [JURISDICTION.] (a) Excepting actions involving title to real estate, the court has jurisdiction to hear, conciliate, try, and determine civil actions at law where the amount in controversy does not exceed the sum of ~~$2,000~~ *$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.* The territorial jurisdiction of the court is coextensive with the geographic boundaries of the county of Hennepin.

(b) Notwithstanding the provisions of paragraph (a), or any rule of court to the contrary, the conciliation court of Hennepin county has jurisdiction to determine an action brought pursuant to section 504.20 for the recovery of a deposit on rental property located in whole or in part in Hennepin county, and the summons in the action may be served anywhere within the state of Minnesota.

(c) Notwithstanding the provisions of paragraph (a), or any rule of court to the contrary, the conciliation court of Hennepin county has jurisdiction to determine a civil action commenced by a plaintiff, a resident of Hennepin county, to recover the amount of a dishonored check issued in the county, even though the defendant or defendants are not residents of Hennepin county, if the notice of nonpayment or dishonor described in section 609.535, subdivision 3, is sent to the maker or drawer as specified therein and the notice states that the payee or holder of the check may commence a conciliation court action in the county where the dishonored check was issued to recover the amount of the check. This clause does not apply to a check that has been dishonored by a stop payment order. Notwithstanding any law or rule of civil procedure to the contrary, the summons in any action commenced under this clause may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the dishonored check to the summons before it is issued.

(d) Notwithstanding the provisions of paragraph (a) or any rule of court

to the contrary, the conciliation court of Hennepin county has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state university or community college, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of Hennepin county under the following conditions:

(1) the student loan or loans were originally awarded in Hennepin county;

(2) the loan or loans are overdue at the time the action is commenced;

(3) the amount sought in any single action does not exceed ~~$2,000~~ *$3,500*;

(4) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(5) the notice states that the educational institution may commence a conciliation court action in Hennepin county to recover the amount of the loan.

Notwithstanding any law or rule or civil procedure to the contrary, a summons in any action commenced under this clause may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the overdue loan or loans to the summons before it is issued.

Sec. 6. Minnesota Statutes 1988, section 488A.14, subdivision 6, is amended to read:

Subd. 6. [REPLEVIN.] If the controversy concerns the ownership or possession, or both, of personal property the value of which does not exceed the sum of ~~$2,000~~ *$3,500, or $2,000 if the controversy concerns a consumer credit transaction*, the judge may direct an officer of the court to take possession of the property immediately and hold it subject to the further order of the court, without the giving of any bond whatever. *"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*

Sec. 7. Minnesota Statutes 1988, section 488A.16, subdivision 8, is amended to read:

Subd. 8. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become finally effective under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the court administrator of conciliation court on payment of a fee of 50 cents and file it with the court administrator of the municipal court of the county of Hennepin. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. No writ of execution or garnishment summons may be issued out of conciliation court. If (1) a conciliation court judgment has been docketed as a municipal court judgment for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to

obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 8. Minnesota Statutes 1988, section 488A.17, subdivision 10, is amended to read:

Subd. 10. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party $5 as costs together with the prevailing party's disbursements incurred in conciliation and municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~,~~ ~~and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

*(b) If the removing party prevails in district court, the removing party may recover $5 as costs from the opposing party, together with disbursements in conciliation and district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~If~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~If~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~If~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~If~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision.

Sec. 9. Minnesota Statutes 1988, section 488A.29, subdivision 3, is amended to read:

Subd. 3. [JURISDICTION.] (a) Excepting actions involving title to real estate, the court has jurisdiction to hear, conciliate, try and determine civil actions at law where the amount in controversy does not exceed the sum of ~~$2,000~~ *$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.* The territorial jurisdiction of the court is coextensive with the geographic boundaries of the county of Ramsey.

(b) Notwithstanding the provisions of paragraph (a) or any rule of court to the contrary, the conciliation court of Ramsey county has jurisdiction to determine an action brought pursuant to section 504.20 for the recovery of a deposit on rental property located in whole or in part in Ramsey county, and the summons in the action may be served anywhere in the state of Minnesota.

(c) Notwithstanding the provisions of paragraph (a) or any rule of court to the contrary, the conciliation court of Ramsey county has jurisdiction to determine a civil action commenced by a plaintiff, resident of Ramsey county, to recover the amount of a dishonored check issued in the county, even though the defendant or defendants are not residents of Ramsey county, if the notice of nonpayment or dishonor described in section 609.535, subdivision 3, is sent to the maker or drawer as specified therein and the notice states that the payee or holder of the check may commence a conciliation court action in the county where the dishonored check was issued to recover the amount of the check. This clause does not apply to a check that has been dishonored by a stop payment order. Notwithstanding any law or rule of civil procedure to the contrary, the summons in any action commenced under this clause may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the dishonored check to the summons before it is issued.

(d) Notwithstanding the provisions of paragraph (a) or any rule of court to the contrary, the conciliation court of Ramsey county has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state university or community college, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of Ramsey county under the following conditions:

(1) the student loan or loans were originally awarded in Ramsey county;

(2) the loan or loans are overdue at the time the action is commenced;

(3) the amount sought in any single action does not exceed ~~$2,000~~ *$3,500*;

(4) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(5) the notice states that the educational institution may commence a conciliation court action in Ramsey county to recover the amount of the loan.

Notwithstanding any law or rule or civil procedure to the contrary, a summons in any action commenced under this clause may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the overdue loan or loans to the summons before it is issued.

Sec. 10. Minnesota Statutes 1988, section 488A.31, subdivision 6, is amended to read:

Subd. 6. [REPLEVIN.] If the controversy concerns the ownership or possession, or both, of personal property the value of which does not exceed the sum of ~~$2,000~~ *$3,500, or $2,000 if the controversy concerns a consumer credit transaction*, the judge may direct an officer of the court to take possession of the property immediately and hold it subject to the further order of the court, without the giving of any bond whatever. *"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*

Sec. 11. Minnesota Statutes 1988, section 488A.33, subdivision 7, is amended to read:

Subd. 7. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become final under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the administrator of conciliation court and file it with the administrator of the municipal court upon payment of the filing fees as prescribed for the municipal court. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. A transcript of a judgment payable in installments may not be obtained and filed until 20 days after default in the payment of an installment. No writ of execution nor garnishment summons may be issued out of conciliation court. If (1) a transcript of a judgment has been filed for a period of at least 30 days, (2) the judgment is not satisfied or an installment of it remains overdue, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to

identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 12. Minnesota Statutes 1988, section 488A.34, subdivision 9, is amended to read:

Subd. 9. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs and disbursements as though the action was originally commenced in the municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

*(b) If the removing party prevails in district court, the removing party may recover costs and disbursements from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.*

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge~~~~,~~ *court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge,~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by~~

~~the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision.

Sec. 13. [CONCILIATION COURT JURISDICTION AMOUNTS.]

*Subdivision 1.* [INCREASE IN LIMITS.] *The conciliation court jurisdictional limits provided in sections 1, 2, 5, 6, 9, and 10 shall increase to $4,000 on July 1, 1990.*

*Subd. 2.* [REVISOR'S INSTRUCTION.] *The revisor of statutes is directed to insert the changes in the conciliation court jurisdictional amount provided by subdivision 1 in Minnesota Statutes 1990, and subsequent editions of the statutes."*

Delete the title and insert:

"A bill for an act relating to courts; raising the jurisdictional limit on claims heard in conciliation court; modifying standards for the award of costs for conciliation court appeals; providing for costs and disbursements upon removal to district court; amending Minnesota Statutes 1988, sections 487.30, subdivisions 1, 3a, 5, and 8; 488A.12, subdivision 3; 488A.14, subdivision 6; 488A.16, subdivision 8; 488A.17, subdivision 10; 488A.29, subdivision 3; 488A.31, subdivision 6; 488A.33, subdivision 7; and 488A.34, subdivision 9."

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

House Conferees: (Signed) Randy C. Kelly, Howard Orenstein, Dave T. Bishop

Senate Conferees: (Signed) William P. Luther, Lawrence J. Pogemiller, Fritz Knaak

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on H.F. No. 13 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 13 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 624, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 624 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 624

A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 624, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 624 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. [82B.02] [DEFINITIONS.]

*Subdivision 1.* [SCOPE.] *For the purposes of this chapter, the terms in this section have the meanings given them.*

*Subd. 2.* [ANALYSIS.] *"Analysis" means a study of real estate or real*

*property other than estimating value.*

*Subd. 3.* [APPRAISAL OR REAL ESTATE APPRAISAL.] *"Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate for purposes of preparing an appraisal report. An appraisal may be classified by subject matter into either a valuation or an analysis.*

*Subd. 4.* [APPRAISAL ASSIGNMENT.] *"Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.*

*Subd. 5.* [APPRAISAL REPORT.] *"Appraisal report" means an oral or written communication of an appraisal for compensation that is not a contingent fee as defined in section 82B.22 given or signed by a licensed real estate appraiser.*

*Subd. 6.* [BOARD.] *"Board" means the real estate appraisal advisory board established under section 82B.05.*

*Subd. 7.* [COMMISSIONER.] *"Commissioner" means the commissioner of commerce.*

*Subd. 8.* [LICENSED REAL ESTATE APPRAISER.] *"Licensed real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license issued for licensed appraisal level I or II under this chapter, including an appraiser employed by a state agency.*

*Subd. 9.* [MARKET ANALYSIS.] *"Market analysis" means a price opinion prepared by a licensed real estate salesperson or broker for marketing purposes.*

*Subd. 10.* [REAL ESTATE.] *"Real estate" means an identified parcel or tract of land, including improvements, if any.*

*Subd. 11.* [REAL PROPERTY.] *"Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.*

*Subd. 12.* [STANDARDS OF PROFESSIONAL PRACTICE.] *"Standards of professional practice" means the uniform standards of professional appraisal practice adopted by the Appraisers Standards Board of the Appraisal Foundation as of January 1, 1989, or other version of these standards the commissioner may by order designate.*

*Subd. 13.* [VALUATION.] *"Valuation" means an estimate of value of real estate or real property.*

Sec. 2. [82B.03] [PROHIBITIONS.]

*Subdivision 1.* [LICENSE REQUIRED.] *(a) It is unlawful for a person to act as a real estate appraiser in this state unless licensed under this chapter.*

*(b) Only persons licensed under this chapter may advertise or represent themselves to be real estate appraisers.*

*(c) No person, other than a licensed real estate appraiser, may assume or use that title or a title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state.*

*Subd. 2.* [LICENSE NOT REQUIRED.] *(a) An officer or employee of a corporation, partnership, or other business entity may act as a real estate appraiser without obtaining a license under this chapter if the corporation, partnership, or other business entity in which the person is employed or is an officer has an interest in the real estate that is the subject of the appraisal as owners, lenders, investors, or insurers.*

*(b) An appraisal conducted by a person exempt under this subdivision is subject to the guidelines for real estate appraisal policies and review procedures of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Reserve Board, the Farm Credit Administration, or the comptroller of the currency.*

*(c) If a real estate appraisal is made by a person who is exempt from licensing under this subdivision, the person for whom the appraisal is conducted must be given written notice that the appraisal was not conducted by a licensed appraiser, and the appraisal report must clearly state that it was conducted by an interested party and not by a licensed real estate appraiser.*

Sec. 3. [82B.035] [EXEMPTION.]

*Subdivision 1.* [MARKET ANALYSIS.] *This chapter does not apply to a licensed real estate salesperson or broker who, in the ordinary course of the licensee's business, gives a market analysis of the price of real estate, if the market analysis is not referred to or construed as an appraisal.*

*Subd. 2.* [ASSESSORS.] *Nothing in this chapter shall be construed as requiring the licensing of persons employed and acting in their capacity as assessors for political subdivisions of the state.*

Sec. 4. [82B.04] [RESPONSIBILITY FOR AGENTS.]

*A real estate appraiser is responsible for the acts of persons acting on the appraiser's behalf.*

Sec. 5. [82B.05] [REAL ESTATE APPRAISER ADVISORY BOARD.]

*Subdivision 1.* [CREATION.] *The real estate appraiser advisory board consists of 15 members appointed by the commissioner of commerce. Three of the members must be public members, four must be consumers of appraisal services, and eight must be licensed real estate appraisers of whom not less than two members shall be level II. Mere membership in an organization does not make a person the organization's representative on the board.*

*Subd. 2.* [QUALIFICATIONS.] *The real estate appraiser members first appointed to the board must: (1) be members in good standing of a nationally recognized real estate appraisal organization that as of January 1, 1989, required appraisal experience, education, and testing to become a designated member, in addition to adherence to standards of professional practice to keep the designation; or (2) have five years of active appraisal experience.*

*Each real estate appraiser member of the board appointed after January 1, 1991, must be a licensed real estate appraiser.*

*Subd. 3.* [TERMS.] *The term of office for members is three years.*

*Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person may serve as a member of the board for more than two consecutive terms. The commissioner may remove a member for cause.*

*Subd. 4.* [PRACTICE OF PUBLIC MEMBERS PROHIBITED.] *The public members of the board may not be engaged in the practice of real estate appraising.*

*Subd. 5.* [CONDUCT OF MEETINGS.] *Places of regular board meetings must be decided by the vote of members. Written notice must be given to each member of the time and place of each meeting of the board at least ten days before the scheduled date of regular board meetings. The board shall establish procedures for emergency board meetings and other operational procedures, subject to the approval of the commissioner.*

*The members of the board shall elect a chair from among the members to preside at board meetings.*

*A quorum of the board is eight members.*

*The board shall meet at least quarterly, except that a meeting may be canceled, subject to the approval by the commissioner if a majority of the members determine that the meeting is not necessary.*

*The commissioner or a majority of the members may schedule additional meetings as necessary.*

*Subd. 6.* [COMPENSATION.] *Each member of the board is entitled to a per diem allowance of $35 for each meeting of the board at which the member is present and for each day or substantial part of a day actually spent in the conduct of the business of the board, plus all appropriate expenses unless a greater amount is authorized by Minnesota Statutes, section 15.0575.*

Sec. 6. [82B.06] [POWERS OF THE BOARD.]

*The board shall make recommendations to the commissioner as the commissioner requests on:*

*(1) rules with respect to each category of licensed real estate appraiser, the type of educational experience, appraisal experience, and equivalent experience that will meet the requirements of this chapter;*

*(2) examination specifications for each category of licensed real estate appraiser, to assist in providing or obtaining appropriate examination questions and answers, and procedures for grading examinations;*

*(3) rules with respect to each category of licensed real estate appraiser, the continuing education requirements for the renewal of licensing that will meet the requirements provided in this chapter;*

*(4) periodic review of the standards for the development and communication of real estate appraisals provided in this chapter and rules explaining and interpreting the standards; and*

*(5) other matters necessary in carrying out the provisions of this chapter.*

Sec. 7. [82B.07] [POWERS OF THE COMMISSIONER.]

*The commissioner shall:*

*(1) receive applications for licenses;*

*(2) establish the procedures for processing applications for licensing;*

*(3) issue a license for appraisers;*

*(4) maintain a registry of the names and addresses of people licensed under this chapter;*

*(5) keep records and all application materials submitted to the commissioner;*

*(6) conduct investigations;*

*(7) deny, revoke, and suspend licenses; and*

*(8) take other actions necessary to carry out the purposes of this chapter.*

Sec. 8. [82B.08] [LICENSING REQUIREMENTS.]

*Subdivision 1.* [GENERALLY.] *The commissioner shall issue a license as a real estate appraiser to a person who qualifies for the license under the terms of this chapter.*

*Subd. 2.* [QUALIFICATION OF APPLICANTS.] *An applicant must be at least 18 years of age when making application.*

*Subd. 3.* [APPLICATION FOR LICENSE; CONTENTS.] *(a) An applicant for a license must apply in writing upon forms prescribed by the commissioner. Each application must be signed and sworn to by the applicant and must be accompanied by the license fee required by this chapter.*

*(b) An application must contain information required by the commissioner consistent with the provisions and purposes of this chapter.*

*(c) An application must give the applicant's name, age, residence address, and the name and place of business.*

*(d) The commissioner may require additional information the commissioner considers appropriate to administer this chapter.*

*(e) When filing an initial application or application for renewal for a license, the applicant shall state that the person agrees to comply with the standards set forth in this chapter and that the person understands the types of misconduct for which disciplinary proceedings may be started against a licensed real estate appraiser.*

*(f) The application for original licensing, renewal licensing, and examination must specify the classification of licensing being applied for and previously granted.*

*Subd. 4.* [EFFECTIVE DATE OF LICENSE.] *A license issued under this chapter expires on the August 31 next following the issuance of the license.*

*Subd. 5.* [RENEWALS.] *(a) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business as a real estate appraiser whether or not the renewed license has been received on or before September 1. Application for renewal of a license is considered to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, August 1 in each year. Applications for renewal are considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and containing information the commissioner requires.*

*(b) Persons who have failed to make a timely application for renewal of a license and who have not received the renewal license as of September 1 are unlicensed until the time the license has been issued by the commissioner and is received.*

*Subd. 6.* [NOTICE.] *Notice in writing must be given to the commissioner by each licensee of any change in personal name, trade name, address or business location not later than ten days after the change. The commissioner shall issue a new license if required for the unexpired period.*

*Subd. 7.* [NONRESIDENTS.] *A nonresident of Minnesota may be licensed as a real estate appraiser upon compliance with all provisions of this chapter.*

Sec. 9. [82B.09] [FEES.]

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

*(1) a fee of $50 for each initial individual real estate appraiser's license and a fee of $25 for each annual renewal;*

*(2) a fee of $5 for a change in personal name or trade name or personal address or business location;*

*(3) a fee of $10 for a license history; and*

*(4) a fee of $20 for a duplicate license.*

*Subd. 2.* [FORFEITURE.] *All fees must be kept by the commissioner and are nonreturnable, except that an overpayment of a fee shall be refunded upon proper application.*

Sec. 10. [82B.10] [EXAMINATIONS.]

*Subdivision 1.* [GENERALLY.] *An applicant for a license must pass an examination conducted by the commissioner. The examinations must be of sufficient scope to establish the competency of the applicant to act as a real estate appraiser.*

*Subd. 2.* [REEXAMINATIONS.] *An examination must be required before renewal of a license that has been suspended, or before the issuance of a license to a person whose license has been ineffective for a period of two years. No reexamination is required of an individual who has failed to renew an existing license because of absence from the state while on active duty with the armed services of the United States of America.*

*Subd. 3.* [EXAMINATION FREQUENCY.] *The commissioner shall hold examinations at times and places the commissioner determines.*

*Subd. 4.* [PERIOD FOR APPLICATION.] *An applicant who obtains an acceptable score on an examination must file an application and obtain the license within one year of the date of successful completion of the examination or a second examination must be taken to qualify for the license.*

*Subd. 5.* [RENEWAL; EXAMINATION.] *Except as provided in subdivision 2, no examination is required for the renewal of a license. However, a licensee who has been licensed in the state of Minnesota and who fails to renew the license for a period of two years must be required by the commissioner to again take an examination.*

*Subd. 6.* [EXAMINATION ELIGIBILITY; REVOCATION.] *No applicant*

*may take an examination if a license as a real estate appraiser has been revoked in this or another state within two years of the date of the application.*

*Subd. 7.* [RECIPROCITY.] *This section may be waived by the commissioner for individuals of other jurisdictions if: (1) a written reciprocal licensing agreement is in effect between the commissioner and the licensing officials of that jurisdiction, (2) the individual is licensed in that jurisdiction, and (3) the licensing requirements of that jurisdiction are substantially similar to the provisions of this chapter.*

*Subd. 8.* [FEES.] *The commissioner may assess an examination fee sufficient to recover the actual direct costs of holding the examination.*

Sec. 11. [82B.11] [CLASSES OF LICENSE.]

*Subdivision 1.* [GENERALLY.] *There are two classes of license for licensed real estate appraisers.*

*Subd. 2.* [LEVEL I.] *The licensed level I residential real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of residential real property or agricultural acreage when a net income capitalization analysis is not required by the uniform standards of professional appraisal practice.*

*Subd. 3.* [LEVEL II.] *The licensed level II real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of all types of real property.*

Sec. 12. [82B.12] [EXAMINATION REQUIREMENT.]

*An original license as a licensed real estate appraiser must be issued to a person who has demonstrated through a written examination process that the appraiser has the following qualifications:*

*(1) appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;*

*(2) understanding the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines;*

*(3) understanding the standards for the development and communication of real estate appraisals as provided in this chapter;*

*(4) knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of license for which the person is applying;*

*(5) knowledge of other principles and procedures appropriate for the classification of license for which the person is applying;*

*(6) basic understanding of real estate law; and*

*(7) understanding the types of misconduct and ethical considerations for which disciplinary proceedings may be started against a licensed real estate appraiser.*

Sec. 13. [82B.13] [EXAMINATION PREREQUISITES.]

*Subdivision 1.* [LEVEL I CLASSIFICATION.] *As a prerequisite to taking the examination for licensing as a licensed level I real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the*

*person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional practice and the provisions of this chapter.*

*Subd. 2.* [LEVEL II CLASSIFICATION.] *As a prerequisite to taking the examination for licensing as a licensed general real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 150 classroom hours of courses in subjects related to real estate appraisal. All applicants shall complete 15 classroom hours related to standards of professional practice and the provisions of this chapter.*

*Subd. 3.* [COMMISSIONER'S APPROVAL; RULES.] *The courses and instruction and procedures of courses must be approved by the commissioner. The commissioner may adopt rules to administer this section. These rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education.*

Sec. 14. [82B.14] [EXPERIENCE REQUIREMENT.]

*(a) An original license as a level II licensed real estate appraiser may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.*

*(b) Each applicant for license as a level II licensed real estate appraiser shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.*

Sec. 15. [82B.15] [NONRESIDENT SERVICE OF PROCESS.]

*Subdivision 1.* [APPOINTMENT OF COMMISSIONER.] *A nonresident, before being licensed as a real estate appraiser, shall appoint the commissioner and a successor or successors in office as true and lawful attorney, upon whom may be served all legal process in an action or proceedings against the person, or in which the person may be a party, in relation to or involving a transaction covered by this chapter or a rule or order under this chapter. The appointment is irrevocable. Service upon the attorney is as valid and binding as if due and personal service had been made upon the person. The appointment is effective upon the issuance of the license in connection with which the appointment was filed.*

*Subd. 2.* [EFFECT OF NONAPPOINTMENT.] *The commission of an act constituting a violation of this chapter or rule or order adopted under this chapter by a nonresident person who has not appointed the commissioner as attorney in compliance with subdivision 1, is conclusively considered an irrevocable appointment by the person of the commissioner and a successor or successors in an action or proceedings against the nonresident or in which the nonresident may be a party in relation to or involving the violation. The violation is a signification of agreement that all legal process that is served is as valid and binding upon the nonresident as if due and personal service had been made.*

*Subd. 3.* [PROCEDURE.] *Service of process under this section may be made by filing a copy of the process with the commissioner or a representative, but is not effective unless:*

*(1) the plaintiff, who may be the commissioner in an action or proceeding started by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney by appointment under subdivision 1, and at the defendant's or respondent's last known address in the case of service on the commissioner as attorney by appointment under subdivision 2; and*

*(2) the plaintiff's affidavit of compliance with this subdivision is filed in the action or proceeding on or before the return day of the process, if any, or within any additional time the court or administrative law judge allows.*

Sec. 16. [82B.16] [PRINCIPAL PLACE OF BUSINESS AND NOTICE.]

*A licensed real estate appraiser shall advise the commissioner of the address of the person's principal place of business and all other addresses at which the person is now engaged in the business of preparing real property appraisal reports.*

*When a licensed real estate appraiser changes a place of business, the person shall immediately give written notification of the change to the commissioner and apply for an amended license.*

*A licensed real estate appraiser shall notify the commissioner of the person's current residence address.*

Sec. 17. [82B.17] [LICENSE DESIGNATION.]

*When a licensed real estate appraiser uses the designation real estate appraiser or licensed real estate appraiser in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place the person's license number adjacent to or immediately below the designation used and indicate the class of license held.*

Sec. 18. [82B.18] [USE OF TERM.]

*The term "licensed real estate appraiser" may only be used to refer to individuals who hold the license. The term may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in a manner that might cause it to be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license.*

*No license may be issued under this chapter to a corporation, partnership, firm, or group. This does not prevent a licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.*

Sec. 19. [82B.19] [CONTINUING EDUCATION.]

*Subdivision 1.* [LICENSE RENEWALS.] *A licensed real estate appraiser shall present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.*

*The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 15 classroom hours per year, of instruction in courses or seminars that have received the approval of the commissioner.*

*Subd. 2.* [RULES.] *The commissioner may adopt rules to assure that persons renewing their licenses as licensed real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques that will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of their license. The rules must include the following:*

*(1) policies and procedures for obtaining approval of courses of instruction;*

*(2) standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for credit; and*

*(3) coordination with real estate continuing education requirements so that as the commissioner considers courses or parts of courses appropriate they may be used to satisfy both real estate and appraiser continuing education requirements.*

*Subd. 3.* [REINSTATEMENTS.] *On or after September 1, 1991, a license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed real estate appraiser as a condition to reinstatement of a license.*

Sec. 20. [82B.20] [PROHIBITED PRACTICES.]

*Subdivision 1.* [ENFORCEMENT.] *The license of a licensed real estate appraiser may be denied, revoked, or suspended, or the person may be otherwise disciplined in accordance with this chapter, upon any of the grounds set forth in this section.*

*Subd. 2.* [CONDUCT PROHIBITED.] *No person may:*

*(1) obtain or try to obtain a license under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license, or through any form of fraud or misrepresentation;*

*(2) fail to meet the minimum qualifications established by this chapter;*

*(3) be convicted, including a conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;*

*(4) engage in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the license holder or another person or with the intent to substantially injure another person;*

*(5) engage in a violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter;*

*(6) fail or refuse without good cause to exercise reasonable diligence in*

*developing an appraisal, preparing an appraisal report, or communicating an appraisal;*

*(7) engage in negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;*

*(8) willfully disregard or violate any of the provisions of this chapter or the rules of the commissioner for the administration and enforcement of the provisions of this chapter;*

*(9) accept an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;*

*(10) violate the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency;*

*(11) offer, pay, or give, and no person shall accept, any compensation or other thing of value from a real estate appraiser by way of commission-splitting, rebate, finder's fee, or otherwise in connection with a real estate appraisal. This prohibition does not apply to transactions among persons licensed under this chapter if the transactions involve appraisals for which the license is required;*

*(12) engage or authorize a person, except a person licensed under this chapter, to act as a real estate appraiser on the appraiser's behalf;*

*(13) violate standards of professional practice as defined by section 82B.02, subdivision 11;*

*(14) make an oral appraisal report without also making a written report within a reasonable time after the oral report is made;*

*(15) represent a market analysis to be an appraisal report;*

*(16) give an appraisal in any circumstances where the appraiser has a conflict of interest, as determined under rules adopted by the commissioner; or*

*(17) engage in other acts the commissioner by rule prohibits.*

Sec. 21. [82B.21] [CLASSIFICATION OF SERVICES.]

*A client or employer may retain or employ a licensed real estate appraiser to act as a disinterested third party in giving an unbiased estimate of value or analysis. A client or employer may also retain or employ a licensed real estate appraiser to provide a market analysis to facilitate the client's or employer's objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this chapter.*

Sec. 22. [82B.22] [CONTINGENT FEES.]

*A licensed real estate appraiser may not accept a commission for an appraisal assignment that is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.*

*A licensed real estate appraiser who enters into an agreement to perform a market analysis may be paid a fixed fee or a fee that is contingent on*

*the results achieved by the specialized services.*

*If a licensed real estate appraiser enters into an agreement to perform a market analysis for a contingent fee, this fact must be clearly stated in each written and oral report. In each written report, this fact must be clearly stated in a prominent location in the report and also in each letter of transmittal and in the licensing statement made by the appraiser in the report.*

Sec. 23. [TRANSITIONAL LICENSES.]

*Until September 1, 1991, a person already engaged in the business of real estate appraisal may apply to the commissioner of commerce for a license as a real estate appraiser. The application must contain the information listed in section 82B.08. The commissioner shall issue a license to a person who satisfies the requirements of section 82B.08 and who demonstrates at least one year's experience as a real estate appraiser.*

*An appraiser who is issued a license under this section shall pass an examination conducted by the commissioner of commerce under section 82B.10 or successfully complete sufficient classroom hours of courses under section 82B.13, no later than August 31, 1991. If the appraiser intends to satisfy the requirements of section 82B.13, the appraiser must provide adequate written reports or file memoranda as evidence of compliance. An appraiser who has not met either of those requirements as of that date may not be issued a renewal license and must meet all the requirements for a new licensee.*

Sec. 24. [INITIAL APPOINTMENTS.]

*Notwithstanding section 5, subdivision 3, the commissioner of commerce shall appoint the initial members of the real estate appraiser advisory board to the following terms:*

*(1) two public members, three appraiser members, and two consumer members to three-year terms;*

*(2) two public members, three appraiser members, and one consumer member to two-year terms; and*

*(3) two appraiser members to one-year terms.*

Sec. 25. [APPROPRIATION.]

*$213,000 is appropriated from the general fund to the commissioner of commerce to administer Minnesota Statutes, chapter 82B. $121,000 is for fiscal year 1990 and $92,000 is for fiscal year 1991. The approved complement of the department of commerce is increased by two positions.*

Sec. 26. [REPEALER.]

*Section 23 is repealed September 1, 1991.*

ARTICLE 2

Section 1. Minnesota Statutes 1988, section 48.61, is amended by adding a subdivision to read:

*Subd. 7.* [PARITY WITH NATIONAL BANKS.] *A state bank or trust company may invest in any securities that are authorized investments for national banks on the effective date of this section, subject to the same restrictions as apply to national banks. The commissioner may authorize a state bank or trust company to invest in any securities that become*

*authorized investments for national banks after the effective date of this section, subject to the same restrictions as apply to national banks. This authority is in addition to the investment authority granted to state banks under other provisions of state law.*

Sec. 2. Minnesota Statutes 1988, section 53.04, is amended by adding a subdivision to read:

*Subd. 3c. The right to extend credit and make loans under chapter 51A on the same terms and subject to the same conditions as apply to other lenders under that chapter. This subdivision does not authorize an industrial loan and thrift company to make loans under a credit card or overdraft checking plan.*

Sec. 3. Minnesota Statutes 1988, section 53.06, is amended to read:

53.06 [DIRECTORS, RESIDENCE.]

At least three-fourths of the directors of any industrial loan and thrift company *holding a certificate that includes the right to issue thrift certificates for investment* must be residents of ~~the county in which the industrial loan and thrift company maintains its principal place of business, an adjacent county or any county in which the industrial loan and thrift company maintains a place of business pursuant to this chapter~~ *Minnesota*.

Sec. 4. Minnesota Statutes 1988, section 168.71, is amended to read:

168.71 [RETAIL INSTALLMENT CONTRACTS.]

(a)(1) Every retail installment contract shall be in writing, shall contain all the agreements of the parties, shall be signed by the retail buyer and seller, and a copy thereof shall be furnished to such retail buyer at the time of the execution of the contract.

(2) No provisions for confession of judgment or power of attorney therefor contained in any retail installment contract or contained in a separate agreement relating thereto, shall be valid or enforceable.

(3) The holder of a precomputed retail installment contract may, if the contract so provides, collect a delinquency and collection charge on each installment in arrears for a period not less than ten days in an amount not in excess of five percent of each installment or $5, whichever is ~~the less~~ *greater*. In addition to such delinquency and collection charge, the retail installment contract, whether interest-bearing or precomputed, may provide for the payment of attorneys' fees not exceeding 15 percent of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection plus the court costs.

(4) Unless written notice has been given to the retail buyer of actual or intended assignment of a retail installment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.

(5) Upon written request from the retail buyer, the holder of the retail installment contract shall give or forward to the retail buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.

(b) The retail installment contract shall contain the following items:

(1) The cash sale price of the motor vehicle which is the subject matter of the retail installment contract;

(2) The total amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;

(3) The difference between items one and two;

(4) The charge, if any, included in the transaction for any insurance and other benefits not included in clause (1), specifying the types of coverage and taxes, fees, and charges that actually are or will be paid to public officials or government agencies, including those for perfecting, releasing, or satisfying a security interest if such taxes, fees, or charges are not included in clause (1);

(5) Principal balance, which is the sum of items three and four;

(6) The amount of the finance charge;

(7) The total of payments payable by the retail buyer to the retail seller and the number of installment payments required and the amount of each installment expressed in dollars or percentages, and date of each payment necessary finally to pay the total of payments which is the sum of item five and item six.

Provided, however, that said items one to seven inclusive need not be stated in the terms, sequence or order set forth above. Provided further, that clauses (6) and (7) may be disclosed on the assumption that all scheduled payments under the contract will be made when due.

In lieu of the above clauses, the retail seller may give the retail buyer disclosures which satisfy the requirements of the Federal Truth-In-Lending Act in effect as of the time of the contract, notwithstanding whether or not that act applies to the transaction.

(c) Every retail seller or sales finance company, if a charge for insurance on the motor vehicle is included in a retail installment contract shall within 30 days after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and selecting an insurance company mutually acceptable to the seller and the buyer; provided, however, that the inclusion of the cost of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller.

(d) Any sales finance company hereunder may purchase or acquire from any retail seller any retail installment contract on such terms and conditions as may be mutually agreed upon between them.

(e) An acknowledgment by the retail buyer of the delivery of any such copy or notice as required in subsection (a) contained in the body of the statement or contract shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.

Sec. 5. [EFFECTIVE DATE.]

*Sections 1 to 4 are effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; authorizing certain investments by state banks; regulating lending practices of industrial loan and thrifts; prescribing the qualifications of the directors of certain companies; regulating delinquency and collection charges or retail installment contracts; amending Minnesota Statutes 1988, sections 48.61, by adding a subdivision; 53.04, by adding a subdivision; 53.06; and 168.71; proposing coding for new law as Minnesota Statutes, chapter 82B."

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

House Conferees: (Signed) Connie Morrison, David P. Battaglia, Linda Scheid

Senate Conferees: (Signed) Michael O. Freeman, Randolph W. Peterson, Mel Frederick

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 624 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 624 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 48 and nays 13, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Cohen | Hughes | Metzen | Ramstad |
| Anderson | Davis | Johnson, D.J. | Moe, D.M. | Reichgott |
| Beckman | DeCramer | Knaak | Moe, R.D. | Schmitz |
| Belanger | Dicklich | Kroening | Morse | Solon |
| Berg | Diessner | Lantry | Pariseau | Spear |
| Berglin | Frank | Luther | Pehler | Stumpf |
| Bernhagen | Frederick | Marty | Peterson, D.C. | Taylor |
| Bertram | Frederickson, D.J. | McQuaid | Peterson, R.W. | Waldorf |
| Brandl | Frederickson, D.R. | Mehrkens | Piper | |
| Brataas | Freeman | Merriam | Pogemiller | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Benson | Gustafson | Larson | Renneke | Vickerman |
| Dahl | Johnson, D.E. | McGowan | Samuelson | |
| Decker | Knutson | Olson | Storm | |

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 878, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 878 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 878

A bill for an act relating to agriculture; providing partial premium payment for federal crop insurance; requiring lawn waste containers to be degradable; establishing uniformity with certain federal regulations; requiring the use of soy-oil based inks for printing under certain conditions; providing Minnesota-grown coupons to WIC coupon recipients at test sites; suspending certain noxious weed control practices during drought conditions; providing for development of a community needs assessment model; authorizing an investigation of cheese marketing institutions and practices; establishing a grasshopper control program; creating an agricultural liming materials law; establishing an advisory task force on farm safety; extending the farmer-lender mediation act and clarifying various provisions; extending the date for a report of the team study on low livestock productivity; changing certain requirements for motor vehicle fuel labeling; establishing an agricultural landlord rental incentive program; limiting liability of certain agricultural society board numbers; setting a dairy industry check-off rate; providing for arbitration of seed claims; providing for purchase of the agriculture department building; authorizing bond sales; regulating wild rice labeling; appropriating money; amending Minnesota Statutes 1988, sections 17.7242, subdivisions 1 and 2; 17.59, by adding a subdivision; 30.49; 31.101; 31.102, subdivision 1; 31.103, subdivision 1; 31.104; 31.11; 38.013; 47.20, subdivision 15; 116O.09, subdivision 5; 239.79, subdivision 2, and by adding a subdivision; 308.12, subdivision 5; 325E.045, subdivision 1, and by adding subdivisions; 500.24, subdivision 6; 550.37, subdivisions 4a, 5, and 7; 580.031; 583.24, subdivision 4; 583.26, subdivision 1; Laws 1983, chapter 215, section 16, as amended; Laws 1986, chapter 398, article 1, section 18, as amended; Laws 1987, chapter 396, article 9, section 1, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 16B; 17; 17B; 18; 21; 41B; and 169; repealing Minnesota Statutes 1988, sections 17.7241; 17.4244; 17.7246; and 84.152, subdivision 5.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 878, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 878 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

FEDERAL CROP INSURANCE

Section 1. [FINDING OF PUBLIC PURPOSE.]

*The legislature finds that federal crop insurance represents the lowest cost, most economically feasible mechanism for protecting farm families from severe economic stress caused by drought and other natural disasters. The legislature further finds that costs to the state for rural disaster relief are greatly reduced when a majority of farmers carry federal crop insurance. In order to encourage all farmers to carry federal crop insurance, it is a valid public purpose for state funds to be used to make grants for a portion of the premium costs of the crop insurance.*

Sec. 2. [GRANTS FOR PARTIAL PAYMENT OF FEDERAL CROP INSURANCE.]

*Subdivision 1.* [ELIGIBLE CROPS.] *Crops eligible for partial payment of federal crop insurance are barley, corn, flax, oats, soybeans, sugar beets, canning crops grown under contract, and wheat.*

*Subd. 2.* [ELIGIBILITY.] *A farmer is eligible for state assistance if:*

*(1) the farmer experienced a 65 percent or greater loss in the yield of at least one of the eligible crops grown during the 1988 growing season;*

*(2) the farmer was required to purchase federal crop insurance as a condition for participation in federal agriculture programs for 1989; and*

*(3) the farmer submits an application to the commissioner of agriculture on or before September 1, 1989.*

*Subd. 3.* [APPLICATION.] *To receive reimbursement under this article a farmer must submit an application for reimbursement of federal crop insurance premiums to the commissioner on forms provided by the commissioner. The application must include documentation of crop losses and other factors relevant to eligibility.*

*Subd. 4.* [REIMBURSEMENT RATE AND MAXIMUM.] *From within funds appropriated for this program, the commissioner must not later than December 1, 1989, reimburse an eligible farmer for up to 20 percent of the total premium cost for federal crop insurance on the 1989 crop. The maximum reimbursement to any eligible farmer is $300.*

ARTICLE 2

COMMUNITY NEEDS ASSESSMENT

Section 1. [COMMUNITY NEEDS ASSESSMENT MODEL.]

*Subdivision 1.* [MODEL DEVELOPMENT.] *The rural development board, as part of its rural investment strategy, shall select an organization to develop, test, and implement a rural community needs assessment model. The commissioner of trade and economic development shall publish in the State Register a request for proposals for the community needs assessment model project. The organization must select five rural communities in 1990 and ten rural communities in 1991 within which to perform community*

*needs assessments using the model developed. At least one of the rural communities selected in 1990 must have a population of 1,000 or less.*

*Subd. 2.* [ORGANIZATION.] *The organization selected must meet the following criteria:*

*(1) knowledge of the concerns and needs of rural Minnesota residents and their communities;*

*(2) demonstrated expertise in performing needs assessments;*

*(3) ability to develop, test, refine, demonstrate, and implement a community needs assessment process; and*

*(4) experience in gathering, classifying, analyzing, reporting, and interpreting data.*

*Subd. 3.* [MODEL REQUIREMENTS.] *The community needs assessment model must identify community needs in the areas of social services, transportation, housing, education, health care, recreation, employment, public infrastructure, and economic development. In order to identify those needs, information must be collected from the most recent existing statistical data bases, experts, and community residents. After needs are identified, the community needs assessment model must establish priorities, assist the community in analyzing existing resources, develop strategies to meet community needs, and assist the community in considering available options and in deciding what alternatives to act upon.*

*Subd. 4.* [COMMUNITY PARTICIPATION.] *The community needs assessment model must be designed to maximize community involvement and participation in the community needs assessment process. The model must be capable of guiding the community through a strategy of information collection, discussion, refinement, and consensus. To encourage community involvement in this process, the organization may provide incentive grants to assist rural community leaders and residents to implement the model.*

*Subd. 5.* [REPORT.] *The rural development board shall report to the legislature by January 1, 1990, regarding the development and implementation of the model. A second report must be submitted to the legislature by January 1, 1991.*

ARTICLE 3

AGRICULTURAL DATA COLLECTION TASK FORCE

Section 1. [REACTIVATION OF THE AGRICULTURAL DATA COLLECTION TASK FORCE.]

*The agricultural data collection task force created by Laws 1985, chapter 19, as reactivated and amended by Laws 1986, chapter 398, article 11, and Laws 1987, chapter 396, article 5, is reactivated.*

Sec. 2. Laws 1985, chapter 19, section 2, subdivision 2, as amended by Laws 1986, chapter 398, article 11, section 2, and Laws 1987, chapter 396, article 5, section 2, is amended to read:

Subd. 2. [DUTIES.] The duties of the *agricultural* data collection task force are to:

(1) continue the uniform procedure for collecting data on the financial status of agriculture in Minnesota;

(2) report the results of the program to the legislature no later than

December 31 of each fiscal year the *agricultural* data collection task force is funded.

Sec. 3. Laws 1985, chapter 19, section 6, subdivision 6, as amended by Laws 1986, chapter 398, article 11, section 4, and Laws 1987, chapter 396, article 5, section 3, is amended to read:

Subd. 6. [EXPIRATION.] The *agricultural* data collection task force expires April 15, ~~1989~~ *1991*, or 15 days after reporting to the legislature, whichever date comes later, but in no circumstance later than June 1, ~~1989~~ *1991*.

ARTICLE 4

AQUICULTURE

Section 1. Minnesota Statutes 1988, section 17.49, is amended to read:

17.49 [*AQUICULTURE* PROGRAM ~~ESTABLISHMENT~~ *AND PROMOTION*.]

*Subdivision 1.* [PROGRAM ESTABLISHED.] The commissioner shall establish and promote a program for the commercial raising of fish in fish farms in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of trade and economic development, the commissioner of the state planning agency, representatives of private fish raising industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

*Subd. 2.* [COORDINATION.] *Aquiculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquiculture in the state. Aquiculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research, projects, and demonstrations are encumbered. The commissioner shall maintain a data base of aquiculture research, demonstrations, and other related information pertaining to agriculture in the state.*

Sec. 2. [17.491] [AQUICULTURE IS AGRICULTURAL PURSUIT.]

*Aquiculture is an agricultural pursuit.*

Sec. 3. [17.492] [AQUICULTURE DEFINITION.]

*"Aquiculture" means to cultivate plants and animals in water for harvest, including hydroponics and raising fish in fish farms.*

ARTICLE 5

DAIRY INDUSTRY CHECKOFF RATE

Section 1. Minnesota Statutes 1988, section 17.59, is amended by adding a subdivision to read:

*Subdivision 1a.* [DAIRY INDUSTRY CHECKOFF RATE.] *(a) Notwithstanding subdivision 1, the Minnesota dairy research and promotion order, or any provision to the contrary in this chapter or rules adopted under this chapter, the checkoff rate applicable to the dairy research and promotion council must be equal to the maximum credit allowed under the Dairy Promotion and Research Order, adopted under the Dairy Production Stabilization Act of 1983, United States Code, title 7, sections 4501 to 4538, for producers participating in a qualified state or regional dairy*

*product promotion or nutrition education program. The checkoff rate provided in this subdivision is effective and must be automatically adjusted without amendment to the Minnesota dairy research and promotion order.*

*(b) Subdivision 1 applies for the establishment of the checkoff rate applicable to the dairy research and promotion council if:*

*(1) the Dairy Production Stabilization Act of 1983 is repealed;*

*(2) the Dairy Promotion and Research Order is suspended or terminated, in which case subdivision 1 applies only during the period of suspension or termination; or*

*(3) the federal credit for participation in a qualified state or regional dairy product or nutrition education program is eliminated.*

Sec. 2. Laws 1988, chapter 688, article 3, section 1, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The Minnesota dairy task force shall by June 1, ~~1989~~ *1990*:

(1) gather existing information on increasing milk production efficiency of dairy cow herds, reducing input costs, and increasing profitability of dairy farms;

(2) establish a mechanism to disseminate gathered information to dairy farmers in a practical form;

(3) examine computerized analysis of dairy records and the available software, and recommend practical alternatives for dairy farmers to use computerized analysis;

(4) develop a preliminary draft of long-range goals, objectives, and time line achievement strategies for the dairy industry;

(5) study alternatives for component pricing of milk;

(6) recommend legislation needed to accomplish the objectives and goals in subdivision 2; and

(7) examine available data on patterns and relationships between changes in the purchase price of raw milk from dairy farmers and changes in the retail price of dairy products purchased by the consumer.

Sec. 3. Laws 1988, chapter 688, article 3, section 2, is amended to read:

Sec. 2. [REPORT.]

The Minnesota dairy task force shall prepare and submit an interim report on its activities, accomplishments, and recommendations to the committees on agriculture of the senate and house of representatives by February 1, ~~1989~~ *1990*.

Sec. 4. Laws 1988, chapter 688, article 3, section 3, is amended to read:

Sec. 3. [REPEALER.]

Section 1 is repealed effective June 30, ~~1990~~ *1991*.

ARTICLE 6

LAND TRANSFERS FROM FEDERAL AGENCIES

Section 1. [84.0276] [LAND TRANSFERS BY A FEDERAL AGENCY.]

*Before the commissioner of natural resources accepts agricultural land or a farm homestead transferred in fee by a federal agency, the commissioner must consult with the board of water and soil resources for a determination of marginal land, tillable farmland, and farm homestead. The commissioner must comply with the acquisition procedure under section 97A.145, subdivision 2, if the agricultural land or farm homestead was in an agricultural preserve as provided in section 40A.10.*

ARTICLE 7

AGRICULTURAL UTILIZATION AND RESEARCH INSTITUTE

Section 1. Minnesota Statutes 1988, section 116O.09, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] *The agricultural utilization research institute is established as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.* The ~~corporation shall establish an~~ agricultural utilization research institute ~~to~~ *shall* promote the establishment of new products and product uses and the expansion of existing markets for the state's agricultural commodities and products. The institute must be located near an existing agricultural research facility in the agricultural region of the state.

Sec. 2. Minnesota Statutes 1988, section 116O.09, is amended by adding a subdivision to read:

*Subd. 1a.* [BOARD OF DIRECTORS.] *The board of directors of the agricultural utilization research institute is comprised of:*

*(1) the chairs of the senate agriculture and rural development committee and the house of representatives agriculture committee;*

*(2) two representatives of statewide farm organizations;*

*(3) two representatives of agribusiness, one of whom is a member of the greater Minnesota corporation board representing agribusiness; and*

*(4) three representatives of the commodity promotion councils.*

*A member of the board of directors under clauses (1) to (4) may designate a permanent or temporary replacement member representing the same constituency.*

Sec. 3. Minnesota Statutes 1988, section 116O.09, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] *(a)* In addition to the duties and powers assigned to the institutes in section 116O.08, the agricultural utilization research institute shall:

(1) identify the various market segments characterized by Minnesota's agricultural industry, address each segment's individual needs, and identify development opportunities in each segment;

(2) develop and implement a utilization program for each segment that addresses its development needs and identifies techniques to meet those needs;

(3) coordinate research among the public and private organizations and individuals specifically addressing procedures to transfer new technology to businesses, farmers, and individuals; and

(4) provide research grants to public and private educational institutions and other organizations that are undertaking basic and applied research that would promote the development of the various agricultural industries.

*(b) The agricultural utilization research institute board of directors, with the concurrence of the advisory board, shall have the sole approval authority for establishing agricultural utilization research priorities, requests for proposals to meet those priorities, awarding of grants, hiring and direction of personnel, and other expenditures of funds consistent with the adopted and approved mission and goals of the agricultural utilization research institute. The actions and expenditures of the agricultural utilization research institute are subject to audit and regular annual report to the legislature in general and specifically the house of representatives agriculture committee, the senate agriculture and rural development committee, the house of representatives appropriations committee, and the senate finance committee.*

Sec. 4. [ADVISORY BOARD AND AURI BOARD.]

*The advisory board is the permanent advisory board, and the present steering committee as constituted with elective positions from the advisory board is the governing board of the agricultural utilization research institute.*

Sec. 5. [EFFECTIVE DATE.]

*This article is effective the day following final enactment.*

ARTICLE 8

COMMUNITY AND URBAN REFORESTATION

Section 1. [COMMUNITY AND URBAN REFORESTATION STUDY.]

*Subdivision 1.* [LEGISLATIVE FINDINGS.] *The legislature recognizes that the perils of disease and, increasingly in recent times, commercial and residential development present a serious threat to the prosperity and even survival of our community and urban forests. Prompt action must be taken to reverse this trend.*

*Subd. 2.* [STUDY.] *A main step in assuring preservation and prosperity of our community and urban forests is the prompt identification of the exact nature of the threat and a logical order of measures to be taken to relieve the threat. To this end, the Minnesota shade tree advisory committee, in conjunction with the University of Minnesota and the state department of agriculture shall conduct a study of problems presently facing our community and urban forests. The study shall focus upon such aspects of the problem as preserving the cooling effect of forestation with resulting energy savings, filtration of harmful particulate matter and absorption of harmful emissions, noise reduction, strategic planting and preservation of existing trees to maximize the benefits trees contribute to our environment, and such other aspects of the problem as the committee considers advisable.*

*Subd. 3.* [RECOMMENDATIONS.] *The committee shall make its recommendations to the appropriate committees of the legislature in January of 1990. Recommendations shall take the form of specific steps to halt the decline in community and urban forestation and to promote planting and preservation. The recommendations shall be prioritized to stress the more*

*critical needs and shall be accompanied by cost estimates wherever possible.*

Sec. 2. [EFFECTIVE DATE.]

*Section 1 is effective the day following final enactment.*

ARTICLE 9

AGRICULTURAL INTERPRETIVE CENTER

Section 1. [POLICY OF PRESERVING HISTORY OF BASIC INDUSTRIES.]

*Minnesota's historic basic industries are agriculture, mining, and forestry. The history of these great human enterprises reaches back to and beyond the settlement of Minnesota by Minnesotans from other continents. Throughout their long history each has evolved in ways that no single generation could foresee and no individual alone can remember. Their history holds intense fascination for contemporary Minnesotans. It is the policy of the state to preserve and present that history in ways that do justice to its dramatic past and dynamic future. For these reasons the maintenance of a living history agricultural interpretive center is a desirable public purpose.*

ARTICLE 10

GRASSHOPPER CONTROL PROGRAM

Section 1. Minnesota Statutes 1988, section 18.022, subdivision 2, is amended to read:

Subd. 2. [COST.] (a) ~~In order~~ To defray the cost of ~~such~~ *the* activities *under subdivision 1*, the governing body of ~~any such~~ *the* political subdivision may levy a ~~special~~ tax which, except when levied by a county, ~~shall~~ *must* not exceed ~~two-thirds mill~~ *a gross tax capacity rate of .55 percent or a net tax capacity rate of .68 percent* in any year in excess of charter ~~or statutory millage~~ *tax capacity rate* limitations, but not in any event more than 50 cents per capita, ~~and any such~~ *except that the levy for the grasshopper control program under sections 23 to 26 is not subject to the 50 cents per capita limitation. The* political subdivision may make ~~such a~~ *the* levy, where necessary, separate from the general levy and at any time of the year. (b) If, because of the prevalence of Dutch elm disease, the governing body of such a political subdivision is unable to defray the cost of control activities authorized by this section within the limits set by this subdivision, the limits set by this subdivision are increased to ~~1 1/3 mills~~ *a gross tax capacity rate of 1.1 percent or a net tax capacity rate of 1.36 percent*, but not in any event more than one dollar per capita.

Sec. 2. [18.0223] [GRASSHOPPER CONTROL ZONES.]

*The commissioner of agriculture shall designate townships of counties that have had grasshopper surveys showing economic damage or potential economic damage as a grasshopper control zone where control programs under sections 2 to 4 will be undertaken.*

Sec. 3. [18.0225] [GRASSHOPPER CONTROL PROGRAM.]

*(a) The commissioner of agriculture shall develop and implement a grasshopper control program to prevent crop damage in the grasshopper control zone. Within grasshopper control zones the commissioner, landowners, and local weed inspectors have the same authorities and duties under chapter 18 for grasshoppers as if grasshoppers are noxious weeds*

*under chapter 18. After consultation and cooperation with the state entomologist, the commissioner must develop the program to economically and efficiently control grasshoppers and to minimize adverse environmental impact, including the selection of pesticides and prescription of application rates.*

*(b) The grasshopper control program must utilize proven methods of grasshopper control and the commissioner may make grants for experimental methods of control in selected areas.*

Sec. 4. [COST-SHARE.]

*Subdivision 1.* [ELIGIBILITY.] *Private landowners are eligible for a 50 percent cost-share reimbursement for grasshopper control methods approved by the commissioner that are used on areas within the grasshopper control zone.*

*Subd. 2.* [INSPECTION.] *(a) A county agricultural inspector and local weed inspectors shall inspect the property where the grasshopper control is to occur and approve the control method to be used.*

*(b) The local weed inspectors shall inspect areas for grasshopper infestation in grasshopper control zones.*

*Subd. 3.* [REIMBURSEMENT.] *(a) An eligible private landowner may receive reimbursement for grasshopper control costs by presenting to the local weed inspector or the county agricultural inspector:*

*(1) an inspection statement that the property was inspected prior to the control method being used; and*

*(2) approval by the county agricultural inspector or local weed inspector that an approved method was used.*

*(b) The county agricultural inspector shall forward the reimbursement request to the county treasurer for payment.*

*(c) The county treasurer shall pay the reimbursement requests received from the county agricultural inspectors and local weed inspectors.*

*Subd. 4.* [PAYMENTS TO COUNTIES FOR COST-SHARE.] *From within funds appropriated for the grasshopper control program, the commissioner of agriculture shall make payments to counties to pay for the cost-share payments under subdivision 3. The commissioner shall make funds available in advance based on anticipated need to allow reimbursement payments to be made as quickly as possible.*

*Subd. 5.* [ADMINISTRATION.] *(a) The commissioner of agriculture shall adopt procedures, guidelines, and forms to implement the grasshopper control cost-share program under this section. The procedures, guidelines, and forms may be adopted notwithstanding chapter 14, except section 14.38, subdivisions 7 and 8, must be complied with.*

*(b) The commissioner of agriculture may require accounting procedures and reports to implement the program.*

Sec. 5. [EXPERIMENTAL GRASSHOPPER CONTROL.]

*Subdivision 1.* [AUTHORIZATION.] *The commissioner of agriculture may designate certain areas or types of controls for an experimental control program for methods that are not commonly used in the state or have not been proven to be effective.*

*Subd. 2.* [ELIGIBLE PARTICIPANTS.] *Public and private entities willing to participate in the experimental grasshopper control program may not be required to pay more than 20 percent of the cost of the experimental control methods on property they are responsible for controlling.*

*Subd. 3.* [ADMINISTRATION.] *The commissioner shall develop the experimental grasshopper control program and may adopt rules, guidelines, and procedures notwithstanding chapter 14 to implement the program, except the commissioner must comply with section 14.38, subdivisions 7 and 8.*

Sec. 6. [EFFECTIVE DATE.]

*This article is effective the day following final enactment.*

ARTICLE 11

FEDERAL UNIFORMITY

Section 1. Minnesota Statutes 1988, section 31.101, is amended to read:

31.101 [RULES; HEARINGS; UNIFORMITY WITH FEDERAL LAW.]

Subdivision 1. The authority to promulgate and amend rules for the efficient administration and enforcement of the Minnesota food law is vested in the commissioner and is in addition to authority granted in sections 31.10, 31.11, and 31.12. Such rules when applicable shall conform, insofar as practicable and consistent with state law, with those promulgated under the federal law.

Subd. 2. Hearings authorized or required by law shall be conducted by the commissioner or such officer, agent, or employee as the commissioner may designate for the purpose.

Subd. 3. Federal pesticide chemical regulations and amendments thereto in effect on April 1, ~~1987~~ *1988*, adopted under authority of the Federal Insecticide, Fungicide and Rodenticide Act, as provided by United States Code, title 7, chapter 6, are the pesticide chemical rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 4. Federal food additive regulations and amendments thereto in effect on April 1, ~~1987~~ *1988*, as provided by Code of Federal Regulations, title 21, parts 170 to 199, are the food additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 5. Federal color additive regulations and amendments thereto in effect on April 1, ~~1987~~ *1988*, as provided by Code of Federal Regulations, title 21, parts 70 to 82, are the color additive rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 6. Federal special dietary use regulations and amendments thereto in effect on April 1, ~~1987~~ *1988*, as provided by Code of Federal Regulations, title 21, parts 104 and 105, are the special dietary use rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Subd. 7. Federal regulations and amendments thereto in effect on April 1, ~~1987~~ *1988*, adopted under the Fair Packaging and Labeling Act, as provided by United States Code, title 15, sections 1451 to 1461, are the

rules in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act; provided that the commissioner shall not adopt amendments to such rules or adopt other rules which are contrary to the labeling requirements for the net quantity of contents required pursuant to section 4 of the Fair Packaging and Labeling Act and the regulations promulgated thereunder.

Subd. 8. Applicable federal regulations including recodification contained in Code of Federal Regulations, title 21, parts 0-1299, Food and Drugs, in effect April 1, ~~1987~~ *1988*, and not otherwise adopted herein, also are adopted as food rules of this state. Such rules may be amended by the commissioner in accordance with the administrative procedure act.

Sec. 2. Minnesota Statutes 1988, section 31.102, subdivision 1, is amended to read:

Subdivision 1. Federal definitions and standards of identity, quality and fill of container and amendments thereto, in effect on April 1, ~~1975~~ *1988*, adopted under authority of the federal act, are the definitions and standards of identity, quality and fill of container in this state. Such rules may be amended by the commissioner proceeding in accordance with the administrative procedure act.

Sec. 3. Minnesota Statutes 1988, section 31.103, subdivision 1, is amended to read:

Subdivision 1. All labels of consumer commodities shall conform with the requirements for the declaration of net quantity of contents of section 4 of the Fair Packaging and Labeling Act (United States Code, title 15, section 1451 et seq.) and federal regulations in effect on April 1, ~~1975~~ *1988*, promulgated pursuant thereto, except to the extent that the commissioner shall exercise authority to amend such rules in accordance with the administrative procedure act. Consumer commodities exempted from the requirements of section 4 of the Fair Packaging and Labeling Act shall also be exempt from this subdivision.

Sec. 4. Minnesota Statutes 1988, section 31.104, is amended to read:

31.104 [FOOD LABELING EXEMPTION RULES.]

The commissioner shall promulgate rules exempting from any labeling requirement food which is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded upon removal from such processing, labeling or repacking establishment.

Federal regulations in effect on April 1, ~~1975~~ *1988*, adopted under authority of the federal act relating to such exemptions are effective in this state unless the commissioner shall exercise authority to amend such regulations. The commissioner also may promulgate amendments to existing rules concerning exemptions in accordance with the administrative procedure act.

Sec. 5. Minnesota Statutes 1988, section 31.11, is amended to read:

31.11 [RULES.]

*Subdivision 1.* [FOOD LAWS.] For the purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public health, it shall also be the duty of the commissioner to make and publish uniform rules, not

inconsistent with law, for carrying out and enforcing the provisions of laws now or hereafter enacted relating to food; which rules shall be made in the manner provided by law. Until such rules are made and published, the rules heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, offer for use, sale or transportation, or have in possession with intent to use, sell or transport, any article of food contrary to the provisions of any such rule, or who shall fail to comply with any such rule, shall be guilty of a misdemeanor.

*Subd. 2.* [PLAN REVIEW FEES.] *The commissioner shall, by rule, set plan review fees that will approximate the cost to the department of its review of plans and specifications submitted by food handlers.*

*There is created in the state treasury an account known as the food handler plan review fund. Fees paid under this subdivision must be deposited in the food handler plan review fund. Money in the food handler plan review fund is annually appropriated to the commissioner to pay the costs of the food handler plan and specifications review program.*

ARTICLE 12

SOY-BASED INK

Section 1. [16B.125] [PRINTING INKS; STATE PRINTING.]

*Subdivision 1.* [DEFINITION; SOY-BASED INK.] *For the purposes of this section, "soy-based ink" means printing ink made from soy oil.*

*Subd. 2.* [STATE PRINTER.] *Whenever practical and economically feasible, the state printer shall consider the use of soy-based ink for printing orders or projects. The printer shall also advise state agencies on and encourage them to use materials and printing processes that allow for the use of soy-based ink.*

*Subd. 3.* [STATE AGENCIES; PRINTING CONTRACTS.] *When a state agency seeks to enter a contract for printing with, or otherwise purchases printing from, the state or another printer, the agency shall consider, when practical and economically feasible, specifying the use of soy-based ink when it can specify use of a newsprint product that is printed on a non-heat-set web press or a sheet-fed press. Whenever practical, a state agency shall consider specifying materials and printing processes that enable use of soy-based ink.*

*Subd. 4.* [DETERMINATION OF USE.] *When the state printer or a state agency is making a determination whether to use soy-based ink or not, the state printer or agency shall consider the practicality of soy-based ink with regard to the type of paper to be used in the project, the production schedule required, the type of printing equipment likely to be used, the availability of ink, the relative total project costs for using conventional ink versus soy-based ink, and any other relevant considerations.*

ARTICLE 13

MINNESOTA-GROWN WIC COUPONS

Section 1. [MINNESOTA-GROWN COUPONS FOR WIC RECIPIENTS.]

*The commissioner of agriculture, in cooperation with the commissioner of health, shall conduct demonstration projects in conjunction with federal programs to give Minnesota-grown coupons redeemable for food identified*

*with a Minnesota-grown logo or labeling statement at selected sites to participants in the federal supplemental food program for women, infants, and children. The commissioner shall conduct an evaluation of the demonstration projects, prepare a report, and submit the report to the legislature by January 15, 1990.*

ARTICLE 14

NOXIOUS WEED CONTROL

Section 1. [18.192] [LOCAL SUSPENSION OF NOXIOUS WEED CONTROL.]

*During a drought, a town board may suspend the duty of owners and occupants of land and road maintenance personnel to control noxious weeds if the vegetation is to be harvested for livestock feed under sections 18.191 to 18.272, except under order by the commissioner or the local weed inspector.*

ARTICLE 15

CHEESE MARKETING STUDY

Section 1. [INVESTIGATION OF CHEESE MARKETING; REPORT.]

*(a) The commissioner of agriculture shall conduct an investigation and economic analysis of cheese marketing practices within the state, the upper midwest region, and the United States. The purpose of the investigation is to evaluate the extent to which dairy farmers and cheese producers in Minnesota are benefited by local and regional institutions and practices through which cheese and cheese products are marketed.*

*(b) In conducting the investigation and economic analysis of cheese marketing practices and institutions, the commissioner shall, to the greatest practicable extent, solicit the cooperation and participation of dairy farmer producers, dairy processors, farm cooperatives, and agricultural businesses involved in the dairy industry.*

*(c) Not later than March 1, 1990, the commissioner shall report to the agriculture committees of the senate and the house of representatives the findings from the investigation and economic analysis of cheese marketing institutions and practices. The commissioner may also recommend legislation to improve cheese marketing conditions for Minnesota dairy farmers and cheese producers.*

ARTICLE 16

MEDIATION AND FIRST REFUSAL

Section 1. Minnesota Statutes 1988, section 500.24, subdivision 6, is amended to read:

Subd. 6. [DISPOSAL OF LAND.] (a) A state or federal agency, limited partnership, or a corporation~~, other than a family farm corporation or an authorized farm corporation,~~ may not lease or sell agricultural land or a farm homestead ~~that was acquired by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed,~~ before offering or making a good faith effort to offer the land for sale or lease to the immediately preceding former owner at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor. The

offer must be made on the notice to offer form under subdivision 7. *The requirements of this subdivision do not apply to a sale or lease by a corporation that is a family farm corporation or an authorized farm corporation. This subdivision applies only to a sale or lease when the seller or lessor acquired the property by enforcing a debt against the agricultural land or farm homestead, including foreclosure of a mortgage, accepting a deed in lieu of foreclosure, terminating a contract for deed, or accepting a deed in lieu of terminating a contract for deed.* Selling or leasing property to a third party at a price is prima facie evidence that the price is acceptable to the seller or lessor. The seller must provide written notice to the immediately preceding former owner that the agricultural land or farm homestead will be offered for sale at least 14 days before the agricultural land or farm homestead is offered for sale.

(b) An immediately preceding former owner is the entity with record legal title to the agricultural land or farm homestead before acquisition by the state or federal agency or corporation except: if the immediately preceding former owner is a bankruptcy estate, the debtor in bankruptcy is the immediately preceding former owner; and if the agricultural land or farm homestead was acquired by termination of a contract for deed or deed in lieu of termination of a contract for deed, the immediately preceding former owner is the purchaser under the contract for deed. *For purposes of this subdivision, only a family farm, family farm corporation, or family farm partnership can be an immediately preceding former owner.*

(c) An immediately preceding former owner may elect to purchase or lease the entire property or an agreed to portion of the property. If the immediately preceding former owner elects to purchase or lease a portion of the property, the election must be reported in writing to the seller or lessor prior to the time the property is first offered for sale or lease. If election is made to purchase or lease a portion of the property, the portion must be contiguous and compact so that it does not unreasonably reduce access to or the value of the remaining property.

(d) For purposes of this subdivision, the term "a price no higher than the highest price offered by a third party" means the acceptable cash price offered by a third party or the acceptable time-price offer made by a third party. A cash price offer is one that involves simultaneous transfer of title for payment of the entire amount of the offer. If the acceptable offer made by a third party is a time-price offer, the seller or lessor must make the same time-price offer or an equivalent cash offer to the immediately preceding former owner. An equivalent cash offer is equal to the total of the payments made over a period of the time-price offer discounted by yield curve of the United States treasury notes and bonds *of similar maturity* on the first business day of the month in which the offer is personally delivered or mailed for time periods similar to the time period covered by the time-price offer, plus 2.0 percent. A time-price offer is an offer that is financed entirely or partially by the seller and includes an offer to purchase under a contract for deed or mortgage. An equivalent cash offer is not required to be made if the state participates in an offer to a third party through the rural finance authority.

(e) This subdivision applies to a seller when the property is sold and to a lessor each time the property is leased, for five years after the agricultural land is acquired except:

(1) an offer to lease to the immediately preceding former owner is required

only until the immediately preceding owner fails to accept an offer to lease the property or the property is sold;

(2) an offer to sell to the immediately preceding former owner is required until the property is sold; and

(3) if the immediately preceding former owner elects to lease or purchase a portion of the property, this subdivision does not apply to the seller with regard to the balance of the property after the election is made under paragraph (c).

(f) The notice of an offer under subdivision 7 that is personally delivered with a signed receipt or sent by certified mail with a receipt of mailing to the immediately preceding former owner's last known address is a good faith offer.

(g) This subdivision does not apply to a sale or lease that occurs after the seller or lessor has held the property for five years or longer.

(h) For purposes of this subdivision, if the immediately preceding former owner is a bankruptcy estate the debtor in the bankruptcy is the immediately preceding owner.

(i) The immediately preceding former owner must exercise the right to lease all or a portion of the agricultural land or a homestead located on agricultural land in writing within 15 days after an offer to lease under this subdivision is mailed with a receipt of mailing or personally delivered. If election is made to lease only the homestead or a portion of the agricultural land, the portion to be leased must be clearly identified in writing. The immediately preceding former owner must exercise the right to buy the agricultural land, a portion of the agricultural land, or a farm homestead located on agricultural land, in writing, within 65 days after an offer to buy under this subdivision is mailed with a receipt of mailing or is personally delivered. Within ten days after exercising the right to lease or buy by accepting the offer, the immediately preceding owner must fully perform according to the terms of the offer including paying the amounts due. A seller may sell and a lessor may lease the agricultural land or farm homestead subject to this subdivision to the third party in accordance with their lease or purchase agreement if:

(1) the immediately preceding former owner does not accept an offer to lease or buy before the offer terminates; or

(2) the immediately preceding former owner does not perform the obligations of the offer, including paying the amounts due, within ten days after accepting the offer.

(j) A certificate indicating whether or not the property contains agricultural land or a farm homestead that is signed by the county assessor where the property is located and recorded in the office of the county recorder or the registrar of titles where the property is located is prima facie evidence of whether the property is agricultural land or a farm homestead.

(k) As prima facie evidence that an offer to sell or lease agricultural land or a farm homestead has terminated, a receipt of mailing the notice under subdivision 7 and an affidavit, signed by a person authorized to act on behalf of a state, federal agency, or corporation selling or leasing the agricultural land or a farm homestead may be filed in the office of the county recorder or registrar of titles of the county where the agricultural land or farm homestead is located. The affidavit must state that:

(1) notice of an offer to buy or lease the agricultural land or farm homestead was provided to the immediately preceding former owner at a price not higher than the highest price offered by a third party that is acceptable;

(2) the time during which the immediately preceding former owner is required to exercise the right to buy or lease the agricultural land or farm homestead has expired;

(3) the immediately preceding former owner has not exercised the right to buy or lease the agricultural land or farm homestead as provided in this subdivision or has accepted an offer and has not fully performed according to the terms of the offer; and

(4) the offer to the immediately preceding former owner has terminated.

(l) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision or to lease or purchase at a price no higher than the highest price offered by a third party that is acceptable to the seller or lessor may be extinguished or limited by an express statement signed by the immediately preceding owner that complies with the plain language requirements of section 325G.31. The right may not be extinguished or limited except by:

(1) an express statement in a deed in lieu of foreclosure of the agricultural land;

(2) an express statement in a deed in lieu of a termination of a contract for deed for the agricultural land;

(3) an express statement conveying the right to the state or federal agency or corporation owning the agricultural land that is required to make an offer under this subdivision, however, the preceding former owner may rescind the conveyance by notifying the state or federal agency or corporation in writing within 20 calendar days after signing the express statement;

(4) to cure a title defect, an express statement conveying the right may be made to a person to whom the agricultural land has been transferred by the state or federal agency or corporation; or

(5) an express statement conveying the right to a contract for deed vendee to whom the agricultural land or farm homestead was sold under a contract for deed by the immediately preceding former owner if the express statement and the contract for deed are recorded.

(m) The right of an immediately preceding former owner to receive an offer to lease or purchase agricultural land under this subdivision may not be assigned or transferred except as provided in paragraph (l), but may be inherited.

(n) An immediately preceding former owner, except a former owner who is actively engaged in farming as defined in subdivision 2, paragraph (a), and who agrees to remain actively engaged in farming on a portion of the agricultural land or farm homestead for at least one year after accepting an offer under this subdivision, may not sell agricultural land acquired by accepting an offer under this subdivision if the arrangement of the sale was negotiated or agreed to prior to the former owner accepting the offer under this subdivision. A person who sells property in violation of this paragraph is liable for damages plus reasonable attorney fees to a person who is damaged by a sale in violation of this paragraph. There is a rebuttable presumption that a sale by an immediately preceding former owner is in

violation of this paragraph if the sale takes place within ~~180~~ *270* days of the former owner accepting the offer under this subdivision. This paragraph does not apply to a sale by an immediately preceding former owner to the owner's spouse, the owner's parents, the owner's sisters and brothers, the owner's spouse's sisters and brothers, or the owner's children.

Sec. 2. Minnesota Statutes 1988, section 550.37, subdivision 4a, is amended to read:

Subd. 4a. [ADJUSTMENT OF DOLLAR AMOUNTS.] (a) *Except for subdivisions 5 and 7,* the dollar amounts in this section shall change periodically as provided in this subdivision to the extent of changes in the implicit price deflator for the gross national product, 1972 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December, 1980, is the reference base index.

(b) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts stated in this section.

(c) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the department of commerce. If the index is superseded, the index referred to in this section is the one represented by the department of commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(d) The commissioner of commerce shall announce and publish:

(1) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (b); and

(2) promptly after the changes occur, changes in the index required by paragraph (c) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if the person relies on dollar amounts either determined according to paragraph (b) or appearing in the last publication of the commissioner announcing the then current dollar amounts.

Sec. 3. Minnesota Statutes 1988, section 550.37, subdivision 5, is amended to read:

Subd. 5. Farm machines and implements used in farming operations by a debtor engaged principally in farming, livestock, farm produce, and standing crops, not exceeding ~~$10,000~~ *$13,000* in value. When a debtor is a partnership of spouses or a partnership of natural persons related to each other within the third degree of kindred according to the rules of the civil law, for the purposes of the exemption in this subdivision, the partners may elect to treat the assets of the partnership as assets of the individual partners.

Sec. 4. Minnesota Statutes 1988, section 550.37, subdivision 7, is amended

to read:

Subd. 7. The total value of property selected by a debtor pursuant to subdivisions 5 and 6 shall not exceed ~~$10,000~~ *$13,000, if the exemptions under subdivisions 5 and 6 are combined.*

Sec. 5. Minnesota Statutes 1988, section 583.24, subdivision 4, is amended to read:

Subd. 4. [DEBTS.] ~~(a)~~ The farmer-lender mediation act does not apply to a debt:

(1) for which a proof of claim form has been filed in bankruptcy by a creditor or that was listed as a scheduled debt, of a debtor who has filed a petition in bankruptcy after July 1, 1987, under United States Code, title 11, chapter 7, 11, 12, or 13;

(2) if the debt was in default when the creditor received a mediation proceeding notice under the farmer-lender mediation act and the creditor filed a claim form, the debt was mediated during the mediation period under section 583.26, subdivision 8, and (i) the mediation was unresolved; or (ii) a mediation agreement with respect to that debt was signed;

(3) for which the creditor has served a mediation notice, the debtor has failed to make a timely request for mediation, and within ~~30~~ *45* days after the debtor failed to make a timely request the creditor began a proceeding to enforce the debt against the agricultural property of the debtor;

(4) for which a creditor has received a mediation proceeding notice and the creditor and debtor have restructured the debt and have signed a separate mediation agreement with respect to that debt; or

(5) for which there is a lien for rental value of farm machinery under section 514.661 or a lien for rental value relating to a contract for deed subject to the farmer-lender mediation act under section 559.2091.

~~(b) For purposes of paragraph (a), clause (3), providing a copy of a forbearance policy is considered beginning a proceeding to enforce a debt if the board of an institution has adopted a forbearance policy that provides for deferring or rescheduling payments of principal or interest, renewal or extension of loan terms, reduction in the amount or rate of principal or interest due on a loan, or other similar actions, and requires that the debtor must receive a copy of the policy at least 20 days prior to loan acceleration or debt collection proceedings.~~

Sec. 6. Minnesota Statutes 1988, section 583.26, subdivision 1, is amended to read:

Subdivision 1. [MEDIATION NOTICE.] (a) A creditor desiring to start a proceeding to enforce a debt against agricultural property under chapter 580 or 581 or sections 336.9-501 to 336.9-508, to terminate a contract for deed to purchase agricultural property under section 559.21, or to garnish, levy on, execute on, seize, or attach agricultural property, must serve an applicable mediation notice under sections 336.9-501, 550.365, 559.209, and 582.039 on the debtor and the director. The creditor must also file with the director proof of the date the mediation notice was served on the debtor. The creditor may not begin the proceeding until the stay of the creditor's remedies is lifted under subdivision 5, or as allowed under sections 583.20 to 583.32.

(b) *For purposes of the farmer-lender mediation act, starting a proceeding to enforce a debt means initiating a proceeding under chapter 550, 580, or 581; sections 336.9-501 to 336.9-508; or section 559.21.*

*(c)* The director shall combine all mediation notices for the same debtor that are received prior to the initial mediation meeting into one mediation proceeding.

Sec. 7. Laws 1983, chapter 215, section 16, as amended by Laws 1984, chapter 474, section 7, as amended by Laws 1985, chapter 306, section 26, as amended by Laws 1987, chapter 292, section 36, is amended to read:

Sec. 16. [REPEALER.]

Sections 1 to 15 are repealed effective July 1, ~~1989~~ *1990*, but any postponement or other relief ordered by a court continues to be valid for the period ordered by the court.

Sec. 8. Laws 1986, chapter 398, article 1, section 18, as amended by Laws 1987, chapter 292, section 37, is amended to read:

Sec. 18. [REPEALER.]

Sections 1 to 17 and Minnesota Statutes, section 336.9-501, subsections (6) and (7), *and sections 583.284, 583.285, and 583.305*, are repealed on July 1, ~~1989~~ *1990*.

Sec. 9. [FAMILY FARM SECURITY PROGRAM TRANSFER STUDY.]

*A joint senate and house committee shall study the efficiency and appropriateness of terminating the family farm security program and transferring its loans, acquired properties, and personnel to the rural finance authority.*

ARTICLE 17

ADVISORY TASK FORCE ON FARM SAFETY

Section 1. [ADVISORY TASK FORCE ON FARM SAFETY.]

*Subdivision 1.* [PURPOSE AND DUTIES.] *An advisory task force on farm safety consisting of 11 members is established. The principal purpose of the task force is to determine ways in which the very high risks of accident and injury to farm operators and their families and employees can be minimized. The task force may review relevant research and studies by other groups and organizations within or outside of Minnesota. The task force may give particular attention to the safety of farm children and youth, accident prevention, equipment design, stress management, and safety education.*

*Subd. 2.* [MEMBERSHIP.] *The commissioner of agriculture shall appoint members of the task force who are broadly representative of groups with an interest in farm safety. At least one member must represent each of the following: farm operators; farm organizations; farm equipment manufacturers or dealers; the rural health care industry; the agricultural chemicals industry; the insurance industry; and the Minnesota extension service. The subcommitee on committees of the senate and the speaker of the house shall each appoint one member of the task force from their respective agriculture committees.*

*Subd. 3.* [EXPENSES AND EXPIRATION.] *Expenses and expiration of*

*the task force are governed by Minnesota Statutes, section 15.059, subdivision 6.*

*Subd. 4.* [STAFF ASSISTANCE.] *The commissioner of agriculture shall provide staff assistance as required for efficient operation of the task force.*

*Subd. 5.* [REPORTS.] *On or before March 1, 1990, the task force shall report to the house and senate committees on agriculture its findings and recommendations for legislation on farm accident prevention and other public policy changes that would be likely to improve health and safety on Minnesota farms.*

*Subd. 6.* [FUNDING.] *In addition to money appropriated for purposes of this article, the commissioner may solicit from organizations and individuals contributions of money or in-kind services for purposes of the advisory task force and its report.*

ARTICLE 18

MOTOR FUEL LABELING

Section 1. Minnesota Statutes 1988, section 239.79, subdivision 2, is amended to read:

Subd. 2. [~~GASOLINE-ALCOHOL BLENDS; IDENTIFICATION~~ *PRODUCT INFORMATION.*] When gasoline blended with alcohol is sold, offered for sale, or dispensed for use in motor vehicles, the dispenser shall be clearly marked ~~to identify the type of alcohol, if more than one percent by volume, blended with the gasoline. The marking must consist of a white or yellow adhesive decal at least two inches by six inches with clearly printed black lettering at least one-half inch high and one-eighth inch in stroke. The marking shall be conspicuously displayed on both sides of the dispenser and state that the gasoline "CONTAINS ETHANOL" or "CONTAINS METHANOL" or has been "ETHANOL ENRICHED." This subdivision does not prohibit the posting of other alcohol or additive information~~ *in compliance with requirements of Code of Federal Regulations, title 40, part 80.27(d).*

ARTICLE 19

WILD RICE LABELING

Section 1. 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 ~~planted or~~ cultivated and ~~which is~~ 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.* [NATURAL LAKE OR RIVER WILD RICE.] *(a) A package containing only 100 percent natural lake or river wild rice 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, if any, who handled the wild rice.*

*(b) A package that does not contain 100 percent natural lake or river wild rice may not contain a label authorized under paragraph (a).*

*Subd. 3.* [RECORDS.] *(a) A person who buys, sells, processes, or markets over 500 pounds of wild rice not for use in packaged blended rice and ready-to-eat 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. A person who buys or sells, processes, or markets wild rice not for use in packaged blended rice and ready-to-eat rice shall provide the department, on demand, relevant information from the records required under this section.*

*(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.] *Natural lake and river-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 HARVESTED OR PROCESSED WILD RICE.] *A wild rice label that implies the wild rice is harvested or processed by Indians is misbranded unless the package contains only 100 percent natural lake or river wild rice harvested by Indians.*

*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 this section is guilty of a misdemeanor.

Sec. 2. [REPEALER.]

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

Sec. 3. [EFFECTIVE DATE.]

*Section 1, subdivisions 3, 6, and 7, and section 2 are effective July 1, 1989.*

*Section 1, subdivisions 1, 2, 4, and 5, are effective January 1, 1990, except that subdivision 5 as it applies to subdivision 6 is effective July 1,*

*1989.*

ARTICLE 20

APPROPRIATIONS

Section 1. [FEDERAL CROP INSURANCE.]

*$700,000 is appropriated from the general fund to the commissioner of agriculture for making the federal crop insurance premium reimbursements under article 1. This appropriation remains available until June 30, 1990.*

Sec. 2. [VOCATIONAL PROGRAMS.]

*$700,000 is appropriated from the general fund to the state board of vocational technical education for:*

*(1) new staff for farm, small business management, beginning farmer programs, and enterprise classes specific to community needs; and*

*(2) evaluation of computerized farm business analysis system options.*

Sec. 3. [GRAIN INSPECTION COSTS; DULUTH.]

*$70,000 is appropriated from the general fund to the commissioner of agriculture to be applied to the mandated cost of state grain inspection of bagged grain at the Seaway Port Authority of Duluth. Of this appropriation $35,000 is available for the first year and $35,000 is available for the second year of the biennium ending June 30, 1991. If the appropriation for either year is insufficient the appropriation for the other year is available.*

Sec. 4. [MARKETING MINNESOTA PRODUCTS.]

*Subdivision 1.* [APPROPRIATION.] *$150,000 is appropriated from the general fund to the commissioner of agriculture for purposes of improving market opportunities for Minnesota products. This appropriation is available for the biennium ending June 30, 1991, and may be used for activities under subdivisions 2 and 3.*

*Subd. 2.* [MARKET OPPORTUNITY RESEARCH.] *The commissioner of agriculture shall increase the amount of information on the availability of foreign and domestic niche markets for specialty crops to producers and processors in the state including feasibility of expanding domestic markets for existing products, research of new foreign niche markets for potential new specialty crops in the state, and analysis of the existing market structure for state products.*

*The complement of the department of agriculture is increased by one position for activities under this subdivision.*

*Subd. 3.* [MARKETING INFORMATION AND DIRECT MARKETING ASSISTANCE FOR AGRICULTURAL PRODUCTS.] *The commissioner shall assist producers in overcoming obstacles to direct marketing of existing products and potential new products in domestic and foreign potential niche markets, and to assist producers in organizing and marketing through producer organizations, such as producer and marketing cooperatives.*

*The complement of the department of agriculture is increased by two positions for activities under this subdivision.*

Sec. 5. [BY-PRODUCT SOIL BUFFERING.]

*$100,000 is appropriated from the general fund to the commissioner of agriculture for purposes of the demonstration project and study of industry*

*by-product soil buffering materials in Laws 1988, chapter 688, article 7, to be available until June 30, 1991.*

Sec. 6. [AGRICULTURE LAND PRESERVATION AND CONSERVATION.]

*$100,000 is appropriated from the general fund to the commissioner of agriculture to administer the agricultural land preservation and conservation responsibilities contained in Minnesota Statutes, chapter 40A, to be available until June 30, 1991.*

*The approved complement of the department of agriculture is increased by one position.*

Sec. 7. [GRASSHOPPER CONTROL.]

*$75,000 is appropriated from the general fund to the commissioner of agriculture for the grasshopper control program established in article 10. This appropriation is available for the biennium ending June 30, 1991.*

Sec. 8. [AGRICULTURAL DATA COLLECTION TASK FORCE.]

*$30,000 is appropriated from the general fund to the commissioner of agriculture to be available until June 30, 1991, to fund the activities of the agricultural data collection task force. This appropriation is available only with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30.*

Sec. 9. [MINNESOTA DAIRY TASK FORCE.]

*$30,000 is transferred from the dairy unfair trade practices account to the commissioner of agriculture to be available until June 30, 1991, to be matched on a one-to-one basis by money from nonstate sources to pay for the expenses of the Minnesota dairy task force and pilot projects under Laws 1988, chapter 688, article 3, section 1.*

Sec. 10. [COMMUNITY NEEDS ASSESSMENT.]

*$150,000 is appropriated from the general fund to the commissioner of trade and economic development for the community needs assessment model project as provided in article 2. This appropriation is available for the biennium ending June 30, 1991.*

Sec. 11. [AEROSPACE EXPLORATORIUM.]

*$10,000 is appropriated from the general fund to the commissioner of trade and economic development to study the feasibility of an aerospace exploratorium at Sherburn, Minnesota, to be available until June 30, 1991.*

Sec. 12. [PORTABLE COMPUTERIZED FERTILIZATION.]

*$75,000 is appropriated from the general fund to the University of Minnesota for a project by the department of soil science to design, develop, and demonstrate a portable computerized system automatically adapting fertilization rates to soil characteristics using existing on-farm applicators. This appropriation is available for the biennium ending June 30, 1991.*

Sec. 13. [AGRICULTURAL CONTRACT TASK FORCE.]

*$50,000 is appropriated from the general fund to the commissioner of agriculture to be available until June 30, 1990, to provide support services for the agricultural contract task force under Laws 1988, chapter 688, article 13, section 1, to compile and analyze the laws of other states*

*relating to agricultural contracting issues, coordinate production of a brochure for producers with information about agricultural contracting, and prepare and submit a final report and recommendations to the legislature by January 1, 1991.*

Sec. 14. [ORGANIC CERTIFICATION.]

*$100,000 is appropriated from the general fund to the commissioner of agriculture to be available for the fiscal year ending June 30, 1990, for a grant to an organic certification organization to continue the certification program for organically grown seeds, products, and food as authorized in Minnesota Statutes, section 31.95.*

Sec. 15. [AQUICULTURE.]

*$150,000 is appropriated from the general fund to the commissioner of agriculture to be available until June 30, 1991, for aquiculture research, demonstration, and promotion.*

*The approved complement of the department of agriculture is increased by one position.*

Sec. 16. [SHADE TREE ADVISORY COMMITTEE.]

*$20,000 is appropriated from the general fund to the commissioner of agriculture for disbursement to the shade tree advisory committee for the costs of the committee and consulting services in connection with the study directed by article 8.*

Sec. 17. [HEALTH SCREENING.]

*$150,000 is appropriated from the general fund for the biennium ending June 30, 1991, to the commissioner of agriculture to provide funding to the environmental pathology program of the University of Minnesota's department of laboratory medicine and pathology and department of family practice and community health to conduct a health screening and intervention program for herbicide and fumigant applicators in the state. This appropriation is nonrecurring and shall not be included in the base for the 1991-1993 biennial budget request.*

Sec. 18. [SMALL RUMINANT SPECIALIST.]

*$40,000 is appropriated from the general fund to the University of Minnesota for use by the Minnesota extension service to fund a research and teaching position on small ruminant animals. This appropriation represents 25 percent of the anticipated total cost of the position that will be jointly funded to the extent of approximately 50 percent by the university college of veterinary medicine and 25 percent by the agricultural experiment stations in cooperation with the university department of animal science. This appropriation is available for the biennium ending June 30, 1991. The appropriation is nonrecurring and shall not be included in the base for the 1991-1993 biennial budget request.*

Sec. 19. [KANARANZI-LITTLE ROCK WATERSHED DISTRICT.]

*$50,000 is appropriated from the general fund to the board of water and soil resources for a grant to the Kanaranzi-Little Rock watershed district for purposes of implementing a federal conservation project in the district. This appropriation is available for the biennium ending June 30, 1991.*

Sec. 20. [AGRICULTURE INFORMATION CENTERS.]

*$200,000 is appropriated from the general fund to the commissioner of agriculture for agriculture information centers. This appropriation requires a dollar for dollar nonstate match. The general fund appropriation may be released at the rate of one dollar for each dollar of matching nonstate money that is raised. The commissioner may credit in-kind contributions from nonstate sources for up to one-half of the required nonstate match.*

Sec. 21. [COUNTY AND DISTRICT AGRICULTURAL SOCIETIES.]

*$112,000 is appropriated from the general fund to the commissioner of agriculture as supplemental funding to provide state aid to county and district agricultural societies under Minnesota Statutes, section 38.02, during the fiscal year ending June 30, 1990.*

Sec. 22. [PSEUDORABIES RESEARCH.]

*$175,000 is appropriated from the general fund to the University of Minnesota for further research on pseudorabies and the control or eradication of pseudorabies in Minnesota. This appropriation is available for the biennium ending June 30, 1991. The appropriation is nonrecurring and shall not be included in the base for the 1991-1993 biennial budget request.*

Sec. 23. [PSEUDORABIES CONTROL.]

*$175,000 is appropriated from the general fund to the board of animal health for continuing and expanding a control program for pseudorabies in swine. The program must be coordinated by board of animal health personnel. This appropriation is for the biennium ending June 30, 1991, and is in addition to other appropriations to the board of animal health for pseudorabies control.*

Sec. 24. [BLUEGRASS RESEARCH AND EVALUATION.]

*$45,000 is appropriated from the general fund to the University of Minnesota to be available until June 30, 1991, for bluegrass seed production research and seed and turf evaluation.*

Sec. 25. [FORAGE AND TURF SEED SPECIALIST; CROOKSTON CAMPUS.]

*$50,000 is appropriated from the general fund to the University of Minnesota for a crop management specialist on seed production of forage and turf species in northern Minnesota, and for supplies, services, and expenses related to the specialist's work. The specialist must be located at the Crookston campus of the university. This appropriation is available for the fiscal year ending June 30, 1990.*

Sec. 26. [BARLEY RESEARCH AND PROMOTION.]

*$20,000 is appropriated from the general fund to the commissioner of agriculture to assist in the implementation of research and promotional orders for barley under Minnesota Statutes, sections 17.51 to 17.69. Of this appropriation, $10,000 is available for the first year and $10,000 is available for the second year of the biennium ending June 30, 1991.*

Sec. 27. [ETHANOL PROMOTION.]

*Notwithstanding Minnesota Statutes, section 41A.09, subdivision 1, $75,000 is appropriated from the general fund to the commissioner of agriculture for the biennium ending June 30, 1991, for the purpose of promoting ethanol fuel usage.*

Sec. 28. [MINNESOTA-GROWN WIC COUPONS.]

*$125,000 is appropriated from the general fund to the commissioner of agriculture for the biennium ending June 30, 1991, to be available for a demonstration project to provide Minnesota-grown coupons to participants in the federal supplemental food program for women, infants, and children under article 13.*

Sec. 29. [TASK FORCE ON FARM SAFETY.]

*$5,000 is appropriated from the general fund to the commissioner of agriculture for purposes of the advisory task force on farm safety under article 17.*

Sec. 30. [FARMER-LENDER MEDIATION COSTS.]

*$300,000 is appropriated from the general fund to the Minnesota Extension Service for expenses of the farmer-lender mediation program. This appropriation is available for the fiscal year ending June 30, 1990.*

Sec. 31. [FARM ADVOCATES PROGRAM.]

*$100,000 is appropriated from the general fund to the commissioner of agriculture for support of the farm advocates program. This appropriation is available for the fiscal year ending June 30, 1990.*

*By March 1, 1990, the commissioner shall report on the activities of the farm advocates program to the agriculture committees of the senate and house of representatives."*

Delete the title and insert:

"A bill for an act relating to agriculture; providing for certain federal crop insurance payments, a community needs assessment model, certain task forces, agriculture promotion, checkoff rates, land transfers, certain boards, reforestation, preservation policy, grasshopper control, federal uniformity, soy-based ink, food coupons, weed control, certain studies, mediation and first refusal, motor fuel labeling, and wild rice labeling; appropriating money; amending Minnesota Statutes 1988, sections 17.49; 17.59, by adding a subdivision; 18.022, subdivision 2; 30.49; 31.101; 31.102, subdivision 1; 31.103, subdivision 1; 31.104; 31.11; 116O.09, subdivisions 1, 2, and by adding a subdivision; 239.79, subdivision 2; 500.24, subdivision 6; 550.37, subdivisions 4a, 5, and 7; 583.24, subdivision 4; 583.26, subdivision 1; Laws 1983, chapter 215, section 16, as amended; Laws 1985, chapter 19, sections 2, subdivision 2, as amended; and 6, subdivision 6, as amended; Laws 1986, chapter 398, article 1, section 18, as amended; and Laws 1988, chapter 688, article 3, sections 1, subdivision 3; 2; and 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 17; 18; and 84; repealing Minnesota Statutes 1988, section 84.152, subdivision 5."

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

House Conferees: (Signed) Stephen G. Wenzel, Roger Cooper, Steve Dille, Wally Sparby, Ted Winter

Senate Conferees: (Signed) Charles R. Davis, Bob Decker, David J. Frederickson, Jim Vickerman, Charles A. Berg.

Mr. Davis moved that the foregoing recommendations and Conference Committee Report on H.F. No. 878 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

So the recommendations and Conference Committee Report were adopted.

H.F. No. 878 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 1, as follows:

Those who voted in the affirmative were:

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

Mr. Waldorf voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1046, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1046 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1046

A bill for an act relating to motor vehicles; setting fee for inspection of certain motor vehicles for which salvage certificate of title has been issued; amending Minnesota Statutes 1988, section 168A.152.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1046, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1046 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 168.011, subdivision 4, is amended to read:

Subd. 4. [MOTOR VEHICLE.] (a) "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles ~~and~~, manufactured homes, *and park trailers*.

(b) "Motor vehicle" also includes an all-terrain vehicle, as defined in section 84.92, subdivision 8, which (1) has at least four wheels, (2) is owned and operated by a physically handicapped person, and (3) displays both physically handicapped license plates and a physically handicapped certificate issued under section 169.345, subdivision 3.

(c) Motor vehicle does not include an all-terrain vehicle as defined in section 84.92, subdivision 8; except (1) an all-terrain vehicle described in paragraph (b), or (2) an all-terrain vehicle licensed as a motor vehicle before August 1, 1985, in which case the owner may continue to license it as a motor vehicle until it is conveyed or otherwise transferred to another owner, is destroyed, or fails to comply with the registration and licensing requirements of this chapter.

Sec. 2. Minnesota Statutes 1988, section 168.011, subdivision 8, is amended to read:

Subd. 8. [MANUFACTURED HOME ~~AND HOUSE~~; *PARK* TRAILER; *TRAVEL TRAILER*.] (a) "Manufactured home" ~~means any trailer or semi-trailer which is designed, constructed, and equipped for use as a human dwelling place, living abode, or living quarters except house trailers~~ *has the meaning given it in section 327.31, subdivision 6*.

(b) ~~"House trailer" means any trailer or semitrailer which is not more than eight feet in width and not more than 35 feet in length and which is designed, constructed, and equipped for use as a human dwelling place, living abode, or living quarters.~~ *"Park trailer" means a trailer that:*

*(1) exceeds eight feet in width but is no larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width; and*

*(2) is used as temporary living quarters.*

*"Park trailer" does not include a manufactured home.*

*(c) "Travel trailer" means a trailer, mounted on wheels, that:*

*(1) is designed to provide temporary living quarters during recreation, camping, or travel;*

*(2) does not require a special highway movement permit based on its size or weight when towed by a motor vehicle;*

*(3) has a gross trailer area of less than 320 square feet; and*

*(4) does not exceed eight feet in width.*

*(d) "Gross trailer area" is the total plan area of a travel trailer measured to the maximum horizontal projection of exterior walls when in the setup mode, but not including the area of that portion of the body of a fifth wheel*

*trailer that is raised to extend over the towing vehicle and has a ceiling height of less than five feet.*

Sec. 3. Minnesota Statutes 1988, section 168.011, subdivision 22, is amended to read:

Subd. 22. [SPECIAL MOBILE EQUIPMENT.] "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch digging apparatus, moving dollies and other machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck-tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes and earth moving equipment. The term does not include ~~house~~ *travel* trailers, dump trucks, truck mounted transit mixers, truck mounted feed grinders or other motor vehicles designed for the transportation of persons or property to which machinery has been attached.

Sec. 4. Minnesota Statutes 1988, section 168.011, subdivision 25, is amended to read:

Subd. 25. [RECREATIONAL EQUIPMENT.] (a) "Recreational equipment" means ~~house~~ *travel* trailers including those which telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, and converted buses that provide temporary human living quarters. A vehicle is considered to provide temporary living quarters if it:

(1) is not used as the residence of the owner or occupant;

(2) is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; and

(3) is self-propelled or towed on the public streets or highways incidental to the recreational or vacation activities.

(b) For the purposes of this subdivision, a motor home means a unit designed to provide temporary living quarters, built into as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van. A motor home must contain permanently installed independent life support systems which meet the American National Standards Institute standard number A119.2 for recreational vehicles and provide at least four of the following facilities, two of which must be from the systems listed in clauses (1), (5), and (6): (1) cooking facility with liquid propane gas supply, (2) refrigerator, (3) self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, (4) heating or air conditioning separate from the vehicle engine, (5) a potable water supply system including a sink with faucet either self-contained or with connections for an external source, and (6) separate 110-125 volt electrical power supply. For purposes of this subdivision, "permanently installed" means built into or attached as an integral part of a chassis or van, and designed not to be removed except for repair or replacement. A system which is readily removable or held in place by clamps or tie downs is not permanently installed.

Motor homes include but are not limited to, the following:

(1) Type A Motor Home — a raw chassis upon which is built a driver's compartment and an entire body that provides temporary living quarters as defined in this paragraph;

(2) Type B Motor Home — a van-type vehicle that conforms to the motor home definition in this paragraph and has been completed or altered by the final stage manufacturer; and

(3) Type C Motor Home — an incomplete vehicle upon which is permanently attached a body designed to provide temporary living quarters as defined in this paragraph.

(c) Slip in campers are mounted into a pickup truck in the pickup box, either by bolting through the floor of the pickup box or by firmly clamping to the side of the pickup box. The vehicle must be registered as a passenger automobile.

Sec. 5. Minnesota Statutes 1988, section 168.012, subdivision 8, is amended to read:

Subd. 8. Every passenger automobile, ~~house~~ *travel* trailer, other than manufactured homes, or passenger car utility trailer duly registered in any foreign state, district, territory or country and displaying all license number plates or like insignia required by the laws of such state, district, territory or country shall be exempt from the provisions of this chapter during the first 60 days of residence of the owner in this state; provided that if the 60-day period expires after the 15th day of any month, the remainder of that month shall be deemed to be within the 60-day period and provided further that any such vehicles shall become subject to the provisions of this chapter immediately upon transfer of the ownership of such vehicles or upon expiration of the registration.

Sec. 6. Minnesota Statutes 1988, section 168.012, subdivision 9, is amended to read:

Subd. 9. Manufactured homes shall not be taxed as motor vehicles using the public streets and highways and shall be exempt from the motor vehicle tax provisions of this chapter. Except as provided in section 274.19, manufactured homes shall be taxed as personal property. The provisions of Minnesota Statutes 1957, section 272.02 or any other act providing for tax exemption shall be inapplicable to manufactured homes, except such manufactured homes as are held by a licensed dealer and exempted as inventory. ~~House~~ *Travel* trailers not ~~used on the highway~~ *conspicuously displaying current registration plates* during any calendar year shall be taxed as manufactured homes if occupied as human dwelling places. *Park trailers not used on the highway during any calendar year must be taxed as manufactured homes if occupied as human dwelling places. Park trailers used on the highway during any calendar year must be taxed under section 168.013, subdivision 1j.*

Sec. 7. Minnesota Statutes 1988, section 168.013, subdivision 1, is amended to read:

Subdivision 1. [IMPOSITION.] Motor vehicles, except as set forth in section 168.012, using the public streets or highways in the state, *and park trailers taxed under subdivision 1j,* shall be taxed in lieu of all other taxes thereon, except wheelage taxes, so-called, which may be imposed by any city as provided by law, and except gross earnings taxes paid by companies subject or made subject thereto, and shall be privileged to use the public streets and highways, on the basis and at the rate for each calendar year as hereinafter provided.

Sec. 8. Minnesota Statutes 1988, section 168.013, is amended by adding

a subdivision to read:

*Subd. 1j.* [PARK TRAILERS.] *Except as provided in section 168.012, subdivision 9, park trailers shall be taxed annually on the basis of total gross weight at 30 percent of the Minnesota base rate prescribed in subdivision 1e, but in no event less than $5.*

Sec. 9. Minnesota Statutes 1988, section 168.053, subdivision 2, is amended to read:

Subd. 2. Notwithstanding any provisions of subdivision 1 inconsistent herewith the provisions of sections 168.053 to 168.057 shall also apply to the delivery of new ~~house~~ *travel* trailers, *park trailers,* manufactured homes, sectional buildings, and semitrailers by towing methods whether or not the power unit is a part of the combination being delivered.

Sec. 10. [168.093] [REGISTRATION OF PARK TRAILERS.]

*The motor vehicle registrar shall issue a registration receipt for a park trailer on payment of annual registration tax but may not issue license plates or other insignia. The receipt must be in the form prescribed by the commissioner and must provide the name and address of the owner, the dimensions of the park trailer, and other information required by the registrar.*

Sec. 11. Minnesota Statutes 1988, section 168.181, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any provision of law to the contrary or inconsistent herewith the registrar of motor vehicles with the approval of the attorney general is hereby empowered to make agreements with the duly authorized representatives of the other states, District of Columbia, territories and possessions of the United States or arrangements with foreign countries or provinces exempting the residents of such other states, districts, territories and possessions and foreign countries or provinces using the public streets and highways of this state from the payment of any or all motor vehicle taxes or fees imposed by this chapter, subject to the following conditions and limitations:

(1) Upon condition that the exemption provided herein shall be operative as to a motor vehicle owned by a nonresident only to the extent that under the laws of the state, district, territory or possession or foreign country or province of residence like exemptions are granted to motor vehicles registered under the laws and owned by residents of Minnesota.

(2) Upon condition that any such motor vehicle so operated in this state by any such nonresident shall at all times carry and display all license number plates or like insignia required by the laws of the state, district, territory or possession or foreign country or province of residence.

(3) Upon condition that the exemptions provided herein shall not apply to a passenger automobile or ~~house~~ *travel* trailer owned by a resident of any state, district, territory or possession or foreign country or province temporarily residing in this state while gainfully employed on the same job for a period of six months or more.

(4) Upon condition that the exemptions provided herein shall not apply to motor vehicles owned by nonresidents including any foreign corporation and used for carrying on intrastate commerce within this state. Such nonresident or foreign corporation shall be required to register each such vehicle and pay the same tax and penalties if any therefor as is required with

reference to like vehicles owned by residents of Minnesota.

(5) Upon condition that the exemption provided herein shall not apply to a truck, tractor, truck-tractor, or semitrailer, except two-wheeled trailers of less than 3,000 pounds carrying capacity; if

(a) The class of its registration does not permit to it a statewide operation in the state of its registration, or if

(b) The registration fee or tax for which it is registered is computed on a mileage basis, or if

(c) Its gross weight exceeds the gross weight for which it is registered in the state, district, territory or possession, or foreign country or province of its registration.

(6) Upon condition that nonresident owners of commercial vehicles, including trucks, truck-tractors, trailers, semitrailers and buses domiciled in a foreign state, district, territory or possession or foreign country or province, and bringing such vehicles into the state of Minnesota for the purpose of doing interstate business shall be required to comply with all the laws and regulations as to payment of taxes applicable to like vehicles owned by Minnesota residents unless the state, district, territory or possession or foreign country or province grants full reciprocity privileges comparable to that extended by sections 168.181 to 168.231. In the event a state, district, territory or possession or foreign country or province is not fully reciprocal as to taxes or fees on commercial vehicles or buses operated in interstate commerce, then in that event such owners of foreign commercial vehicles or buses shall be required to pay a tax in an amount similar to the tax of whatever character assessed by such other state, district, territory or possession or foreign country or province against vehicles registered in Minnesota and operated in interstate commerce in that state, district, territory or possession or foreign country or province. It is further provided that such owners of foreign commercial vehicles and buses subject to registration under the provisions of this paragraph shall make application for a permit in which shall be set forth the conditions for operation of such vehicles in this state.

Sec. 12. Minnesota Statutes 1988, section 168.27, subdivision 1, is amended to read:

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

(1) "Leasing motor vehicles" means furnishing a motor vehicle for a fee under a bailor-bailee relationship where no incidences of ownership are intended to be transferred other than the right to use the vehicle for a stated period of time.

(2) "Brokering motor vehicles" means arranging sales between willing buyers and sellers of motor vehicles and receiving a fee for said service.

(3) "Wholesaling motor vehicles" means selling new or used motor vehicles to dealers for resale to the public.

(4) "Auctioning motor vehicles" means arranging for and handling the sale of motor vehicles, not the property of the auctioneer, to the highest bidder.

(5) "Dealer" includes new motor vehicle dealers, used motor vehicle dealers, wholesalers, auctioneers, lessors of new or used motor vehicles,

scrap metal processors, used vehicle parts dealers, and salvage pools.

(6) "Commercial building" means a permanent, enclosed building that is on a permanent foundation and connected to local sewer and water facilities or otherwise complying with local sanitary codes, is adapted to commercial use, and conforms to local government zoning requirements. "Commercial building" may include strip office malls or garages if a separate entrance and a separate address are maintained and the dealership is clearly identified as a separate business.

(7) "Commercial office space" means office space occupying all or part of a commercial building.

(8) "Horse trailer" is a trailer designed and used to carry horses and other livestock, which has not more than three axles and a maximum gross weight capacity of not more than 24,000 pounds.

(9) "Isolated or occasional sales or leases" means the sale or lease of not more than five motor vehicles in a 12-month period, exclusive of pioneer or classic motor vehicles as defined in section 168.10, subdivisions 1a and 1b, or sales by a licensed auctioneer selling motor vehicles at an auction if, in the ordinary course of the auctioneer's business, the sale of motor vehicles is incidental to the sale of other real or personal property.

(10) "Used motor vehicle" means a motor vehicle for which title has been transferred from the person who first acquired it from the manufacturer, distributor, or dealer. A new motor vehicle will not be considered a used motor vehicle until it has been placed in actual operation and not held for resale by an owner who has been granted a certificate of title on the motor vehicle and has registered the motor vehicle in accordance with this chapter and chapters 168A and 297B, or the laws of the residence of the owner.

(11) "New motor vehicle" means a motor vehicle other than described in paragraph (10).

(12) "Junked vehicle" means a vehicle that is graded and stamped as a "class D" total loss vehicle under section 168A.151.

*(13) "Motor vehicle" has the meaning given it in section 168.011, subdivision 4, and also includes a park trailer as defined in section 168.011, subdivision 8.*

Sec. 13. Minnesota Statutes 1988, section 168A.01, subdivision 21, is amended to read:

Subd. 21. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus, moving dollies, sawing machines, corn shellers, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include ~~house~~ *travel* trailers, dump trucks, truck mounted transit mixers, truck mounted feed grinders, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

Sec. 14. Minnesota Statutes 1988, section 168A.151, is amended by adding a subdivision to read:

*Subd. 5.* [FORM REQUIRED.] *Within ten days after a vehicle is acquired under subdivision 2, a dealer shall complete the appropriate form required by the department and submit one copy to the department. One copy must be kept on file on the dealer's business premises for three years. The fact that a vehicle was previously titled by or purchased in another state has no effect on the requirements imposed by this subdivision.*

Sec. 15. Minnesota Statutes 1988, section 168A.152, is amended to read:

168A.152 [USE AND CERTIFICATION OF TITLE; *INSPECTION FEE.*]

*Subdivision 1.* [CERTIFICATE OF INSPECTION.] A salvage certificate of title authorizes the holder to possess, transport, register, and transfer ownership in a vehicle. A certificate of title must not be issued for a vehicle for which a salvage certificate of title has been issued unless a certification of inspection in the form and content specified by the department accompanies the application for a certificate of title.

*Subd. 2.* [INSPECTION FEE.] *A fee of $20 must be paid to the department before the department conducts an inspection under subdivision 1. The only additional fee that may be assessed for issuing the certificate of title is the filing fee imposed under section 168.33, subdivision 7.*

*Fees collected by the department under this subdivision, for conducting inspections under subdivision 1, must be deposited in the general fund.*

Sec. 16. Minnesota Statutes 1988, section 169.34, is amended to read:

169.34 [PROHIBITIONS; STOPPING, PARKING.]

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within ten feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at an intersection;

(7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(9) Within 50 feet of the nearest rail of a railroad crossing;

(10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

(11) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance;

(14) At any place where official signs prohibit stopping.

No person shall move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

No person shall, for camping purposes, leave or park a ~~house~~ *travel* trailer on or within the limits of any highway or on any highway right-of-way, except where signs are erected designating the place as a camp site.

No person shall stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer invested by law with authority to direct, control, or regulate traffic.

Sec. 17. Minnesota Statutes 1988, section 169.67, subdivision 4, is amended to read:

Subd. 4. [SERVICE BRAKES ON ALL WHEELS; EXCEPTIONS.] Every motor vehicle, trailer, or semitrailer, manufactured after June 30, 1988, and operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle, except mobile cranes not exceeding 45 miles per hour and capable of stopping within the performance standards of subdivision 5, and except that any motorcycle, any semitrailer of less than 1,500 pounds gross weight, a third wheel, of a swivel type, on a ~~house~~ *travel* trailer, a temporary auxiliary axle attached to a motor vehicle during the period of road restrictions for the purpose of relieving weight of another axle, when the temporary auxiliary axle and the axle to be relieved do not exceed the combined gross weight of 18,000 pounds, and the vehicle to which such temporary axle is attached meets the brake requirements of this section, need not be equipped with brakes; and except, further, that brakes are not required on the front wheels of vehicles manufactured before July 1, 1988, having three or more axles or upon more than one wheel of a motorcycle provided the brakes on the other wheels are adequate to stop the vehicle in accordance with the braking performance requirements of subdivision 5.

Sec. 18. Minnesota Statutes 1988, section 169.75, subdivision 1, is amended to read:

Subdivision 1. [NUMBER REQUIRED.] No person shall operate any motor vehicle towing a ~~house~~ *travel* trailer, any passenger bus or any other motor vehicle or combination of vehicles of an actual gross weight or manufacturer's rated gross weight of more than 10,000 pounds at any location upon an interstate highway or freeway or upon any other highway outside of a business or residence district at any time from a half hour after sunset to a half hour before sunrise, unless there shall be carried in such vehicle the following equipment except as otherwise provided in subdivision 2.

At least three flares or three red electric lanterns or three emergency reflective triangles or three portable red reflector devices, each of which shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime.

Sec. 19. Minnesota Statutes 1988, section 169.75, subdivision 3, is

amended to read:

Subd. 3. [FLAGS AND REFLECTORS.] No person shall operate any motor vehicle towing a ~~house~~ *travel* trailer, any passenger bus or any other motor vehicle or combination of vehicles of an actual gross weight or manufacturer's rated gross weight of more than 10,000 pounds at any location upon any interstate highway or freeway or upon any other highway outside of a business or residence district unless there shall be carried in such vehicle at least three emergency reflective triangles or two red, yellow or orange flags not less than 12 inches square which shall be displayed at any time from one-half hour before sunrise to one-half hour after sunset under circumstances which would require the use of warning lights at night and in the manner and position governing the use of warning lights as prescribed in subdivision 5, except a flag or reflector is not required to be displayed at the ten foot distance.

Sec. 20. Minnesota Statutes 1988, section 171.01, subdivision 18, is amended to read:

Subd. 18. [~~HOUSE~~ *TRAVEL* TRAILER AND MANUFACTURED HOME.] (a) "~~House~~ *Travel* trailer" means any trailer or semitrailer designed and used for human living quarters~~, and meeting~~ *that meets* all of the following qualifications:

(1) Is not used as the residence of the owner or occupant;

(2) Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; *and*

(3) Is towed on the public streets or highways incidental to such recreational or vacation activities.

The term "~~house~~ *travel* trailer" shall not include bunkhouses, so called, temporarily mounted on trailers, and manufactured homes. Such bunkhouses, exclusive of the trailer and manufactured homes, shall be listed and taxed as personal property as provided by law.

(b) "Manufactured home" means any trailer or semitrailer which is designed, constructed, and equipped for use as a human dwelling place, living abode, or living quarters except ~~house~~ *travel* trailers.

Sec. 21. Minnesota Statutes 1988, section 171.02, subdivision 2, is amended to read:

Subd. 2. [VOLUNTEER FIREFIGHTERS; TRUCKS AND EMERGENCY EQUIPMENT; MIDMOUNT AERIAL LADDER TRUCK.] Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle or school bus unless so endorsed. There shall be three general classes of licenses as follows:

(a) Class C; valid for all farm trucks as defined in section 168.011, subdivision 17, operated by the owner or an immediate family member or an employee not primarily employed for the purpose of operating the farm truck or employed for the purpose of operating the farm truck during harvest for the first, continuous transportation of agricultural products from the place of production or on farm storage site to any other location within 50 miles of the place of the production or on farm storage site, fire trucks and

emergency fire equipment, regardless of the number of axles, and whether or not in excess of 26,000 pounds GVW, driven or operated by volunteer firefighters while on duty, and all single unit two-axle vehicles not in excess of 26,000 pounds GVW including vehicles with a temporary auxiliary axle as defined in section 169.67, subdivision 4. Holder may also tow trailers under 10,000 pounds GVW including ~~house~~ *travel* trailers. Buses as defined under this chapter may not be driven by a holder of a class C license. A person employed as a tiller operator by a fire department may drive the rear portion of a midmount aerial ladder truck with a class C license.

(b) Class B; valid for all vehicles in class C and all other single unit vehicles including buses.

(c) Class A; valid for any vehicle or combination thereof.

Sec. 22. Minnesota Statutes 1988, section 297B.01, subdivision 5, is amended to read:

Subd. 5. "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, for which registration is required by chapter 168, but not including ~~house~~ *travel* trailers or manufactured homes. *For purposes of taxation only under this section, "motor vehicle" includes a park trailer as defined in section 168.011, subdivision 8, paragraph (b).*

Sec. 23. [APPROPRIATION.]

*$246,000 is appropriated from the general fund to the commissioner of public safety to conduct salvage vehicle inspections. $125,000 is available the day following final enactment and until June 30, 1990, and $121,000 is for fiscal year 1991.*

Sec. 24. [EFFECTIVE DATE.]

*Sections 14 and 15 are effective the day following final enactment.*"

Delete the title and insert:

"A bill for an act relating to motor vehicles; regulating travel trailers; requiring a registration certificate for park trailers; imposing a registration tax on park trailers; requiring owners of unregistered park trailers to pay property tax; imposing motor vehicle excise tax on park trailers; providing that motor vehicle dealers may sell park trailers; requiring dealers acquiring graded vehicles to submit information to the department of public safety within ten days and keep records for three years; setting fee for inspection of certain motor vehicles for which salvage certificate of title has been issued; appropriating money; amending Minnesota Statutes 1988, sections 168.011, subdivisions 4, 8, 22, and 25; 168.012, subdivisions 8 and 9; 168.013, subdivision 1, and by adding a subdivision; 168.053, subdivision 2; 168.181, subdivision 1; 168.27, subdivision 1; 168A.01, subdivision 21; 168A.151, by adding a subdivision; 168A.152; 169.34; 169.67, subdivision 4; 169.75, subdivisions 1 and 3; 171.01, subdivision 18; 171.02, subdivision 2; and 297B.01, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 168."

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

House Conferees: (Signed) Alice M. Johnson, Sidney Pauly

Senate Conferees: (Signed) LeRoy A. Stumpf, Gary M. DeCramer, Florian Chmielewski

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1046 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1046 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

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

Mr. Mehrkens voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1616.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1616: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1988, section 124.43, subdivision 1, as amended.

## SUSPENSION OF RULES

Mr. Spear moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1616 and that the rules of the Senate be so far suspended as to

give H.F. No. 1616 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1616 was read the second time.

Mr. Spear then moved to amend H.F. No. 1616 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1616, and insert the language after the enacting clause, and the title, of S.F. No. 1516, the first engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Spear then moved to amend H.F. No. 1616, as amended by the Senate May 22, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1516.)

Page 24, after line 10, insert:

"Sec. 23. [CORRECTION NO. 7.] Minnesota Statutes 1988, section 221.031, subdivision 2a, is amended to read:

Subd. 2a. [~~PRIVATE~~ AGRICULTURAL ~~CARRIERS~~ *EXEMPTIONS.*] *(a)* Notwithstanding the provisions of subdivision 2, private carriers engaged in intrastate commerce and operating vehicles transporting agricultural and other farm products within an area having a 50-mile radius from the business location of the private carrier must comply only with the commissioner's rules for safety of operations and equipment, *except as provided in paragraph (b).*

*(b) A rear-end dump truck or other rear-unloading truck while being used for hauling agricultural and other farm products from a place of production or on-farm storage site to a place of processing or storage, is not subject to any rule of the commissioner requiring rear-end protection, including a federal regulation adopted by reference.*

Sec. 24. [CORRECTION NO. 7.]

*Laws 1989, chapter 118, is repealed.*

Sec. 25. [CORRECTION NO. 8.] 1989 H.F. No. 1734, article 3, section 14, if enacted, is amended to read:

Sec. 14. Minnesota Statutes 1988, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a tax capacity of 3.38 percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, recreational, which has a tax capacity of 2.88 percent of market value;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is

used exclusively by a sorority or fraternity organization for housing, which has a tax capacity of 2.88 percent of market value;

(3) manufactured homes not classified under any other provision, which has a tax capacity of 2.88 percent of market value;

(4) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b), which has a tax capacity of 2.88 percent of market value.

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988; or (ii) meets the requirements of that section. Classification pursuant to this clause is limited to buildings the construction or rehabilitation of which began after May 1, 1988, and to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph (d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents. The land on which these structures are situated has a tax capacity of 2.88 percent of market value if the structure contains fewer than four units, and 3.38 percent of market value if the structure contains four or more units.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a

lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 225 days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 225 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in clauses (5) and (6) also includes the remainder of class 1c resorts and has a tax capacity of 2.4 percent of market value, except that noncommercial seasonal recreational property has a tax capacity of 2.22 percent of market value; and

(6) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1988. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property classified under clauses (1), (2), (3), (4), and (6) has a tax capacity of 2.5 percent of market value.

(d) Class 4d property includes any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The 1.5 percent and 2.5 percent tax capacity assignments apply to the properties described in paragraph (c), clauses (1), (2), and (3) and this clause, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

Class 4d property has a tax capacity of 1.5 percent of market value.

(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (2); paragraph (c), clauses (1), (2), (3), or (4); or paragraph (d), is assessed at the tax capacity percentage applicable to it under *Minnesota Statutes 1988,* section 273.13, if it is found to be a substandard building under section 273.1316.

Sec. 26. [CORRECTION NO. 8; EFFECTIVE DATE.]

*Section 25 is effective for the 1989 assessment and thereafter.*

Sec. 27. [CORRECTION NO. 9.] Minnesota Statutes 1988, section 116J.64, subdivision 7, is amended to read:

Subd. 7. An Indian desiring a loan for the purpose of starting a business enterprise, expanding an existing business, or for technical and management assistance, shall make application to the Indian affairs council. The Indian affairs council shall prescribe the necessary forms and advise the prospective borrower as to the conditions under which the application may be expected to receive favorable consideration. The application shall be forwarded to the appropriate tribal council, *if it is participating in the program,* for approval or disapproval, and shall be in conformity with the plans submitted by said tribal councils. *If the tribal council is not participating in the program, the Indian affairs council may directly administer the loan.* If the application is approved, the Indian affairs council shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of finance, who shall draw a warrant in favor of the applicable tribal council *or the Indian affairs council, if it is administering the loan,* with appropriate notations identifying the borrower. The tribal council *or the Indian affairs council, if it is administering the loan,* shall thereafter reimburse suppliers and vendors for purchases of equipment, real estate

and inventory made by the borrower pursuant to the conditions or guidelines established by the Indian affairs council. The tribal council *or the Indian affairs council, if it is administering the loan,* shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. Simple interest at two percent of the amount of the debt owed shall be charged. When any portion of a debt is repaid, the tribal council *or the Indian affairs council, if it is administering the loan,* shall remit the amount so received plus interest paid thereon to the state treasurer through the Indian affairs council. The amount so received shall be credited to the Indian business loan account. The tribal council *or the Indian affairs council, if it is administering the loan,* shall secure a fidelity bond from a surety company, in favor of the state treasurer, in an amount equal to the maximum amount to the credit of its loan account during the fiscal year. On the placing of a loan, additional money equal to ten percent of the total amount made available to any tribal council *or the Indian affairs council, if it is administering the loan,* for loans during the fiscal year shall be paid to the council prior to December 31 for the purpose of financing administrative costs.

Sec. 28. [CORRECTION NO. 10.] 1989 H.F. No. 1734, article 1, section 7, if enacted, is amended to read:

Sec. 7. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

Subd. 1a. [SURTAX; CORPORATIONS.] (a) In addition to the tax computed under subdivision 1 and section 290.0921, a surtax is imposed upon corporations equal to a percentage of the sum of the corporation's tax under subdivision 1 and section 290.0921.

(b) By May 31, 1990, the commissioner of revenue shall determine the rate of the surtax to be imposed under paragraph (a). The commissioner of revenue shall prepare a forecast of the revenue predicted to be raised for taxable years beginning in calendar years 1990 through 1992 by the franchise tax on corporations under this chapter, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4a, and the rate under subdivision 1 were 9.5 percent. The commissioner shall set the rate of the surtax so that the amount forecast to be raised by the surtax (when added to the tax imposed under subdivision 1 and section 290.0921) equals the amount of revenue forecast to be raised if the tax under section 290.092, subdivisions 1 to 4a, were in effect and section 290.0921 did not apply.

(c) The rate determined under paragraph (b) applies to taxable years beginning after December 31, ~~1990~~ *1989*.

(d) If the rate determined under paragraph (b) is held invalid, the surtax rate in effect for taxable years beginning after December 31, ~~1990~~ *1989* is 7.5 percent.

Sec. 29. [CORRECTION NO. 10.] [EFFECTIVE DATE.]

*Section 28 is effective the day following final enactment.*

Sec. 30. [CORRECTION NO. 11.] 1989 H.F. No. 1734, article 1, section 17, if enacted, is amended to read:

Sec. 17. Minnesota Statutes 1988, section 290.191, subdivision 6, is amended to read:

Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.] (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations that are unsecured by real or tangible personal property or secured by intangible property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation *and syndication* loans must be attributed under paragraphs (e) to (h). A participation loan is an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A

syndication loan is a multibank loan transaction in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state. If the extent to which the benefits of services are consumed in this state is not readily determinable, the benefits of the services shall be deemed to be consumed at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the benefits of the services shall be deemed to be consumed at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

(o) Receipts from a financial institution's interest in any property described in section 290.015, subdivision 3, paragraph (b), is not included in the numerator or the denominator of the receipts factor provided the financial institution's activities within this state with respect to any interest in the property are limited in the manner provided in section 290.015, subdivision 3, paragraph (b). If a financial institution is subject to tax under this chapter, its interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included under paragraph (n) and subdivision 7.

Sec. 31. [CORRECTION NO. 11; EFFECTIVE DATE.]

*Section 30 is effective for taxable years beginning after December 31, 1986.*

Sec. 32. [CORRECTION NO. 12.] 1989 H.F. No. 1734, article 3, section 17, if enacted, is amended to read:

Sec. 17. Minnesota Statutes 1988, section 273.135, subdivision 2, is amended to read:

Subd. 2. For taxes payable in 1990 and subsequent years, the amount of

the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 66 percent of the tax , provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction resulting from this credit be less than $10.

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area but which is outside the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 57 percent of the tax , provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction resulting from this credit be less than $10.

(c) The maximum reduction of the tax is $225.40 on property described in clause (a) and $200.10 on property described in clause (b), for taxes payable in 1985. These maximum amounts shall increase by $15 times the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

For the purposes of this subdivision, "homestead credit equivalency percentage" means one minus the ratio of the net tax capacity ~~rate~~ *percentage* to the gross tax capacity ~~rate~~ *percentage* applicable to the first $68,000 of the market value of residential homesteads, "effective tax rate" means tax divided by the market value of a property, and the "base year effective tax rate" means the payable 1988 tax on a property with an identical market value to that of the property receiving the credit in the current year after the application of the credits payable under section 273.13, subdivisions 22 and 23, and this section, divided by the market value of the property.

Sec. 33. [CORRECTION NO. 12.] 1989 H.F. No. 1734, article 3, section 18, if enacted, is amended to read:

Sec. 18. Minnesota Statutes 1988, section 273.1391, subdivision 2, is amended to read:

Subd. 2. For taxes payable in ~~1989 only~~ *1990 and subsequent years*, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the tax on qualified property located in the school district that does not meet the qualifications of section 273.134, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year

effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction resulting from this credit be less than $10. The reduction provided by this clause shall only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the tax , but not to exceed the maximums specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to the product of 95 percent of the base year effective tax rate multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate. In no case will the reduction resulting from this credit be less than $10.

(c) The maximum reduction of the tax up to the taconite breakpoint is $200.10 for taxes payable in 1985. This maximum amount shall increase by $15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

For the purposes of this subdivision, "homestead credit equivalency percentage" means one minus the ratio of the net tax capacity ~~rate~~ *percentage* to the gross tax capacity ~~rate~~ *percentage* applicable to the first $68,000 of the market value of residential homesteads, and "effective tax rate" means tax divided by the market value of a property, and the "base year effective tax rate" means the payable 1988 tax on a property with an identical market value to that of the property receiving the credit in the current year after application of the credits payable under section 273.13, subdivisions 22 and 23, and this section, divided by the market value of the property.

Sec. 34. [CORRECTION NO. 13.] 1989 H.F. No. 1734, article 6, section 11, if enacted, is amended to read:

Sec. 11. [EFFECTIVE DATE.]

Sections 1 and 2 are effective for taxes levied in 1989 and thereafter, payable in 1990, and thereafter. Sections 3 to 9 are effective for local government aid paid in 1990. *Section 10 is effective January 1, 1991.*

Sec. 35. [CORRECTION NO. 15.] 1989 H.F. No. 1734, article 3, section 21, if enacted, is amended to read:

Sec. 21. Minnesota Statutes 1988, section 273.1398, is amended by adding a subdivision to read:

Subd. 2a. [EDUCATION LEVY REDUCTION.] (a) As used in this subdivision, "equalized levies" means the sum of the maximum amounts that may be levied for:

(1) general education under section 124A.23, subdivision 2;

(2) supplemental revenue under section 124A.23, subdivision 2a;

(3) capital expenditure facilities revenue under section 124.243, subdivision 3;

(4) capital expenditure equipment revenue under section 124.44, subdivision 2; and

(5) basic transportation under section 275.125, subdivision 5;

as reduced for general education levy equity under section 124A.24.

(b) By June 15, 1990, the commissioner of education shall determine and certify to the commissioner of revenue the amount of the ~~homestead and agricultural credit aid offset~~ *education levy reduction*. The ~~offset~~ *reduction* shall be equal to the amount by which:

(1) the amount that would have been computed as the district's equalized levies for property taxes payable in 1991, if the levies had been based upon the district's gross tax capacity, exceeds

(2) the district's equalized levies for property taxes payable in 1991.

(c) Effective for property taxes payable in 1991 and subsequent years, the amount of the education levy reduction shall be deducted from the homestead and agricultural credit aid payable to each school district under subdivision 2.

Sec. 36. [CORRECTION NO. 16.] 1989 H.F. No. 66, article 3, section 16, subdivision 3, if enacted, is amended to read:

Subd. 3. [FALSE STATEMENTS.] A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

(1) makes a materially false or misleading statement, or a material omission, in a record required to be submitted under chapter 349A; or

(2) makes a materially false or misleading statement, or a material omission, in information submitted to the ~~commissioner~~ *director* of the state lottery in a lottery retailer's application or a document related to a bid.

Sec. 37. [CORRECTION NO. 17.] Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

*Subd. 5.* [COMBINED RENTER AND HOMEOWNER REFUND.] *In the case of a claimant who is entitled to a refund in a calendar year for claims based both on rent constituting property taxes and property taxes payable, the refund allowable equals the sum of the refunds allowable, except that the sum may not exceed the higher of the maximum refund payable either based on rent constituting property taxes or property taxes payable.*

Sec. 38. [CORRECTION NO. 17; EFFECTIVE DATE.]

*Section 37 is effective for claims based on property taxes paid in 1990 and rent paid in 1989.*

Sec. 39. [CORRECTION NO. 18.] 1989 H.F. No. 1734, article 3, section 6, if enacted, is amended to read:

Sec. 6. Minnesota Statutes 1988, section 272.025, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, clauses (1) to (7) ~~and (9)~~, except churches and houses of worship and property solely used for educational purposes by academies, colleges,

universities or seminaries of learning and property owned by the state of Minnesota or any political subdivision thereof, shall file a statement of exemption with the assessor of the assessment district in which the property is located, *or, in the case of a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, clause (9), shall file a statement of exemption with the commissioner of revenue,* on or before February 15 of each year for which the taxpayer claims an exemption. In case of sickness, absence or other disability or for good cause, the assessor may extend the time for filing the statement of exemption for a period not to exceed 60 days. The commissioner of revenue shall prescribe the form and contents of the statement of exemption.

Sec. 40. [CORRECTION NO. 18.] 1989 H.F. No. 1734, article 3, section 35, if enacted, is amended to read:

Sec. 35. [EFFECTIVE DATE.]

Sections 1, 3, ~~6,~~ 9, and 21, are effective for taxes payable in 1991 and subsequent years.

Section 2 is effective the day following final enactment and is intended to confirm and clarify the original intent of the legislature in the taxation and equalization of state-assessed public utility property.

Sections 4, *6,* 7, 11 to 15, 19, 20, 22 to 24, and 26, are effective for taxes payable in 1990 and subsequent years.

Section 5 is effective January 1, 1989.

Sections 6 and 16 are effective for the 1989 assessment and thereafter.

Section 8 is effective for assessments of market value in 1989 and thereafter. If an assessor has increased the market value for the 1989 assessment by an amount in excess of the amount allowed under section 8, the assessor shall reduce the market value to that allowed under section 8. If the assessor has mailed a notice of the increase in market value to the property owner, the assessor must mail a revised notice to the property owner. Notices must state that the increases in market value have been limited under this act.

Section 10 is effective for taxes levied in 1989, payable in 1990, and thereafter, provided that cooperatives that qualified under Minnesota Statutes, section 273.124, subdivision 6, on January 2, 1989, shall meet the board membership requirements of paragraph (a) by September 1, 1989, and shall meet the requirements of section 501(c)(3) or 501(c)(4) status under the Internal Revenue Code in the first paragraph and in paragraph (e) by January 1, 1990, and that the notice and filing requirements of paragraphs (f) and (g) shall apply only to leasehold cooperatives created later than 60 days after the date of enactment of this act.

Section 25 is effective for taconite produced in 1989, proceeds distributed in 1990, and thereafter.

Sections 27, 31, and 34, are effective the day following final enactment.

Sec. 41. [CORRECTION NO. 19.] Minnesota Statutes 1988, section 65B.49, subdivision 5a, as amended by 1989 H.F. 1283, section 15, if enacted, is amended to read:

Sec. 15. Minnesota Statutes 1988, section 65B.49, subdivision 5a, is amended to read:

Subd. 5a. [RENTAL VEHICLES.] (a) Every plan of reparation security

insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subdivision 3, and pickup trucks and vans as defined under section 168.011 must provide that all of the obligation for damage and loss of use to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.011, *and rented trucks with a registered gross vehicle weight of 26,000 pounds or less* would be covered by the property damage liability portion of the plan. The obligation of the plan must not be contingent on fault or negligence. In all cases where the plan's property damage liability coverage is less than $25,000, the coverage available under the subdivision must be $25,000. Other than as described in this paragraph, nothing in this section amends or alters the provisions of the plan of reparation security as to primacy of the coverages in this section.

(b) A vehicle is rented for purposes of this subdivision if the rate for the use of the vehicle is determined on a weekly or daily basis. A vehicle is not rented for purposes of this subdivision if the rate for the vehicle's use is determined on a monthly or longer period.

(c) The policy or certificate issued by the plan must inform the insured of the application of the plan to private passenger rental vehicles, including pickup trucks and vans as defined under section 168.011, and that the insured may not need to purchase additional coverage from the rental company.

(d) Where an insured has two or more vehicles covered by a plan or plans of reparation security containing the rented motor vehicle coverage required under paragraph (a), the insured may select the plan the insured wishes to collect from and that plan is entitled to a pro rata contribution from the other plan or plans based upon the property damage limits of liability. If the person renting the motor vehicle is also covered by the person's employer's insurance policy or the employer's automobile self-insurance plan, the reparation obligor under the employer's policy or self-insurance plan has primary responsibility to pay claims arising from use of the rented vehicle.

(e) A notice advising the insured of rental vehicle coverage must be given by the reparation obligor to each current insured with the first renewal notice after January 1, 1989. The notice must be approved by the commissioner of commerce. The commissioner may specify the form of the notice.

(f) When a motor vehicle is rented or leased in this state on a weekly or daily basis, there must be attached to the rental contract a separate form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten, which states:

> Under Minnesota law, a personal automobile insurance policy issued in Minnesota must cover the rental of this motor vehicle against damage to the vehicle and against loss of use of the vehicle. Therefore, purchase of any collision damage waiver or similar insurance affected in this rental contract is not necessary if your policy was issued in Minnesota.

No collision damage waiver or other insurance offered as part of or in conjunction with a rental of a motor vehicle may be sold unless the person renting the vehicle provides a written acknowledgment that the above consumer protection notice has been read and understood.

(g) When damage to a rented vehicle is covered by a plan of reparation

security as provided under paragraph (a), the rental contract must state that payment by the reparation obligor within the time limits of section 72A.201 is acceptable, and prior payment by the renter is not required.

(h) To be compensated for the loss of use of a damaged rented motor vehicle, the car rental company must prove:

(1) that had the vehicle been available, it would have been rented; and

(2) that no other vehicle was available for rental in place of the damaged vehicle.

The standard of proof set forth in this paragraph does not limit the responsibility of a reparation obligor to provide an insured with coverage for any loss of use for which the reparation obligor is otherwise responsible. A car rental company may be compensated for loss of use of a damaged rental motor vehicle only for the period when the damaged car actually would have been rented.

Sec. 42. [CORRECTION NO. 20.] 1989 H.F. No. 1734, article 4, section 14, if enacted, is amended to read:

Sec. 14. Minnesota Statutes 1988, section 275.51, subdivision 3i, is amended to read:

Subd. 3i. [LEVY LIMITATION.] The levy limitation for a governmental subdivision shall be equal to the adjusted levy limit base determined pursuant to subdivision 3h, reduced by:

(1) the local government aid that the governmental subdivision has been certified to receive pursuant to sections 477A.011 to 477A.014, excluding the additional aid distribution received under section ~~477A.013, subdivision 5~~ *477A.0131*; and

(2) taconite aids under sections 298.28 and 298.282 including any aid received in the levy year that was required to be placed in a special fund for expenditure in the next succeeding year.

As provided in section 298.28, one cent per taxable ton of the amount distributed under section 298.28, subdivision 5, paragraph (d), must not be deducted from the levy limit base of a county that receives the aid.

This amount is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

For taxes levied in 1989 and later years, the levy limit for a county calculated under clause (1) must be decreased by an additional amount equal to the difference between what would have been a county's production year 1986 payable 1987 distribution under Minnesota Statutes 1984, section 298.28, based on 1986 production and its actual distribution for production year 1986, payable 1987.

Sec. 43. [CORRECTION NO. 20.] 1989 H.F. No. 1734, article 6, section 1, if enacted, is amended to read:

Section 1. Minnesota Statutes 1988, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before October 25 in each year. The taxes certified shall not

be adjusted by the aid received under section 273.1398, subdivisions 2 and 3, and section ~~477A.013, subdivision 5~~ *477A.0131*. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 25 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension.

Sec. 44. [CORRECTION NO. 20.] 1989 H.F. No. 1734, article 6, section 2, if enacted, is amended to read:

Sec. 2. Minnesota Statutes 1988, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy certified under subdivision 1 by the amount of homestead and agricultural credit aid certified by section 273.1398, subdivision 2, and section ~~477A.013, subdivision 5~~ *477A.0131*. If a local government's homestead and agricultural credit aid was further allocated between portions of its levy pursuant to section 273.1398, subdivision 2, paragraph (b)(2), the levy or fund to which the homestead and agricultural credit aid was allocated is the levy or fund which must be adjusted.

Sec. 45. [CORRECTION NO. 20.] 1989 H.F. No. 1734, article 6, section 3, if enacted, is amended to read:

Sec. 3. Minnesota Statutes 1988, section 477A.011, subdivision 1a, is amended to read:

Subd. 1a. [CITY.] City means a statutory or home rule charter city. City also means a town having a population of 5,000 or more for purposes of the aid payable under section 477A.013, subdivision 3. Towns *and cities of the first class* are not eligible to be treated as cities for purposes of aid payable under section ~~477A.013, subdivision 4~~ *477A.0131*.

Sec. 46. [CORRECTION NO. 20.] 1989 H.F. No. 1734, article 6, section 8, if enacted, is amended to read:

Sec. 8. Minnesota Statutes 1988, section 477A.013, subdivision 3, is amended to read:

Subd. 3. [CITY AID DISTRIBUTION.] In 1989, a city whose initial aid is greater than $0 will receive the following aid increases in addition to an amount equal to the local government aid it received in 1988 under Minnesota Statutes 1987 Supplement, section 477A.013:

(1) for a city whose expenditure/unlimited aid ratio is at least 1.5, two percent of city revenue;

(2) for a city whose expenditure/unlimited aid ratio is at least 1.4 but less than 1.5, 2.5 percent of city revenue;

(3) for a city whose expenditure/unlimited aid ratio is at least 1.3 but less than 1.4, three percent of city revenue;

(4) for a city whose expenditure/unlimited aid ratio is at least 1.2 but less than 1.3, four percent of city revenue;

(5) for a city whose expenditure/unlimited aid ratio is at least 1.1 but

less than 1.2, five percent of city revenue;

(6) for a city whose expenditure/unlimited aid ratio is at least 1.05 but less than 1.1, six percent of city revenue;

(7) for a city whose expenditure/unlimited aid ratio is at least 1.0 but less than 1.05, seven percent of city revenue;

(8) for a city whose expenditure/unlimited aid ratio is at least .95 but less than 1.0, 7.5 percent of city revenue;

(9) for a city whose expenditure/unlimited aid ratio is at least .75 but less than .95, 8.5 percent of city revenue; and

(10) for a city whose expenditure/unlimited aid ratio is less than .75, nine percent of city revenue.

In 1990 and subsequent years, a city whose initial aid is greater than $0 will receive an amount equal to the aid it received under this section in the year prior to that for which aids are being calculated plus an aid increase equal to 50 percent of the rates listed in clauses (1) to (10) multiplied by city revenue.

A city's aid increase under this subdivision is limited to the lesser of (1) 20 percent of its levy for taxes payable in the year prior to that for which aids are being calculated after the adjustments provided in section 273.1398, subdivision 2, or (2) its initial aid amount, or (3) 15 percent of the total amount received under this section in the previous year, provided that no city will receive an increase that is less than two percent of its 1989 local government aid for aids payable in 1990.

A city whose initial aid is $0 will receive in 1990 an amount equal to 102 percent of the local government aid it received in 1989 under Minnesota Statutes 1988, section 477A.013. A city whose initial aid is $0 will receive in 1991 and subsequent years an amount equal to the aid it received in the previous year under this section. ~~For purposes of this subdivision the term "local government aid" includes equalization aid for aids payable in 1991 and thereafter.~~

Sec. 47. [CORRECTION NO. 20; INSTRUCTION TO REVISOR.]

*In Minnesota Statutes 1989 Supplement, the revisor shall codify section 477A.013, subdivision 5, as added by 1989 H.F. No. 1734, if enacted, as section 477A.0131.*

Sec. 48. [CORRECTION NO. 20; EFFECTIVE DATE.]

*Sections 43 to 47 are effective for aid paid in 1990.*

Sec. 49. [CORRECTION NO. 21.] Minnesota Statutes 1988, section 275.50, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, a home rule charter city, or a statutory city, except a home rule charter or statutory city that has a population of less than 2,500, *and a town with a population of over 5,000* according to the most recent federal census.

(b) "Governmental subdivision" also includes any home rule charter or statutory city or town that receives a distribution from the taconite municipal aid account in the levy year.

Sec. 50. [CORRECTION NO. 22.] 1989 H.F. No. 1734, article 4, section

12, if enacted, is amended to read:

Sec. 12. Minnesota Statutes 1988, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 with additions and subtractions as specified in paragraphs (b) and (c).

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

(d) For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year, provided that for taxes levied in 1989, the amount of the administrative reimbursement aid received in 1988 shall be added to the base.

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 and subsequent years, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of $30 for civil and probate filings and $55 for marriage dissolutions.

(f) For taxes levied by a county that is located in the eighth judicial district in 1989 only, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state less *one-half of* the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 only by those counties, the levy limit base determined under paragraphs (d) and (e) shall be reduced by an amount equal to the cost of operation of the trial courts in the county during the first six months of calendar year 1991 that are assumed by the state~~, less the amount of fees collected by the courts in the county during the first six months of calendar year 1989~~.

(g) By July 1, 1989, the board of public defense shall determine and

certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By July 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 1, 1990, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

Sec. 51. [CORRECTION NO. 24.] 1989 H.F. 1734, article 1, section 14, if enacted, is amended to read:

Sec. 14. [290.0921] [CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.]

Subdivision 1. [TAX IMPOSED.] (a) In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:

(1) seven percent of Minnesota alternative minimum taxable income, *less the credit allowed under section 290.35, subdivision 3*; over

(2) the tax imposed under section 290.06, subdivision 1, without regard to this section.

(b) If the sum of the corporation's Minnesota sales and receipts, property, and payrolls, as defined in section 290.092, subdivision 4, exceeds $5,000,000, the amount under paragraph (a), clause (1) is the greater of

(1) $500 or

(2) the amount otherwise determined.

Sec. 52. [EFFECTIVE DATE; CORRECTION NO. 24.]

*Section 52 is effective the day following final enactment.*

Sec. 53. [CORRECTION NO. 25.] 1989 H.F. No. 1734, article 4, section 12, if enacted, is amended to read:

Sec. 12. Minnesota Statutes 1988, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 with additions and subtractions as specified in paragraphs (b) and (c).

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive

in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

(d) For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year, provided that for taxes levied in 1989, the amount of the administrative reimbursement aid received in 1988 shall be added to the base.

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 and subsequent years, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of $30 for civil and probate filings and $55 for marriage dissolutions.

(f) For taxes levied by a county that is located in the eighth judicial district in 1989 only, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state less the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 only by those counties, the levy limit base determined under paragraphs (d) and (e) shall be reduced by an amount equal to the cost of operation of the trial courts in the county during the first six months of calendar year 1991 that are assumed by the state, less the amount of fees collected by the courts in the county during the first six months of calendar year 1989.

(g) By July 1, 1989, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By July 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 1, 1990, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year

1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

*(h) If a governmental subdivision received an adjustment to its levy limit base for taxes levied in 1988 under section 275.51, subdivision 3j, its levy limit base for taxes levied in 1989 must be reduced by the lesser of (1) the adjustment under section 275.51, subdivision 3j, or (2) the difference between its (i) levy limit base for taxes levied in 1988 and its (ii) total actual levy for taxes levied in 1988 minus any special levies claimed for taxes levied in 1988 under section 275.50, subdivision 5.*

Sec. 54. 1989 H.F. No. 654, article 6, section 5, subdivision 3, if enacted, is amended to read:

Subd. 3. [COMBINATION REQUIREMENTS.] Combining districts must be contiguous and meet one of the following requirements at the time of combination:

(1) at least two districts with at least 400 resident pupils enrolled in grades 7 through 12 in the combined district and projections, approved by the department of education, of enrollment at least at that level for five years;

(2) at least two districts, both of which qualify for sparsity revenue under section 124A.22, subdivision 6, and have an average isolation index over 23; or

(3) at least three districts with fewer than ~~420~~ *400* resident pupils enrolled in grades 7 through 12 in the combined district.

A combination under clause (3) must be approved by the state board of education. The state board shall disapprove a combination under clause (3) if the combination is educationally unsound or would not reasonably enable the districts to fulfill statutory and rule requirements.

Sec. 55. Minnesota Statutes 1988, section 129B.46, subdivision 2, as amended by 1989 H.F. No. 654, article 7, section 19, if enacted, is amended to read:

Subd. 2. [QUALIFICATIONS.] (a) An individual employed as a career teacher must be licensed as a teacher and shall be considered a teacher as defined in section 179A.03, subdivision 18, for purposes of chapter 179A.

(b) An individual employed as a principal teacher must be licensed as a ~~teacher~~ *principal* and shall be considered a principal, as defined in section 179A.03, subdivision 12, for purposes of chapter 179A.

(c) An individual employed as a counselor teacher must be licensed as a counselor and shall be considered a teacher, as defined in section 179A.03, subdivision 18, for purposes of chapter 179A.

Sec. 56. Minnesota Statutes 1988, section 105.41, subdivision 1b, as amended by 1989 S.F. No. 262, if enacted, is amended to read:

Subd. 1b. [USE LESS THAN MINIMUM.] Except for local permits under section 473.877, subdivision ~~4~~ *4*, a permit is not required for the appropriation and use of less than a minimum amount to be established by

the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules must include provisions for reporting to the commissioner the amounts of water appropriated under local permits.

Sec. 57. 1989 H.F. No. 59, article 2, section 3, subdivision 1, if enacted, is amended to read:

Subdivision 1. [TERMS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Law enforcement authority" means with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

(c) "Sex offender" means a person who has been convicted and sentenced under *article 4,* section ~~12~~ *10,* section 609.185, clause (2), section 609.342, 609.343, 609.344, or 609.345 and is serving or is being released to serve the supervised release portion of the sentence imposed or is on probation for that conviction unless the person is placed in a residential community-based facility.

Sec. 58. 1989 H.F. No. 59, article 2, section 18, if enacted, is amended to read:

Sec. 18. [EFFECTIVE DATE.]

Sections 6, 7, and 10 to 15 are effective August 1, 1989, and apply to crimes committed on or after that date. *Section 9 is effective August 1, 1990, and applies to crimes committed on or after that date.* The court shall consider convictions occurring before ~~August 1, 1989,~~ *the effective date* as prior convictions in sentencing offenders under sections 9, 10, and 12 to 15. ~~Section 9 is effective August 1, 1990, and applies to crimes committed on or after that date.~~

Sec. 59. 1989 H.F. No. 59, article 3, section 26, if enacted, is amended to read:

Sec. 26. Minnesota Statutes 1988, section 260.125, subdivision 3, is amended to read:

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) Has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) Is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang; or

(9) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a ~~public~~ park zone or a school zone as defined in sections 4 and 5. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone.

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 60. 1989 H.F. No. 59, article 4, section 1, subdivision 3, if enacted, is amended to read:

Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] (a) The commissioner shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, within the state adult correctional facility system. Participation in any treatment program is voluntary and is subject to the rules and regulations of the department of corrections. Nothing in this section requires the commissioner to accept or retain an offender in a treatment program. Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall provide for residential and outpatient sex offender treatment and aftercare when required for conditional release under section ~~12~~ *10* or as a condition of supervised release.

Sec. 61. 1989 H.F. No. 59, article 4, section 18, if enacted, is amended to read:

Sec. 18. [634.25] [ADMISSIBILITY OF RESULTS OF DNA ANALYSIS.]

In a civil or criminal trial or hearing, the results of DNA analysis, as defined in section ~~10~~ *7*, are admissible in evidence without antecedent expert testimony that DNA analysis provides a trustworthy and reliable method of identifying characteristics in an individual's genetic material upon a showing that the offered testimony meets the standards for admissibility set forth in the Rules of Evidence.

Sec. 62. 1989 H.F. No. 59, article 9, section 1, subdivision 1, if enacted, is amended to read:

Subdivision 1. [APPLICABILITY.] For purposes of sections 1 to ~~8~~ *9*, the following terms have the meanings given them in this section.

Sec. 63. 1989 H.F. No. 59, article 9, section 8, if enacted, is amended to read:

Sec. 8. [299A.36] [OTHER DUTIES.]

The assistant commissioner assigned to the office of drug policy, in consultation with the drug abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services~~.~~*;*

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 64. 1989 H.F. No. 59, article 10, section 3, if enacted, is amended to read:

Sec. 3. Minnesota Statutes 1988, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] (a) A person who violates ~~this section~~ *subdivision 1* or an ordinance in conformity with it is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor who violates ~~this section~~ *subdivision 1* or an ordinance in conformity with it within five years of a prior impaired driving conviction, or within ten years of *the first of* two or more prior impaired driving convictions. For purposes of this paragraph, a prior impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), section 169.129, section 361.12, subdivision 1, section 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult.

(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

Sec. 65. [EFFECTIVE DATE.]

*Unless provided otherwise, the sections of this act that amend other 1989 enactments take effect on the same dates as the enactments that they amend.*"

Amend the title accordingly

Mr. Spear then moved to amend the Spear amendment to H.F. No. 1616, adopted by the Senate May 22, 1989, as follows:

Pages 21 to 24, delete sections 43 to 48

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

The question recurred on the adoption of the amendment, as amended.

The motion prevailed. So the amendment, as amended, was adopted.

Mr. Spear then moved to amend the Spear amendment to H.F. No. 1616, adopted by the Senate May 22, 1989, as follows:

Page 36, after line 18, insert:

"Sec. 65. 1989 S.F. No. 783, article 19, section 7, subdivision 1, if enacted, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, each of the terms in this subdivision have the meanings given them in paragraphs (a) to (h).

(a) "Annual postretirement payment" means the payment of a lump sum postretirement benefit to an eligible member on June 1 following the determination date in any year.

(b) "City" means a city of the first class with a population of more than 300,000.

(c) "Determination date" means December 31 of each year.

(d) "Eligible member" means a person, including a service pensioner, a disability pensioner, a survivor, or dependent of a deceased active member, service pensioner, or disability pensioner, who received a pension or benefit during the 12 months before the determination date. A person who received a pension or benefit for the entire 12 months before the determination date ~~are~~ *is* eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

(e) "Excess investment income" means the amount by which the time weighted total rate of return earned by the fund in the most recent fiscal year has exceeded the actual percentage increase in the current monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, in the most recent fiscal year plus two percent. The excess investment income must be expressed as a dollar amount and may not exceed *one-half of* one percent of the total assets of the fund and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, during the previous five calendar years.

(f) "Fund" means a police relief association or firefighters relief association, whichever applies, located in the city and governed by Minnesota Statutes, section 69.77.

(g) "Relief association" means the police relief association or the firefighters relief association, whichever applies, located in the city.

(h) "Time weighted total rate of return" means the percentage amount determined by using the formula or formulas established by the state board of investment under Minnesota Statutes, section 11A.04, clause (11), and in effect on January 1, 1987.

Sec. 66. 1989 S.F. No. 783, article 19, section 7, subdivision 3, if enacted, is amended to read:

Subd. 3. [DETERMINATION OF EXCESS INVESTMENT INCOME.] The board of trustees of the relief association shall determine by May 1 of each year whether or not the relief association has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the chief administrative officer of the relief association to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the legislative commission on pensions and retirement. The dollar amount of excess investment income up to *one-half of* one percent of the assets of the fund must be applied for the purpose specified in subdivision 4. Excess investment income must not be considered as income to or assets of the fund for actuarial valuations of the fund for that year under sections 69.77, 356.215, and 356.216 and the provisions of this section except to offset

the annual postretirement payment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under sections 69.77, 356.215, and 356.216 and the provisions of this section.

Sec. 67. 1989 S.F. No. 783, article 19, section 7, subdivision 4, if enacted, is amended to read:

Subd. 4. [AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.] The amount determined under subdivision 3 must be applied in accordance with this subdivision. The relief association shall apply the first one-half of one percent of excess investment income to the payment of an annual postretirement payment as specified in this subdivision. ~~The second one-half of one percent of excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year.~~ The relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the time weighted total rate of return exceeds by two percent the actual percentage increase in the current monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, in the most recent fiscal year and the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, of the previous five years. The total amount of all payments to members may not exceed the amount determined under subdivision 3. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. Payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less.

Sec. 68. 1989 H.F. No. 1532, section 1, if enacted, is amended to read:

Section 1. [216B.095] [DISCONNECTION DURING COLD WEATHER.]

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total ~~heating~~ energy costs where the customer receives service from more

than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider, unless the customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and

(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.

For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis.

Sec. 69. Minnesota Statutes 1988, section 297A.257, subdivision 1, as amended by 1989 H.F. No. 1734, section 6, is amended to read:

Sec. 6. Minnesota Statutes 1988, section 297A.257, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION OF DISTRESSED COUNTIES.] (a) The commissioner of trade and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies at least one of the following criteria:

(1) the county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs, or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivision shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1, except that a designation made June 1, 1988 shall remain in effect until December 31, 1989 with respect to *purchases of capital* equipment ~~placed in service by December 31, 1989~~ *only, provided that the continued exemption under subdivision 2b terminates June 30, 1990.* A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires ~~on June 30,~~ *for designations made effective July 1,* 1988.

Sec. 70. 1989 H.F. No. 1734, article 3, section 26, is amended to read:

Sec. 26. Minnesota Statutes 1988, section 477A.012, is amended by adding a subdivision to read:

Subd. 3. [AID OFFSET FOR COURT COSTS.] (a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for assumption of the cost of district court administration and operation of the trial court information system in the county and, in the case of Hennepin and Ramsey counties, of public defense services in juvenile and misdemeanor cases in the county. The amount of the deduction shall be computed as provided in this subdivision.

(b) By June 15, 1990, the board of public defense shall determine and certify to the supreme court the cost of the state-financed public defense services in juvenile and misdemeanor cases for Hennepin and Ramsey counties during the fiscal year beginning the following July 1. By June 30, 1990, the supreme court shall determine and certify to the department of revenue for each county, except counties located in the eighth judicial district, the pro rata share for each county of district court administration and trial court information system costs during the fiscal year beginning on the following July 1 plus, in the case of Hennepin and Ramsey counties, the costs certified by the board of public defenders.

(c) ~~Twenty-five percent of the amount computed under paragraph (b) for each county shall be deducted from each payment to the county under section 477A.015 in 1990.~~ One-half of the amount computed under paragraph (b) for each county shall be deducted from each payment to the county under section 477A.015 in ~~1991~~ *1990* and each subsequent year.

(d) If the amount computed under paragraph (b) exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the aid payable to the county under section 273.1398, subdivision 2.

Sec. 71. 1989 H.F. No. 1734, article 4, section 11, is amended to read:

Sec. 11. Minnesota Statutes 1988, section 275.50, subdivision 5, is

amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1989 payable in 1990 and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. The aggregate amounts levied under this paragraph for the costs of purchase or delivery of social services and income maintenance programs, other than those identified in section 273.1398, subdivision 1, paragraph (j) and paragraph (b) are subject to a maximum increase over the amount levied for the previous year of 12 percent for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties. For purposes of this clause, "income maintenance programs" include income maintenance programs in section 273.1398, subdivision 1, to the extent the county provides benefits under those programs over the state mandated minimums. Effective with taxes levied in 1989, the portion of this special levy for the county share levy identified in section 273.1398, subdivision 1, paragraph (k), is limited to the amount calculated under section 273.1398, subdivision 2a;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16;

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5;

(k) pay the cost of hospital care under section 261.21;

(l) pay the unreimbursed costs incurred in the previous year to satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, provided that an appeal for the unreimbursed costs under this clause was approved by the commissioner of revenue under section 15;

(m) pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes such as earthquake, fire, flood, wind storm, wave action, oil spill, water contamination, air contamination, or drought in accordance with standards formulated by the emergency services division of the state department of public safety, provided that an appeal for the expenses incurred under this clause were approved by the commissioner of revenue under section 15;

(n) pay a portion of the losses in tax receipts to a city due to tax abatements or court actions in the year preceding the current levy year, provided that an appeal for the tax losses was approved by the commissioner of revenue under section 15. This special levy is limited to the amount of the losses times the ratio of the nonspecial levies to total levies for taxes payable in the year the abatements were granted. County governments are not authorized to claim this special levy;

(o) pay the operating cost of regional library services authorized under section 134.34, subject to a maximum increase of the greater of (1) 103 percent multiplied by one plus the percentage increase determined for the governmental subdivision under section 275.51, subdivision 3h, clause (b), or (2) six percent. If a governmental subdivision elected to include some or all of its levy for libraries within its adjusted levy limit base in the prior year, but elects to claim the levy as a special levy in the current levy year,

the allowable increase is determined by applying the greater percentage determined under clause (1) or (2) to the total amount levied for libraries in the prior levy year. After levy year 1989, the increase must not be determined using a base amount other than the amount that could have been levied as a special levy in the prior year. In no event shall the special levy be less than the minimum levy required under sections 134.33 and 134.34, subdivisions 1 and 2;

(p) pay the amount of the county building fund levy permitted under section 373.40, subdivision 6;

(q) pay the county's share of the costs levied in 1989, 1990, and 1991 for the Minnesota cooperative soil survey under Minnesota Statutes 1988, section 40.07, subdivision 15; ~~and~~

(r) for taxes levied in 1989, payable in 1990 only, pay the cost incurred for the minimum share required by counties levying for the first time under section 134.34 as required under section 134.341. For taxes levied in 1990, and thereafter, counties levying under this provision must levy under paragraph (o), and their allowable increase must be determined with reference to the amount levied in 1989 under this paragraph*; and*

*(s) for taxes levied in 1989, payable in 1990 only, provide an amount equal to 50 percent of the estimated amount of the reduction in aids to a county under sections 273.1398, subdivision 2, paragraph (d), and 477A.012, subdivision 3, for aids payable in 1990. For taxes levied in 1990, payable in 1991 only, the adjusted levy limit base of a county that imposes a special levy under this paragraph for taxes payable in 1990 shall be decreased by the amount of the special levy that exceeded the actual aid reduction, or increased by the amount of the special levy that was less than the actual aid reduction.*

Sec. 72. [CORRECTION NO. 26.] 1989 H.F. No. 372, article 1, section 28, if enacted, is amended to read:

| | | |
|---|---|---|
| Sec. 28. STATE PLANNING AGENCY | 6,105,000 | 6,505,000 |

| | 1990 | 1991 |
|---|---|---|
| Approved Complement - | 113 | 113 |
| General - | 80.5 | 80.5 |
| Special Revenue - | 4.5 | 4.5 |
| Revolving - | 22 | 22 |
| Federal - | 6 | 6 |

Summary by Fund

| | | |
|---|---|---|
| General | $ 5,630,000 | $ 6,030,000 |
| Special Revenue | $ 475,000 | $ 475,000 |

$377,000 the first year and $377,000 the second year are for regional planning grants to regional development commissions organized under Minnesota Statutes, sections 462.381 to 462.396.

Until June 30, 1991, for state and federal grants distributed by state agencies to regions of the state not having a regional development commission, the state agency administering the grant program

may assess the program for administrative costs incurred by the agency that normally are incurred by the commission.

$22,000 the first year and $22,000 the second year are for the Council of Great Lakes Governors.

During the biennium any seminars or training sessions regarding federal issues for federal budgeting that are conducted by the Washington office shall be made available to legislators and legislative staff. The Washington office shall notify the legislature regarding the timing of such seminars.

The commissioner shall contract with an independent consultant to explore future directions for Minnesota in land management information systems. This study shall examine interagency cooperation, public and private venture potential, the status of geographic information systems planning as it applies to Minnesota, the role that the land management information center should play in future development of an overall system, and development of a long-range strategy for Minnesota's role in providing the appropriate services to agencies and political subdivisions. The study shall also explore the activities of other states and nations in the area of geographic information systems. The study must be accomplished in conjunction with the information policy office and be compatible with the long-range information management architecture being developed by the information policy office. A final report shall be submitted to the legislature by January 1, 1991, indicating recommendations for future actions.

The state planning agency shall study the effects on the state's transportation systems, methods of storage, public safety systems, and state health concerns of any incinerator to be contructed in Minnesota that is designed to burn hazardous wastes. The report shall include specific recommendations and shall be delivered to the legislature and the affected state agencies by January 1, 1991.

$500,000 the second year is for one-third of the state's membership fee in the Great

Lakes Protection Fund. The governor may enter as a signatory party in the Great Lakes Protection Fund. The fund is created as a permanent endowment to advance the principles, goals, and objectives of the Great Lakes Toxic Substance Control Agreement, executed by the eight Great Lakes governors in May 1986, and to ensure the continuous development of needed scientific information, new cleanup technologies, and innovative methods of managing pollution problems as a cooperative effort in the Great Lakes region.

The governor may enter the state as a signatory party in the Great Lakes Protection Fund, subject to approval by the legislature. After approval, the governor shall do all things necessary or incidental to participate in the Great Lakes Protection Fund, as spelled out in its bylaws and articles of incorporation.

If congressional consent to the Great Lakes Protection Fund carries with it conditions that materially change the provisions agreed to by the party states, the state reserves the option to terminate further participation in the fund.

$100,000 the first year and $100,000 the second year are for demonstration grants under the youth employment and housing program to eligible organizations as defined in Minnesota Statutes, section 268.361, subdivision 4. $75,000 each year is for a grant to an eligible organization in the city of Bemidji *and $25,000 each year is for a grant to an eligible organization in the city of Minneapolis*.

$250,000 the first year and $250,000 the second year is for the Way to Grow school readiness program. $125,000 the first year and $125,000 the second year must be used for a project located within a city of the first class located within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. $125,000 the first year and $125,000 the second year must be used for a project located within a city of the second class located within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. This is intended to be a nonrecurring appropriation and

must not be included in the budget base for the 1992-1993 biennium.

The state planning agency shall study the administrative costs of local units of government and shall report to the legislature by January 1, 1990, on the level and growth of administrative costs and alternatives for controlling future growth.

$100,000 the first year and $100,000 the second year are for the Minnesota environmental education board. Any appropriations for the board made by S.F. No. 262 serve to reduce these appropriations.

Sec. 73. [CORRECTION NO. 27.] 1989 H.F. No. 1734, article 6, section 3, if enacted, is amended to read:

Sec. 3. Minnesota Statutes 1988, section 477A.011, subdivision 1a, is amended to read:

Subd. 1a. [CITY.] City means a statutory or home rule charter city. City also means a town having a population of 5,000 or more for purposes of the aid payable under section 477A.013, subdivision 3. Towns *and cities of the first class* are not eligible to be treated as cities for purposes of aid payable under section 477A.013, subdivision 4 *5*.

Sec. 74. [CORRECTION NO. 27; EFFECTIVE DATE.]

*Sec. 73 is effective for aid paid in 1990.*"

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Spear then moved to amend the Spear amendment to H.F. No. 1616, adopted by the Senate May 22, 1989, as follows:

Page 36, after line 18, insert:

"Sec. 65. [CORRECTION NO. 28.] Minnesota Statutes 1988, section 500.221, subdivision 2, is amended to read:

Subd. 2. [ALIENS AND NON-AMERICAN CORPORATIONS.] Except as hereinafter provided, no natural person shall acquire directly or indirectly any interest in agricultural land unless the person is a citizen of the United States or a permanent resident alien of the United States. In addition to the restrictions in section 500.24, no corporation, partnership, limited partnership, trustee, or other business entity shall directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial or otherwise, in any title to agricultural land unless at least 80 percent of each class of stock issued and outstanding or 80 percent of the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens. This section shall not apply:

(1) to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise. All agricultural land acquired in the

collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership;

(2) to citizens or subjects of a foreign country whose rights to hold land are secured by treaty;

(3) to lands used for transportation purposes by a common carrier, as defined in section 218.011, subdivision 2;

(4) to lands or interests in lands acquired for use in connection with mining and mineral processing operations. Pending the development of agricultural land for mining purposes the land may not be used for farming except under lease to a family farm, a family farm corporation or an authorized farm corporation;

(5) to agricultural land operated for research or experimental purposes if the ownership of the agricultural land is incidental to the research or experimental objectives of the person or business entity and the total acreage owned by the person or business entity does not exceed the acreage owned on May 27, 1977; ~~or~~

(6) to the purchase of any tract of 40 acres or less for facilities incidental to pipeline operation by a company operating a pipeline as defined in section 1161.01, subdivision 3; *or*

*(7) to agricultural land and land capable of being used as farmland in vegetable processing operations that is reasonably necessary to meet the requirements of pollution control law or rules.*

Sec. 66. 1989 H.F. No. 372, article 3, section 58, subdivision 2, if enacted, is amended to read:

Subd. 2. [JULY 1, 1990, OUTSIDE 8TH.] *(a) Except as provided in paragraph (b),* in all judicial districts except the eighth, sections 6, ~~7,~~ 8, ~~11,~~ 13, 15, 22, 23, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 56, are effective July 1, 1990.

*(b) Section 6 is effective July 1, 1989, with respect to the increase in fees under section 7. Sections 7 and 11 are effective July 1, 1989."*

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1616 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 59 and nays 2, as follows:

Those who voted in the affirmative were:

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

Messrs. Merriam and Pehler voted in the negative.

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

Mr. Spear moved that S.F. No. 1516, on General Orders, be stricken and laid on the table. The motion prevailed.

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 1083 A bill for an act relating to the environment; providing an exemption process from the power plant siting requirements for certain generating plants; appropriating money; amending Minnesota Statutes 1988, section 116C.57, by adding a subdivision.

Senate File No. 1083 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Brandl moved that the Senate concur in the amendments by the House to S.F. No. 1083 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1083 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 1242: A bill for an act relating to state government; extending the expiration date on certain advisory councils; increasing the compensation of members of administrative boards and agencies; reducing the maximum compensation of members of advisory councils; eliminating a requirement for appointment of a state employees assistance program advisory committee; amending Minnesota Statutes 1988, sections 15.0575, subdivision 3; 15.059, subdivisions 3 and 5; and 16B.39, subdivision 2; repealing Minnesota Statutes 1988, sections 84B.11, subdivision 4; 121.83; 174.031, subdivision 2; 256.73, subdivision 7; and 268.12, subdivision 6.

Senate File No. 1242 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Pogemiller moved that the Senate concur in the amendments by the House to S.F. No. 1242 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1242 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 1227: A bill for an act relating to commerce; providing for the regulation of real estate closing agents; prescribing penalties; amending Minnesota Statutes 1988, sections 82.17, subdivisions 7, 9, and 10; 82.18; 82.19, subdivisions 1, 2, 3, and 4, and by adding a subdivision; 82.20, subdivisions 1, 2, 3, 5, 8, 12, and by adding a subdivision; 82.21, subdivision 1; 82.22, subdivisions 1, 5, 6, 10, and 11; 82.23, subdivisions 2 and 3; 82.24, subdivisions 1, 2, 3, 4, 5, and 6; 82.27, subdivisions 1 and 2; 82.30, subdivision 1; 82.31, subdivision 1; 82.33, subdivision 1; 82.34, subdivisions 3, 4, 6, 7, 13, and 14; and 507.45, subdivision 2; repealing Minnesota Statutes 1988, section 82.34, subdivision 12.

Senate File No. 1227 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

## CONCURRENCE AND REPASSAGE

Mr. Metzen moved that the Senate concur in the amendments by the House to S.F. No. 1227 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1227 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 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

## MOTIONS AND RESOLUTIONS - CONTINUED

### RECONSIDERATION

Mr. Spear moved that the vote whereby H.F. No. 1616 was passed by the Senate on May 22, 1989, be now reconsidered. The motion prevailed.

H.F. No. 1616: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1988, section 124.43, subdivision 1, as amended.

Mr. Spear moved to amend the fourth Spear amendment to H.F. No. 1616, adopted by the Senate May 22, 1989, as follows:

Pages 1 to 4, delete sections 65 to 67

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

H.F. No. 1616 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 1, as follows:

Those who voted in the affirmative were:

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

Mr. Merriam voted in the negative.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 260, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 260 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 260

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; regulating use of omitted information; proposing coding for new law in Minnesota Statutes, chapter 181.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 260, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 260 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [181.960] [DEFINITIONS.]

*Subdivision 1.* [APPLICABILITY.] *For purposes of sections 1 to 7, the following terms have the meanings given in this section.*

*Subd. 2.* [EMPLOYEE.] *"Employee" means a person who performs services for hire for an employer, provided that the services have been performed predominately within this state. The term includes any person who has been separated from employment for less than one year. The term does not include an independent contractor.*

*Subd. 3.* [EMPLOYER.] *"Employer" means a person who has 20 or more employees. Employer does not include a state agency, statewide system, political subdivision, or advisory board or commission that is subject to chapter 13.*

*Subd. 4.* [PERSONNEL RECORD.] *"Personnel record," to the extent*

*maintained by an employer, means: any application for employment; wage or salary history; notices of commendation, warning, discipline, or termination; authorization for a deduction or withholding of pay; fringe benefit information; leave records; and employment history with the employer, including salary and compensation history, job titles, dates of promotions, transfers, and other changes, attendance records, performance evaluations, and retirement record. The term does not include:*

*(1) written references respecting the employee, including letters of reference supplied to an employer by another person;*

*(2) information relating to the investigation of a violation of a criminal or civil statute by an employee or an investigation of employee conduct for which the employer may be liable, unless and until:*

*(i) the investigation is completed and, in cases of an alleged criminal violation, the employer has received notice from the prosecutor that no action will be taken or all criminal proceedings and appeals have been exhausted; and*

*(ii) the employer takes adverse personnel action based on the information contained in the investigation records;*

*(3) education records, pursuant to section 513(a) of title 5 of the Family Educational Rights and Privacy Act of 1974, United States Code, title 20, section 1232g, that are maintained by an educational institution and directly related to a student;*

*(4) results of employer testing, except that the employee may see a cumulative total test score for a section of the test or for the entire test;*

*(5) information relating to the employer's salary system and staff planning, including comments, judgments, recommendations, or ratings concerning expansion, downsizing, reorganization, job restructuring, future compensation plans, promotion plans, and job assignments;*

*(6) written comments or data of a personal nature about a person other than the employee, if disclosure of the information would constitute an intrusion upon the other person's privacy;*

*(7) written comments or data kept by the employee's supervisor or an executive, administrative, or professional employee, provided the written comments or data are kept in the sole possession of the author of the record;*

*(8) privileged information or information that is not discoverable in a workers' compensation, grievance arbitration, administrative, judicial, or quasi-judicial proceeding;*

*(9) any portion of a written or transcribed statement by a co-worker of the employee that concerns the job performance or job-related misconduct of the employee that discloses the identity of the co-worker by name, inference, or otherwise; and*

*(10) medical reports and records, including reports and records that are available to the employee from a health care services provider pursuant to section 144.335.*

Sec. 2. [181.961] [REVIEW OF PERSONNEL RECORD BY EMPLOYEE.]

*Subdivision 1.* [RIGHT TO REVIEW; FREQUENCY.] *Upon written*

*request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record only once at any time within one year after separation.*

*Subd. 2.* [TIME; LOCATION; CONDITION.] *The employer shall comply with a written request pursuant to subdivision 1 no later than seven working days after receipt of the request 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. The personnel record or an accurate copy must be made available for review by the employee during the employer's normal hours of operation at the employee's place of employment or other reasonably nearby location, but need not be made available during the employee's working hours. The employer may require that the review be made in the presence of the employer or the employer's designee.*

*Subd. 3.* [GOOD FAITH.] *The employer may deny the employee the right to review the employee's personnel record if the employee's request to review is not made in good faith. The burden of proof that the request to review is not made in good faith is on the employer.*

Sec. 3. [181.962] [REMOVAL OR REVISION OF INFORMATION.]

*Subdivision 1.* [AGREEMENT; FAILURE TO AGREE; COPY; POSITION STATEMENT.] *(a) If an employee disputes specific information contained in the employee's personnel record:*

*(1) upon the written request of the employee, the employer shall provide a copy of the disputed information, and may charge a fee for the copy not to exceed the actual cost of making and compiling the copy;*

*(2) the employer and the employee may agree to remove or revise the disputed information; and*

*(3) if an agreement is not reached, the employee may submit a written statement specifically identifying the disputed information and explaining the employee's position.*

*(b) The employee's position statement may not exceed five written pages. The position statement must be included along with the disputed information for as long as that information is maintained in the employee's personnel record. A copy of the position statement must also be provided to any other person who receives a copy of the disputed information from the employer after the position statement is submitted.*

*Subd. 2.* [DEFAMATION ACTIONS PROHIBITED.] *(a) No communication by an employee of information obtained through a review of the employee's personnel record may be made the subject of any action by the employee for libel, slander, or defamation, unless the employee requests that the employer comply with subdivision 1 and the employer fails to do so.*

*(b) No communication by an employer of information contained in an employee's personnel record after the employee has exercised the employee's right to review pursuant to section 2 may be made the subject of any common law civil action for libel, slander, or defamation unless:*

*(1) the employee has disputed specific information contained in the personnel record pursuant to subdivision 1;*

*(2) the employer has refused to agree to remove or revise the disputed information;*

*(3) the employee has submitted a written position statement as provided under subdivision 1; and*

*(4) the employer either (i) has refused or negligently failed to include the employee's position statement along with the disputed information or thereafter provide a copy of the statement to other persons as required under subdivision 1, or (ii) thereafter communicated the disputed information with knowledge of its falsity or in reckless disregard of its falsity.*

*(c) A common law civil action for libel, slander, or defamation based upon a communication of disputed information contained in an employee's personnel record is not prohibited if the communication is made after the employer and the employee reach an agreement to remove or revise disputed information and the communication is not consistent with the agreement.*

Sec. 4. [181.963] [USE OF OMITTED PERSONNEL RECORD.]

*Information properly belonging in an employee's personnel record that was omitted from the personnel record provided by an employer to an employee for review pursuant to section 2 may not be used by the employer in an administrative, judicial, or quasi-judicial proceeding, unless the employer did not intentionally omit the information and the employee is given a reasonable opportunity to review the omitted information prior to its use.*

Sec. 5. [181.964] [RETALIATION PROHIBITED.]

*An employer may not retaliate against an employee for asserting rights or remedies provided in sections 1 to 6.*

Sec. 6. [181.965] [REMEDIES.]

*Subdivision 1.* [GENERAL.] *In addition to other remedies provided by law, if an employer violates a provision of sections 1 to 5, the employee may bring a civil action to compel compliance and for the following relief:*

*(1) for a violation of sections 1 to 4, actual damages only, plus costs; and*

*(2) for a violation of section 5, actual damages, back pay, and reinstatement or other make-whole, equitable relief, plus reasonable attorney fees.*

*Subd. 2.* [LIMITATIONS PERIOD.] *Any civil action maintained by the employee under this section must be commenced within one year of the actual or constructive discovery of the alleged violation.*

Sec. 7. [181.966] [ADDITIONAL RIGHT OF ACCESS TO RECORDS.]

*Sections 1 to 6 do not prevent an employer from providing additional rights to employees and do not diminish a right of access to records under chapter 13."*

Delete the title and insert:

"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; regulating use of omitted information; prohibiting retaliation; proposing coding for new law in Minnesota Statutes, chapter 181."

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

House Conferees: (Signed) Steve Trimble, Art Seaberg

Senate Conferees: (Signed) Gene Merriam, Nancy Brataas, Don Frank

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on H.F. No. 260 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 260 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 2, as follows:

Those who voted in the affirmative were:

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

Mr. Frederickson, D.R. and Ms. Reichgott voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1009 and 661.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 491, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 491: A bill for an act relating to health care; creating a health care access commission; requiring a health care access study; appropriating money.

Senate File No. 491 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 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. 258: A bill for an act relating to state government; regulating state employment practices; regulating the setting of certain salaries; extending inclusion of veterans in the category of protected groups for the purpose of state employment; authorizing an alternative procedure for discharges of state troopers; ratifying certain salaries; amending Minnesota Statutes 1988, sections 15A.083, subdivisions 5 and 7; 43A.02, subdivision 33; 43A.04, subdivisions 1 and 3, and by adding a subdivision; 43A.10, subdivisions 7 and 8; 43A.12, subdivision 5; 43A.13, subdivisions 4, 5, 6, and 7; 43A.15, subdivision 10; 43A.17, subdivision 1; 43A.18, subdivisions 4 and 5; 43A.191, subdivisions 2 and 3; 43A.27, subdivision 4; 43A.316, subdivision 5; 43A.37, subdivision 1; 176.421, by adding a subdivision; and 299D.03, subdivision 7; repealing Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5.

There has been appointed as such committee on the part of the House:

Simoneau, Rice and Knickerbocker.

Senate File No. 258 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 470, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 470: A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

Senate File No. 470 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 895, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 895: A bill for an act relating to natural resources; amending provisions relating to the conservation reserve program; changing authority over the conservation reserve program from the commissioner of agriculture to the board of water and soil resources; defining certain terms; changing criteria for eligible land; prohibiting grazing of land under future agreements; providing conditions and payment for wetland restoration; providing for enforcement and liability for damages for violation of the terms of a conservation easement or agreement; authorizing the board to adopt rules; authorizing the commissioner of agriculture to allow town boards to suspend the duty of owners and occupants to control noxious weeds under certain conditions; withdrawing certain marginal land and wetlands from sale by the state unless restricted by a conservation easement under certain conditions; requiring certain acquisition procedures before the commissioner of natural resources accepts agricultural land or farm homesteads in fee from the federal government; authorizing aliens and non-Americans to own certain agricultural land to comply with pollution control laws or rules; amending Minnesota Statutes 1988, sections 40.42; 40.43; 40.44; 40.45; 84.95, subdivision 2; 282.018; 500.221, subdivision 2; Laws 1986, chapter 383, section 17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 18; 40; 84; and 92.

Senate File No. 895 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

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. 1582, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1582: A bill for an act relating to public finance; providing conditions and requirements for the issuance and use of public debt; making technical corrections to provisions relating to hazardous substance sites and subdistricts; enabling Chisago, Kanabec, Isanti, Pine, and Mille Lacs counties to sell certain bonds at public or private sale; amending Minnesota Statutes 1988, sections 298.2211, subdivision 4; 469.015, subdivision 4; 469.174, subdivisions 7 and 16; 469.175, subdivision 7; 471.56, subdivision 5; 473.541, subdivision 3, and by adding a subdivision; 475.51, by adding subdivisions; 475.54, subdivision 4, and by adding a subdivisions; 475.54, subdivision 4, and by adding a subdivision; 475.55, subdivision 6, and by adding a subdivision; 475.60, subdivisions 1, 2, and 3; 475.66, subdivision 1; and 475.79; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1988, section 474A.081, subdivision 3.

Senate File No. 1582 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 22, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 796, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 796 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 796

A bill for an act relating to state lands; authorizing sale of certain tax-forfeited lands that border public waters in Pine and Fillmore counties.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 796, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 796 be further amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 1988, section 176.135, subdivision 1, is amended to read:

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

providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.

(b) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

Sec. 2. [245A.115] [LICENSING PROHIBITION.]

*The commissioner of human services shall not issue an initial license for a new residential facility or program if the facility or program would be located in a city or town that contains a federal prison and the total number of persons residing in residential facilities or programs licensed by the commissioner of human services exceeds one percent of the total population of the city or town, excluding the population of the federal prison.*

Sec. 3. Laws 1971, chapter 355, section 1, subdivision 2, is amended to read:

Subd. 2. The lake conservation district shall be governed by a board composed of members elected by the governing bodies of the municipalities included in the district. Each municipality shall elect ~~one member~~ *two members*. The term of office of each member shall be three years.

Sec. 4. Laws 1974, chapter 400, section 4, subdivision 2, as amended by Laws 1980, chapter 507, section 6, is amended to read:

Subd. 2. [MEMBERS AND SELECTION.] The board shall be composed of two members appointed by the Moose Lake town board, two members appointed by the Windemere town board, two members appointed by the governing body of each municipality subsequently annexed to the district, and one member who shall reside in *the municipalities that compose* the district, appointed by ~~majority vote of the foregoing members~~ *a joint meeting of the town boards and other governing bodies of the municipalities in the district*. Each member shall have one vote on matters coming before the board.

Sec. 5. Laws 1988, chapter 640, section 4, is amended to read:

Sec. 4. [LOCAL APPROVAL.]

Section 3 of this act is effective January 1, ~~1989~~ *1990*, separately for each of the counties of Chisago, Kanabec, Pine, and Carlton if its county board has complied with the requirements of Minnesota Statutes, section 645.021, subdivision 3, and section 3 has not been disapproved in a referendum under this section.

Before ~~January~~ *September* 1, ~~1988~~ *1989*, the county board shall publish this act for two successive weeks in the official newspaper of the county or, if there is no official newspaper, in a newspaper of general circulation in the county, together with a notice fixing a date for a public hearing to

obtain public comment on the matter. The hearing shall be held not less than two weeks nor more than four weeks after the first publication of the resolution.

If within 30 days after the hearing, a petition requesting a vote on section 3, signed by voters equal in number to ten percent of the votes cast in the county in the last general election, is filed with the county auditor, section 3 shall not be effective until a majority of the voters at a general or special election cast affirmative votes on the question of approving it. The question of whether section 3 shall go into effect shall then be submitted to the voters at a general or special election before ~~January 1~~ *October 10*, 1989. The question submitted shall be:

"Shall the law that permits a tax not greater than .75 mills on property for the . . . . . county historical society be approved?

Yes . . . . . .
No . . . . . "

If a majority of those voting on the question vote yes, section 3 shall be effective for the county on January 1, ~~1989~~ *1990*, and the county board shall report the fact in accordance with section 645.021.

Sec. 6. [CARLTON-CLOQUET GOVERNMENT BUILDING.]

*Carlton county and the city of Cloquet may jointly provide a county and city building in the city of Cloquet for any county and city government purposes. The county and city may submit to the voters of the county and city at the same election the questions whether or not to issue county bonds and city bonds for the building, each question conditioned on the approval of both. Except as provided in this section, the building shall be subject to Minnesota Statutes, sections 374.25 to 374.38.*

Sec. 7. [LOCATION OF CERTAIN OFFICES.]

*The Carver county board and the Scott county board may provide one or more offices for the county attorney, court administrator, and sheriff at sites at the county seat or elsewhere in the county as determined by the county board. If more than one office is established pursuant to this section for any of the officials, at least one shall be at the county seat. Except as provided for the location of the offices, the other provisions of Minnesota Statutes, sections 375.14 and 382.04, or other law, shall continue to apply.*

Sec. 8. [PLACE OF HOLDING COURT.]

*Carver county and Scott county shall provide suitable quarters, as determined by the court, for the district court to discharge its regular duties at sites determined by the county board.*

Sec. 9. [LOCATION OF COUNTY JAIL.]

*Carver county and Scott county shall provide a county jail at the county seat or elsewhere at a site determined by the county board.*

Sec. 10. [APPROPRIATION; HORTICULTURAL PEAT MARKETING.]

*$390,000 is appropriated from the general fund to the commissioner of natural resources for the purpose of horticultural peat marketing and promotion in cooperation with the department of agriculture. Horticultural peat marketing and promotion shall include the development of standards*

*for Minnesota horticultural peat, participation in trade shows, development and distribution of educational materials with respect to horticultural peat marketing and the environment and other matters, organization of commercial and educational seminars, publication of trade literature, organization of media promotion, and initiation of a water quality study. The funds shall be available until July 1, 1991.*

Sec. 11. [ITASCA COUNTY; LEVY LIMIT PENALTY EXEMPTION.]

*The amount of any tax levied by Itasca county under Laws 1988, chapter 517, is not subject to a penalty imposed under Minnesota Statutes, section 275.51, subdivision 4, for exceeding levy limits under Minnesota Statutes, sections 275.50 to 275.56.*

Sec. 12. [LEVY LIMIT EXCEPTION.]

*For taxes levied in 1989 and 1990 only, payable in 1990 and 1991 only, a levy by the Itasca county board under Laws 1988, chapter 517, is not subject to the levy limitations of Minnesota Statutes, sections 275.50 to 275.56, or other law.*

Sec. 13. [SALE OF TAX-FORFEITED LAND; AITKIN COUNTY.]

*(a) Notwithstanding Minnesota Statutes, section 282.018, Aitkin county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.*

*(b) The conveyance must be in a form approved by the attorney general.*

*(c) The land that may be conveyed is located in Aitkin county and is described as: the West 100 feet of the East 200 feet of Government Lot 2, South of state trunk highway marked No. 18, as in Document No. 191102, in Section 21, Township 45, Range 26.*

*(d) The land forfeited for nonpayment of taxes on September 15, 1988. A house assessed at a value of $18,300 for tax purposes is situated on the land. The state owns about 1,250 feet of undeveloped Mille Lacs lakeshore located within about one-half mile of the land and the town of Wealthwood and Aitkin county find that the land is not necessary for public access and would be put to better use in private ownership."*

Page 1, line 6, delete "Section 1" and insert "Sec. 14"

Page 3, delete section 2

Page 3, line 21, delete "*3*" and insert "*15*" and delete "DATE" and insert "DATES"

Page 3, delete line 22 and insert:

"*Sections 2, 13, and 14 are effective the day following final enactment.*

*Section 3 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing bodies of the cities of White Bear Lake, Birchwood, Mahtomedi, and Dellwood, and the town board of White Bear.*

*Section 4 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the town boards of both the towns of Moose Lake and Windemere.*

*Section 6 is effective the day after compliance with Minnesota Statutes,*

*section 645.021, subdivision 3, by the governing bodies of Carlton county and the city of Cloquet.*

*Sections 7 to 9 take effect for each county the day after the filing of a certificate of local approval by the Carver county board and the Scott county board in compliance with Minnesota Statutes, section 645.021, subdivision 3.*

*Section 11 is effective upon approval by the Itasca county board for taxes levied in 1988, payable in 1989 only.*"

Delete the title and insert:

"A bill for an act relating to government operations; providing coverage for preventive rabies treatment; providing for a licensing restriction on locating certain residential facilities; providing for board membership on the White Bear Lake conservation district; providing for board membership of Moose Lake and Windemere sanitary sewer district; delaying effective date of historical society levy for Chisago, Kanabec, Pine, and Carlton counties; permitting Carlton county and city of Cloquet to jointly provide government building; providing for location in Carver and Scott counties of offices for county attorney, court administrator, and sheriff, and for location of district court and county jail; promoting Minnesota horticultural peat; exempting an Itasca county levy from the penalty for levies in excess of limitations; temporarily exempting an Itasca county levy for economic development from levy limits; authorizing sale of certain tax-forfeited lands that border public water in Aitkin and Pine counties; appropriating money; amending Minnesota Statutes 1988, section 176.135, subdivision 1; Laws 1971, chapter 355, section 1; Laws 1974, chapter 400, section 4, subdivision 2, as amended; and Laws 1988, chapter 640, section 4; proposing coding for new law in Minnesota Statutes, chapter 245A."

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

House Conferees: (Signed) Doug Carlson, Paul Anders Ogren, Tom Rukavina

Senate Conferees: (Signed) Florian Chmielewski, Robert J. Schmitz, Jim Gustafson

Mr. Chmielewski moved that the foregoing recommendations and Conference Committee Report on H.F. No. 796 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion did not prevail.

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1150, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1150 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

## CONFERENCE COMMITTEE REPORT ON H.F. NO. 1150

A bill for an act relating to the collection, access to, and dissemination of data; proposing classifications of data as private, confidential, nonpublic, and protected nonpublic; regulating classification of and access to certain data and meetings; clarifying classification of data; establishing an internal audit function with access to state agency data; clarifying what data on juveniles may be made available to the public; amending Minnesota Statutes 1988, sections 13.02, subdivision 9; 13.10, subdivision 1; 13.32, subdivisions 3 and 5; 13.41, by adding a subdivision; 13.46, subdivision 8; 13.64; 13.82, subdivisions 8 and 10; 16A.055, subdivision 1; 144.581, by adding a subdivision; 245.94, subdivision 1; 260.161, subdivision 3; and 340A.503, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 13.

May 22, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1150, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments except for the Benson amendment (SH1150A50) adopted May 22, 1989.

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

House Conferees: (Signed) Thomas W. Pugh, Ann Wynia, Paul Anders Ogren

Senate Conferees: (Signed) Randolph W. Peterson, Gene Merriam

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1150 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1150 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 63 and nays 3, as follows:

Those who voted in the affirmative were:

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

Messrs. Knaak, Metzen and Waldorf voted in the negative.

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

## MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

House Concurrent Resolution No. 3: A House concurrent resolution relating to adjournment of the Senate and House of Representatives until 1990.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 22, 1989

House Concurrent Resolution No. 3: A House concurrent resolution relating to adjournment of the Senate and House of Representatives until 1990.

BE IT RESOLVED by the House of Representatives, the Senate concurring:

(1) Upon their adjournments on May 22, 1989, the House of Representatives may set its next day of meeting for February 12, 1990, at 2:00 p.m. and the Senate may set its next day of meeting for February 12, 1990, at 2:00 p.m.

(2) By the adoption of this resolution, each house consents to adjournment of the other house for more than three days.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

## MOTIONS AND RESOLUTIONS - CONTINUED

### RECONSIDERATION

Mr. Peterson, R.W. moved that the vote whereby H.F. No. 654 was passed by the Senate on May 22, 1989, be now reconsidered. The motion prevailed.

H.F. No. 654 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 16, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Decker | Hughes | Marty | Pogemiller |
| Beckman | DeCramer | Johnson, D.E. | Mehrkens | Reichgott |
| Berglin | Dicklich | Johnson, D.J. | Moe, D.M. | Samuelson |
| Bernhagen | Diessner | Knaak | Moe, R.D. | Schmitz |
| Bertram | Frank | Laidig | Morse | Solon |
| Brandl | Frederick | Langseth | Pariseau | Spear |
| Brataas | Frederickson, D.J. | Lantry | Pehler | Stumpf |
| Chmielewski | Frederickson, D.R. | Larson | Peterson, D.C. | Vickerman |
| Cohen | Freeman | Lessard | Peterson, R.W. | Waldorf |
| Davis | Gustafson | Luther | Piper | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Dahl | McGowan | Metzen | Ramstad |
| Belanger | Knutson | McQuaid | Novak | Renneke |
| Benson | Kroening | Merriam | Olson | Storm |
| Berg | | | | |

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

## RECONSIDERATION

Having voted on the prevailing side, Mr. Gustafson moved that the vote whereby the motion to adopt the Conference Committee Report on H.F. No. 796 failed on May 22, 1989, be now reconsidered. The motion prevailed.

The question recurred on the motion of Mr. Chmielewski to adopt the recommendations and Conference Committee Report on H.F. No. 796. The motion did not prevail.

## MEMBERS EXCUSED

Mr. Vickerman was excused from the Session of today from 12:30 to 1:00 p.m. Mr. Frederickson, D.J. was excused from the Session of today from 4:45 to 7:30 p.m. Ms. Berglin was excused from the Session of today from 6:00 to 6:15 p.m. Mr. Decker was excused from the Session of today from 7:30 to 8:00 p.m.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Monday, February 12, 1990. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

## COMMUNICATIONS RECEIVED SUBSEQUENT TO ADJOURNMENT

## EXECUTIVE AND OFFICIAL COMMUNICATIONS

May 19, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 76 | 147 | 1517 hours May 18 | May 18 |
| 297 | | 153 | 0007 hours May 19 | May 19 |
| | 444 | 175 | 0008 hours May 19 | May 19 |
| | 400 | 183 | 0009 hours May 19 | May 19 |
| 218 | | 186 | 0010 hours May 19 | May 19 |
| 331 | | 189 | 0012 hours May 19 | May 19 |
| 723 | | 194 | 0014 hours May 19 | May 19 |
| 1105 | | 195 | 0015 hours May 19 | May 19 |
| 811 | | 196 | 0016 hours May 19 | May 19 |
| 1498 | | 200 | 0018 hours May 19 | May 19 |
| 163 | | 204 | 0020 hours May 19 | May 19 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 22, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| 1031 | | 154 | 1645 hours May 19 | May 19 |
| | 1027 | 161 | 1640 hours May 19 | May 19 |
| | 1339 | 164 | 1104 hours May 19 | May 19 |
| | 30 | 167 | 1113 hours May 19 | May 19 |
| | 186 | 171 | 1635 hours May 19 | May 19 |
| | 1574 | 172 | 1630 hours May 19 | May 19 |

| | | | |
|---|---|---|---|
| 1338 | 178 | 1625 hours May 19 | May 19 |
| 343 | 182 | 1615 hours May 19 | May 19 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 22, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 502 | 156 | 2100 hours May 19 | May 22 |
| | 242 | 158 | 2102 hours May 19 | May 22 |
| | 719 | 165 | 2104 hours May 19 | May 22 |
| 391 | | 187 | 2055 hours May 19 | May 22 |
| 834 | | 188 | 2051 hours May 19 | May 22 |
| | 461 | 190 | 2020 hours May 19 | May 22 |
| | 1221 | 191 | 2046 hours May 19 | May 22 |
| | 1560 | 192 | 2030 hours May 19 | May 22 |
| | 1353 | 193 | 2015 hours May 19 | May 22 |
| | 862 | 197 | 2300 hours May 19 | May 22 |
| | 268 | 198 | 2305 hours May 19 | May 22 |
| 1502 | | 199 | 2308 hours May 19 | May 22 |
| 829 | | 201 | 2315 hours May 19 | May 22 |
| 1020 | | 202 | 2328 hours May 19 | May 22 |
| 1039 | | 203 | 2330 hours May 19 | May 22 |
| | 527 | 205 | 2317 hours May 19 | May 22 |
| | 1287 | 206 | 2310 hours May 19 | May 22 |
| | 1540 | 207 | 2314 hours May 19 | May 22 |
| | 135 | 208 | 2321 hours May 19 | May 22 |
| 1252 | | 211 | 2325 hours May 19 | May 22 |
| | 956 | 213 | 1221 hours May 19 | May 22 |
| | 943 | 215 | 2340 hours May 19 | May 22 |
| | 949 | 216 | 2342 hours May 19 | May 22 |
| | 1355 | 219 | 2346 hours May 19 | May 22 |
| | 146 | 220 | 2354 hours May 19 | May 22 |
| 736 | | 225 | 2349 hours May 19 | May 22 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 22, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 126, 200, 232, 339, 997, 1011 and 1101.

Sincerely,
Rudy Perpich, Governor

May 23, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 353, 486, 535, 764, 1239, 1278 and received and deposited S.F. No. 388.

Sincerely,
Rudy Perpich, Governor

May 23, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1107 | 214 | 2020 hours May 22 | May 23 |
| | 1548 | 217 | 2017 hours May 22 | May 23 |
| | 1502 | 221 | 2045 hours May 22 | May 23 |
| | 141 | 222 | 2035 hours May 22 | May 23 |
| | 456 | 223 | 2314 hours May 22 | May 23 |
| | 371 | 224 | 2050 hours May 22 | May 23 |
| 997 | | 226 | 2318 hours May 22 | May 23 |
| 1011 | | 227 | 2330 hours May 22 | May 23 |
| 126 | | 228 | 2040 hours May 22 | May 23 |
| 535 | | 229 | 0700 hours May 23 | May 23 |
| 339 | | 230 | 2307 hours May 22 | May 23 |
| 200 | | 231 | 2312 hours May 22 | May 23 |
| | 579 | 232 | 2030 hours May 22 | May 23 |
| | 1143 | 233 | 2025 hours May 22 | May 23 |
| 232 | | 236 | 2310 hours May 22 | May 23 |
| 1239 | | 238 | 0702 hours May 23 | May 23 |

| | | | | |
|---|---|---|---|---|
| 1101 | | 240 | 2022 hours May 22 | May 23 |
| | 831 | 242 | 0704 hours May 23 | May 23 |
| | 1267 | 243 | 2015 hours May 22 | May 23 |
| | 907 | 244 | 0705 hours May 23 | May 23 |
| | 1448 | 245 | 0708 hours May 23 | May 23 |
| 353 | | 247 | 0711 hours May 23 | May 23 |
| | 1506 | 252 | 0717 hours May 23 | May 23 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 24, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1197 | 209 | 1805 hours May 23 | May 23 |
| 764 | | 210 | 1755 hours May 23 | May 23 |
| | 1432 | 212 | 1750 hours May 23 | May 23 |
| | 786 | 218 | 1748 hours May 23 | May 23 |
| 486 | | 235 | 1745 hours May 23 | May 23 |
| 1278 | | 237 | 1758 hours May 23 | May 23 |
| 388 | | Res. No. 5 | | May 23 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 25, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 46, 54, 169, 481, 613, 1358, 1394 and 1541.

Sincerely,
Rudy Perpich, Governor

May 26, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| 169 | | 234 | 1720 hours May 25 | May 25 |
| 46 | | 239 | 1722 hours May 25 | May 25 |
| 54 | | 241 | 1724 hours May 25 | May 25 |
| | 740 | 246 | 1727 hours May 25 | May 25 |
| | 729 | 248 | 1733 hours May 25 | May 25 |
| | 300 | 249 | 1737 hours May 25 | May 25 |
| | 472 | 250 | 1740 hours May 25 | May 25 |
| | 412 | 251 | 1730 hours May 25 | May 25 |
| | 193 | 253 | 1752 hours May 25 | May 25 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 26, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| 1541 | | 254 | 1830 hours May 25 | May 26 |
| | 489 | 255 | 1810 hours May 25 | May 26 |
| | 1697 | 256 | 1832 hours May 25 | May 26 |
| | 611 | 258 | 1812 hours May 25 | May 26 |
| | 450 | 259 | 1815 hours May 25 | May 26 |
| | 1283 | 260 | 1833 hours May 25 | May 26 |
| | 700 | 261 | 1834 hours May 25 | May 26 |
| | 1160 | 263 | 1818 hours May 25 | May 26 |
| | 95 | 264 | 1821 hours May 25 | May 26 |
| | 1435 | 265 | 1836 hours May 25 | May 26 |
| | 811 | 266 | 1835 hours May 25 | May 26 |
| | 1764 | 268 | 1823 hours May 25 | May 26 |
| 613 | | 270 | 1837 hours May 25 | May 26 |
| 481 | | 271 | 1838 hours May 25 | May 26 |
| 1394 | | 274 | 1825 hours May 25 | May 26 |
| | 245 | 276 | 1812 hours May 25 | May 26 |

| | | | | |
|---|---|---|---|---|
| | 266 | 277 | 1800 hours May 25 | May 26 |
| | 826 | 278 | 1805 hours May 25 | May 26 |
| 1358 | | 279 | 1807 hours May 25 | May 26 |
| | 950 | 280 | 1828 hours May 25 | May 26 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 26, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 104, 139, 143, 180, 299, 462, 499, 536, 564, 738, 1227, 1242 and 1618.

Sincerely,
Rudy Perpich, Governor

May 30, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 661 and 1625.

Sincerely,
Rudy Perpich, Governor

May 30, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 415 | 257 | 1645 hours May 26 | May 26 |
| | 1016 | 262 | 1653 hours May 26 | May 26 |
| | 1530 | 267 | 1656 hours May 26 | May 26 |
| 1618 | | 269 | 1725 hours May 26 | May 26 |
| 499 | | 272 | 1650 hours May 26 | May 26 |
| 104 | | 273 | 1647 hours May 26 | May 26 |

| | | | | |
|---|---|---|---|---|
| 564 | | 275 | 1657 hours May 26 | May 26 |
| 1242 | | 343 | 1715 hours May 26 | May 26 |
| | 762 | Res. No. 6 | | May 26 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 30, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 827 | 287 | 1736 hours May 26 | May 30 |
| | 1146 | 288 | 1737 hours May 26 | May 30 |
| | 391 | 289 | 1738 hours May 26 | May 30 |
| 180 | | 292 | 1741 hours May 26 | May 30 |
| 536 | | 294 | 1744 hours May 26 | May 30 |
| | 1454 | 295 | 1739 hours May 26 | May 30 |
| | 996 | 296 | 1745 hours May 26 | May 30 |
| 299 | | 298 | 1747 hours May 26 | May 30 |
| 738 | | 299 | 1749 hours May 26 | May 30 |
| 139 | | 301 | 1751 hours May 26 | May 30 |
| 143 | | 311 | 1752 hours May 26 | May 30 |
| | 166 | 318 | 1755 hours May 26 | May 30 |
| | 1194 | 321 | 1756 hours May 26 | May 30 |
| | 892 | 322 | 1758 hours May 26 | May 30 |
| 462 | | 324 | 1800 hours May 26 | May 30 |
| | 333 | 331 | 1805 hours May 26 | May 30 |
| | 1425 | 336 | 1808 hours May 26 | May 30 |
| | 624 | 341 | 1810 hours May 26 | May 30 |
| | 1046 | 342 | 1813 hours May 26 | May 30 |
| 1227 | | 347 | 1815 hours May 26 | May 30 |
| | 1150 | 351 | 1820 hours May 26 | May 30 |

Sincerely,
Joan Anderson Growe
Secretary of State

May 31, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1137 | 283 | 1145 hours May 30 | May 30 |
| | 630 | 291 | 1148 hours May 30 | May 30 |
| 1625 | | 293 | 1243 hours May 30 | May 30 |
| | 46 | 300 | 1140 hours May 30 | May 30 |
| | 723 | 332 | 1157 hours May 30 | May 30 |
| 661 | | 345 | 1152 hours May 30 | May 30 |

Sincerely,
Joan Anderson Growe
Secretary of State

June 1, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 431, 470, 491, 530, 542, 631, 659, 783, 895, 1009, 1083 and 1378.

Sincerely,
Rudy Perpich, Governor

June 2, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 262, 522 and 1582.

Sincerely,
Rudy Perpich, Governor

June 2, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1759 | 282 | 2305 hours June 1 | June 2 |
| | 761 | 284 | 2335 hours June 1 | June 2 |
| | 1423 | 285 | 2327 hours June 1 | June 2 |
| | 837 | 286 | 2243 hours June 1 | June 2 |
| | 59 | 290 | 2340 hours June 1 | June 2 |
| 431 | | 303 | 2251 hours June 1 | June 2 |
| | 1203 | 304 | 2330 hours June 1 | June 2 |
| | 159 | 305 | 2249 hours June 1 | June 2 |
| | 1181 | 306 | 2342 hours June 1 | June 2 |
| | 927 | 307 | 2254 hours June 1 | June 2 |
| | 354 | 308 | 2244 hours June 1 | June 2 |
| 631 | | 309 | 2247 hours June 1 | June 2 |
| | 1445 | 312 | 2318 hours June 1 | June 2 |
| 542 | | 313 | 2319 hours June 1 | June 2 |
| 1378 | | 314 | 2302 hours June 1 | June 2 |
| | 341 | 315 | 2320 hours June 1 | June 2 |
| | 162 | 316 | 2328 hours June 1 | June 2 |
| | 65 | 317 | 2344 hours June 1 | June 2 |
| 783 | | 319 | 2219 hours June 1 | June 2 |
| | 42 | 320 | 2345 hours June 1 | June 2 |
| 659 | | 323 | 2347 hours June 1 | June 2 |
| 530 | | 325 | 2349 hours June 1 | June 2 |
| 491 | | 327 | 2257 hours June 1 | June 2 |
| | 654 | 329 | 2218 hours June 1 | June 2 |
| | 1155 | 330 | 2352 hours June 1 | June 2 |
| | 702 | 333 | 2315 hours June 1 | June 2 |
| | 661 | 337 | 2312 hours June 1 | June 2 |
| | 1408 | 339 | 2255 hours June 1 | June 2 |
| | 306 | 340 | 2300 hours June 1 | June 2 |
| | 13 | 344 | 2310 hours June 1 | June 2 |
| 1083 | | 346 | 2306 hours June 1 | June 2 |
| 1009 | | 348 | 2307 hours June 1 | June 2 |
| | 260 | 349 | 2316 hours June 1 | June 2 |
| 895 | | 353 | 2305 hours June 1 | June 2 |
| 470 | | 354 | 2325 hours June 1 | June 2 |

Sincerely,
Joan Anderson Growe
Secretary of State

June 5, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1108 | 310 | 1217 hours June 2 | June 2 |
| 262 | | 326 | 1221 hours June 2 | June 2 |
| 522 | | 328 | 1210 hours June 2 | June 2 |
| | 66 | 334 | 2255 hours June 2 | June 2 |
| | 1532 | 338 | 1215 hours June 2 | June 2 |
| | 878 | 350 | 1010 hours June 2 | June 2 |
| | 1443 | 352 | 1216 hours June 2 | June 2 |
| 1582 | | 355 | 1218 hours June 2 | June 2 |

Sincerely,
Joan Anderson Growe
Secretary of State

June 5, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 372 | 335 | 0100 hours June 3 | June 3 |
| | 1616 | 356 | 0105 hours June 3 | June 3 |

Sincerely,
Joan Anderson Growe
Secretary of State

July 18, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

On July 12, 1989, the Subcommittee on Committees met and by appropriate action made the following appointments:

Pursuant to Laws 1989

Chapter 350: Advisory Task Force on Farm Safety - Mr. Bertram

Chapter 290: Child Protection System Study Commission - Mses. Berglin, Reichgott, Mrs. Pariseau, Messrs. McGowan and Spear

Chapter 290: Drug Abuse Prevention Resource Council - Mr. Luther

Chapter 309: Electric Utility Service Areas Task Force - Messrs. Dicklich; Johnson, D.E.; Pehler; Storm and Vickerman

Chapter 282: Inventory, Referral, and Intake System (IRIS) Coordinating Committee - Messrs. Pogemiller and Storm

Chapter 335: Legislative Task Force on Minerals - Messrs. Dicklich; Davis; Decker; Frederickson, D.J. and Frederickson, D.R.

Chapter 326: Legislative Water Commission - Messrs. Bernhagen, DeCramer, Merriam, Morse and Purfeerst

Chapter 335: Minnesota Project Outreach - Mr. Morse

Chapter 352: Small Business Procurements Commission - Mrs. Adkins, Messrs. Larson and Marty

Chapter 279: Advisory Council on Metropolitan Airport Planning - Messrs. Langseth, Belanger and Marty

Chapter 327: Minnesota Health Care Access Commission - Ms. Berglin, Messrs. Samuelson and Knutson

Respectfully,
Roger D. Moe, Chair
Subcommitte on Committees

August 9, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

Pursuant to Laws 1989, I have made the following appointments:

Chapter 282: Community Action Program Legislative Task Force - Messrs. Anderson, Vickerman, Ms. Piper, Mmes. Lantry and McQuaid

Respectfully,
Roger D. Moe
Senate Majority Leader

August 9, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

Pursuant to Laws 1989, I have made the following appointments:

Chapter 326: Metropolitan Local Water Management Task Force - Messrs. Dahl, Knaak and Novak

Respectfully,
Roger D. Moe
Senate Majority Leader

May 25, 1989

The Honorable Roger D. Moe, Chair
Committee on Rules and Administration

Pursuant to Rule 51, the following bills remaining on General Orders

after adjournment on May 22, 1989, were returned to the committees indicated:

H.F. Nos. 223 and 1689 to the Committee on Commerce.

S.F. Nos. 1181 and 1509 to the Committee on Education.

S.F. Nos. 287 and 762 to the Committee on Employment.

S.F. Nos. 532, 594, 1197 and 1416 to the Committee on Finance.

S.F. Nos. 818, 1422 and H.F. No. 1604 to the Committee on Governmental Operations.

S.F. No. 627 to the Committee on Health and Human Services.

S.F. No. 322 and H.F. No. 951 to the Committee on Public Utilities and Energy.

S.F. Nos. 1436 and 1573 to the Committee on Taxes and Tax Laws.

Pursuant to Joint Rule 3.02, the following Conference Committees were discharged, the Senate bill was laid on the table and the House bills returned to the House of Representatives:

S.F. No. 258.

H.F. Nos. 257, 417, 701 and 1421.

Patrick E. Flahaven
Secretary of the Senate

October 12, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

By appropriate action of the Senate Rules and Administration Committee, the following appointment has been made:

Pursuant to Laws 1989

Chapter 314: Animal Population Control Study Commission - Mr. Chmielewski

Respectfully,
Roger D. Moe, Chair
Rules and Administration Committee

# JOURNAL

OF THE

# SENATE

STATE OF MINNESOTA

## SEVENTY-SIXTH LEGISLATURE

## SPECIAL SESSION

## 1989

STATE OF MINNESOTA

# Journal of the Senate

SEVENTY-SIXTH LEGISLATURE

---

## SPECIAL SESSION

### FIRST DAY

St. Paul, Minnesota, Wednesday, September 27, 1989

The Senate met at 10:00 a.m. and was called to order by the President.

Prayer was offered by the Chaplain, Rev. Paul Romstad.

The Secretary called the roll by legislative districts in numerical order as follows:

| | |
|---|---|
| First District | LeRoy A. Stumpf |
| Second District | Roger D. Moe |
| Third District | Bob Lessard |
| Fourth District | Bob Decker |
| Fifth District | Ronald R. Dicklich |
| Sixth District | Douglas J. Johnson |
| Seventh District | Sam G. Solon |
| Eighth District | Jim Gustafson |
| Ninth District | Keith Langseth |
| Tenth District | Cal Larson |
| Eleventh District | Charles A. Berg |
| Twelfth District | Don Anderson |
| Thirteenth District | Don Samuelson |
| Fourteenth District | Florian Chmielewski |
| Fifteenth District | Dean E. Johnson |
| Sixteenth District | Joe Bertram, Sr. |
| Seventeenth District | James C. Pehler |
| Eighteenth District | Charles R. Davis |
| Nineteenth District | Randolph W. Peterson |
| Twentieth District | David J. Frederickson |
| Twenty-first District | John Bernhagen |
| Twenty-second District | Betty A. Adkins |
| Twenty-third District | Dennis R. Frederickson |
| Twenty-fourth District | Glen Taylor |
| Twenty-fifth District | Clarence M. Purfeerst |
| Twenty-sixth District | Lyle G. Mehrkens |
| Twenty-seventh District | Gary M. DeCramer |
| Twenty-eighth District | Jim M. Vickerman |
| Twenty-ninth District | Tracy L. Beckman |
| Thirtieth District | Mel Frederick |
| Thirty-first District | Pat Piper |
| Thirty-second District | Duane D. Benson |

Thirty-third District .....Nancy Brataas
Thirty-fourth District .....Steven Morse
Thirty-fifth District .....Earl W. Renneke
Thirty-sixth District .....Robert J. Schmitz
Thirty-seventh District .....Pat Pariseau
Thirty-eighth District .....Howard A. Knutson
Thirty-ninth District .....James Metzen
Fortieth District .....Michael O. Freeman
Forty-first District .....William V. Belanger, Jr.
Forty-second District .....Donald A. Storm
Forty-third District .....Gen Olson
Forty-fourth District .....Phyllis W. McQuaid
Forty-fifth District .....Jim Ramstad
Forty-sixth District .....Ember D. Reichgott
Forty-seventh District .....William P. Luther
Forty-eighth District .....Patrick D. McGowan
Forty-ninth District .....Gene Merriam
Fiftieth District .....Gregory L. Dahl
Fifty-first District .....Don Frank
Fifty-second District .....Steven G. Novak
Fifty-third District .....Fritz Knaak
Fifty-fourth District .....Jerome M. Hughes
Fifty-fifth District .....Gary W. Laidig
Fifty-sixth District .....A. W. "Bill" Diessner
Fifty-seventh District .....Carl W. Kroening
Fifty-eighth District .....Lawrence J. Pogemiller
Fifty-ninth District .....Allan H. Spear
Sixtieth District .....Linda Berglin
Sixty-first District .....Donna C. Peterson
Sixty-second District .....John E. Brandl
Sixty-third District .....John J. Marty
Sixty-fourth District .....Richard Cohen
Sixty-fifth District .....Donald M. Moe
Sixty-sixth District .....Gene Waldorf
Sixty-seventh District .....Marilyn M. Lantry

The President declared a quorum present.

## MEMBERS EXCUSED

Ms. Berglin, Mrs. Brataas, Messrs. Berg, Langseth, Purfeerst, Spear and Taylor were excused from the Session of today.

## STATE OF MINNESOTA

## PROCLAMATION

WHEREAS: Final agreement on essential legislation affecting the health, safety and welfare of Minnesota citizens was not reached during the regular session of the Minnesota Legislature; and

WHEREAS: The unfinished business includes essential items dealing with tax reform and operations of local government; and

WHEREAS: It is critical for the long-term fiscal stability of the state government, the economic future of the state and the needs of the people

of Minnesota that such issues be resolved; and

WHEREAS: The period of time allowed by the Minnesota Constitution for passage of such legislation has expired and an extraordinary occasion is thereby created; and

WHEREAS: Article IV, Section 12 of the Constitution of the State of Minnesota provides that a Special Session of the Legislature may be called on extraordinary occasions; and

WHEREAS: Elected leaders of the Legislature have agreed on an agenda and procedures to complete a Special Session in the shortest time possible; and

WHEREAS: Due to the current renovation of the chamber of the House of Representatives, it is necessary for the House to meet in the chamber of the Senate, but only after the Senate has passed a resolution granting consent to such use; and

WHEREAS: It is therefore necessary to summon members of the House to convene at a time certain that is later than the time set for convening the Senate;

NOW, THEREFORE, I, Rudy Perpich, as Governor of the State of Minnesota, do hereby summon you, members of the Legislature, to convene in Special Session on Wednesday, September 27, 1989, the Senate to convene at 10:00 a.m. and the House of Representatives at noon on that day, in the chamber of the Senate in the Capitol in Saint Paul, Minnesota.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Minnesota to be affixed at the State Capitol this twenty-sixth day of September in the year of Our Lord one thousand nine hundred and eighty-nine, and of the State the one hundred thirty-first.

Rudy Perpich,
Governor

Joan Anderson Growe,
Secretary of State

## MOTIONS AND RESOLUTIONS

Messrs. Moe, R.D. and Benson introduced—

Senate Resolution No. 1: A Senate resolution relating to organization and operation of the Senate during the Special Session.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The Senate is organized under Minnesota Statutes, sections 3.073 and 3.103.

The Rules of the Senate for the 76th Legislature are the Rules for the Special Session, except that Rules 33, 40, and 57 are not operative other than as provided in this resolution.

The Committees on Rules and Administration and Taxes and Tax Laws are established in the same manner and with the same powers as in the 76th Legislature.

With respect to Rule 31, Reconsideration, a notice of intention to move

for reconsideration is not in order, but a motion to reconsider may be made, and when made has priority over other business except a motion to adjourn.

The question was taken on the adoption of the resolution.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

The motion prevailed. So the resolution was adopted.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved, pursuant to Article IV, Section 12, of the Constitution of the State of Minnesota, that the Senate hereby consents to the House of Representatives meeting in the Senate chamber during the 1989 Special Session of the legislature and that the Secretary of the Senate is directed to inform the House by message.

The motion prevailed.

Messrs. Moe, R.D. and Benson introduced—

Senate Resolution No. 2: A Senate resolution relating to notifying the House of Representatives and the Governor that the Senate is organized.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The Secretary of the Senate shall notify the House of Representatives and the Governor that the Senate is now duly organized under the Minnesota Constitution and Minnesota Statutes.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Johnson, D.J.; Moe, R.D.; Pogemiller; Novak and Stumpf introduced—

S.F. No. 1: A bill for an act relating to the financing and operation of government in Minnesota; changing tax rates and bases; modifying the

administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; allowing certain units of local governments to impose taxes; changing tax increment financing provisions; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; modifying the levy authority of the Red River watershed management district; authorizing an appropriation by Aitkin county; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; modifying certain bond allocation procedures; authorizing a transfer by the Tower-Soudan school district; requiring studies of state and local finance issues; requiring the governor to recommend spending reductions; setting the amount of the budget reserve; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; requiring a mechanism to fund certain mental health services; providing procedures for allocating costs of certain human services between the state and county agencies; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 3.885, subdivisions 3, 5, and by adding subdivisions; 3.982; 6.62, subdivision 1; 10A.31, subdivision 5; 16A.15, subdivision 6; 18.023, subdivision 8; 60A.14, subdivision 1; 60A.15, subdivision 1; 60A.19, subdivision 6; 110B.15, subdivision 4; 115.34, subdivision 1; 115A.03, subdivision 25a, and by adding subdivisions; 115A.072; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, by adding a subdivision; 115A.48, subdivision 3, and by adding a subdivision; 115A.915; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.26, subdivision 1; 129A.06, subdivision 2; 145A.08, subdivision 3; 164.041; 256.736, subdivision 13; 256B.091, subdivision 8; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 6; 256G.01, subdivision 3; 256G.05; 256G.07; 256G.10; 256G.11; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivision 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivision 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.064; 273.065; 273.111, subdivision 4; 273.123, subdivisions 4, 5, and 7; 273.13, subdivisions 21a, 24, 25, 31, and by adding subdivisions; 273.1392; 273.1398, subdivisions 2, 3, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivision 1, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.15; 275.16; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 2 and 3; 276.01; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 284.28, subdivisions 4 and 7; 287.29; 290.01, subdivision 29; 290.02; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 21, and

by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.091, subdivision 2, and by adding a subdivision; 290.095, subdivision 2, and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.35, subdivisions 1, 4, and by adding a subdivision; 290.37, subdivision 1; 290.38; 290.92, subdivision 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.04, subdivisions 2, 2h, 3, and by adding a subdivision; 290A.07, subdivision 2a; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.15, subdivision 5; 297A.25, subdivision 3, and by adding a subdivision; 297A.257, subdivision 1; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivisions 6 and 12; 298.282, subdivision 3; 298.39; 298.396; 325E.115, subdivision 1; 349.12, subdivision 19, and by adding subdivisions; 349.16, by adding a subdivision; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.2127, subdivision 4, and by adding a subdivision; 353A.10, subdivision 3; 360.037, subdivision 2; 368.01, subdivision 14; 373.40, subdivisions 1 and 2; 375.18, by adding a subdivision; 386.015, subdivision 5; 400.08, by adding a subdivision; 412.221, subdivision 22; 414.01, subdivision 15; 444.075, subdivisions 1 and 4; 444.16; 444.17; 444.18; 444.19; 444.20; 447.34, subdivision 1; 447.35; 465.73; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 10, 16, 17, and by adding a subdivision; 469.175, by adding a subdivision; 469.176, by adding a subdivision; 469.177, subdivisions 6 and 10; 469.190, subdivisions 2 and 3; 471.572, subdivision 2; 471.74, subdivision 2; 471A.03, subdivision 4; 473.149, subdivision 1; 473.167, subdivision 4; 473.249, subdivision 2; 473.446, subdivision 8; 473.711, subdivision 5; 473.803, subdivision 1; 473.87; 473F.05; 473F.06; 473F.07, subdivisions 1, 2, and 5; 473F.08, subdivisions 3, 3a, 5, and by adding a subdivision; 473F.09; 473H.10, subdivision 3; 474A.061, subdivisions 1, 2, and 4; 474A.091, subdivisions 2 and 3; 475.74; 475.754; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding subdivisions; 477A.013, subdivision 3, and by adding subdivisions; 508.75; 508.76; 508.77; 508.78; 508.79; 508.82; 508A.76; 508A.77; 508A.78; 508A.79; 508A.82; Minnesota Statutes 1989 Supplement, sections 16A.1541; 115A.12, subdivision 1; 115A.46, subdivision 2; 121.904, subdivisions 4a and 4e; 124.2131, subdivision 1; 124.243, subdivision 3; 124.244, subdivision 2; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256D.03, subdivision 2; 256D.051, subdivision 6; 256D.36, subdivision 1; 256G.02, subdivision 4; 270.12, subdivision 2; 272.02, subdivision 1; 273.061, subdivision 1; 273.1104, subdivision 2; 273.119, subdivision 2; 273.124, subdivision 6; 273.13, subdivisions 22 and 23; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 5, and 6; 275.07, subdivision 3; 275.125, subdivisions 5, 5b, and 9; 275.14; 275.28, subdivision 1; 275.58, subdivision 1; 287.12; 290.01, subdivision 19c; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.0802, subdivision 1; 290.17, subdivision 2; 290.191, subdivision 6; 290.92, subdivision 4b; 297A.25, subdivisions 11 and 16; 297A.44, subdivision 1; 298.282, subdivision 2; 349.12, subdivision 11; 349.15; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.214, subdivision 2; 357.021, subdivision 1a; 373.40, subdivision 6; 412.251; 426.04; 469.033, subdivision 6; 469.174, subdivision 7; 469.175, subdivisions 3 and 7; 469.176, subdivisions 1 and 6; 469.190, subdivision 1; 471.1921; 473.882, subdivision 3; and 477A.013, subdivision 1; Laws 1976, chapter 162, section 1, as amended; Laws 1986, chapter 399, article

1, section 1; Laws 1987, chapter 268, article 6, section 54, as amended; 1988, chapter 719, article 1, section 22; and article 12, section 29, as amended; Laws 1989, chapter 282, article 5, section 133; chapter 329, article 1, section 17, subdivision 2; article 2, section 8, subdivision 2; and article 5, section 21, subdivisions 2 and 3; and chapter 335, article 3, sections 54, subdivision 8; and 58, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 16B; 115A; 124; 173; 256; 273; 274; 290; 290A; 297A; 325E; 349; 469; and 473; repealing Minnesota Statutes 1988, sections 3.981; 3.983, as amended; 134.34, subdivision 6; 245.775; 270.81, subdivision 5; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 275.11; 275.50; 275.51; 275.54; 275.55; 275.56; 275.561; 275.58; 290.092, subdivision 5; 349.2121, subdivision 4; 471A.04; 477A.011, subdivision 24; 477A.013, subdivision 4.

Referred to the Committee on Taxes and Tax Laws.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:00 a.m., Thursday, September 28, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

SECOND DAY

St. Paul, Minnesota, Thursday, September 28, 1989

The Senate met at 9:00 a.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. M.E. Sandness.

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

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

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

Ms. Berglin, Mrs. Brataas, Messrs. Dahl, Davis, Purfeerst and Taylor were excused from the Session of today. Mr. Schmitz was excused from the Session of today from 9:00 to 10:00 a.m.

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to inform you that the House of Representatives of the State of Minnesota is now duly organized for the 1989 Special Session pursuant to law.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted September 27, 1989

## REPORTS OF COMMITTEES

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

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

S.F. No. 1: A bill for an act relating to the financing and operation of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; allowing certain units of local governments to impose taxes; changing tax increment financing provisions; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; modifying the levy authority of the Red River watershed management district; authorizing an appropriation by Aitkin county; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; modifying certain bond allocation procedures; authorizing a transfer by the Tower-Soudan school district; requiring studies of state and local finance issues; requiring the governor to recommend spending reductions; setting the amount of the budget reserve; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; requiring a mechanism to fund certain mental health services; providing procedures for allocating costs of certain human services between the state and county agencies; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 3.885, subdivisions 3, 5, and by adding subdivisions; 3.982; 6.62, subdivision 1; 10A.31, subdivision 5; 16A.15, subdivision 6; 18.023, subdivision 8; 60A.14, subdivision 1; 60A.15, subdivision 1; 60A.19, subdivision 6; 110B.15, subdivision 4; 115.34, subdivision 1; 115A.03, subdivision 25a, and by adding subdivisions; 115A.072; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, by adding a subdivision; 115A.48, subdivision 3, and by adding a subdivision; 115A.915; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.26, subdivision 1; 129A.06, subdivision 2; 145A.08, subdivision 3; 164.041; 256.736, subdivision 13; 256B.091, subdivision 8; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 6; 256G.01, subdivision 3; 256G.05; 256G.07; 256G.10; 256G.11; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivision 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivision 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.064; 273.065; 273.111, subdivision 4; 273.123, subdivisions 4, 5, and 7; 273.13, subdivisions 21a, 24, 25, 31, and by adding subdivisions; 273.1392; 273.1398, subdivisions

2, 3, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivision 1, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.15; 275.16; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 2 and 3; 276.01; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 284.28, subdivisions 4 and 7; 287.29; 290.01, subdivision 29; 290.02; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.091, subdivision 2, and by adding a subdivision; 290.095, subdivision 2, and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.35, subdivisions 1, 4, and by adding a subdivision; 290.37, subdivision 1; 290.38; 290.92, subdivision 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.04, subdivisions 2, 2h, 3, and by adding a subdivision; 290A.07, subdivision 2a; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.15, subdivision 5; 297A.25, subdivision 3, and by adding a subdivision; 297A.257, subdivision 1; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivisions 6 and 12; 298.282, subdivision 3; 298.39; 298.396; 325E.115, subdivision 1; 349.12, subdivision 19, and by adding subdivisions; 349.16, by adding a subdivision; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.2127, subdivision 4, and by adding a subdivision; 353A.10, subdivision 3; 360.037, subdivision 2; 368.01, subdivision 14; 373.40, subdivisions 1 and 2; 375.18, by adding a subdivision; 386.015, subdivision 5; 400.08, by adding a subdivision; 412.221, subdivision 22; 414.01, subdivision 15; 444.075, subdivisions 1 and 4; 444.16; 444.17; 444.18; 444.19; 444.20; 447.34, subdivision 1; 447.35; 465.73; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 10, 16, 17, and by adding a subdivision; 469.175, by adding a subdivision; 469.176, by adding a subdivision; 469.177, subdivisions 6 and 10; 469.190, subdivisions 2 and 3; 471.572, subdivision 2; 471.74, subdivision 2; 471A.03, subdivision 4; 473.149, subdivision 1; 473.167, subdivision 4; 473.249, subdivision 2; 473.446, subdivision 8; 473.711, subdivision 5; 473.803, subdivision 1; 473.87; 473E05; 473E06; 473E07, subdivisions 1, 2, and 5; 473E08, subdivisions 3, 3a, 5, and by adding a subdivision; 473E09; 473H.10, subdivision 3; 474A.061, subdivisions 1, 2, and 4; 474A.091, subdivisions 2 and 3; 475.74; 475.754; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding subdivisions; 477A.013, subdivision 3, and by adding subdivisions; 508.75; 508.76; 508.77; 508.78; 508.79; 508.82; 508A.76; 508A.77; 508A.78; 508A.79; 508A.82; Minnesota Statutes 1989 Supplement, sections 16A.1541; 115A.12, subdivision 1; 115A.46, subdivision 2; 121.904, subdivisions 4a and 4e; 124.2131, subdivision 1; 124.243, subdivision 3; 124.244, subdivision 2; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256D.03, subdivision 2; 256D.051, subdivision 6; 256D.36, subdivision 1; 256G.02, subdivision 4; 270.12, subdivision 2; 272.02, subdivision 1; 273.061, subdivision 1; 273.1104, subdivision 2; 273.119, subdivision 2; 273.124, subdivision 6; 273.13, subdivisions 22 and 23; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 5, and 6; 275.07, subdivision 3; 275.125, subdivisions 5, 5b, and 9; 275.14; 275.28, subdivision 1; 275.58, subdivision 1; 287.12; 290.01, subdivision 19c; 290.015, subdivisions 3 and 4; 290.05, subdivision 3;

290.0802, subdivision 1; 290.17, subdivision 2; 290.191, subdivision 6; 290.92, subdivision 4b; 297A.25, subdivisions 11 and 16; 297A.44, subdivision 1; 298.282, subdivision 2; 349.12, subdivision 11; 349.15; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.214, subdivision 2; 357.021, subdivision 1a; 373.40, subdivision 6; 412.251; 426.04; 469.033, subdivision 6; 469.174, subdivision 7; 469.175, subdivisions 3 and 7; 469.176, subdivisions 1 and 6; 469.190, subdivision 1; 471.1921; 473.882, subdivision 3; and 477A.013, subdivision 1; Laws 1976, chapter 162, section 1, as amended; Laws 1986, chapter 399, article 1, section 1; Laws 1987, chapter 268, article 6, section 54, as amended; 1988, chapter 719, article 1, section 22; and article 12, section 29, as amended; Laws 1989, chapter 282, article 5, section 133; chapter 329, article 1, section 17, subdivision 2; article 2, section 8, subdivision 2; and article 5, section 21, subdivisions 2 and 3; and chapter 335, article 3, sections 54, subdivision 8; and 58, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 16B; 115A; 124; 173; 256; 273; 274; 290; 290A; 297A; 325E; 349; 469; and 473; repealing Minnesota Statutes 1988, sections 3.981; 3.983, as amended; 134.34, subdivision 6; 245.775; 270.81, subdivision 5; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 275.11; 275.50; 275.51; 275.54; 275.55; 275.56; 275.561; 275.58; 290.092, subdivision 5; 349.2121, subdivision 4; 471A.04; 477A.011, subdivision 24; 477A.013, subdivision 4.

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

Page 4, line 8, after the comma, insert "*will contribute to fairer distribution of tax burden among individuals based upon ability to pay,*"

Page 6, line 16, after "*subdivisions*" insert "*and income disparities among individuals*"

Page 6, line 18, delete "*rates*" and insert "*levels*"

Page 8, line 35, after the comma, insert "*relationship of local taxes to individuals' ability to pay,*"

Page 11, after line 35, insert:

"*(7) the effect of the state aid or mandate on the distribution of tax burdens among individuals, based upon ability to pay;*"

Page 11, line 36, delete "*(7)*" and insert "*(8)*"

Page 12, line 2, delete "*(8)*" and insert "*(9)*"

Page 12, line 4, delete "*(9)*" and insert "*(10)*"

Page 12, line 6, delete "*(10)*" and insert "*(11)*"

Page 20, line 36, delete "*5.1*" and insert "*5.06*"

Page 21, line 14, delete "*3.65*" and insert "*3.6*"

Page 22, line 2, delete "*3.65*" and insert "*3.6*"

Page 22, line 24, delete "*3.05*" and insert "*3.0*"

Page 22, lines 25 to 27, delete the new language

Page 27, lines 21, 26, and 33, delete "*5.1*" and insert "*5.06*"

Page 27, line 33, after "*shall*" insert "*identify and*"

Page 27, line 35, after "*aid*" insert "*over the amount of expenditures for homestead and agricultural credit aid provided in this act*"

Page 27, line 36, after the period, insert "*At that time, the governor may propose alternative programs other than homestead and agricultural credit aid to prevent other taxpayers' taxes from increasing as a result of the governor's recommended increase in the phase-in percentage.*"

Page 28, line 5, delete "*5.1*" and insert "*5.06*"

Page 28, line 8, before the period, insert "*provided that the governor may recommend an alternative phase-in percentage for taxes payable in 1991*"

Page 31, after line 21, insert:

"Sec. 10. [STUDY OF FARM CLASS RATES.]

*The department of revenue shall study the effect of the changes in class rates that apply to farm homesteads for taxes payable in 1990, 1991, 1992, and thereafter that are enacted in this act.*

*The commissioner of revenue shall report the findings of the study by February 12, 1990, to the chairs of the house of representatives committee on taxes, the senate committee on taxes and tax laws, the house of representatives committee on agriculture, and the senate committee on agriculture and rural development.*"

Renumber the sections of article 2 in sequence

Page 49, line 32, after "*payable*" insert ", *except that for class 3 utility real and personal property the class rate applied shall be 5.38 percent*"

Page 53, line 2, delete everything after the first "*costs*"

Page 53, line 3, delete everything before the semicolon

Page 53, line 4, delete the first "*and*" and insert a comma

Page 53, line 5, delete everything after the first "*costs*"

Page 53, line 6, delete "*256B.19*"

Page 54, line 10, delete "*1989*" and insert "*1988*"

Page 55, line 10, delete "*124A.25*" and insert "*124A.23*"

Page 55, line 12, delete "*subdivision 5*" and insert "*subdivisions 5 and 5c*"

Page 56, after line 9, insert:

"*(e) Payments under this subdivision to cities and towns shall be annually reduced by the amount of the homestead and agricultural credit aid adjustment, if any, determined for 1990 under section 477A.013, subdivision 6.*"

Page 60, line 12, delete "*April*" and insert "*January*" and delete "*human services*" and insert "*finance*"

Page 60, line 13, after the second "*the*" insert "*estimated*"

Page 62, after line 2, insert:

"Sec. 23. Minnesota Statutes 1989 Supplement, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy

certified under subdivision 1 by the amount of homestead and agricultural credit aid certified by section 273.1398, subdivision 2, *reduced by the amount under section 273.1398, subdivision 5a.* If a local government's homestead and agricultural credit aid was further allocated between portions of its levy pursuant to section 273.1398, subdivision 2, paragraph (b)(2), the levy or fund to which the homestead and agricultural credit aid was allocated is the levy or fund which must be adjusted."

Page 62, line 27, delete "*state treasurer*" and insert "*commissioner of revenue*"

Page 63, line 8, delete "*state treasurer*" and insert "*commissioner of revenue*"

Page 68, line 22, before "*July*" insert "*January 1 and*"

Page 68, line 27, after the period, insert "*Each of the two appropriations shall equal one-half of the certified amount.*"

Page 69, line 2, delete "*25*" and insert "*26*" and delete "*27*" and insert "*28*"

Page 69, line 5, delete "*28 to 31*" and insert "*29 to 32*" and delete "*33*" and insert "*34*"

Page 69, line 26, delete "*23 and 24*" and insert "*24 and 25*"

Page 69, line 28, delete "*26*" and insert "*27*"

Page 69, line 30, delete "*32*" and insert "*33*"

Renumber the sections of article 3 in sequence

Page 71, line 29, after "*5.*" insert "*(1)*"

Page 71, line 32, before the period, insert "*plus (2) a city's levy on the fiscal disparities distribution under section 473F.08, subdivision 3, paragraph (a), for taxes payable in 1989*"

Page 72, line 35, delete "*October*" and insert "*July*"

Page 73, line 5, after "*under*" insert "*this*"

Page 73, line 6, delete "*477A.015*"

Page 73, line 9, after "*under*" insert "*this*" and delete "*477A.015*"

Page 74, line 11, strike "and subsequent years"

Page 74, line 15, after the period, insert "*In calendar year 1991 and subsequent years, each town that had levied for taxes payable in the prior year a tax capacity rate of at least .008 shall receive a distribution equal to the amount it received in 1990 under this subdivision less the amount deducted in 1989 under section 477A.013, subdivision 6.*"

Page 76, line 36, delete "*first from the*"

Page 77, delete line 1

Page 77, line 2, delete "*subdivision 3, and if any still remains then*"

Page 77, after line 4, insert:

"*An increase in a city's property tax levy for taxes payable in 1990 attributable to the amount deducted from the city's aids under this subdivision is exempt from the city's per capita levy limit under section 275.11*

*and from the city's percentage of market value levy limit under section 412.251 or 426.04.*"

Page 89, line 13, delete ", *up to the*"

Page 89, line 14, delete "*12 percent maximum allowable increase,*"

Page 90, line 31, delete "*and subsequent years*"

Page 91, line 13, after "*be*" insert "*further*"

Page 91, line 16, after "*state*" insert "*less 50 percent of the amount of fines collected by the courts during calendar year 1989*"

Page 92, line 5, after "*referees*" insert "*and the expenses of law clerks and court reporters as authorized in Laws 1989, chapter 335, article 3, sections 17 and 26,*"

Page 93, after line 32, insert:

"*For taxes levied in 1989, the adjusted levy limit base is reduced by an amount equal to the estimated amount of the reduction in aids to a county under sections 273.1398, subdivision 2, paragraph (d), and 477A.012, subdivision 3, for aids payable in 1990.*"

Page 95, after line 24, insert:

"*(d) A county may appeal to the commissioner of revenue for an increase in its levy base for the 12 or 15 percent limit under section 275.50, subdivision 5, clause (u), item (i) for the portion of the amount of its payable 1989 special levy under Minnesota Statutes 1988, section 275.50, subdivision 5, clause (a) for the income maintenance programs that was actually used to finance social services and social services administration subject to the 18 percent limit under Minnesota Statutes 1988, section 275.50, subdivision 5, clause (a) for payable 1989. If the county can provide evidence satisfactory to the commissioner in support of this claim, the commissioner may permit the county to increase its levy base for the 12 or 15 percent limit under section 275.50, subdivision 5, clause (u), item (i) in the amount determined by the commissioner. The commissioner's decision is final.*"

Page 121, line 23, after "*45,*" insert "*and*" and delete ", *and 50*"

Page 125, line 28, delete "*26.2*" and insert "*26.3*"

Page 126, line 2, delete "*$848,000,000*" and insert "*$845,000,000*"

Page 126, line 30, after the comma, insert "*the taconite levy reduction limit according to section 275.125, subdivision 9, had been 10.22 percent of adjusted gross tax capacity,*"

Page 127, line 1, after "*percent*" insert ", *the taconite levy reduction limit according to section 275.125, subdivision 9, had been 10.22 percent of adjusted net tax capacity,*"

Page 127, line 28, delete "*$65,409,000*" and insert "*$66,700,000*"

Page 128, line 31, strike "a gross tax"

Page 128, line 32, strike "capacity rate of" and delete "*6.76*" and strike "percent times the adjusted gross tax"

Page 128, line 33, strike "capacity for taxes payable in 1990 or"

Page 128, line 34, delete "*9.25*" and insert "*6.82*"

Page 128, line 35, strike "1991" and insert "*1990*"

Page 129, after line 30, insert:

"Sec. 11. Minnesota Statutes 1988, section 275.125, subdivision 18, is amended to read:

Subd. 18. [NOTICE OF CERTIFIED LEVIES.] By ~~November 1~~ *September 15* of each year each district shall notify the commissioner of education of the *proposed* levies ~~certified~~ in compliance with the levy limitations of this section and ~~chapter~~ *chapters 124 and* 124A. *By January 15 of each year each district shall notify the commissioner of education of the final levies certified.* The commissioner of education shall prescribe the form of ~~this notification~~ *these notifications*."

Page 129, line 35, delete "*$1,231,617,000*" and insert "*$1,237,064,000*"

Page 129, line 36, delete "*$1,598,935,000*" and insert "*$1,600,994,000*"

Page 130, line 2, delete "*$1,056,793,000*" and insert "*$1,062,240,000*"

Page 130, line 4, delete "*$1,421,046,000*" and insert "*$1,423,105,000*"

Page 130, line 6, delete "*$279,547,000*" and insert "*$285,744,000*"

Page 130, line 13, delete "*$113,850,000*" and insert "*$114,157,000*"

Page 130, line 17, delete "*$99,872,000*" and insert "*$100,179,000*"

Page 130, line 19, delete "*$20,004,000*" and insert "*$20,452,000*"

Page 130, line 27, delete "*$67,747,000*" and insert "*$67,844,000*"

Page 130, line 30, delete "*$61,782,000*" and insert "*$61,879,000*"

Page 130, line 32, delete "*$13,702,000*" and insert "*$13,957,000*"

Page 131, line 4, delete "*$33,874,000*" and insert "*$33,922,000*"

Page 131, line 7, delete "*$30,891,000*" and insert "*$30,939,000*"

Page 131, line 9, delete "*$6,851,000*" and insert "*$6,978,000*"

Page 131, delete lines 22 to 30 and insert "*If this representation is made by the school board, the election shall be subject to contest under Minnesota Statutes, chapter 209, and the court may invalidate the election results.*

Sec. 18. [ADJUSTED GROSS TAX CAPACITY.]

*For purposes of computing 1989 payable 1990 school district levies under Minnesota Statutes, chapters 124 and 124A and section 275.125, adjusted gross tax capacity means adjusted gross tax capacity as defined in Minnesota Statutes 1988, section 273.13.*"

Page 131, line 32, delete "*17*" and insert "*18*"

Renumber the sections of article 6 in sequence

Page 135, line 32, after "property" insert "*that is owned by the same owner in both years*" and after "more" insert "*for taxes payable in 1990 and 1991, $60 or more for taxes payable in 1992, $80 or more for taxes payable in 1993, and $100 or more for taxes payable in 1994*"

Page 135, line 34, delete "*90*" and strike "percent of the amount by which the"

Page 135, line 35, strike everything before the period and insert "*the sum of (1) 75 percent of the first $250 of the amount of the increase over ten percent for taxes payable in 1990 and 1991, 75 percent of the first $275 of the amount of the increase over ten percent for taxes payable in 1992, 75 percent of the first $300 of the amount of the increase over ten percent for taxes payable in 1993, and 75 percent of the first $325 of the amount of the increase over ten percent for taxes payable in 1994, and (2) 90 percent of the amount of the increase over ten percent plus $250 for taxes payable in 1990 and 1991, 90 percent of the amount of the increase over ten percent plus $275 for taxes payable in 1992, 90 percent of the amount of the increase over ten percent plus $300 for taxes payable in 1993, and 90 percent of the amount of the increase over ten percent plus $325 for taxes payable in 1994*"

Page 136, after line 18, insert:

"*On or before December 1, 1990 and December 1 of each of the following three years, the commissioner shall estimate the cost of making the payments provided by this subdivision for taxes payable in the following year. Notwithstanding the open appropriation provision of section 290A.23, if the estimated total refund claims exceed the following amounts for the taxes payable year designated, the commissioner shall decrease the percentages of the excess taxes the state will pay and increase the dollar amount of tax increase which must occur before a taxpayer qualifies for a refund.*

| *Taxes payable in:* | *Appropriation limit* |
|---|---|
| *1991* | *$7,000,000* |
| *1992* | *$6,500,000* |
| *1993* | *$6,000,000* |
| *1994* | *$5,500,000* |

*The commissioner shall make the adjustments so that half of the estimated savings come from decreasing the percentages of the excess taxes the state will pay and half of the estimated savings come from increasing the dollar amount of the tax increase which must occur before a taxpayer qualifies for a refund. The determinations of the revised percentages and thresholds by the commissioner are not rules subject to chapter 14.*

Sec. 4. Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

*Subd. 2i. If the net property taxes payable in 1990 on a seasonal residential and recreational property, not devoted to commercial use, increase more than ten percent over the net property taxes payable in 1989 and if the amount is $40 or more, one claimant who is an owner of the property in both years is allowed a refund equal to 75 percent of the first $250 of the excess of the increase over ten percent. This subdivision does not apply to the portion of an increase in taxes payable that are attributable to improvements to the property.*

*In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the application a copy of the property tax statement for property taxes payable in 1989 and 1990 and any other documents required by the commissioner.*"

Page 137, line 8, delete "*By February 15, 1990 the governor*" and insert "*The legislature finds that it is a desirable policy to improve the protection*

*for low income persons and low value homes from future property tax increases. Therefore, the governor, by February 15, 1990,"*

Page 137, line 9, delete "*the following*" and delete "*relative to the*" and insert "*regarding (1) modifications to the*"

Page 137, delete lines 10 and 11

Page 137, line 12, delete "*increase the*" and insert "*will improve*"

Page 137, delete lines 13 to 15 and insert "*the coverage for low income and low value homeowners for taxes payable in 1991, (2) other*"

Page 137, line 17, delete "*and*"

Page 137, delete lines 19 and 20 and insert "*by eligible homeowners, and (4) a separate*"

Page 137, line 21, delete "*that would*" and insert "*to*"

Page 137, line 22, delete "*and*" and insert "*which*"

Page 137, after line 24, insert:

"*It is the intent of the legislature that this act not increase the net cost of rental housing to tenants after taking into consideration the combined effect of the reductions in property tax, rent, and property tax refund. Article 2 will significantly reduce the property tax burden on rental housing. Since the property tax refund for renters is based on the property tax paid on the rental unit, the reductions in article 2 will also reduce the amount of property tax refunds. However, because of conditions in the market for rental housing units in some or many areas, the property tax reductions may not affect the amount of rent the tenant must pay. As a result, the net effect of the provisions of this act may not improve the net cost of housing to some tenants. The property tax refund schedule for renters in this article was increased to partially offset this effect. In order to insure that this act does not adversely affect the net cost of housing to tenants, the department of revenue is directed to study this issue and to prepare a property tax refund schedule for renters that increases the eligibility for and amount of refunds in a manner found necessary to prevent increases in overall rental housing costs resulting from the adoption of article 2 and this article, as compared with prior law. This schedule must be submitted to the 1990 legislature along with the governor's recommendations required by this section.*

Sec. 8. [INTEREST ON ADDITIONAL REFUNDS FOR PROPERTY TAXES PAID IN 1989.]

*Notwithstanding Minnesota Statutes, section 290A.07, subdivision 3, interest on the portion of a property tax refund generated by removing the $250 maximum limit for taxes paid in 1989 shall be computed from the later of 60 days from the final day of enactment or 60 days from receipt of the application.*

Sec. 9. [REPEALER.]

*Minnesota Statutes 1988, section 290A.04, subdivision 2h, is repealed.*"

Page 137, line 26, delete "*4, and 5*" and insert "*4 to 6*"

Page 137, line 31, before the period, insert "*and paragraph (b), clause (1), is effective for refunds for taxes payable in 1991*"

Page 137, line 31, delete "*6*" and insert "*7*"

Page 137, line 32, after the period, insert "*Section 8 is effective the day following final enactment. Section 9 is effective for property taxes payable in 1995 and thereafter.*"

Renumber the sections of article 7 in sequence

Page 143, line 4, delete "*other*"

Page 160, line 1, after "*pupils*" insert "*in average daily membership*"

Page 160, line 2, after "*pupils*" insert "*in average daily membership*"

Page 163, line 15, after "*increase*" insert "*or decrease*"

Page 163, line 18, after "*increase*" insert "*or decrease*"

Page 163, line 19, after "*pupils*" insert "*in average daily membership*"

Page 165, line 20, strike "final" and strike "2" and insert "*1*"

Page 165, line 21, strike "paragraph (c)"

Page 165, line 25, after "2" insert ", *or 124.82, subdivision 3*"

Page 177, delete lines 29 to 36 and insert:

"*(d) For taxes payable in 1990, the commissioner shall prescribe language notifying taxpayers that state aid dollars were transferred from the city or town to the school district. The language must notify taxpayers that the transfer results in an increase in city or town taxes and a decrease in school taxes that is unrelated to spending decisions of the city or town and school district. The commissioner may prescribe that the amount of the transfer be stated.*"

Page 193, line 30, delete the first "*$80,000*" and insert "*$60,000*"

Page 193, line 33, before "*department*" insert "*education finance and analysis section of the*"

Page 195, line 9, delete "*all daily and weekly*"

Page 195, delete lines 10 and 11 and insert "*the official newspaper of the taxing authority.*"

Page 196, before line 12, insert:

"*Subd. 6.* [ADDITIONS TO LEVY.] *(a) The adopted property tax levy must not exceed the proposed levy, except by an amount up to the sum of the following amounts:*

*(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124A.03, subdivision 2, after the proposed levy was certified;*

*(2) the amount of a city or county levy approved by the voters under section 275.58 after the proposed levy was certified;*

*(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;*

*(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under this subdivision; and*

*(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under this subdivision.*

*(b) A taxing authority may appeal to the commissioner of revenue for authorization to levy an amount over the amount of the proposed levy under clause (4) or (5). The taxing authority must provide evidence satisfactory to the commissioner that it has incurred costs for the purposes specified in this subdivision. The commissioner may approve an increase in the taxing authority's levy of up to the amount of costs incurred or a lesser amount determined by the commissioner. The commissioner's decision is final.*

*A levy addition may be made under this subdivision only if the following costs incurred after the proposed levy is certified are: (1) the unreimbursed costs to satisfy judgments rendered against the taxing authority by a court of competent jurisdiction in a tort action in excess of $50,000 or ten percent of the current year's proposed certified levy whichever is less; and (2) the costs incurred in clean up of a natural disaster. For purposes of this subdivision, "natural disaster" includes the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from causes such as earthquake, fire, flood, windstorm, wave action, oil spill, water contamination, air contamination, or drought."*

Page 196, line 12, delete "6" and insert "7"

Page 196, line 15, delete "7" and insert "8"

Page 196, after line 26, insert:

"*Subd. 9.* [NEW NOTICE AND HEARING REQUIRED.] *Each taxing authority must comply with the provisions of this section for taxes levied in 1989. If a taxing authority has published a notice or had a public hearing prior to the date of final enactment of this act that does not comply with the provisions of this section, or if a proposed levy or adopted levy will change as a result of the provisions of this act, the taxing authority must publish a correct notice and hold a hearing that complies with the provisions of this section.*"

Page 213, line 1, strike "are exempted from" and insert ", *including specifically nonprofit health service plan corporations, as defined in chapter 62C, are subject to*" and strike "if" and insert "*unless*"

Page 215, after line 12, insert:

"Sec. 15. Minnesota Statutes 1989 Supplement, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code of 1986 as amended through December 31, 1987, must be computed by applying to their taxable net income the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| not over $19,000 | 6 percent |
| over $19,000 | $1,140 plus 8 percent of the excess over $19,000 |

plus an amount computed using the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| over $75,500, but not over $165,000 | 0.5 percent of the excess over $75,500 |
| over $165,000 | $447.50. |

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts. In the case of married individuals filing separately, the additional 0.5 percent tax provided in this subdivision shall be applied to taxable income over $37,750, but not over $127,500.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| not over $13,000 | 6 percent |
| over $13,000 | $780 plus 8 percent of the excess over $13,000 |

plus an amount computed using the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| over $42,700, but not over $93,000 | 0.5 percent of the excess over $42,700 |
| over $93,000 | $251.50. |

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code of 1986, as amended through December 31, 1987, must be computed by applying to taxable net income the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| not over $16,000 | 6 percent |
| over $16,000 | $960 plus 8 percent of the excess over $16,000 |

plus an amount computed using the following schedule of rates:

| if taxable income is: | the tax is: |
|---|---|
| over $64,300, but not over $135,000 | 0.5 percent of the excess over $64,300 |
| over $135,000 | $353.50. |

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than $100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to $1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this

subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) The numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1987, after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1987, increased by the addition required for interest income from non-Minnesota state and municipal bonds under section 290.01, subdivision 19a, clause (1).

~~(f) Any individual who has income which is included in the computation of federal adjusted gross income but is not subject to tax by Minnesota other than income specifically allowed as a subtraction under section 290.01, subdivision 19b, shall compute the tax in the same manner described in paragraph (e). The numerator of the fraction under paragraph (e) is the individual's Minnesota source federal adjusted gross income reduced by the income not subject to Minnesota tax and the denominator is the federal adjusted gross income.~~"

Page 246, line 3, delete "*39*" and insert "*41*"

Page 246, line 5, after the period, insert "*Notwithstanding section 290.50, subdivision 1, paragraph (a), a federal retiree may file an amended return and the commissioner may allow a refund for tax year 1985 based on the change made by section 41 if the amended return is filed with the commissioner prior to October 15, 1990.*"

Page 246, after line 23, insert:

"Sec. 45. [TEMPORARY ALTERNATIVE MINIMUM TAX EXEMPTION; INSURANCE COMPANIES.]

*Corporations subject to tax under Minnesota Statutes, sections 60A.15, subdivision 1, and 290.35 are not subject to the tax imposed by Minnesota Statutes, section 290.0921 for taxable years beginning after December 31, 1989 and before January 1, 1991.*"

Page 246, line 34, delete "*11 to 15; 21,*" and insert "*12 to 14; 16; 22,*"

Page 246, line 35, delete "*31*" and insert "*32*"

Page 247, delete lines 1 to 3

Page 247, line 4, delete "*16, 18, and 27*" and insert "*15, 17, 19, and 28*"

Page 247, line 6, delete "*17, 22, 23, 25, and 28 to 30*" and insert "*11, 18, 23, 24, 25, 29, 30, and 31*"

Page 247, line 8, delete "*19 and 20*" and insert "*20 and 21*"

Page 247, line 12, delete "*21*" and insert "*22*"

Page 247, line 17, delete "*24, 33, 35, and 39 to 44*" and insert "*25, 36, and 40 to 46*"

Page 247, line 19, delete "*32*" and insert "*33*"

Page 247, after line 20, insert:

"*Section 34 is effective after December 31, 1989.*"

Page 247, line 21, delete "*34*" and insert "*35*"

Page 247, line 23, delete "*36*" and insert "*37*"

Page 247, line 25, delete "*37 and 38*" and insert "*38 and 39*"

Renumber the sections of article 10 in sequence

Page 259, line 9, after the comma, insert "*except meals furnished to employees of restaurants, resorts, and hotels, and*"

Page 259, lines 10 and 11, delete the new language

Page 265, line 29, delete "*a designation made June*" and insert "*designations made effective July*"

Page 269, line 28, delete "*or a winning*" and insert a period

Page 269, delete lines 29 and 30

Page 309, line 3, after the period, insert "*Beginning in November 1990, forecast unrestricted budgetary general fund balances are first appropriated to reduce the property tax levy recognition percent under section 121.904, subdivision 4a, to 27 percent before money is allocated to the budget and cash flow reserve account under the preceding sentence.*"

Page 309, after line 27, insert:

"*(e) The "county share of local agency expenditures growth amount" is the amount by which the county share of local agency expenditures in calendar years 1991 to 1997 has increased over the base amount.*"

Page 310, line 14, delete everything after the first "*costs*"

Page 310, line 15, delete everything before the semicolon

Page 310, line 16, delete the first "*and*" and insert a comma

Page 310, line 17, delete everything after the first "*costs*"

Page 310, line 18, delete "*256B.19*"

Page 310, line 28, delete "..." and insert "*3*" and delete "...." and insert "*13.*"

Page 313, line 10, delete everything after the first "*the*"

Page 323, line 26, delete "*up to the limit of state*"

Page 323, line 27, delete "*appropriations.*"

Pages 349 and 350, delete section 24

Page 350, line 18, delete "*$693,300*" and insert "*$959,300*"

Page 350, after line 25, insert:

"*Commercial-Industrial Refund $266,000*"

Page 350, after line 30, insert:

"Sec. 27. [FEES; DRAFTING SERVICES.]

*Notwithstanding any contrary requirements of Minnesota Statutes, section 3C.035, subdivision 2, the revisor of statutes shall assess the commissioner of revenue for the actual cost of bill drafting services rendered to the department after October 31, 1989, but before February 15, 1990,*

*if the services are required because of (1) a provision of this act requiring the commissioner to prepare legislation in the legislative session beginning February 12, 1990, or (2) clarifying, administrative, or technical changes that are proposed by the commissioner to implement a provision of this act."*

Page 350, line 32, delete "*and 25*" and insert "*24, and 27*"

Page 351, line 5, delete "*26 and 27*" and insert "*25 and 26*"

Page 351, line 6, delete everything after the period

Page 351, delete lines 7 to 9

Renumber the sections of article 17 in sequence

Page 356, line 18, after "*(a)*" insert "*For the purposes of this section,*"

Page 356, line 25, after "*(b)*" insert "*For the purposes of this section,*"

Page 356, lines 32 and 35, delete "*shall*" and insert "*will*"

Page 357, line 1, delete "*shall*" and insert "*will*"

Amend the title as follows:

Page 1, delete line 28

Page 1, line 29, delete "district;"

Page 2, line 28, after "275.124;" insert "275.125, subdivision 18;"

Page 2, lines 44 and 45, delete "a subdivision" and insert "subdivisions"

Page 3, line 30, after "3;" insert "290.06, subdivision 2c;"

Page 3, line 59, after "5;" insert "290A.04, subdivision 2h;"

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

## SECOND READING OF SENATE BILLS

S.F. No. 1 was read the second time.

## MOTIONS AND RESOLUTIONS

### SUSPENSION OF RULES

Mr. Moe, R.D. moved that the rules of the Senate be so far suspended as to waive the lie-over requirement in order to take up S.F. No. 1.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 40 and nays 21, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Langseth | Moe, R.D. | Reichgott |
| Beckman | Diessner | Lantry | Morse | Samuelson |
| Berg | Frank | Lessard | Novak | Schmitz |
| Bertram | Frederickson, D.J. | Luther | Pehler | Solon |
| Brandl | Freeman | Marty | Peterson, D.C. | Spear |
| Chmielewski | Hughes | Merriam | Peterson, R.W. | Stumpf |
| Cohen | Johnson, D.J. | Metzen | Piper | Vickerman |
| DeCramer | Kroening | Moe, D.M. | Pogemiller | Waldorf |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Frederick | Knutson | Mehrkens | Storm |
| Belanger | Frederickson, D.R. | Laidig | Olson | |
| Benson | Gustafson | Larson | Pariseau | |
| Bernhagen | Johnson, D.E. | McGowan | Ramstad | |
| Decker | Knaak | McQuaid | Renneke | |

The motion did not prevail.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Pogemiller; Johnson, D.J.; Moe, R.D.; Novak and Stumpf introduced—

S.F. No. 2: A bill for an act relating to taxation; reducing the class rates applicable to residential property; providing equalization aid; providing a homestead effective tax credit; appropriating money; amending Minnesota Statutes 1988, sections 273.13, subdivision 25; and 290A.04, by adding a subdivision; and Minnesota Statutes 1989 Supplement, sections 273.13, subdivisions 22 and 23; and 275.07, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 273.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Chmielewski and Bertram introduced—

S.F. No. 3: A bill for an act relating to health; prohibiting public funds, employees, and facilities from being used for abortions; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Rules and Administration.

Messrs. Spear, Knaak and Merriam introduced—

S.F. No. 4: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Laws 1989, chapter 340, article 1, section 17.

Referred to the Committee on Rules and Administration.

## ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until the call of the Chair, Friday, September 29, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

## THIRD DAY

St. Paul, Minnesota, Friday, September 29, 1989

The Senate met at 9:30 a.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 Senator Dean E. Johnson.

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

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

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

Ms. Berglin was 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 House Files, herewith transmitted: H.F. Nos. 1 and 2.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted September 28, 1989

## FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 1: A bill for an act relating to the financing and operation of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; allowing certain units of local governments to impose taxes; changing tax increment financing provisions; providing a special levy for the city of Bayport and Goodhue county; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; modifying the levy authority of the Red River watershed management district; authorizing an appropriation by Aitkin county; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; modifying certain bond allocation procedures; requiring studies of state and local finance issues; requiring the governor to recommend spending reductions; setting the amount of the budget reserve; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; requiring a mechanism to fund certain mental health services; providing procedures for allocating costs of certain human services between the state and county agencies; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 3.885, subdivisions 3, 5, and by adding subdivisions; 3.982; 6.62, subdivision 1; 10A.31, subdivision 5; 16A.15, subdivision 6; 18.023, subdivision 8; 60A.14, subdivision 1; 60A.15, subdivision 1; 60A.19, subdivision 6; 110B.15, subdivision 4; 115.34, subdivision 1; 115A.03, subdivision 25a, and by adding subdivisions; 115A.072; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, by adding a subdivision; 115A.48, subdivision 3, and by adding a subdivision; 115A.915; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.26, subdivision 1; 129A.06, subdivision 2; 145A.08, subdivision 3; 164.041; 256.736, subdivision 13; 256B.091, subdivision 8; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 6; 256G.01, subdivision 3; 256G.05; 256G.07; 256G.10; 256G.11; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivision 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivision 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.064; 273.065; 273.111, subdivision 4; 273.123, subdivisions 4, 5, and 7; 273.13, subdivisions 21a, 24, 25, 31, and by adding subdivisions; 273.1392; 273.1398, subdivisions 2, 3, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivision 1, and by adding a subdivision; 275.08, subdivisions 2 and 3;

275.124; 275.125, subdivision 18; 275.15; 275.16; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 2 and 3; 276.01; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 284.28, subdivisions 4 and 7; 287.29; 290.01, subdivision 29; 290.02; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.091, subdivision 2, and by adding a subdivision; 290.095, subdivision 2, and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.35, subdivisions 1, 4, and by adding a subdivision; 290.37, subdivision 1; 290.38; 290.92, subdivision 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.03, by adding a subdivision; 290A.04, subdivisions 2, 2h, 3, and by adding a subdivision; 290A.07, subdivision 2a; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.15, subdivision 5, and by adding a subdivision; 297A.25, subdivision 3, and by adding subdivisions; 297A.257, subdivision 1; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivisions 6 and 12; 298.282, subdivision 3; 298.39; 298.396; 325E.115, subdivision 1; 349.12, subdivision 19, and by adding subdivisions; 349.16, by adding a subdivision; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.2127, subdivision 4, and by adding a subdivision; 353A.10, subdivision 3; 360.037, subdivision 2; 368.01, subdivision 14; 373.40, subdivisions 1 and 2; 375.18, by adding a subdivision; 386.015, subdivision 5; 400.08, by adding a subdivision; 412.221, subdivision 22; 414.01, subdivision 15; 444.075, subdivisions 1 and 4; 444.16; 444.17; 444.18; 444.19; 444.20; 447.34, subdivision 1; 447.35; 465.73; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 10, 16, 17, and by adding a subdivision; 469.175, by adding a subdivision; 469.176, by adding a subdivision; 469.177, subdivisions 6 and 10; 469.190, subdivisions 2 and 3; 471.572, subdivision 2; 471.74, subdivision 2; 471A.03, subdivision 4; 473.149, subdivision 1; 473.167, subdivision 4; 473.249, subdivision 2; 473.446, subdivision 8; 473.711, subdivision 5; 473.803, subdivision 1; 473.87; 473E05; 473E06; 473E07, subdivisions 1, 2, and 5; 473E08, subdivisions 3, 3a, 5, and by adding a subdivision; 473E09; 473H.10, subdivision 3; 474A.061, subdivisions 1, 2, and 4; 474A.091, subdivisions 2 and 3; 475.74; 475.754; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding subdivisions; 477A.013, subdivision 3, and by adding subdivisions; 477A.014, subdivision 1; 508.75; 508.76; 508.77; 508.78; 508.79; 508.82; 508A.76; 508A.77; 508A.78; 508A.79; 508A.82; Minnesota Statutes 1989 Supplement, sections 16A.1541; 115A.12, subdivision 1; 115A.46, subdivision 2; 121.904, subdivisions 4a and 4e; 124.2131, subdivision 1; 124.243, subdivision 3; 124.244, subdivision 2; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256D.03, subdivision 2; 256D.051, subdivision 6; 256D.36, subdivision 1; 256G.02, subdivision 4; 270.12, subdivision 2; 272.02, subdivision 1; 273.061, subdivision 1; 273.1104, subdivision 2; 273.119, subdivision 2; 273.124, subdivision 6; 273.13, subdivisions 22 and 23; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 5, and 6; 275.07, subdivision 3; 275.125, subdivisions 5, 5b, and 9; 275.14; 275.28, subdivision 1; 275.58, subdivision 1; 287.12; 290.01, subdivision 19c; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.06, subdivision 2c; 290.0802, subdivision 1; 290.17, subdivision 2; 290.191, subdivision 6; 290.92, subdivision 4b; 297A.25, subdivisions 11 and 16; 297A.44,

subdivision 1; 298.282, subdivision 2; 349.12, subdivision 11; 349.15; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.214, subdivision 2; 357.021, subdivision 1a; 373.40, subdivision 6; 412.251; 426.04; 469.033, subdivision 6; 469.174, subdivision 7; 469.175, subdivisions 3 and 7; 469.176, subdivisions 1 and 6; 469.190, subdivision 1; 471.1921; 473.882, subdivision 3; and 477A.013, subdivision 1; Laws 1976, chapter 162, section 1, as amended; Laws 1986, chapter 399, article 1, section 1; Laws 1987, chapter 268, article 6, section 54, as amended; 1988, chapter 719, article 1, section 22; and article 12, section 29, as amended; Laws 1989, chapter 282, article 5, section 133; chapter 329, article 1, section 17, subdivision 2; article 2, section 8, subdivision 2; and article 5, section 21, subdivisions 2 and 3; and chapter 335, article 3, sections 54, subdivision 8; and 58, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 16B; 115A; 124; 173; 256; 273; 274; 290; 290A; 297A; 325E; 349; 469; and 473; repealing Minnesota Statutes 1988, sections 3.981; 3.983, as amended; 134.34, subdivision 6; 245.775; 270.81, subdivision 5; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 275.11; 275.50; 275.51; 275.54; 275.55; 275.56; 275.561; 275.58; 290.092, subdivision 5; 290A.04, subdivision 2h; 349.2121, subdivision 4; 471A.04; 477A.011, subdivision 24; 477A.013, subdivision 4.

Mr. Moe, R.D. moved that H.F. No. 1 be laid on the table. The motion prevailed.

H.F. No. 2: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1988, section 580.04, as amended; Laws 1989, chapters 282, article 2, section 85; 304, section 140; 328, article 3, section 13, subdivisions 1 and 4; 335, article 4, section 109, subdivision 1; and 340, article 1, section 17; repealing Laws 1989, chapter 209, article 1, section 6.

Mr. Moe, R.D. moved that H.F. No. 2 be laid on the table. The motion prevailed.

## MOTIONS AND RESOLUTIONS

### 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.

### MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 1 be taken from the table. The motion prevailed.

### SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1 and that the rules of the Senate be so far suspended as to give H.F. No. 1 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1 was read the second time.

Mr. Johnson, D.J. moved to amend H.F. No. 1 as follows:

Page 142, line 32, delete "290A.03" and insert "290A.04"

Page 259, line 9, delete "*26*" and insert "*27*"

Page 259, line 14, after "*28*" insert ", *paragraph (a), clause (2)(i), and paragraph (f),*"

Page 259, line 16, after "*26,*" insert "*28, paragraph (a), clause (2)(ii),*"

Page 275, line 17, delete "*43*" and insert "*42*"

Page 276, line 14, delete "*42*" and insert "*43*"

Page 285, line 1, after "*revenue*" insert ", *the commissioner of gaming, or the commissioner of public safety*"

Page 288, line 28, strike "subdivision 12,"

The motion prevailed. So the amendment was adopted.

Mr. Johnson, D.J. then moved to amend H.F. No. 1 as follows:

Page 91, line 1, after the semicolon, insert "*and*"

Page 91, line 24, delete "*; and*" and insert a period

Page 91, delete lines 25 to 35

Pages 124 to 126, delete sections 51 and 52

Renumber the sections of article 5 in sequence and correct the internal references

Amend the title accordingly

## CALL OF THE SENATE

Mr. Johnson, D.J. imposed a call of the Senate for the balance of the proceedings on H.F. No. 1. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the amendment.

The roll was called, and there were yeas 35 and nays 29, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Kroening | Moe, R.D. | Pogemiller |
| Beckman | Diessner | Langseth | Morse | Purfeerst |
| Berg | Frank | Lantry | Novak | Reichgott |
| Brandl | Freeman | Luther | Pehler | Samuelson |
| Cohen | Hughes | Marty | Peterson, D.C. | Solon |
| Dahl | Johnson, D.J. | Merriam | Peterson, R.W. | Stumpf |
| DeCramer | Knutson | Moe, D.M. | Piper | Waldorf |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Davis | Johnson, D.E. | McQuaid | Renneke |
| Belanger | Decker | Knaak | Mehrkens | Schmitz |
| Benson | Frederick | Laidig | Metzen | Storm |
| Bernhagen | Frederickson, D.J. | Larson | Olson | Taylor |
| Bertram | Frederickson, D.R. | Lessard | Pariseau | Vickerman |
| Chmielewski | Gustafson | McGowan | Ramstad | |

The motion prevailed. So the amendment was adopted.

Mr. Knutson moved to amend H.F. No. 1 as follows:

Page 95, line 13, after "*towns*" insert ", *except that, for a city that has a population of 10,000 or more and in which the percentage increase in households is three percent or more, the full percentage increase*"

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

Mr. Johnson, D.J. moved to amend H.F. No. 1 as follows:

Page 346, after line 5, insert:

"Sec. 22. [REENACTMENT.]

*Minnesota Statutes 1988, section 256D.051, subdivision 6a, is reenacted retroactively to July 1, 1989, and its repeal by Laws 1989, chapter 282, article 5, section 133, subdivision 1, is of no effect.*"

Page 346, line 7, delete "*21*" and insert "*22*"

Renumber the sections of article 16 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Benson moved to amend H.F. No. 1 as follows:

Pages 16 to 27, delete sections 3 to 7 and insert:

"Sec. 3. Minnesota Statutes 1989 Supplement, section 273.13, subdivision 22, is amended to read:

Subd. 22. [Class 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first $68,000 of market value of class 1a property has a net ~~tax capacity~~ *class rate* of ~~one~~ *.9* percent of its market value and a gross ~~tax capacity~~ *class rate* of 2.17 percent of its market value. The market value of class 1a property that exceeds $68,000 but does not exceed $100,000 has a ~~tax capacity~~ *class rate* of ~~2.5~~ *1.8* percent of its market value. The market value of class 1a property that exceeds $100,000 has a ~~tax capacity~~ *class rate* of ~~3.3~~ *2.7* percent of its market value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or

(iii) whose household income as defined in section 290A.03, subdivision 5, is 150 percent or less of the federal poverty level.

Property is classified and assessed pursuant to clause (1) only if the commissioner of jobs and training certifies to the assessor that the owner of the property satisfies the requirements of this subdivision.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first $32,000 market value of class 1b property has a net ~~tax capacity~~ *class rate* of .4 percent of its market value and a gross ~~tax capacity~~ *class rate* of .87 percent of its market value. The remaining market value of class 1b property has a gross or net ~~tax capacity~~ *class rate* using the rates for class 1 or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, *which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort or a partner in a partnership that owns the resort, even if the title to the homestead is held by the corporation or partnership.* Class 1c property has a ~~tax capacity~~ *class rate* of ~~.9~~ *.4 percent of the first $32,000 of market value and .8* percent of market value *in excess of $32,000* with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

~~(d) For taxes levied in 1988, payable in 1989 only, the tax to be paid~~

~~on class 1a or class 1b property shall be reduced by 54 percent of the tax imposed on the first $68,000 of market value. The amount of the reduction shall not exceed $725.~~

Sec. 4. Minnesota Statutes 1989 Supplement, section 273.13, subdivision 23, is amended to read:

Subd. 23. [Class 2.] (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land ~~that does not exceed $65,000 has a net tax capacity of .805 percent of market value and a gross tax capacity of 1.75 percent of market value. The excess market value over $65,000 has a tax capacity of 2.2 percent~~ *has the same class rates as class 1a property under subdivision 22*. If the market value of the house, garage, and surrounding one acre of land is less than ~~$65,000~~ *$100,000*, the value of the remaining land including improvements equal to the difference between ~~$65,000~~ *$100,000* and the market value of the house, garage, and surrounding one acre of land has a net ~~tax capacity~~ *class rate* of ~~1.12~~ *.4* percent of market value ~~and a gross tax capacity of 1.75 percent of market value for the first 320 acres of land and the remaining value over 320 acres has a net tax capacity of 1.295 percent of market value~~ and a gross ~~tax capacity~~ *class rate* of 1.75 percent of market value. The remaining value of class 2a property over ~~the $65,000~~ *$100,000 of* market value that does not exceed 320 acres has a net ~~tax capacity~~ *class rate* of ~~1.44~~ *1.3* percent of market value and a gross ~~tax capacity~~ *class rate* of 2.25 percent of market value. The remaining property over the ~~$65,000~~ *$100,000* market value in excess of 320 acres has a ~~net tax capacity~~ *class rate* of ~~1.665~~ *1.5* percent of market value and a gross ~~tax capacity~~ *class rate* of 2.25 percent of market value.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; and (2) real estate that is nonhomestead agricultural land. Class 2b property has a net ~~tax capacity~~ *class rate* of ~~1.665~~ *1.7* percent of market value *for taxes payable in 1990, 1.6 percent of market value for taxes payable in 1991, and 1.5 percent of market value for taxes payable in 1992 and thereafter,* and a gross ~~tax capacity~~ *class rate* of 2.25 percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land, and land included in federal farm programs.

(d) Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, including the breeding of fish for sale and consumption if the fish breeding occurs on land zoned for agricultural use, shall be considered as agricultural land, if it is not used primarily for residential purposes. The term "agricultural products" as used in the preceding sentence means any of the products identified in section 273.111, subdivision 6, clause (2). "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products.

(e) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Sec. 5. Minnesota Statutes 1988, section 273.13, subdivision 24, is amended to read:

Subd. 24. [CLASS 3.] (a) Commercial~~,~~ *and* industrial~~,~~ *property* and utility *real and personal* property, *except class 5 property as identified in subdivision 31, clause (1),* is class 3a. It has a ~~tax capacity~~ *class rate* of ~~3.3~~ *three* percent of the first $100,000 of market value and ~~5.25~~ *4.9* percent of the market value over $100,000. ~~For taxes payable in 1991, the 5.25 percent rate shall be 5.2 percent and for taxes payable in 1992 and subsequent years the rate shall be 5.15 percent. In the case of state-assessed commercial, industrial, and utility property owned by one person or entity, only one parcel has a tax capacity 3.3 percent. In the case of other commercial, industrial, and utility property owned by one person or entity, only one parcel in each county has a tax capacity of 3.3 percent.~~

(b) Employment property defined in section 469.166, during the period provided in section 469.170, shall constitute class 3b and has a ~~tax capacity~~ *class rate* of ~~2.5~~ *2.4* percent of the first $50,000 of market value and ~~3.5~~ *3.65* percent of the remainder, except that for employment property located in a border city enterprise zone designated pursuant to section 469.168, subdivision 4, paragraph (c), the ~~tax capacity~~ *class rate* of the first $100,000 of market value ~~is 3.3 percent~~ and the ~~tax capacity~~ *class rate* of the remainder is ~~4.8 percent~~ *determined under paragraph (a)*, unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section 469.171, subdivision 1.

Sec. 6. Minnesota Statutes 1988, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a ~~tax capacity~~ *class rate* of ~~4.1~~ *3.65* percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, *and* recreational~~, and a structure having five or more stories that is constructed with materials meeting the requirements for type I or II construction as defined in the state building code, 90 percent or more of which is used or is to be used as apartment housing for a period of 40 years from the date of completion of original construction, or the date of initial though partial use, whichever is the earlier date~~;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing;

(3) manufactured homes not classified under any other provision;

(4) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b)~~, which has a tax capacity of 2.7 percent of market value~~.

Class 4b property has a ~~tax capacity~~ *class rate* of ~~3.5~~ *3.05* percent of market value~~, except as provided in clause (4)~~ *for taxes payable in 1990, and 3.0 percent of market value for taxes payable in 1991 and thereafter*.

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, ~~1987~~ *1988*; or (ii) meets the requirements of that section. Classification pursuant to this clause is limited to buildings the construction or rehabilitation of which began after May 1, 1988, and to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph (d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents. The land on which these structures are situated has ~~a tax capacity of 3.5 percent of market value~~ *the class rate given in paragraph (b)* if the structure contains fewer than four units, and ~~4.1 percent of market value~~ *the class rate given in paragraph (a)* if the structure contains four or more units.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than ~~200~~ *225* days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in clauses (5) and (6) also includes the remainder of class 1c resorts ~~and has a tax capacity of 2.6 percent of market value, except that noncommercial seasonal recreational property has a tax capacity of 2.3 percent of market value~~; and

(6) real property up to a maximum of one acre of land owned by a

nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, ~~1986~~ *1988*. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property ~~classified under clauses (1), (2), (3), and (4)~~ has a ~~tax capacity~~ *class rate* of ~~2.5~~ *2.4* percent of market value.

(d) Class 4d property includes any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The ~~1.5 percent and 2.5 percent tax capacity assignments apply to the properties described~~ *class rates* in paragraph (c), clauses (1), (2), and (3) and this clause *apply to the properties described in them*, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

Class 4d property has a ~~tax capacity~~ *class rate* of ~~1.5~~ *1.7* percent of market value *for taxes payable in 1990, and two percent of market value for taxes payable thereafter*.

*(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (2); paragraph (c), clauses (1), (2), (3), or (4); or paragraph (d), is assessed at*

*the class rate applicable to it under Minnesota Statutes 1988, section 273.13, if it is found to be a substandard building under section 273.1316.*

Sec. 7. Minnesota Statutes 1988, section 273.13, subdivision 31, is amended to read:

Subd. 31. [CLASS 5.] ~~All property not included in any other class is class 5 property.~~

~~(a)~~ *Class 5 property includes:*

*(1)* tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures~~, have a tax capacity of 4.6 percent of market value.~~;

~~(b)~~ *(2)* unmined iron ore and low-grade iron-bearing formations as defined in section 273.14 ~~have a tax capacity of 5.25 percent of market value.~~;

~~(c)~~ *(3)* vacant land ~~has a tax capacity of 5.25 percent of market value.~~; *and*

~~(d)~~ *(4)* all other property not otherwise classified ~~has a tax capacity of 5.25 percent of market value~~.

*Class 5 property has a class rate of 4.9 percent of market value, except that property described in clause (1) has a class rate of 4.6 percent of market value.*"

Page 27, line 32, delete "*5.06*" and insert "*4.6 or 4.9*"

Page 28, line 3, delete "*5.06 percent*" and insert "*4.6 or 4.9 percent, as applicable*"

Page 28, line 17, delete "*5.06 percent*" and insert "*4.6 or 4.9 percent, as applicable*"

Page 32, after line 10, insert:

"Sec. 11. [PROPERTY TAX RELIEF TO BENEFIT RENTERS.]

*Any property tax reduction realized on rental property, including both residential and business property that is rented, must be reflected in a reduction in the rent charged to the tenant of the property.*"

Renumber the sections of article 2 in sequence and correct the internal references

Pages 145 and 146, delete article 8

Page 224, delete section 14

Page 228, after line 5, insert:

"Sec. 16. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

*Subd. 23.* [CONTRIBUTIONS TO POLITICAL PARTIES AND CANDIDATES.] *A taxpayer may take a credit against the tax due under this chapter of 50 percent of the taxpayer's contributions to candidates for elective state or federal public office and to any political party. The maximum credit for an individual shall not exceed $50 and, for a married couple filing jointly, shall not exceed $100. No credit shall be allowed*

*under this subdivision for a contribution to any candidate, other than a candidate for elective judicial office or federal office, who has not signed an agreement to limit campaign expenditures as provided in section 10A.25. For purposes of this subdivision, a political party means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a. A major or minor party includes the aggregate of the party organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts. A "federal office" means the office of the president or vice president of the United States or the office of United States senator or member of the United States house of representatives from Minnesota.*

*This credit shall be allowed only if the contribution is verified in the manner the commissioner of revenue prescribes."*

Page 229, after line 21, insert:

"Sec. 20. Minnesota Statutes 1988, section 290.0802, subdivision 2, is amended to read:

Subd. 2. [SUBTRACTION.] (a) A qualified individual is allowed a subtraction from federal taxable income equal to the lesser of federal taxable income or the individual's subtraction base amount. The excess of the subtraction base amount over federal taxable income may be used to reduce the amount of a lump sum distribution subject to tax under section 290.032.

(b)(1) The initial subtraction base amount equals

(i) ~~$10,000~~ *$12,000* for a married taxpayer filing a joint return if a spouse is a qualified individual,

(ii) ~~$8,000~~ *$10,000* for a single taxpayer, and

(iii) ~~$5,000~~ *$6,000* for a married taxpayer filing a separate federal return.

(2) The qualified individual's initial subtraction base amount, then, must be reduced by the sum of nontaxable retirement and disability benefits and one-half of the amount of adjusted gross income in excess of the following thresholds:

(i) $15,000 for a married taxpayer filing a joint return if both spouses are qualified individuals,

(ii) $12,000 for a single taxpayer or for a married couple filing a joint return if only one spouse is a qualified individual, and

(iii) $7,500 for a married taxpayer filing a separate federal return.

(3) In the case of a qualified individual who is under the age of 65, the maximum amount of the subtraction base may not exceed the taxpayer's disability income.

(4) The resulting amount is the subtraction base amount."

Renumber the sections of article 10 in sequence and correct the internal references

Page 275, after line 6, insert:

"Sec. 3. Minnesota Statutes 1988, section 297A.01, subdivision 16, is amended to read:

Subd. 16. [CAPITAL EQUIPMENT.] Capital equipment means machinery and equipment and the materials and supplies necessary to construct or install the machinery or equipment. To qualify under this definition the capital equipment must be used by the purchaser or lessee for manufacturing, fabricating, or refining a product to be sold at retail and must be used for the establishment of a new or the physical expansion of an existing manufacturing, fabricating, or refining facility in the state. Capital equipment does not include (1) ~~machinery or equipment purchased or leased to replace machinery or equipment performing substantially the same function in an existing facility,~~ ~~(2)~~ repair or replacement parts, or ~~(3)~~ *(2)* machinery or equipment used to extract, receive, or store raw materials."

Page 279, after line 18, insert:

"Sec. 12. Minnesota Statutes 1988, section 297A.27, subdivision 1, is amended to read:

Subdivision 1. ~~Except as provided in section 297A.275,~~ On or before the 20th day of each month in which taxes imposed by sections 297A.01 to 297A.44 are payable, a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe, verified by a written declaration that it is made under the criminal penalties for willfully making a false return, and in addition shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid. Any person making sales at retail at two or more places of business may file a consolidated return subject to such rules as the commissioner may prescribe."

Page 279, after line 31, insert:

"Sec. 14. [REPEALER.]

*Minnesota Statutes 1988, section 297A.275, is repealed.*"

Page 280, line 4, after the period, insert "*Sections 12 and 14 are effective the day after final enactment.*"

Renumber the sections of article 12 in sequence and correct the internal references

Page 280, line 6, delete "LAWFUL" and insert "CHARITABLE"

Pages 281 and 282, delete sections 3 and 4

Page 283, line 7, delete ", *4, and 6*" and insert "*and 4*"

Page 283, delete section 8

Page 285, delete section 12

Pages 286 to 288, delete sections 14 and 15

Page 302, delete sections 27 and 28

Renumber the sections of article 13 in sequence and correct the internal references

Page 363, after line 13, insert:

"Sec. 25. [ADDITIONAL SPENDING REDUCTION RECOMMENDATIONS.]

*In addition to the recommendations provided in section 24, the governor shall make recommendations for consideration by the legislature in its*

*1990 session of at least $400,000,000 of budget reductions for fiscal year 1991 and at least $664,000,000 of budget reductions for the 1992-1993 biennium. In making these recommendations, the governor shall first attempt to reduce the budgets of state agencies wherever possible.*"

Renumber the sections of article 17 in sequence and correct the internal references

Renumber the articles in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 40, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Brataas | Gustafson | Larson | Pariseau |
| Beckman | Decker | Johnson, D.E. | McGowan | Ramstad |
| Belanger | Frank | Knaak | McQuaid | Renneke |
| Benson | Frederick | Knutson | Mehrkens | Storm |
| Bernhagen | Frederickson, D.R. | Laidig | Olson | Taylor |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Langseth | Moe, R.D. | Purfeerst |
| Berg | Dicklich | Lantry | Morse | Reichgott |
| Bertram | Diessner | Lessard | Novak | Samuelson |
| Brandl | Frederickson, D.J. | Luther | Pehler | Schmitz |
| Chmielewski | Freeman | Marty | Peterson, D.C. | Spear |
| Cohen | Hughes | Merriam | Peterson, R.W. | Stumpf |
| Dahl | Johnson, D.J. | Metzen | Piper | Vickerman |
| Davis | Kroening | Moe, D.M. | Pogemiller | Waldorf |

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

Mr. Decker moved to amend H.F. No. 1 as follows:

Page 18, line 1, delete "*225*" and strike "days" and insert "*230 nights*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 38, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Brataas | Johnson, D.E. | Lessard | Pariseau |
| Belanger | Decker | Knaak | McGowan | Ramstad |
| Benson | Frederick | Knutson | McQuaid | Renneke |
| Bernhagen | Frederickson, D.R. | Laidig | Mehrkens | Storm |
| Bertram | Gustafson | Larson | Olson | Taylor |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Dicklich | Langseth | Morse | Reichgott |
| Beckman | Diessner | Lantry | Novak | Samuelson |
| Berg | Frank | Luther | Pehler | Schmitz |
| Brandl | Frederickson, D.J. | Marty | Peterson, D.C. | Spear |
| Cohen | Freeman | Merriam | Peterson, R.W. | Vickerman |
| Dahl | Hughes | Metzen | Piper | Waldorf |
| Davis | Johnson, D.J. | Moe, D.M. | Pogemiller | |
| DeCramer | Kroening | Moe, R.D. | Purfeerst | |

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

Mr. Frederickson, D.R. moved to amend H.F. No. 1 as follows:

Page 40, delete section 6

Renumber the sections of article 3 in sequence and correct the internal

references

Amend the title accordingly

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

Mr. Laidig moved to amend H.F. No. 1 as follows:

Page 208, lines 11 to 17, reinstate the stricken language and delete the new language

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

Mr. Knaak moved to amend H.F. No. 1 as follows:

Page 363, after line 13, insert:

"Sec. 25. [3.055] [OPEN MEETING LAW APPLIES TO LEGISLATURE.]

*The open meeting law, section 471.705, applies to the legislature including the senate sessions, house of representatives sessions, and meetings of standing committees, special committees, divisions, subcommittees, conference committees, and commissions.*"

Page 364, line 18, after the period, insert "*Section 25 is effective the day following final enactment.*"

Renumber the sections of article 17 in sequence and correct the internal references

Amend the title accordingly

Mr. Johnson, D.J. questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Knaak appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 39 and nays 23, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | Diessner | Lantry | Morse | Reichgott |
| Beckman | Frank | Lessard | Novak | Samuelson |
| Bertram | Frederickson, D.J. | Luther | Pehler | Schmitz |
| Brandl | Freeman | Marty | Peterson, D.C. | Spear |
| Chmielewski | Hughes | Merriam | Peterson, R.W. | Stumpf |
| Cohen | Johnson, D.J. | Metzen | Piper | Vickerman |
| Dahl | Kroening | Moe, D.M. | Pogemiller | Waldorf |
| DeCramer | Langseth | Moe, R.D. | Purfeerst | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knaak | McQuaid | Renneke |
| Belanger | Frederick | Knutson | Mehrkens | Storm |
| Benson | Frederickson, D.R. | Laidig | Olson | Taylor |
| Bernhagen | Gustafson | Larson | Pariseau | |
| Brataas | Johnson, D.E. | McGowan | Ramstad | |

The decision of the President was sustained.

Mr. Johnson, D.J. moved to amend H.F. No. 1 as follows:

Page 363, after line 13, insert:

"Sec. 25. [NORTH PINE AREA HOSPITAL DISTRICT.]

*Notwithstanding Minnesota Statutes, section 447.31, subdivision 2, the North Pine area hospital district shall include any city or town located in Pine county that, at any time after April 1, 1989, has elected or does elect to be a part of the hospital district.*"

Page 364, line 18, after the period, insert "*Section 25 is effective the day following final enactment.*"

Renumber the sections of article 17 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 42 and nays 24, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Adkins | DeCramer | Langseth | Morse | Schmitz |
| Beckman | Dicklich | Lantry | Novak | Solon |
| Berg | Diessner | Lessard | Pehler | Spear |
| Bertram | Frank | Luther | Peterson, D.C. | Stumpf |
| Brandl | Frederickson, D.J. | Marty | Piper | Vickerman |
| Chmielewski | Freeman | Merriam | Pogemiller | Waldorf |
| Cohen | Hughes | Metzen | Purfeerst | |
| Dahl | Johnson, D.J. | Moe, D.M. | Reichgott | |
| Davis | Kroening | Moe, R.D. | Samuelson | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson | Decker | Knaak | McQuaid | Ramstad |
| Belanger | Frederick | Knutson | Mehrkens | Renneke |
| Benson | Frederickson, D.R. | Laidig | Olson | Storm |
| Bernhagen | Gustafson | Larson | Pariseau | Taylor |
| Brataas | Johnson, D.E. | McGowan | Peterson, R.W. | |

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

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Johnson, D.J. moved that S.F. No. 1, on General Orders, be stricken and laid on the table. The motion prevailed.

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

## REPORTS OF COMMITTEES

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

S.F. No. 4: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Laws 1989, chapter 340, article 1, section 17.

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

Page 1, after line 19, insert:

"Sec. 2. [REAL PROPERTY LAW.] Subdivision 1. Laws 1989, chapter 328, article 3, section 13, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] This section applies to mortgages executed after December 31, 1989, under which there has been a default in the payment of money existing for at least 60 days as of the date of the filing of the complaint or motion provided for in this section. This section applies only when the mortgaged premises are:

(1) ten acres or less in size;

(2) improved with a residential dwelling consisting of less than five units which is neither a model home nor a dwelling under construction; and

(3) not property used in agricultural production ~~within the meaning of Laws 1986, chapter 398, section 5~~.

This section applies to foreclosures by action under chapter 581 and to foreclosures by advertisement under chapter 580.

Subd. 2. *This section is effective the day following final enactment.*

Sec. 3. [REAL PROPERTY LAW.] Subdivision 1. Laws 1989, chapter 328, article 3, section 13, subdivision 4, is amended to read:

Subd. 4. [SUMMONS AND COMPLAINT.] In a foreclosure by advertisement, the party foreclosing a mortgage or holding the sheriff's certificate of sale may initiate a proceeding in district court to reduce the mortgagor's redemption period under this section. The proceeding must be initiated by the filing of a complaint, naming the mortgagor, or the mortgagor's personal representatives or assigns of record, as defendant, in district court for the county in which the mortgaged premises are located. If the proceeding is commenced after the foreclosure sale, the holders of junior liens and interests entitled to notice under subdivision 3 must also be named as defendants. The complaint must identify the mortgaged premises by legal description and must identify the mortgage by the names of the mortgagor and mortgagee, and any assignee of the mortgagee; the date of its making; and pertinent recording information. The complaint must allege that the mortgaged premises are:

(1) ten acres or less in size;

(2) improved with a residential dwelling consisting of less than five units, which is not a model home or a dwelling under construction;

(3) not property used in agricultural production ~~within the meaning of Laws 1986, chapter 398, section 5~~; and

(4) abandoned.

The complaint must request an order reducing the mortgagor's redemption period to five weeks. When the complaint has been filed, the court shall issue a summons commanding the person or persons named in the complaint to appear before the court on a day and at a place stated in the summons. The appearance date shall be not less than 15 nor more than 25 days from the date of the issuing of the summons. A copy of the filed complaint must be attached to the summons.

Subd. 2. *This section is effective the day following final enactment.*

Sec. 4. [WELL AND BORING RULES.]

*(a) The rules adopted by the commissioner of health under chapter 156A are not repealed by Laws 1989, chapter 326, article 3, section 48, and continue to be effective.*

*(b) Paragraph (a) is effective the day following final enactment.*

Sec. 5. [REPEALER.]

*(a) Laws 1989, chapter 209, article 1, section 6, is repealed.*

*(b) Paragraph (a) is effective the day following final enactment.*

Sec. 6. [REAL ESTATE LAW.] Subdivision 1. Minnesota Statutes 1988, section 580.04, as amended by Laws 1989, chapter 328, article 3, section 6, is amended to read:

580.04 [REQUISITES OF NOTICE.]

Each notice shall specify:

(1) the name of the mortgagor and of the mortgagee, and of the assignee of the mortgage, if any, and the original principal amount secured by said mortgage;

(2) the date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

(3) the amount claimed to be due thereon, and taxes, if any, paid by the mortgagee at the date of the notice;

(4) a description of the mortgaged premises, conforming substantially to that contained in the mortgage;

(5) the time and place of sale;

(6) the time allowed by law for redemption by the mortgagor, the mortgagor's personal representatives or assigns; and

(7) if the party foreclosing the mortgage desires to preserve the right to reduce the redemption period under section 582.032 after the first publication of the notice, the notice must also state in capital letters: "THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION ~~580.032~~ *582.032*, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED."

Subd. 2. *This section is effective the day following its final enactment.*

Sec. 7. [CREDIT UNION AND NONPROFIT LAW.] Subdivision 1. Laws 1989, chapter 304, section 140, is amended to read:

Sec. 140. [EFFECTIVE DATES.]

Sections 1 to 120 ~~and~~, 122 to 128, *and 130* are effective August 1, 1989. Sections 121, 129, *131* to 136, and ~~138~~ *139* are effective January 1, 1991.

Subd. 2. *The dates provided by Laws 1989, chapter 304, section 140, as amended by this section replace the dates provided before the amendments, whether or not the amended dates are retroactive.*

Subd. 3. *This section is effective the day following final enactment.*

Sec. 8. [PARTITION FENCES.] Subdivision 1. Laws 1989, chapter 335, article 4, section 109, subdivision 1, is amended to read:

Sec. 109. [REPEALER.]

Subdivision 1. [STATUTORY SECTIONS.] Minnesota Statutes 1988, sections 11A.22; 84.0911, subdivisions 1 and 3; 85.051; 89.04; 93.221; 116J.968; 190.26; 344.03, *subdivision 2*; and 469.121, subdivision 1, are repealed.

Subd. 2. *Minnesota Statutes 1988, section 344.03, subdivision 1, is reenacted and its repeal by Laws 1989, chapter 335, article 4, section 109, is of no effect. This section takes effect the day after final enactment.*

Sec. 9. [FEDERAL RECEIPTS FOR PRENATAL CARE OUTREACH PROGRAM.]

*For the biennium ending June 30, 1991, federal money received as a result of state expenditures for the prenatal care outreach program established under Minnesota Statutes 1988, section 256B.04, subdivision 17, as added by Laws 1989, chapter 282, article 3, section 42, is appropriated to the commissioner of human services for the program. This section is effective the day following final enactment.*

Sec. 10. Subdivision 1. Laws 1989, chapter 282, article 2, section 85, is amended to read:

Sec. 85. Minnesota Statutes 1988, section 245A.14, is amended by adding a subdivision to read:

Subd. 6. [DROP-IN CHILD CARE PROGRAMS.] Except as expressly set forth in this subdivision, drop-in child care programs must be licensed as a drop-in program under the rules governing child care programs operated in a center. Drop-in child care programs are exempt from the requirements in Minnesota Rules, parts 9503.0040; 9503.0045, subpart 1, items F and G; 9503.0050, subpart 6, except for children less than 2-1/2 years old; one-half the requirements of 9503.0060, subpart 4, item A, subitems (2), (5), and (8), subpart 5, item A, subitems (2), (3), and (7), and subpart 6, item A, subitems (3) and (6); 9507.0070; and 9503.0090, subpart 2. A drop-in child care program must be operated under the supervision of a person qualified as a director and a teacher. A drop-in child care program must maintain a minimum staff ratio for children age 2-1/2 or greater of one staff person for each ten children, except that there must be at least two persons on staff whenever the program is operating. If the program has additional staff who are on call as a mandatory condition of their employment, the minimum ratio may be exceeded only for children age 2-1/2 or greater, by a maximum of four children, for no more than 20 minutes while additional staff are in transit. The minimum staff-to-child ratio for infants up to 16 months of age is one staff person for every four infants. The minimum staff-to-child ratio for children age 17 months to 30 months is one staff for every seven children. In drop-in care programs that serve both infants and older children, children up to age 2-1/2 may be supervised by assistant teachers, as long as other staff are present in appropriate ratios. The minimum staff distribution pattern for a drop-in child care program serving children age 2-1/2 or greater is: the first staff member must be a teacher; the second, third, and fourth staff members must have at least the qualifications of a child care aide; the fifth staff member must have at least

the qualifications of an assistant teacher; the sixth, seventh, and eighth staff members must have at least the qualifications of a child care aide; and the ninth staff person must have at least the qualifications of an assistant teacher. *The commissioner by rule may require that* a drop-in child care program serving children less than 2-1/2 years of age ~~must~~ serve these children in an area separated from older children. *and may permit* children age 2-1/2 and older ~~may~~ *to* be cared for in the same child care group.

Subd. 2. *This section takes effect the day after final enactment.*

Sec. 11. [GRAIN STORAGE ACTIONS.]

*Laws 1989, chapter 187, does not apply to bar an action for breach of a contract for sale of a grain storage structure that is an improvement to real property if the action would have been permissible under Minnesota Statutes 1988, section 336.2-725. This section applies only to actions pending on the effective date of this section. This section takes effect the day after final enactment.*"

Amend the title as follows:

Page 1, line 5, after "amending" insert "Minnesota Statutes 1988, section 580.04, as amended;" and delete "chapter" and insert "chapters 282, article 2, section 85; 304, section 140; 328, article 3, section 13, subdivisions 1 and 4; 335, article 4, section 109, subdivision 1; and"

Page 1, line 6, before the period, insert "; repealing Laws 1989, chapter 209, article 1, section 6"

And when so amended the bill do pass.

Mr. Moe, R.D. moved the adoption of the foregoing Committee Report. The motion prevailed. Amendments adopted. Report adopted.

## SECOND READING OF SENATE BILLS

S.F. No. 4 was read the second time.

## MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 2 be taken from the table. The motion prevailed.

## SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 2 and that the rules of the Senate be so far suspended as to give H.F. No. 2 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 2 was read the second time.

H.F. No. 2: A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1988, section 580.04, as amended; Laws 1989, chapters 282, article 2, section 85; 304, section 140; 328, article 3, section 13, subdivisions 1 and 4; 335, article 4, section 109, subdivision 1; and 340, article 1, section 17; repealing Laws 1989, chapter 209, article 1, section 6.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

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

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Storm and Gustafson introduced—

S.F. No. 5: A bill for an act relating to motor vehicles; authorizing special "CELEBRATE MINNESOTA 1990" license plates.

Referred to the Committee on Rules and Administration.

Messrs. Gustafson, Ramstad, Benson, Mehrkens and Anderson introduced—

S.F. No. 6: A bill for an act relating to labor and industry; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; providing for the appointment of actuaries; affecting the workers' compensation court of appeals; requiring certain reports relating to workers' compensation; appropriating money; amending Minnesota Statutes 1988, sections 79.01, subdivision 1; 79.074, by adding subdivisions; 79.095; 79.50; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.59; 79.61, subdivision 1; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 4; 176.061, subdivision 10; 176.081, subdivisions 2 and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 6, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20 and 21; 176.131, subdivisions 1a, 2, 8, and by adding a subdivision; 176.132, subdivisions 1 and 3;

176.136, by adding a subdivision; 176.155, subdivision 1; 176.221, subdivision 1; 176.421, subdivisions 1 and 6; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; 480A.06, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 176.081, subdivision 1; 176.131, subdivision 1; 176.132, subdivision 2; and 176.136, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1988, sections 79.51; 79.52, subdivisions 2 and 12; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.60; 79.61; 79.62; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a to 3d, 3f to 3u, and 6; and Minnesota Statutes 1989 Supplement, section 176.101, subdivision 3e.

Referred to the Committee on Rules and Administration.

## MOTIONS AND RESOLUTIONS - CONTINUED

Messrs. Moe, R.D. and Benson introduced—

Senate Resolution No. 3: A Senate resolution relating to adjournment of the Special Session.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The Secretary of the Senate shall notify the Governor and the House of Representatives that the Senate is about to adjourn the Special Session sine die.

The Secretary of the Senate may correct and approve the Journal of the Senate for the Special Session.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

## ADJOURNMENT

Mr. Taylor moved that the Senate adjourn sine die. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

## COMMUNICATIONS RECEIVED SUBSEQUENT TO ADJOURNMENT

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to inform the Senate that the House of Representatives of the State of Minnesota is about to adjourn the 1989 Special Session sine die.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted September 29, 1989

### EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

October 4, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Special Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| S.F. No. | H.F. No. | Special Session Laws Chapter No. | Time and Date Approved 1989 | Date Filed 1989 |
|---|---|---|---|---|
| | 1 | 1 | 1605 hours October 3 | October 4 |
| | 2 | 2 | 1050 hours October 4 | October 4 |

Sincerely,
Joan Anderson Growe
Secretary of State

# INDEX

**SPECIAL SESSION 1989**

# BILLS OF THE SENATE
## SPECIAL SESSION 1989

| S. F. No. | TITLE | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Returned from House | Approved | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| 1 | A bill for an act relating to the financing and operation of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; allowing certain units of local governments to impose taxes; changing tax increment financing provisions; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county, exempting Itasca county from a levy limit penalty and authorizing a special levy; modifying the levy authority of the Red River watershed management district; authorizing an appropriation by Aitkin county; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; modifying certain bond allocation procedures; requiring studies of state and local finance issues; requiring the governor to recommend spending reductions; setting the amount of the budget reserve; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management, requiring a mechanism to fund certain mental health services; providing procedures for allocating costs of certain human services between the state and county agencies; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 3.885, subdivisions 3, 5, and by adding subdivisions; 3.982; 6.62, subdivision 1; 10A.31, subdivision 5; 16A.15, subdivision 6; 18.023, subdivision 8; 60A.14, subdivision 1; 60A.15, subdivision 1; 60A.19, subdivision 6; 110B.15, subdivision 4; 115.34, subdivision 1; 115A.03, subdivision 25a, and by adding subdivisions; 115A.072; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, by adding a subdivision; 115A.48, subdivision 3, and by adding a subdivision; 115A.915; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.26, subdivision 1; 129A.06, subdivision 2; 145A.08, subdivision 3; 164.041; 256.736, subdivision 13; 256B.091, subdivision 8; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 6; 256G.01, subdivision 3; 256G.05; 256G.07; 256G.10; 256G.11; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivision 3, and by add- (Continued next page) | 6 | 25 | 11a 25<br>~~11~~ (11) | | | | | |

a Indicates Amendment ( ) Indicates House File Substitution

## BILLS OF THE SENATE—Continued

| S. F. No. | TITLE | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Returned from House | Approved | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| 1—Continued | ing a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivision 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.064; 273.065; 273.111, subdivision 4; 273.123, subdivisions 4, 5, and 7; 273.13, subdivisions 21a, 24, 25, 31, and by adding subdivisions; 273.1392; 273.1398, subdivisions 2, 3, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivision 1, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.125, subdivision 18; 275.15; 275.16; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 2 and 3; 276.01; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 284.28, subdivisions 4 and 7; 287.29; 290.01, subdivision 29; 290.02; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.091, subdivision 2, and by adding a subdivision; 290.095, subdivision 2, and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.35, subdivisions 1, 4, and by adding a subdivision; 290.37, subdivision 1; 290.38; 290.92, subdivision 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.04, subdivisions 2, 2h, 3, and by adding subdivisions; 290A.07, subdivision 2a; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.15, subdivision 5; 297A.25, subdivision 3, and by adding a subdivision; 297A.257, subdivision 1; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivisions 6 and 12; 298.282, subdivision 3; 298.39; 298.396; 325E.115, subdivision 1; 349.12, subdivision 19, and by adding subdivisions; 349.16, by adding a subdivision; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.2127, subdivision 4, and by adding a subdivision; 353A.10, subdivision 3; 360.037, subdivision 2; 368.01, subdivision 14; 373.40, subdivisions 1 and 2; 375.18, by adding a subdivision; 386.015, subdivision 5; 400.08, by adding a subdivision; 412.221, subdivision 22; 414.01, subdivision 15; 444.075, subdivisions 1 and 4; 444.16; 444.17; 444.18; 444.19; 444.20; 447.34, subdivision 1; 447.35; 465.73; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 10, 16, 17, and by adding a subdivision; 469.175, by adding a subdivision; 469.176, by adding a subdivision; 469.177, subdivisions 6 and 10; 469.190, subdivisions 2 and 3; 471.572, subdivision 2; 471.74, subdivision 2; 471A.03, subdivision 4; 473.149, subdivision 1; 473.167, subdivision 4; 473.249, subdivision 2; 473.446, subdivision 8; 473.711, subdivision 5; 473.803, subdivision 1; 473.87; 473F.05, 473F.06; 473F.07, subdivisions 1, 2, and 5; 473F.08, subdivisions 3, 3a, 5, and (Continued next page) | | | | | | | | |

a Indicates Amendment ( ) Indicates House File Substitution

## BILLS OF THE SENATE—Continued

| S. F. No. | TITLE | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Returned from House | Approved | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| 1—Continued | by adding a subdivision; 473F.09; 473H.10, subdivision 3; 474A.061, subdivisions 1, 2, and 4; 474A.091, subdivisions 2 and 3; 475.74; 475.754; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding subdivisions; 477A.013, subdivision 3, and by adding subdivisions; 508.75; 508.76; 508.77; 508.78; 508.79; 508.82; 508A.76; 508A.77; 508A.78; 508A.79; 508A.82; Minnesota Statutes 1989 Supplement, sections 16A.1541; 115A.12, subdivision 1; 115A.46, subdivision 2; 121.904, subdivisions 4a and 4c; 124.2131, subdivision 1; 124.243, subdivision 3; 124.244, subdivision 2; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256D.03, subdivision 2; 256D.051, subdivision 6; 256D.36, subdivision 1; 256G.02, subdivision 4; 270.12, subdivision 2; 272.02, subdivision 1; 273.061, subdivision 1; 273.1104, subdivision 2; 273.119, subdivision 2; 273.124, subdivision 6; 273.13, subdivisions 22 and 23; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 5, and 6; 275.07, subdivision 3; 275.125, subdivisions 5, 5b, and 9; 275.14; 275.28, subdivision 1; 275.58, subdivision 1; 287.12; 290.01, subdivision 19c; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.06, subdivision 2c; 290.0802, subdivision 1; 290.17, subdivision 2; 290.191, subdivision 6; 290.92, subdivision 4b; 297A.25, subdivisions 11 and 16; 297A.44, subdivision 1; 298.282, subdivision 2; 349.12, subdivision 11; 349.15; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.214, subdivision 2; 357.021, subdivision 1a; 373.40, subdivision 6; 412.251; 426.04; 469.033, subdivision 6; 469.174, subdivision 7; 469.175, subdivisions 3 and 7; 469.176, subdivisions 1 and 6; 469.190, subdivision 1; 471.1921; 473.882, subdivision 3; and 477A.013, subdivision 1; Laws 1976, chapter 162, section 1, as amended; Laws 1986, chapter 399, article 1, section 1; Laws 1987, chapter 268, article 6, section 54, as amended; 1988, chapter 719, article 1, section 22; and article 12, section 29, as amended; Laws 1989, chapter 282, article 5, section 133; chapter 329, article 1, section 17, subdivision 2, article 2, section 8, subdivision 2; and article 5, section 21, subdivisions 2 and 3; and chapter 335, article 3, sections 54, subdivision 8; and 58, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 16B; 115A; 124; 173; 256; 273; 274; 290; 290A; 297A; 325E; 349; 469; and 473; repealing Minnesota Statutes 1988, sections 3.981; 3.983, as amended; 134.34, subdivision 6; 245.775; 270.81, subdivision 5; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 275.11; 275.50; 275.51; 275.54; 275.55; 275.56; 275.561; 275.58; 290.092, subdivision 5; 290A.04, subdivision 2h; 349.2121, subdivision 4; 471A.04; 477A.011, subdivision 24; 477A.013, subdivision 4. | | | | | | | | |

a Indicates Amendment ( ) Indicates House File Substitution

## BILLS OF THE SENATE—Continued

| S. F. No. | TITLE | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Returned from House | Approved | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| 2 | A bill for an act relating to taxation; reducing the class rates applicable to residential property; providing equalization aid, providing a homestead effective tax credit; appropriating money; amending Minnesota Statutes 1988, sections 273.13, subdivision 25, and 290A.04, by adding a subdivision; and Minnesota Statutes 1989 Supplement, sections 273.13, subdivisions 22 and 23; and 275.07, subdivision 3, proposing coding for new law in Minnesota Statutes, chapter 273 | 26 | | | | | | | |
| 3 | A bill for an act relating to health; prohibiting public funds, employees, and facilities from being used for abortions; proposing coding for new law in Minnesota Statutes, chapter 145. | 26 | | | | | | | |
| 4 | A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1988, section 580.04, as amended, Laws 1989, chapters 282, article 2, section 85; 304, section 140; 328, article 3, section 13, subdivisions 1 and 4; 335, article 4, section 109, subdivision 1; and 340, article 1, section 17; repealing Laws 1989, chapter 209, article 1, section 6. | 26 | 48 | 44a (112) | 49 | | | | |
| 5 | A bill for an act relating to motor vehicles; authorizing special "CELEBRATE MINNESOTA 1990" license plates. | 49 | | | | | | | |
| 6 | A bill for an act relating to labor and industry; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; providing for the appointment of actuaries; affecting the workers' compensation court of appeals; requiring certain reports relating to workers' compensation; appropriating money; amending Minnesota Statutes 1988, sections 79.01, subdivision 1; 79.074, by adding subdivisions; 79.095; 79.50; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.59; 79.61, subdivision 1; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3, 176.041, subdivision 4; 176.061, subdivision 10; 176.081, subdivisions 2 and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 6, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20 and 21; 176.131, subdivisions 1a, 2, 8, and by adding a subdivision; 176.132, subdivisions 1 and 3; 176.136, by adding a subdivision; 176.155, subdivision 1; 176.221, subdivision 1; 176.421, subdivisions 1 and 6; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; 480A.06, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 176.081, subdivision 1; 176.131, subdivision 1; 176.132, subdivision 2; and 176.136, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1988, sections 79.51; 79.52, (Continued next page) | 49 | | | | | | | |

a Indicates Amendment

( ) Indicates House File Substitution

## BILLS OF THE SENATE—Continued

| S. F. No. | TITLE | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Returned from House | Approved | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| | 6—Continued<br>subdivisions 2 and 12; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.60; 79.61; 79.62; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a to 3d, 3f to 3u, and 6; and Minnesota Statutes 1989 Supplement, section 176.101, subdivision 3e. | | | | | | | | |

a Indicates Amendment

( ) Indicates House File Substitution

# SENATE RECORD OF HOUSE BILLS
## SPECIAL SESSION 1989

| H. F. No. | TITLE | Received from House | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|
| 1 | A bill for an act relating to the financing and operation of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; allowing certain units of local governments to impose taxes; changing tax increment financing provisions; providing a special levy for the city of Bayport and Goodhue county; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; modifying the levy authority of the Red River watershed management district; authorizing an appropriation by Aitkin county; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; modifying certain bond allocation procedures; requiring studies of state and local finance issues; requiring the governor to recommend spending reductions; setting the amount of the budget reserve; establishing plans and programs to reduce waste generated, recycle waste, develop markets for recyclables, address materials that cause special problems in the waste stream, prevent, control, and abate litter, inform and educate the public on proper waste management; requiring a mechanism to fund certain mental health services; providing procedures for allocating costs of certain human services between the state and county agencies; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 3.885, subdivisions 3, 5, and by adding subdivisions; 3.982; 6.62, subdivision 1; 10A.31, subdivision 5; 16A.15, subdivision 6; 18.023, subdivision 8; 60A.14, subdivision 1; 60A.15, subdivision 1; 60A.19, subdivision 6; 110B.15, subdivision 4; 115.34, subdivision 1; 115A.03, subdivision 25a, and by adding subdivisions; 115A.072; 115A.15, subdivision 5, and by adding subdivisions; 115A.46, by adding a subdivision; 115A.48, subdivision 3, and by adding a subdivision; 115A.915; 115A.96, subdivision 2, and by adding a subdivision; 116.07, by adding a subdivision; 116K.04, by adding a subdivision; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.26, subdivision 1; 129A.06, sub- (Continued next page) | 27 | 28 | 31 | 30 30 31a | 44 | 51 | 1 |

a Indicates Amendment

## SENATE RECORD OF HOUSE BILLS—Continued

| H. F. No. | TITLE | Received from House | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|
| 1—Continued | division 2; 145A.08, subdivision 3; 164.041; 256.736, subdivision 13; 256B.091, subdivision 8; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 6; 256G.01, subdivision 3; 256G.05; 256G.07; 256G.10; 256G.11; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivision 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivision 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.064; 273.065; 273.111, subdivision 4; 273.123, subdivisions 4, 5, and 7; 273.13, subdivisions 21a, 24, 25, 31, and by adding subdivisions; 273.1392; 273.1398, subdivisions 2, 3, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivision 1, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.125, subdivision 18; 275.15; 275.16; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 2 and 3; 276.01; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 284.28, subdivisions 4 and 7; 287.29; 290.01, subdivision 29; 290.02; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.091, subdivision 2, and by adding a subdivision; 290.095, subdivision 2, and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.35, subdivisions 1, 4, and by adding a subdivision; 290.37, subdivision 1; 290.38; 290.92, subdivision 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.03, by adding a subdivision; 290A.04, subdivisions 2, 2h, 3, and by adding a subdivision; 290A.07, subdivision 2a; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.15, subdivision 5, and by adding a subdivision; 297A.25, subdivision 3, and by adding subdivisions; 297A.257, subdivision 1; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivisions 6 and 12; 298.282, subdivision 3; 298.39; 298.396; 325E.115, subdivision 1; 349.12, subdivision 19, and by adding subdivisions; 349.16, by adding a subdivision; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.2127, subdivision 4, and by adding a subdivision; 353A.10, subdivision 3; 360.037, subdivision 2; 368.01, subdivision 14; 373.40, subdivisions 1 and 2; 375.18, by adding a subdivision; 386.015, subdivision 5; 400.08, by adding a subdivision; 412.221, subdivision 22; 414.01, subdivision 15; 444.075, subdivisions 1 and 4; (Continued next page) | | | | | | | |

a Indicates Amendment

## SENATE RECORD OF HOUSE BILLS—Continued

| H. F. No. | TITLE | Received from House | First Reading and Reference | Second Reading | Other Proceedings | Third Reading | Subsequent Proceedings | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|
| 1—Continued | 444.16; 444.17; 444.18; 444.19; 444.20; 447.34, subdivision 1; 447.35; 465.73; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 10, 16, 17, and by adding a subdivision; 469.175, by adding a subdivision; 469.176, by adding a subdivision; 469.177, subdivisions 6 and 10; 469.190, subdivisions 2 and 3; 471.572, subdivision 2; 471.74, subdivision 2; 471A.03, subdivision 4; 473.149, subdivision 1; 473.167, subdivision 4; 473.249, subdivision 2; 473.446, subdivision 8; 473.711, subdivision 5; 473.803, subdivision 1; 473.87; 473F.05; 473F.06; 473F.07, subdivisions 1, 2, and 5; 473F.08, subdivisions 3, 3a, 5, and by adding a subdivision; 473F.09; 473H.10, subdivision 3; 474A.061, subdivisions 1, 2, and 4; 474A.091, subdivisions 2 and 3; 475.74; 475.754; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding subdivisions; 477A.013, subdivision 3, and by adding subdivisions; 477A.014, subdivision 1; 508.75; 508.76; 508.77; 508.78; 508.79; 508.82; 508A.76; 508A.77; 508A.78; 508A.79; 508A.82; Minnesota Statutes 1989 Supplement, sections 16A.1541; 115A.12, subdivision 1; 115A.46, subdivision 2; 121.904, subdivisions 4a and 4e; 124.2131, subdivision 1; 124.243, subdivision 3; 124.244, subdivision 2; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256D.03, subdivision 2; 256D.051, subdivision 6; 256D.36, subdivision 1; 256G.02, subdivision 4; 270.12, subdivision 2; 272.02, subdivision 1; 273.061, subdivision 1; 273.1104, subdivision 2; 273.119, subdivision 2; 273.124, subdivision 6; 273.13, subdivisions 22 and 23; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1398, subdivisions 1, 5, and 6; 275.07, subdivision 3; 275.125, subdivisions 5, 5b, and 9; 275.14; 275.28, subdivision 1; 275.58, subdivision 1; 287.12; 290.01, subdivision 19c; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.06, subdivision 2c; 290.0802, subdivision 1; 290.17, subdivision 2; 290.191, subdivision 6; 290.92, subdivision 4b; 297A.25, subdivisions 11 and 16; 297A.44, subdivision 1; 298.282, subdivision 2; 349.12, subdivision 11; 349.15; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.214, subdivision 2; 357.021, subdivision 1a; 373.40, subdivision 6; 412.251; 426.04; 469.033, subdivision 6; 469.174, subdivision 7; 469.175, subdivisions 3 and 7; 469.176, subdivisions 1 and 6; 469.190, subdivision 1; 471.1921; 473.882, subdivision 3; and 477A.013, subdivision 1; Laws 1976, chapter 162, section 1, as amended; Laws 1986, chapter 399, article 1, section 1, (Continued next page) | | | | | | | |

a Indicates Amendment

## SENATE RECORD OF HOUSE BILLS—Continued

| H. F. No. | TITLE | Received from House | First Reading and Reference | Second Reading | Other Proceedings | | Third Reading | Subsequent Proceedings | Special Session, 1989 Laws, Chapter |
|---|---|---|---|---|---|---|---|---|---|
| 1 | —Continued<br>Laws 1987, chapter 268, article 6, section 54, as amended; 1988, chapter 719, article 1, section 22; and article 12, section 29, as amended; Laws 1989, chapter 282, article 5, section 133, chapter 329, article 1, section 17, subdivision 2, article 2, section 8, subdivision 2, and article 5, section 21, subdivisions 2 and 3; and chapter 335, article 3, sections 54, subdivision 8; and 58, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 16B; 115A; 124; 173; 256; 273; 274; 290; 290A; 297A; 325E; 349; 469; and 473; repealing Minnesota Statutes 1988, sections 3.981; 3.983, as amended; 134.34, subdivision 6; 245.775; 270.81, subdivision 5; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 275.11; 275.50; 275.51; 275.54; 275.55; 275.56; 275.561; 275.58; 290.092, subdivision 5; 290A.04, subdivision 2h; 349.2121, subdivision 4; 471A.04; 477A.011, subdivision 24; 477A.013, subdivision 4 | | | | | | | | |
| 2 | A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1988, section 580.04, as amended; Laws 1989, chapters 282, article 2, section 85; 304, section 140; 328, article 3, section 13, subdivisions 1 and 4; 335, article 4, section 109, subdivision 1; and 340, article 1, section 17; repealing Laws 1989, chapter 209, article 1, section 6 | 27 | 30 | 48 | 30 | 48 | 48 | 51 | 2 |

a Indicates Amendment

SENATE RECORD OF COMPANION BILLS AS INTRODUCED
SPECIAL SESSION 1989

| S.F. NUMBER | H.F. NUMBER | H.F. NUMBER | S.F. NUMBER |
|---|---|---|---|
| 1 | 1 | 1 | 1 |
| 2 | | 2 | 4 |
| 3 | | 3 | |
| 4 | 2 | 4 | 6 |
| 5 | | 5 | |
| 6 | 4 | 6-25 | No Companions |

CHAPTERS
SPECIAL SESSION 1989

| CH. # | FILE # |
|---|---|
| 1 | HF 1 |
| 2 | HF 2 |

| S.F. # | CH. # | H.F. # | CH. # |
|---|---|---|---|
| 1 | SEE HF 1/CH 1 | 1 | CH 1 |
| 4 | SEE HF 2/CH 2 | 2 | CH 2 |

# SENATE BILLS BY AUTHORS
## SPECIAL SESSION 1989



**NOTE: The H or S preceding the chapter number indicates whether the House or Senate file was enacted.**

*** after Senate file number indicates principal author.**

# MISCELLANEOUS INDEX
## SPECIAL SESSION 1989

## SENATE ORGANIZATION



## EXECUTIVE AND OFFICIAL COMMUNICATIONS



## RESOLUTIONS

| Subject and Authors | Number | Introduction | Adoption |
|---|---|---|---|
| Adjournment sine die; notification to Governor and House (Moe, R.D.; Benson) | S. Res. #3 | 50 | 50 |
| Secretary of Senate to notify House of Representatives and Governor that Senate is organized (Moe, R.D.; Benson) | S. Res. #2 | 6 | 6 |
| Senate organized; rules and committees for the special session (Moe, R.D.; Benson) | S. Res. #1 | 5 | 5 |

## SPECIAL RECORDS

**Legislative Organization—**



**Messages from the House—**



**Rules—**